

City of Glendale

Voting Meeting Agenda

City Council

Tuesday, February 24, 2015	6:00 PM	Council Chambers
	Councilmember Bart Turner	
	Councilmember Lauren Tolmachoff	
	Councilmember Gary Sherwood	
	Councilmember Samuel Chavira	
	Councilmember Jamie Aldama	
	Vice Mayor Ian Hugh	
	Mayor Jerry Weiers	

Voting Meeting

One or more members of the City Council may be unable to attend the Council Meeting in person and may participate telephonically, pursuant to A.R.S. § 38-431(4).

CALL TO ORDER

PLEDGE OF ALLEGIANCE

PRAYER/INVOCATION

Any prayer/invocation that may be offered before the start of regular Council business shall be the voluntary offering of a private citizen, for the benefit of the Council and the citizens present. The views or beliefs expressed by the prayer/invocation speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the religious beliefs or views of this, or any other speaker. A list of volunteers is maintained by the Mayor's Office and interested persons should contact the Mayor's Office for further information.

APPROVAL OF THE MINUTES OF FEBRUARY 10, 2015

1.15-150APPROVAL OF THE MINUTES OF FEBRUARY 10, 2015
Staff Contact: Pamela Hanna, City Clerk

Attachments: Meeting Minutes of February 10, 2015

BOARDS, COMMISSIONS AND OTHER BODIES

APPROVE RECOMMENDED APPOINTMENTS TO BOARDS, COMMISSIONS AND OTHER BODIES

PRESENTED BY: Vice Mayor Ian Hugh

 2.
 15-133
 BOARDS, COMMISSIONS & OTHER BODIES

 Staff Contact:
 Brent Stoddard, Director, Intergovernmental Programs

CONSENT AGENDA

Items on the consent agenda are of a routine nature or have been previously studied by the City Council. Items on the consent agenda are intended to be acted upon in one motion unless the Council wishes to hear any of the items separately.

3.	15-104	APPROVE SPECIAL EVENT LIQUOR LICENSE, DEEP WITHIN REHAB CENTER
	•	Staff Contact: Susan Matousek, Revenue Administrator
	<u>Attachments:</u>	Application
		Calls for Service
4.	15-106	APPROVE LIQUOR LICENSE NO. 5-15757, THE LEGEND AT ARROWHEAD Staff Contact: Susan Matousek, Revenue Administrator
	Attachments:	<u>Map</u>
		Calls for Service
5.	15-107	APPROVE LIQUOR LICENSE NO. 5-15759, ARROWHEAD COUNTRY CLUB-SERIES 12 Staff Contact, Sugar Mataural, Bayanya Administrator
	A 44 b	Staff Contact: Susan Matousek, Revenue Administrator
	<u>Attachments:</u>	
		Calls for Service
6.	15-108	APPROVE LIQUOR LICENSE NO. 5-15759, ARROWHEAD COUNTRY CLUB-SERIES 14
		Staff Contact: Susan Matousek, Revenue Administrator
	<u>Attachments:</u>	<u>Мар</u>
		Calls for Service
7.	15-073	AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH PEORIA PEST CONTROL, INC. FOR SEWER MANHOLE INSECTICIDE TREATMENT UTILIZING A CITY OF CHANDLER COOPERATIVE PURCHASING CONTRACT Staff Contact: Craig Johnson, P.E., Director, Water Services
	Attachments:	Peoria Pest Linking Agreement.pdf
		Peoria Pest Chandler 2015 Amendment 1.pdf
8.	15-131	AWARD OF IFB 15-32, AUTHORIZATION TO ENTER INTO AN AGREEMENT, AND APPROVE EXPENDITURE OF FUNDS FOR LEGAL ADVERTISING, WITH PUEBLO PUBLISHERS, INC., THE GLENDALE STAR Staff Contact: Pamela Hanna, City Clerk
	<u>Attachments:</u>	Legal Advertising Contract
9.	15-135	AUTHORIZATION TO ENTER INTO THE FOURTH AMENDMENT TO AN EXISTING STANDARD COMMERCIAL LEASE AGREEMENT FOR PROPERTY UTILIZED BY THE GLENDALE POLICE DEPARTMENT Staff Contact: Debora Black, Police Chief

	<u>Attachments:</u>	Fourth Amendment to Lease - Notice
10.	15-136	AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH INFORMER SYSTEM, LLC AND APPROVE THE PURCHASE OF SCHEDULING SOFTWARE FOR THE GLENDALE POLICE DEPARTMENT UTILIZING A CITY OF SAN DIEGO, CALIFORNIA PURCHASING COOPERATIVE AGREEMENT Staff Contact: Debora Black, Police Chief
	<u>Attachments:</u>	Agreement - Schedule Express
11.	15-142	AUTHORIZATION TO INCREASE SPENDING AUTHORITY AND APPROVE AMENDMENT NO. 4 TO THE CONTRACT FOR PURCHASE OF PERSONAL PROTECTIVE EQUIPMENT WITH MUNICIPAL EMERGENCY SERVICES, INC. Staff Contact: Mark Burdick, Fire Chief
	<u>Attachments:</u>	MES Contract Amendment #4
12.	15-116	AUTHORIZATION FOR COOPERATIVE PURCHASE OF A CATERPILLAR TRASH COMPACTOR FROM EMPIRE SOUTHWEST, LLC, FOR THE GLENDALE MUNICIPAL LANDFILL Staff Contact: Jack Friedline, Director, Public Works
	Attachments:	Empire-Linking Agreement
13.	15-117	AUTHORIZATION FOR THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH PET AND ANIMAL LOVERS SERVICE, INC., FOR THE COLLECTION AND DISPOSAL OF DEAD ANIMALS Staff Contact: Jack Friedline, Director, Public Works
	<u>Attachments:</u>	Agreement
		RFP 14-29 Consensus Score Sheet for PALS
14.	15-119	AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH VALLEY WIDE ELECTRIC CO. LLC, FOR ELECTRICAL REPAIRS AT CITY FACILITIES Staff Contact: Jack Friedline, Director, Public Works
	<u>Attachments:</u>	Linking Agreement
15.	15-120	AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH RUMMEL CONSTRUCTION, INC., FOR LANDFILL GAS AND GROUND WATER SYSTEMS MAINTENANCE, INSTALLATION, PARTS AND SERVICE Staff Contact: Jack Friedline, Director, Public Works
	<u>Attachments:</u>	Agreement
		Bid Tab
16.	15-125	AUTHORIZATION TO ENTER INTO A CONSTRUCTION AGREEMENT WITH KIMBRELL ELECTRIC, INC. FOR A NEW TRAFFIC SIGNAL AND A HIGH-INTENSITY ACTIVATED CROSSWALK (HAWK) Staff Contact: Jack Friedline, Director, Public Works

Attachments: Contract - Kimbrell Electric, Inc.

Bid Tab

CONSENT RESOLUTIONS

17.	15-127	AUTHORIZATION TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR A SIGN INVENTORY MANAGEMENT SYSTEM AND SIGN UPGRADES Staff Contact: Jack Friedline, Director, Public Works
	<u>Attachments:</u>	Resolution 4921
		Contract - Sign Inventory
18.	15-129	AUTHORIZATION OF A WIRED TELECOMMUNICATIONS LICENSE AND RIGHT -OF-WAY USE AGREEMENT WITH ELECTRIC LIGHTWAVE, LLC Staff Contact: Jack Friedline, Director, Public Works
	<u>Attachments:</u>	Resolution 4922
		Electric Lightwave Agreement
19.	15-134	AUTHORIZATION TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX POLICE DEPARTMENT FOR LAW ENFORCEMENT DATA SHARING THROUGH THE GEOSUITE SOFTWARE PLATFORM Staff Contact: Debora Black, Police Chief
	<u>Attachments:</u>	Resolution 4923
		Agreement - IGA with COP GeoSuite
20.	15-096	AMENDMENTS TO CITY COUNCIL GUIDELINES - SELECTION OF VICE MAYOR Staff Contact: Brent Stoddard, Director, Intergovernmental Programs Staff Presenter: Jenna Goad, Intergovernmental Programs Administrator
	Attachments:	Resolution 4924
		Council Guidelines
21.	15-140	STANDARDS FOR CONDUCTING CITY BUSINESS FOR ELECTED OFFICIALS AND BOARDS AND COMMISSIONS Staff Contact: Brent Stoddard, Director, Intergovernmental Programs Staff Presenter: Jenna Goad, Intergovernmental Programs Administrator
	<u>Attachments:</u>	Resolution 4925
		Standards document
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ORDIN	IANCES	
22.	15-153	ADOPT AN ORDINANCE UPDATING THE CITY'S SIGNATURE AUTHORITY FOR BANKING TRANSACTIONS
		Staff Contact: Tom Duensing, Director, Finance and Technology

Attachments: Ordinance 2932

NEW BUSINESS

City Council

23.	15-137	REAPPOINTMENT OF PRESIDING CITY JUDGE ELIZABETH FINN Staff Contact: Jim Brown, Director, Human Resources and Risk Management
24.	15-138	REAPPOINTMENT OF CITY JUDGE MANUEL DELGADO Staff Contact: Jim Brown, Director, Human Resources and Risk Management
25.	15-155	ACTING CITY MANAGER CONTRACT Staff Contact: Jim Brown, Director, Human Resources and Risk Management
	Attachments:	Temporary Contract - Richard A. Bowers

REQUEST FOR FUTURE WORKSHOP AND EXECUTIVE SESSION

CITIZEN COMMENTS

If you wish to speak on a matter concerning Glendale city government that is not on the printed agenda, please fill out a Citizen Comments Card located in the back of the Council Chambers and give it to the City Clerk before the meeting starts. The City Council can only act on matters that are on the printed agenda, but may refer the matter to the City Manager for follow up. When your name is called by the Mayor, please proceed to the podium. State your name and the city in which you reside for the record. If you reside in the City of Glendale, please state the Council District you live in (if known) and begin speaking. Please limit your comments to a period of three minutes or less.

COUNCIL COMMENTS AND SUGGESTIONS

ADJOURNMENT

Upon a public majority vote of a quorum of the City Council, the Council may hold an executive session, which will not be open to the public, regarding any item listed on the agenda but only for the following purposes:

(i) discussion or consideration of personnel matters (A.R.S. § 38-431.03(A)(1));

(ii) discussion or consideration of records exempt by law from public inspection (A.R.S. § 38-431.03(A)(2));

(iii) discussion or consultation for legal advice with the city's attorneys (A.R.S. § 38-431.03(A)(3));

(iv) discussion or consultation with the city's attorneys regarding the city'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 (A.R.S. § 38-431.03(A)(4));

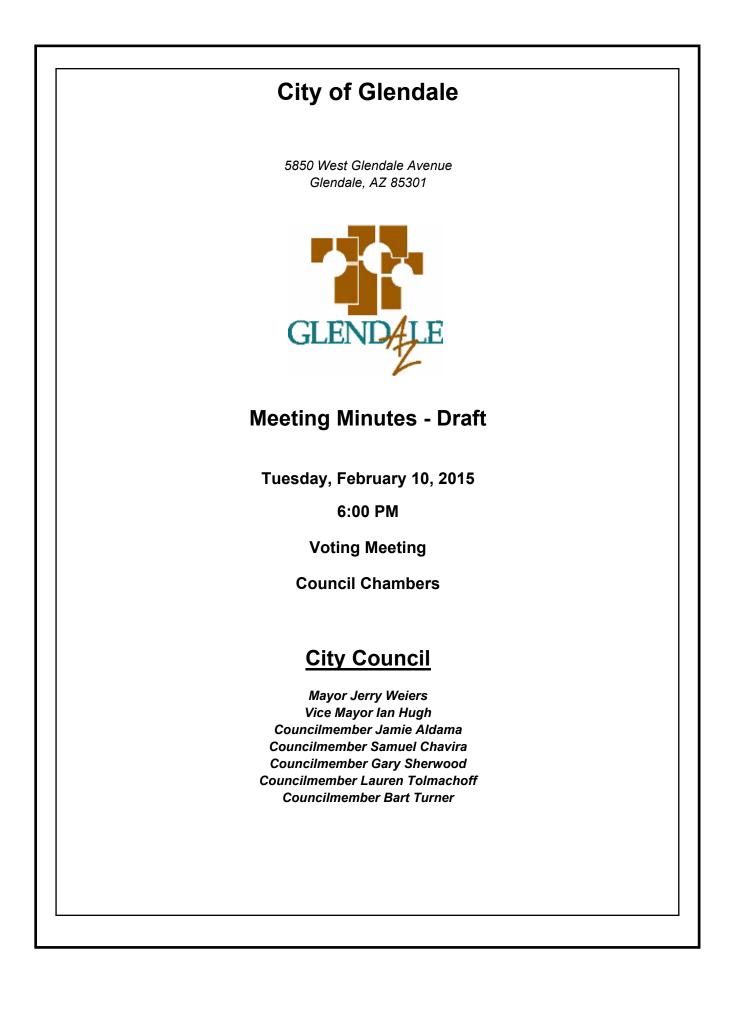
(v) discussion or consultation with designated representatives of the city in order to consider its position and instruct its representatives regarding negotiations with employee organizations (A.R.S. § 38-431.03(A)(5)); or (vi) discussing or consulting with designated representatives of the city in order to consider its position and instruct

its representatives regarding negotiations for the purchase, sale or lease of real property (A.R.S. § 38-431.03(A)(7)).



File #: 15-150, Version: 1

APPROVAL OF THE MINUTES OF FEBRUARY 10, 2015 Staff Contact: Pamela Hanna, City Clerk



CALL TO ORDER

Present: 7 - Mayor Jerry Weiers, Vice Mayor Ian Hugh, Councilmember Jamie Aldama, Councilmember Samuel Chavira, Councilmember Gary Sherwood, Councilmember Lauren Tolmachoff, and Councilmember Bart Turner

> Also present were Brenda Fischer, City Manager; Julie Frisoni, Assistant City Manager; Jennifer Campbell, Assistant City Manager; Michael Bailey, City Attorney; Pamela Hanna, City Clerk; and Darcie McCracken, Deputy City Clerk.

PLEDGE OF ALLEGIANCE

PRAYER/INVOCATION

Mr. Shawn Nelson from the Church of Jesus Christ of Latter-Day Saints offered the invocation.

APPROVAL OF THE MINUTES OF JANUARY 20, 2015 SPECIAL VOTING MEETING AND JANUARY 27, 2015 MEETING

 1.
 15-130
 APPROVAL OF THE MINUTES OF THE JANUARY 20, 2015 SPECIAL

 VOTING MEETING AND JANUARY 27, 2015 MEETING
 Staff Contact: Pamela Hanna, City Clerk

A motion was made by Councilmember Turner, seconded by Councilmember Sherwood, that this agenda item be approved. The motion carried by the following vote:

Aye: 7 - Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Chavira, Councilmember Sherwood, Councilmember Tolmachoff, and Councilmember Turner

CONSENT AGENDA

City Manager Fischer read agenda item numbers 2 through 4.

City Clerk Hanna read consent agenda resolution item number 5 by number and title.

2. 15-063 AUTHORIZATION TO EXTEND AGREEMENT TERMS AND APPROVE EXPENDITURE OF FUNDS FOR THE MAINTENANCE AND REPAIR OF EMERGENCY GENERATOR SYSTEMS FROM CUMMINS ROCKY MOUNTAIN, LLC Staff Contact: Craig Johnson, P.E., Director, Water Services

This agenda item was approved.

3. 15-072 AUTHORIZATION TO APPROVE EXPENDITURE OF FUNDS FOR THE PURCHASE OF ULTRAVIOLET DISINFECTION SYSTEM PARTS AND SUPPLIES FROM DC FROST ASSOCIATES, INC. Staff Contact: Craig Johnson, P.E., Director, Water Services

This agenda item was approved.

4. 15-079 AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH MIDSTATE MECHANICAL INC. FOR REPLACEMENT OF COOLING TOWERS AT CITY FACILITIES Staff Contact: Jack Friedline, Director, Public Works

This agenda item was approved.

CONSENT RESOLUTIONS

5. 15-005 ADOPTION OF THE 2015 ENGINEERING DESIGN AND CONSTRUCTION STANDARDS Staff Contact: Jack Friedline, Director, Public Works

> RESOLUTION NO. 4918 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, ADOPTING "ENGINEERING DESIGN AND CONSTRUCTION STANDARDS".

This agenda item was approved.

A motion was made by Councilmember Sherwood, seconded by Councilmember Chavira, to approve the items on the Consent Agenda. The motion carried by the following vote:

Aye: 7 - Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Chavira, Councilmember Sherwood, Councilmember Tolmachoff, and Councilmember Turner

PUBLIC HEARING - LAND DEVELOPMENT ACTIONS

6. 15-084 ANNEXATION APPLICATION AN-197 (ORDINANCE): ZANJERO PASS (PUBLIC HEARING REQUIRED) Staff Contact: Jon M. Froke, AICP, Planning Director

> ORDINANCE NO. 2928 NEW SERIES, WAS READ BY NUMBER AND TITLE ONLY, IT BEING AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, EXTENDING AND INCREASING THE CORPORATE LIMITS OF THE CITY OF GLENDALE, MARICOPA COUNTY, STATE OF ARIZONA, PURSUANT TO THE PROVISIONS OF TITLE 9, CHAPTER 4, SECTION 9-471, ARIZONA REVISED STATUTES AND AMENDMENTS THERETO, BY ANNEXING THERETO CERTAIN TERRITORY LOCATED WITHIN AN EXISTING COUNTY ISLAND OF THE CITY OF GLENDALE CONSISTING OF APPROXIMATELY 180 ACRES AT THE NORTHEAST CORNER OF CITRUS ROAD AND OLIVE AVENUE TO BE KNOWN AS ANNEXATION AREA NO. 197.

> Ms. Perry said this land is located at the intersection of Olive Avenue and Citrus Road. She explained staff was also processing a general plan amendment and rezoning request for this property. She said staff recommends this area be annexed to allow for future growth and employment opportunities. The annexation process will be complete once the Ordinance is adopted.

Mayor Weiers opened the public hearing on AN-197.

Fred De Werth, a Waddell resident, said he lives adjacent to this property. He said residents in his area have very little information about this annexation and many residents thought the area was being annexed by the city of Surprise. He said residents in his neighborhood had questions why Glendale was only annexing a small piece of the land available in that area. He also said residents along the Peoria Avenue side of this property are concerned about this annexation as Peoria Avenue is a private road at that location. He said he wanted to get more information about what was happening to avoid confusion.

Mayor Weiers closed the public hearing.

A motion was made by Councilmember Chavira, seconded by Vice Mayor Hugh, that this agenda item be approved. The motion carried by the following vote:

Aye: 7 - Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Chavira, Councilmember Sherwood, Councilmember Tolmachoff, and Councilmember Turner

7. 15-085 ANNEXATION APPLICATION AN-196 (ORDINANCE): 99TH AVENUE RIGHT-OF-WAY (PUBLIC HEARING REQUIRED) Staff Contact: Jon M. Froke, AICP, Planning Director

> ORDINANCE NO. 2929 NEW SERIES, WAS READ BY NUMBER AND TITLE ONLY, IT BEING AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, EXTENDING AND INCREASING THE CORPORATE LIMITS OF THE CITY OF GLENDALE, MARICOPA COUNTY, STATE OF ARIZONA, PURSUANT TO THE PROVISIONS OF TITLE 9, CHAPTER 4, SECTION 9-471, ARIZONA REVISED STATUTES AND AMENDMENTS THERETO, BY ANNEXING THERETO CERTAIN TERRITORY CONSISTING OF APPROXIMATELY 1.4 ACRES OF THE 99TH AVENUE RIGHT-OF-WAY SOUTH OF BETHANY HOME ROAD TO BE KNOWN AS ANNEXATION AREA NO. 196.

Ms. Perry said this land is located at 99th Avenue and Bethany Home Road. She explained and IGA between the city and Maricopa County required annexing this portion of land. Staff recommends this area be annexed. The annexation process will be complete once the Ordinance is adopted.

Mayor Weiers opened the public hearing on AN-196.

There were no speakers.

Mayor Weiers closed the public hearing.

A motion was made by Councilmember Aldama, seconded by Councilmember Chavira, that this agenda item be approved. The motion carried by the following vote:

- Aye: 7 Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Chavira, Councilmember Sherwood, Councilmember Tolmachoff, and Councilmember Turner
- 8. 15-086 GENERAL PLAN AMENDMENT GPA13-05 (RESOLUTION) AND REZONING APPLICATION ZON13-08 (ORDINANCE): ZANJERO PASS -LOCATED AT 17750 WEST OLIVE AVENUE (PUBLIC HEARING REQUIRED) Staff Contact: Jon M. Froke, AICP, Planning Director

ORDINANCE NO. 2930 NEW SERIES, WAS READ BY NUMBER AND TITLE ONLY, IT BEING AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, REZONING PROPERTY LOCATED AT 17750 WEST OLIVE AVENUE OF APPROXIMATELY 171.55 ACRES FROM R1-8 AND R1-10 (SINGLE FAMILY RESIDENTIAL ZONING DISTRICTS, MARICOPA COUNTY DESIGNATIONS) TO R1-7 PRD (SINGLE RESIDENCE, PLANNED RESIDENTIAL DEVELOPMENT), R1-8 PRD (SINGLE RESIDENCE, PLANNED RESIDENTIAL DEVELOPMENT), R1-8 PRD (SINGLE RESIDENCE, PLANNED RESIDENTIAL DEVELOPMENT), R1-10 PRD (SINGLE RESIDENCE, PLANNED RESIDENTIAL DEVELOPMENT), AND APPROXIMATELY 8.18 ACRES TO C-1 (GENERAL COMMERCIAL); AMENDING THE ZONING MAP; AND PROVIDING FOR AN EFFECTIVE DATE.

Ms. Perry said this land is located at Olive Avenue and Citrus Road. She explained this will increase the number of allowable dwelling units per acre and place general commercial on the corner. She also explained how the property would be zoned and the property will be developed as a residential subdivision in addition to a commercial development. Staff recommends approval and if approved the rezoning would be subject to stipulations as recommended by the Planning Commission.

Councilmember Sherwood wanted confirmation they were only annexing land that the city has an interested in and not all the land at one time.

Ms. Perry said they are only annexing the portion of the property the applicant wanted to be annexed into the city. She said an applicant will have to go through the same process for any future annexations in that area.

Councilmember Sherwood asked if the city had the five mile section along the Hwy. 303 *from Peoria Avenue to Camelback Road.*

Ms. Perry said yes.

Mayor Weiers opened the public hearing on GPA13-05.

There were no speakers.

Mayor Weiers closed the public hearing.

A motion was made by Councilmember Chavira, seconded by Councilmember Aldama, that this agenda item be approved. The motion carried by the following vote:

Aye: 7 - Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Chavira, Councilmember Sherwood, Councilmember Tolmachoff, and Councilmember Turner

RESOLUTION NO. 4920 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY ARIZONA, AMENDING THE GENERAL PLAN MAP OF THE CITY OF GLENDALE, ARIZONA, BY APPROVING GENERAL PLAN AMENDMENT GPA13-05 FOR PROPERTY LOCATED AT 17750 WEST OLIVE AVENUE.

A motion was made by Councilmember Chavira, seconded by Councilmember Sherwood, that this agenda item be approved. The motion carried by the following vote:

Aye: 7 - Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Chavira, Councilmember Sherwood, Councilmember Tolmachoff, and Councilmember Turner

LAND DEVELOPMENT ACTIONS

9. 15-082 FINAL PLAT APPLICATION FP14-05: COPPER COVE 4 - 9300 WEST CAMELBACK ROAD Staff Contact: Jon M. Froke, AICP, Planning Director

Ms. Perry said this was a request to approval the final plat for Copper Cove 4 which is located at 95th Avenue and Camelback Road. This land will be incorporated into the Copper Cove community which is presently under development. She said the final plat is consistent with the general plan and staff recommends the final plat be approved. She said this will be the final action required for Copper Cove 4.

A motion was made by Councilmember Sherwood, seconded by Councilmember Chavira, that this agenda item be approved. The motion carried by the following vote:

Aye: 7 - Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Chavira, Councilmember Sherwood, Councilmember Tolmachoff, and Councilmember Turner

10. 15-083 FINAL PLAT APPLICATION FP14-02: REPLAT OF NORTHERN OAK COMMERCE PARK - 7855 N. 73rd AVENUE Staff Contact: Jon M. Froke, AICP, Planning Director

Ms. Perry said this was a request to approve the final plat for Northern Oak Commerce Park that is located at 73rd Avenue and Northern Avenue. She explained nine existing lots will be combined into one large lot and will be developed with industrial land uses. This is consistent with the general plan and staff recommends the final plat be approved. She said this will be the final action required for Northern Oak Commerce Park.

A motion was made by Councilmember Chavira, seconded by Councilmember Aldama, that this agenda item be approved. The motion carried by the following vote:

Aye: 7 - Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Chavira, Councilmember Sherwood, Councilmember Tolmachoff, and Councilmember Turner

ORDINANCES

 11.
 15-097
 ABANDONMENT OF PATENT EASEMENTS NORTH OF BELL ROAD, APPROXIMATELY 600 FEET EAST OF 63RD AVENUE Staff Contact: Jack Friedline, Director, Public Works

> ORDINANCE NO. 2931 NEW SERIES, WAS READ BY NUMBER AND TITLE ONLY, IT BEING AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ABANDONMENT OF PATENT EASEMENTS NORTH OF BELL ROAD, APPROXIMATELY 600 FEET EAST OF 63RD AVENUE; AND DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE.

> *Mr.* Friedline requested Council approve abandonment of two patent easements north of Bell Road near 63rd Avenue. He said these easements have never been used and there is no need for them now or in the future. He said the owners have requested this action to avoid any conflicts with their future projects.

A motion was made by Councilmember Tolmachoff, seconded by Councilmember Chavira, that this agenda item be approved. The motion carried by the following vote: Aye: 7 - Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Chavira, Councilmember Sherwood, Councilmember Tolmachoff, and Councilmember Turner

REQUEST FOR FUTURE WORKSHOP AND EXECUTIVE SESSION

A motion was made by Vice Mayor Hugh, seconded by Councilmember Chavira, to hold the next regularly scheduled City Council Workshop on Tuesday, February 17, 2015 at 1:30 p.m. in Room B-3 of the City Council Chambers, to be followeded by an Executive Session pursuant to A.R.S. 38-431.03. The motion carried by the following vote:

Aye: 7 - Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Chavira, Councilmember Sherwood, Councilmember Tolmachoff, and Councilmember Turner

CITIZEN COMMENTS

Timothy Ndavu, a Cactus resident, spoke about sale of the Foothills Library. He said he did not think this was a good idea. He said he got about 5 dozen signatures of other library users who oppose selling the library, which he submitted to the City Clerk. He said the Foothills Library is one of the gems of the city. He said keeping the facility is the right thing to do.

James Deibler, a Phoenix resident, spoke about NFL security at the Super Bowl. He said the city cannot afford to lose more money on these big events. He said he was happy the NFL did not pay for security for the big game. He said the state needs to step up to pay for future Super Bowls.

Bill Demski, a Sahuaro resident, complained about recent incidents where the police were called but didn't write reports. He also spoke about lack of oversight for city contracts. He mentioned figures from the city audit of the contracts. He mentioned a meeting he had with a former Mayor of Glendale regarding the corruption in the city back in the early 1990s. He said nothing was ever done. He also spoke about homeless children in the state who go to bed hungry every night. He said his daughter teaches in a school district in the city where children live in poverty. He spoke about all the money the city is spending on projects.

Reginald Martinez, a Barrel resident, said he is disappointed at the recent public airings of the city's personnel issues. He spoke about the City Manager and her experience and how she has turned the city around in a short time. He commented on some recent troubling remarks about Ms. Fischer.

Cherlynn Berry, a Sahuaro resident, spoke about the disconnect between city departments. She said the merchants are suffering in the downtown area with the lack of communication and an inability to be flexible. She said moving the Chocolate Affaire to the same weekend as the Super Bowl caused lower attendance than normal at that event. She asked what kind of image this puts out to the public. She said people will quit coming to the city

Sheri Audette, an Ocotillo business owner, spoke about permits and special restrictions for special events. She explained carnival people violated special restrictions, even though local business owners complied with all the restrictions. She said everyone needs to comply. She also spoke about the cost of the permits and the need to pay more than once a year. She said business owners only want to help the city, and the city departments are not helping that cause.

Randy Miller, a Barrel resident, spoke about a school in the area does not have a library. He spoke about online libraries and how many of the items available are not accurate. He said not all books are available online. He thanked the Council for sending the sale of the library issue out for public comment. He said putting the library into the aquatics center is a bad idea and will not lend itself to a good library setting. He also spoke about valuation of the library.

COUNCIL COMMENTS AND SUGGESTIONS

Councilmember Aldama spoke about the monthly meeting dates he will be available for "no agenda meetings" with Ocotillo residents. He said he will be available the first Monday of each month from 4 p.m. to 5:30 p.m. at Cuff Restaurant. He invited residents to attend the re-grand opening of Sonorita Park on February 28th. He said he has received many emails regarding the Foothills Library.

Councilmember Sherwood complimented staff for their work on the Super Bowl. He said every department had a role to play in this event. He complimented Jean Moreno for her work coordinating Super Bowl activities. He said some of the events mentioned were not city sponsored and said they need to continue working on the other concerns about bringing new events to the city. He said the Chocolate Affaire was successful as they did the same thing the last time the Super Bowl was in town. He congratulated Ms. Fischer for her award as Woman of the Year.

Councilmember Tolmachoff thanked the citizens for serving on the Library Advisory Committee, Parks and Recreation Commission and the Arts Commission for holding the public meetings regarding the library. She said she has received a lot of comments from citizens and she appreciates all the comments. She thanked Direct TV for coming to the city. She looked forward to the numbers on that and welcomed the new businesses that have come to the city.

Councilmember Turner said staff did a wonderful job on the Super Bowl and the boards and commissions have done a great job with the library issue. They have received a lot of public comment on this issue. He complimented Ms. Fischer for the award she received. He said there is a Barrel District meeting at 6 p.m. at the Adult Center tomorrow night and invited all interested residents to attend. He extended his sympathies to the family of Kayla Mueller.

ADJOURNMENT

The meeting was adjourned at 6:52 p.m.



File #: 15-133, Version: 1

BOARDS, COMMISSIONS & OTHER BODIES

Staff Contact: Brent Stoddard, Director, Intergovernmental Programs

Purpose and Recommended Action

This is a request for City Council to approve the recommended appointments to the following boards, commissions and other bodies that have a vacancy or expired term and for the Mayor to administer the Oath of Office to those appointees in attendance.

Arts Commission				
Thomas Cole	Barrel Appointment		02/24/2015	09/27/2015
Citizens Bicycle Advisory Committe	e			
Anthony Pratcher	Cholla	Appointment	02/24/2015	01/16/2017
Citizens Transportation Oversight C	Commissi	on		
Tom Schmitt - Vice Chair	Yucca	Appointment	02/24/2015	03/26/2015
Commission on Persons with Disab	ilities			
Diane Lesser	Cactus	Reappointment	02/27/2015	02/27/2017
Brian Pirooz	Cholla	Appointment	02/24/2015	07/27/2016
Diane Lesser - Chair	Cactus	Appointment	02/26/2015	02/26/2016
Alika Kumar - Vice Chair	Barrel	Appointment	02/26/2015	02/26/2016
General Plan Steering Committee				
Elizabeth Medina	Barrel	Appointment	02/24/2015	01/01/2016
Edwin Nyberg	Cholla	Appointment	02/24/2015	01/01/2016

File #: 15-104, Version: 1

APPROVE SPECIAL EVENT LIQUOR LICENSE, DEEP WITHIN REHAB CENTER

Staff Contact: Susan Matousek, Revenue Administrator

Purpose and Recommended Action

This is a request for City Council to recommend approval to the Arizona Department of Liquor Licenses and Control of a special event liquor license for Deep Within Rehab Center, submitted by Cynthia Ann Humes. The event will be held at the University of Phoenix Staduim on the Great Lawn and in the west parking lot located at 1 North Cardinals Drive on Friday, March 6 and Saturday, March 7, 2015 from 6 a.m. to 9 p.m. The purpose of this special event liquor license is for the Out West Balloon Fest.

Background Summary

The University of Phoenix Stadium is zoned PAD (Planned Area Development) and located in the Yucca District. If this application is approved, the total number of days expended by this applicant will be two of the allowed 12 days per calendar year. Under the provisions of A.R.S. § 4-203.02, the Arizona Department of Liquor Licenses and Control may issue a special event liquor license only if the Council recommends approval of such license.

The City of Glendale Development Services, Police, and Fire Departments have reviewed the application and determined that it meets all technical requirements.

	FOR DLLC USE ONLY
	Event date(s):
Arizona Department of Liquor-Licenses and Control 800 W Washington 5th Floor Phoese States States and Control	
Phoenix AZ 85007-2934 www.azliquer.gov 18021-542-5141	Event time start/end:
T Sparrage and the second s	
]
APPLICATION FOR SPECIAL EVENT LICENS Fee= \$25.00 per day for 1-10 days (consecutiv	e)
A service fee of \$25.00 will be charged for all dishonored checks (A.R.S	5. §44-6852)
IMPORTANT INFORMATION: This document must be fully completed or it y The Department of Liquor Licenses and Control must receive this application ten (1 event. If the special event will be held at a tocation without a permanent liquor license portion of a location that is not covered by the existing liquor license, this application local government before submission to the Department of Liquor Licenses and Control SECTION 1 Name of Organization: DEEP WITHIN REHAB CENTER INC	0) business days prior to the or If the event will be on any on must be approved by the il (see Section 15).
SECTION 2 Non-Profit/IRS Tax Exempt Number:	
SECTION 3 The organization is a: (check one box only)	
Charitable (501.C) Fraternal (must have regular membership and have been in e	existence for over five (5) years)
Religious Civic (Rotary, College Scholarship) Political Party, Ballot Measure or C	
SECTION 4 Will this event be held on a currently licensed premise and within the alread	dy approved premises?
Name of Business License Number	Phone (include Area Code)
SECTION 5 How is this special event going to conduct all dispensing, serving, and Please read R-19-318 for explanation (look in special event planning guide) and check Place license in non-use Dispense and serve all spirituous liquors under retailer's license Dispense and serve all spirituous liquors under special event Split premise between special event and retail location	selling of spirituous liquors? one of the following boxes.
(It not using retail license, submit a letter of gareement from the agent/owner of the license.	censed premise to surpend the
(If <u>not</u> using retail license, submit a letter of agreement from the agent/owner of the license during the event. If the special event is only using a portion of premise, agent/o portion of the premise.)	wher will need to suspend that
SECTION 6 What is the purpose of this event?	wher will need to suspend that
SECTION 6 What is the purpose of this event?	wher will need to suspend that
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SECTION 6 What is the purpose of this event? On-site consumption Off-site (au SECTION 6 What is the purpose of this event? On-site consumption Off-site (au SECTION 7 Location of the Event: UnivERS ITY OF PHAENIX STADUM - GREAT LAWN Address of Location: Image: Construct of the Event: Image: Construct of the Event: Off-site (au SECTION 7 Location of the Event: Image: Construct of the Event: Image: Construct of the Event: Construct of the Event: SECTION 7 Location of the Event: Image: Construct of the Event: Image: Construct of the Event: Construct of the Event: SECTION 7 Location: Image: Construct of the Event: Image: Construct of the Event: Construct of the Event: SECTION 8 Will this be stacked with a wine festival/craft distiller festival? Image: Construct of the Event: Image: Construct of the Event: SECTION 9 Applicant must be a member of the qualifying organization and authorized Chairperson of the Organization named in Section 1. (Authorizing signature is required in	bowner will need to suspend that action) Both Both BWEST LOT MARICOPA AZ 85305 County/State Zip by an Officer, Director or a Section 13.) Date of Birth
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SECTION 6 What is the purpose of this event? Don-site consumption Doff-site (au SECTION 7 Location of the Event: UnivERS ITY' of Phaenix STADUM - GREAT LAWNS Address of Location: I GREDINALS DRIVE GLENDALE Street City	by an Officer, Director or AZ 85345 AZ 85345 AZ 85345 AZ 85345 Zip

SECTION 10

1. Has the applicant been convicted of a felony, or had a liquor license revoked within the last five (5) years?

- 3. Is the organization using the services of a promoter or other person to manage the event? Types INO (If yes, attach a copy of the agreement.)
- 4. List all people and organizations who will receive the proceeds. Account for 100% of the proceeds. The organization applying must receive 25% of the gross revenues of the special event liquor sales. Attach an additional page if necessary.

Name DEFP WITHIN REHAL	B CENTER Percentage	25%	
Address 11773 N 91ST A	AVE PEORIA	AZ	85345
Street	City	State	Zip
Name ARIZONA CARDINALS FO	20TBALL CLUB Percentage	47%	
Address 8701 S. HARDY DE	RIVE TEMPE	AZ	85284
Street	City	State	Zip

5. Please read A.R.S. §4-203.02 <u>Special event license</u>: rules and R19-1-205 <u>Requirements for a Special Event License</u>. Note: ALL ALCOHOLIC BEVERAGE SALES MUST BE FOR CONSUMPTION AT THE EVENT SITE ONLY. "NO ALCOHOLIC BEVERAGES SHALL LEAVE SPECIAL EVENT UNLESS THEY ARE IN AUCTION SEALED CONTAINERS OR THE SPECIAL EVENT LICENSE IS STACKED WITH WINE /CRAFT DISTILLERY FESTIVAL LICENSE"

6. What type of security and control measures will you take to prevent violations of liquor laws at this event? (List type and number of police/security personnel and type of fencing or control barriers, if applicable.)

2 Number of Police 10 Number of Security Personnel Effencing Barriers Explanation: AREA WILL BE ENCLOSED BY CHAIN LINK FENCE, AREA WILL BE	
Explanation: AREA WILL BE ENCLOSED BY CHAIN LINIK FENCE, AREA WILL BE	
MONITORED BY SECURITY, POLICE AND AN ALCOHOL COMPLIANCE TEAM	
FROM ROJO HOSPITALITY GROUP	

See A.R.S. §4-244(15) and (17) for legal hours of service.

	Date	Day of Week	Event Start Time AM/PM	License End Time AM/PM
DAY 1:	3-06-15 3.07-15	FRIDAY	6 AM	9 pm
DAY 2:	3.07-15	SATURDAY	LOAM	9 PM
DAY 3:				
DAY 4:				
DAY 5:		1 		
DAY 6:				
DAY 7:		<u></u>		
DAY 8:		······		<u></u>
DAY 9:	·	:. <u></u> :		Derver The State Communication and a state of the Additional State of the
DAY 10:			÷	·····

Page 2 of 4 Individuals requiring ADA accommodations call (602)542-9027.

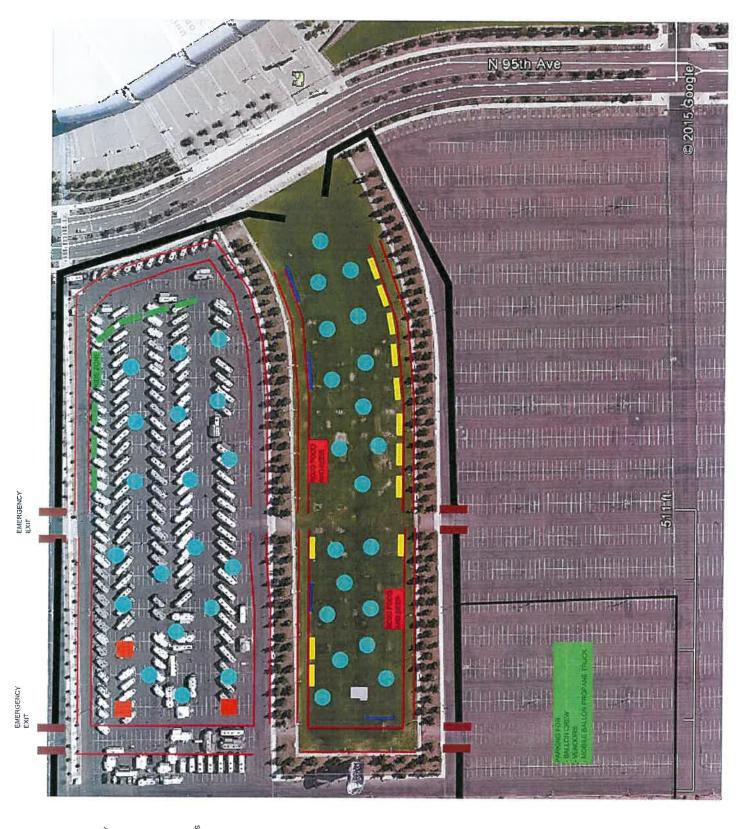
Section 10

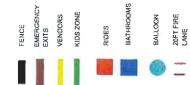
4. List all people and organizations who will receive the proceeds. Account for 100% of the proceeds. The organization applying must receive 25% of the gross revenues of the special event liquor sales. Attach an additional page if necessary.

Name Rojo Hospitality Group

Percentage 28%

Address 1 Cardinals Drive Glendale, AZ 85305





SECTION 13 This section is to be completed only by an Officer, Director or Chairperson of the organization named in Section 1.
I. <u>Cyn Hua Ann Humes</u> declare that I am an OFFICER, DIRECTOR, or CHAIRPERSON (Print full name) appointing the applicant listed in Section 9, to apply on behalf of the foregoing organization for a Special Event
Liquor License. X CEO/Director 1-19-15 62320(27600) (Signature) Title/Position Date Phone #
The foregoing instrument was acknowledged before me this 19 19 19 State AZ County of Maricop a Day My Commission Expires on: 9 2015 Robin Lea. Maricop a
Date Signature of Notary Public SECTION 14 This section is to be completed only by the applicant named in Section 9. I. Cynthia Ann Humes declare that I am the APPLICANT filing this application as (Print full name)
Isted in Section 9. I have read the application and the contents and all statements are true, correct and complete. X (a) (b) (b) (c) (c) (c) (c) (c) (c) (c) (c) (c) (c
The foregoing instrument was acknowledged before me this

The local governing body may require additional applications to be completed and submitted. Please check with local government as to how far in advance they require these applications to be submitted. Additional licensing fees may also be required before approval may be granted. For more information, please contact your local jurisdiction: <u>http://www.azliquor.gov/assets/documents/homepage_docs/spec_event_links.pdf</u>.

SECTION 15 Lo	ocal Governing Bod	y Approval Section			(1)
l,{go	vernment official)	(Title)	recommen	d 🗖 APPROVAL 🗍 (DISAPPROVAL
on behalf of _	(City, Town, County	·,,	Signature	Date	Phone
FOR DEPARTMENT OF LIQUOR LICENSES AND CONTROL USE ONLY					
		BY:		DATE:	

Page 4 of 4 Individuals requiring ADA accommodations call (602)542-9027.

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Liquor Application Worksheet

Date: 1-21-15

15-9

License Type: Series 15 Special Event (Temporary License)

Definition: 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.

Application Type: New License

Definition: New license

Business Name: Deep Within Rehab Center Inc.

Business Address: 11773 N. 91st Ave, Peoria, AZ (Event at University of Phoenix Stadium-Great Lawn and West Lot)

Applicant/s Information

Name: Humes, Cynthia Ann

Name:

Name:

Name:

Background investigation of applicant/s completed.

Calls for Service History:	Call history for location beginning: 1/25/2014	Other Suites	New ownership call history beginning:
Liquor Related	5		
Vice Related			
Drug Related	2		
Fights / Assaults	44		
Robberies			
Burglary / Theft	28		
911 calls	1		
Trespassing	10		
Accidents	9		
Fraud / Forgery	7		
Threats	1		
Criminal damage	6		
Other non-criminal*	48		
Other criminal	19		
Total calls for service	180	N/A	N/A

* Other non-criminal includes calls such as suspicious persons, juveniles disturbing and other information only reports that required Police response or phone call.

Liquor Application Worksheet

Applicant Background Synopsis:

None of the listed applicant(s) have any known felony convictions within the past five years or any other known criminal history that would lead to police department recommendation for denial.

Proceeds from this special event go to the Deep Within Rehab Center Inc. (charitable group), Rojo Hospitality Group and Arizona Cardinals Football Club.

Event dates are scheduled for 03-06-15 (Fri) 03-07-15 (Sat) for the Out West Balloon Fest.

Current License Holder:

N/A

Location History:

No significant Calls for Service history at this location.

Special Concerns:

None found.

Background investigation complete:

Police Department recommendation has No Cause for Denial.

Investigating Officer – M. Ervin

M. ERVIN

1-22-15

Date

CID Lieutenant or Commander

Deputy City Attorney

Chief of Police or designee

ACMATT LIVERY 1-23-15

File #: 15-106, Version: 1

APPROVE LIQUOR LICENSE NO. 5-15757, THE LEGEND AT ARROWHEAD

Staff Contact: Susan Matousek, Revenue Administrator

Purpose and Recommended Action

This is a request for City Council to recommend approval to the Arizona Department of Liquor Licenses and Control of a person-to-person transferable series 7 (Bar - Beer and Wine) license for The Legend at Arrowhead located at 21027 North 67th Avenue. The Arizona Department of Liquor Licenses and Control application (No. 07070544) was submitted by Andrea Dahlman Lewkowitz.

Background Summary

The location of the establishment is in the Cholla District and is over 300 feet from any church or school. The property is zoned SU (Special Use). The population density within a one-mile radius is 11,861. The Legend at Arrowhead is currently operating with an interim permit, therefore, the approval of this license will not increase the number of liquor licenses in the area by one. The current number of liquor licenses within a one-mile radius is as listed below.

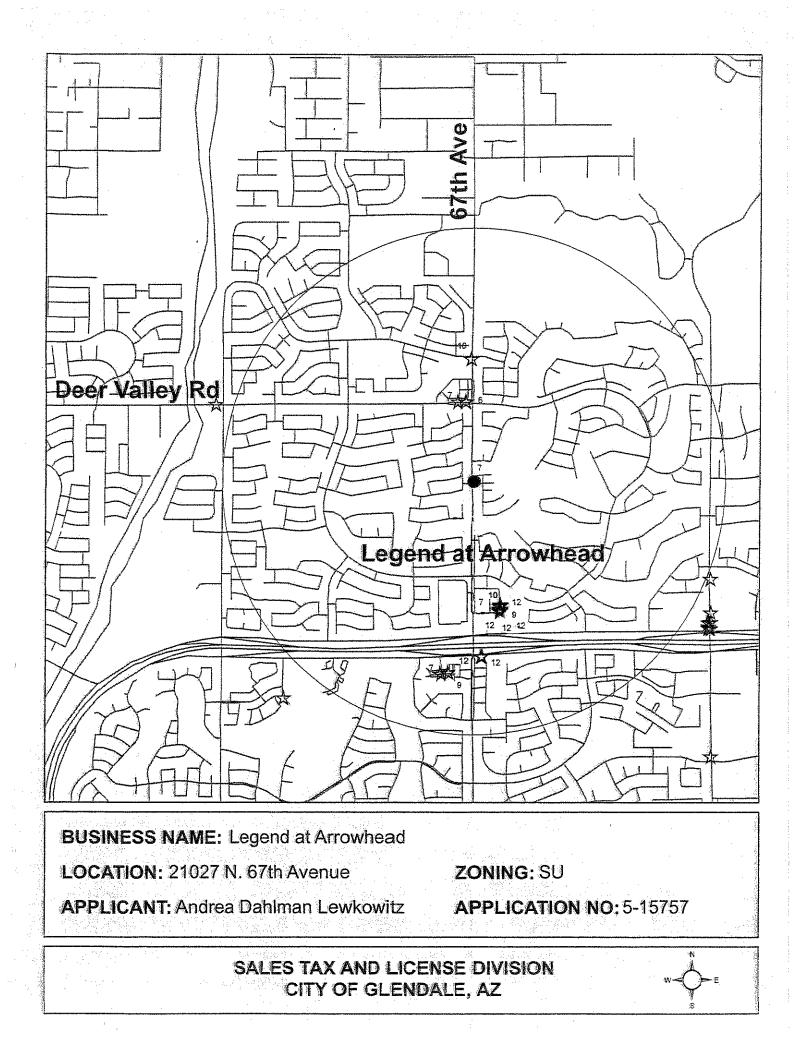
Series	Туре	Quantity
06	Bar - All Liquor	1
07	Bar - Beer and Wine	4
09	Liquor Store - All Liquor	2
10	Liquor Store - Beer and Wine	2
12	Restaurant	<u>6</u>
	Total	15

Pursuant to A.R.S. § 4-203(A), when considering this person-to-person transferable series 7 license, Council may take into consideration the applicant's capability, qualifications, and reliability.

The City of Glendale Development Services, Police, and Fire Departments have reviewed the application and determined that it meets all technical requirements.

Community Benefit/Public Involvement

No public protests were received during the 20-day posting period, January 8 thru January 28, 2015.



Liquor Application Worksheet

Date: 01-23-15

15-3

License Type: Series 7 Beer and Wine Bar (Beer and Wine Only)

Definition: Allows for the sale of beer and wine only, on-premise consumption and packaged goods to go are allowed. Delivery service is allowed.

Application Type: Person-to-Person Transfer

Definition: The application process for conveying the ownership of a license from one person to another, within the same county.

- Business Name: Legend at Arrowhead
- Business Address: 21027 N. 67th Ave

Applicant/s Information

- Name: Lewkowitz, Andrea Dahlman
- (Agent)

Name: Munsch, Joe Ray

Name: Folmar, Dale Wayne

Background investigation of applicant/s completed.

Calls for Service History:	Call history for location beginning: 1/23/2010	Other Suites	New ownership call history beginning: 1/2/2015
Liquor Related	1		
Vice Related			
Drug Related			
Fights / Assaults	3		
Robberies			
Burglary / Theft	17		
911 calls			
Trespassing	4		
Accidents			
Fraud / Forgery			
Threats	1		
Criminal damage	5		
Other non-criminal*	21		
Other criminal			
Total calls for service	52	N/A	0

* Other non-criminal includes calls such as suspicious persons, juveniles disturbing and other information only reports that required Police response or phone call.

Liquor Application Worksheet

Applicant Background Synopsis:

None of the listed applicant(s) have any known felony convictions within the past five years or any other known criminal history that would lead to police department recommendation for denial.

Current License Holder:

Andrea Lewkowitz (Agent) Fore Golf Management LLC(Owner)

There are no known concerns with the current license holder.

Location History:

No significant Calls for Service history at this location.

Special Concerns:

None found

Background investigation complete:

Police Department recommendation has No Cause for Denial.

Investigating Officer – M. Ervin

M. ERVIN

1-23-13

Date

CID Lieutenant or Commander

Deputy City Attorney

Chief of Police or designee

Sur 1-23-15

File #: 15-107, Version: 1

APPROVE LIQUOR LICENSE NO. 5-15759, ARROWHEAD COUNTRY CLUB-SERIES 12

Staff Contact: Susan Matousek, Revenue Administrator

Purpose and Recommended Action

This is a request for City Council to recommend approval to the Arizona Department of Liquor Licenses and Control of a new, non-transferable series 12 (Restaurant) license for Arrowhead Country Club located at 19888 North 73rd Avenue. The Arizona Department of Liquor Licenses and Control application (No. 1207A129) was submitted by Andrea Dahlman Lewkowitz.

Background Summary

The location of the establishment is in the Cholla District. The property is zoned SU (Special Use). The population density within a one-mile radius is 13,324. Arrowhead Country Club is currently operating with an interim permit, therefore, the approval of this license will not increase the number of liquor licenses in the area by one. The current number of liquor licenses within a one-mile radius is as listed below.

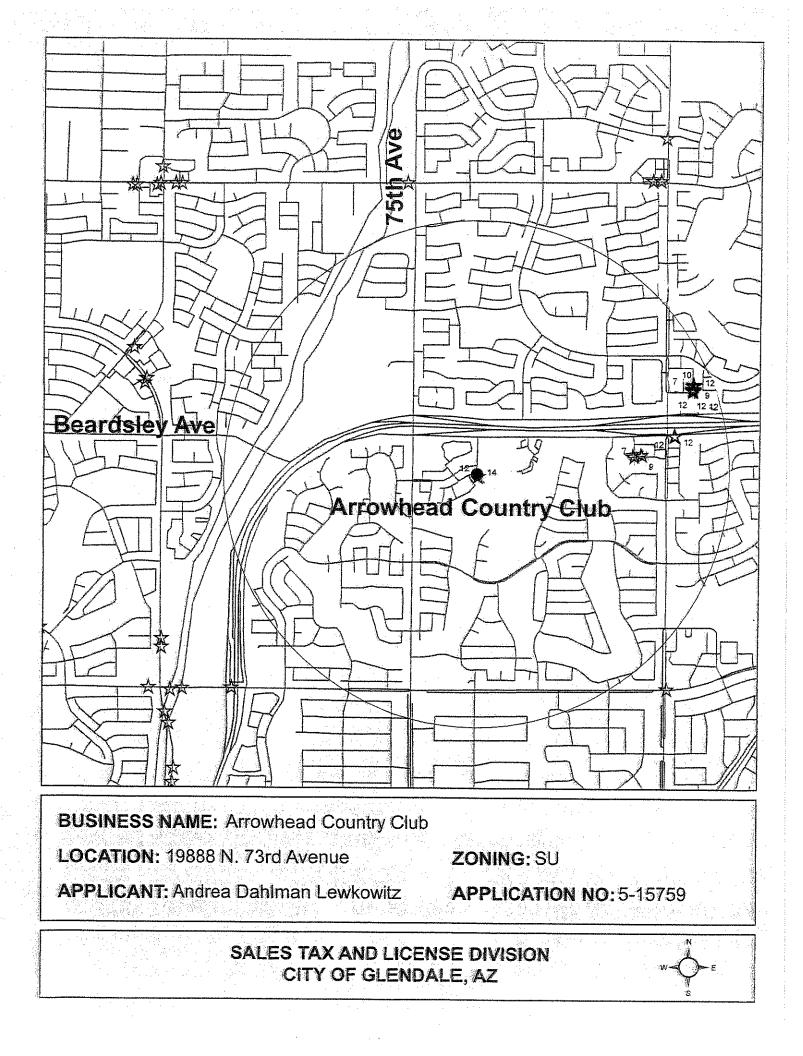
Series	Туре	Quantity
7	Bar - Beer and Wine	2
9	Liquor Store - All Liquor	2
10	Liquor Store - Beer and Wine	1
12	Restaurant	7
14	Private Club	<u>1</u>
	Total	13

Pursuant to A.R.S. § 4-203(A), when considering this new, non-transferable series 12 license, Council may take into consideration the applicant's capability, qualifications, and reliability.

The City of Glendale Development Services, Police, and Fire Departments have reviewed the application and determined that it meets all technical requirements.

<u>Community Benefit/Public Involvement</u>

No public protests were received during the 20-day posting period, January 8 thru January 28, 2015.



Liquor Application Worksheet

Date: 01-23-15

License Type: Series 12 Restaurant

Definition: 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.

Application Type: New License

Definition: New license

Business Name: Arrowhead Country Club

Business Address: 19888 N. 73rd Ave

Applicant/s Information

Name:Lewkowitz, Andrea Dahlman
(Agent)Name:Munsch, Joe RayName:Folmar, Dale Wayne

Background investigation of applicant/s completed.

Calls for Service History:	Call history for location beginning: 1/23/2010	Other Suites	New ownership call history beginning: 1/2/2015
Liquor Related			
Vice Related			
Drug Related	2		
Fights / Assaults	2		
Robberies	1		
Burglary / Theft	23		
911 calls	3		
Trespassing	5	<u> </u>	
Accidents	1		
Fraud / Forgery	1		
Threats			
Criminal damage	4		
Other non-criminal*	25		
Other criminal			
Total calls for service	67	N/A	0

* Other non-criminal includes calls such as suspicious persons, juveniles disturbing and other information only reports that required Police response or phone call.

15-2

Liquor Application Worksheet

Applicant Background Synopsis:

None of the listed applicant(s) have any known felony convictions within the past five years or any other known criminal history that would lead to police department recommendation for denial.

Current License Holder:

Andrea Lewkowitz (Agent) Fore Golf Management LLC(Owner)

There are no known concerns with the current license holder.

Location History:

No significant Calls for Service history at this location.

Special Concerns:

None found

Background investigation complete:

Police Department recommendation has No Cause for Denial.

Investigating Officer – M. Ervin

M. ERVIN

23-15

Date

CID Lieutenant or Commander

Deputy City Attorney

Chief of Police or designee

S. Tour 1-23-15

File #: 15-108, Version: 1

APPROVE LIQUOR LICENSE NO. 5-15759, ARROWHEAD COUNTRY CLUB-SERIES 14

Staff Contact: Susan Matousek, Revenue Administrator

Purpose and Recommended Action

This is a request for City Council to recommend approval to the Arizona Department of Liquor Licenses and Control of a new, non-transferable series 14 (Private Club) license for Arrowhead Country Club located at 19888 North 73rd Avenue. The Arizona Department of Liquor Licenses and Control application (No. 14073075) was submitted by Andrea Dahlman Lewkowitz.

Background Summary

The location of the establishment is in the Cholla District and is over 300 feet from any church or school. The property is zoned SU (Special Use). The population density within a one-mile radius is 13,324. Arrowhead Country Club is currently operating with an interim permit, therefore, the approval of this license will not increase the number of liquor licenses in the area by one. The current number of liquor licenses within a one-mile radius is as listed below.

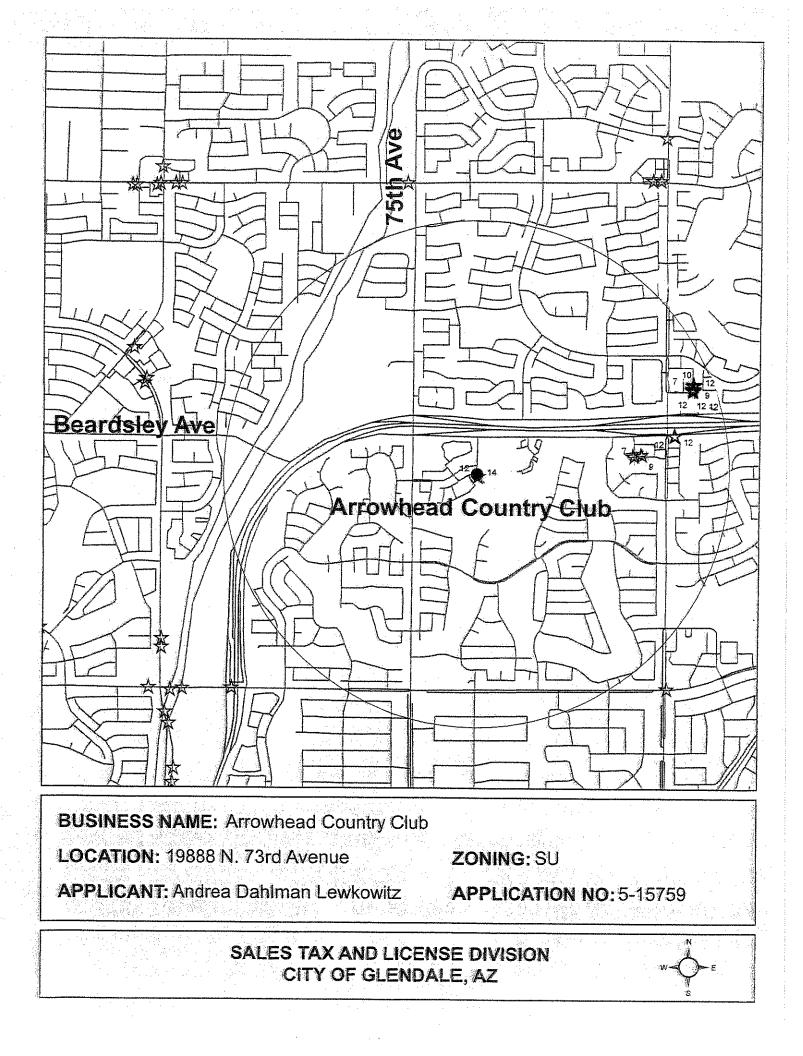
Series	Туре	Quantity
7	Bar - Beer and Wine	2
9	Liquor Store - All Liquor	2
10	Liquor Store - Beer and Wine	1
12	Restaurant	7
14	Private Club	<u>1</u>
	Total	13

Pursuant to A.R.S. § 4-203(A), when considering this new, non-transferable series 14 license, Council may take into consideration the applicant's capability, qualifications, and reliability.

The City of Glendale Development Services, Police, and Fire Departments have reviewed the application and determined that it meets all technical requirements.

<u>Community Benefit/Public Involvement</u>

No public protests were received during the 20-day posting period, January 8 thru January 28, 2015.



Liquor Application Worksheet

Date: 01-23-15

License Type: Series 14 Club (Private)

Definition: On-sale retail privileges liquor license allows the holder of a club license to sell and serve all types of 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 bona fide guests. A "club" is defined in the statutes as including veterans and fraternal organizations and their building associations, golf, social and airline clubs. Application Type: **New License**

Definition: New license

Business Name: Arrowhead Country Club

Business Address: 19888 N. 73rd Ave

Applicant/s Information

Name: Lewkowitz, Andrea Dahlman (Agent) Name: Munsch, Joe Ray Name: Folmar, Dale Wayne

Background investigation of applicant/s completed.

Calls for Service History:	Call history for location beginning: 1/23/2010	Other Suites	New ownership call history beginning: 1/2/2015
Liquor Related			
Vice Related			
Drug Related	2		
Fights / Assaults	2		
Robberies	1		
Burglary / Theft	23		
911 calls	3		
Trespassing	5		
Accidents	1		
Fraud / Forgery	1		
Threats			
Criminal damage	4		
Other non-criminal*	25		
Other criminal			
Total calls for service	67	N/A	0

* Other non-criminal includes calls such as suspicious persons, juveniles disturbing and other information only reports that required Police response or phone call.

Liquor Application Worksheet

Applicant Background Synopsis:

None of the listed applicant(s) have any known felony convictions within the past five years or any other known criminal history that would lead to police department recommendation for denial.

Current License Holder:

Andrea Lewkowitz (Agent) Fore Golf Management LLC(Owner)

There are no known concerns with the current license holder.

Location History:

No significant Calls for Service history at this location.

Special Concerns:

None found

Background investigation complete:

Police Department recommendation has No Cause for Denial.

Investigating Officer – M. Ervin

M. ERVIN

1-23-15

Date

CID Lieutenant or Commander

Deputy City Attorney

Chief of Police or designee

بهدا در 1-23-15

File #: 15-073, Version: 1

AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH PEORIA PEST CONTROL, INC. FOR SEWER MANHOLE INSECTICIDE TREATMENT UTILIZING A CITY OF CHANDLER COOPERATIVE PURCHASING CONTRACT

Staff Contact: Craig Johnson, P.E., Director, Water Services

Purpose and Recommended Action

This is a request for City Council to authorize the City Manager to enter into a multi-year linking agreement with Peoria Pest Control, Inc. for sewer manhole insecticide treatment in an amount not to exceed \$150,000 (\$75,000 annually over the contract term of two years). This cooperative purchase is available through an agreement between the City of Chandler and Peoria Pest Control, Inc., contract MU3-914-3165, and is effective through February 28, 2017.

Background

The Water Services Department provides safe and reliable water and wastewater services for City of Glendale residents and businesses. In the wastewater collection system there are 707 miles of lines and over 14,000 sewer manholes and cleanouts. Pest control service is required for efficient wastewater collection and control of insect infestation in the system.

<u>Analysis</u>

Cooperative purchasing allows counties, municipalities, schools, colleges and universities in Arizona to use a contract that was competitively procured by another governmental entity or purchasing cooperative. Such purchasing helps reduce the cost of procurement, allows access to a multitude of competitively bid contracts, and provides the opportunity to take advantage of volume pricing. The Glendale City Code authorizes cooperative purchases when the solicitation process utilized complies with the intent of Glendale's procurement processes. This cooperative purchase is compliant with Chapter 2, Article V, Division 2, Section 2 -149 of the Glendale City Code, per review by Materials Management.

Peoria Pest Control, Inc. was awarded their contract by City of Chandler through a competitive bid process and includes a provision for cooperative purchasing. Materials Management and the City Attorney's Office have reviewed and approved the utilization of the agreement from the City of Chandler for the defined services, and concur the cooperative purchase is in the best interest of the city.

This action will authorize the City Manager to enter into a linking agreement with Peoria Pest Control, Inc. through February 25, 2017 at an amount not to exceed \$75,000 each year.

Previous Related Council Action

File #: 15-073, Version: 1

On June 10, 2014, City Council approved the expenditure of funds for pest control services from Peoria Pest Control, Inc. in an amount not to exceed \$75,000 for the fiscal year 2014-15. City policy now requires contract service agreements for these services. This request will fulfill this new requirement with a contract that will begin in February 2015 through February 2017.

Community Benefit/Public Involvement

Pest control treatment is an essential component of the water and wastewater infrastructure. Purchasing from cooperative contracts provides both competitive and optimal pricing for equipment and services.

Budget and Financial Impacts

Funding is available in the Water Services FY 2014-15 operating budget as shown below. Annual budget appropriation thereafter is contingent upon Council approval. Total expenditures are not to exceed \$150,000 for the term of this agreement.

Cost	Fund-Department-Account
\$75,000	2420-17630-518200, Wastewater Collection

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

LINKING AGREEMENT BETWEEN THE CITY OF GLENDALE, ARIZONA AND PEORIA PEST CONTROL INC.

RECITALS

- A. On March 4, 2013, under the S.A.V.E. Cooperative Purchasing Group Intergovernmental Agreement, the City entered into a contract with Contractor to purchase the goods and services described in the Manholes Insecticide Painting Services No: MU3-914-3165, which is attached as Exhibit A. The Manholes Insecticide Painting Services Contract permits its cooperative use by other governmental agencies of which the City is a participating member. The S.A.V.E. Cooperative Purchasing Group Intergovernmental Agreement, is hereinafter referred as the Cooperative Purchasing Agreement.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Agreement, the parties agree as follows:

1. <u>Term of Agreement</u>. The City is purchasing the supplies and/or services from Contractor pursuant to Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement award and rate sheet, which are attached hereto as part of Exhibit B, purchases

can be made by governmental entities from the date of award, which was March 4, 2013. This Agreement is effective as of the date first set forth above and expires February 28, 2015, unless the term of the Cooperative Purchasing Agreement is extended by mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not extend the contract beyond February 28, 2017.

2. Scope of Work; Terms, Conditions, and Specifications

- a) Contractor shall provide City the supplies and/or services identified in the Scope of Work attached hereto as Exhibit A.
- b) Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement for the purposes of this Linking Agreement, and the terms, conditions, and specifications are incorporated in this Linking Agreement by this reference. The "City of Glendale" shall be substituted for "End User" or similar references throughout the Cooperative Purchasing Agreement.
- 3. Compensation.
 - a) City shall pay Contractor compensation at the same rate and on the same schedule as the End User pays under the Cooperative Purchasing Agreement, attached hereto as **Exhibit B**.
 - b) The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed one hundred and fifty thousand dollars (\$150,000) for the entire term of this Agreement. In addition the City may from time to time elect to purchase additional goods and services from Contractor pursuant to the Contract, and the City will comply with all applicable laws regarding procurement and approval of such purchases.
- 4. <u>Cancellation</u>. This Agreement may be cancelled pursuant to ARIZ. REV. STAT. § 38-511.
- 5. <u>E-Verify</u>. Contractor complies with ARIZ. REV. STAT. § 23-214 and agrees to comply with the requirements of ARIZ. REV. STAT § 41-4401.
- 6. <u>Notices</u>. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale c/o Anthony Weathersby 7070 W. Northern Ave. Glendale, AZ 85303 623-930-4108

and

Peoria Pest Control c/o Corrine Jones PO Box 9137 Avondale, AZ 85374 623-977-3089

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

"City of Glendale"

"Contractor"

City of Glendale, an Arizona municipal corporation

Peoria Pest Control Inc.

By: Brenda S. Fischer, City Manager

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Corrine Jones, President

ATTEST:

Pamela Hanna, City Clerk (SEAL)

Approved as to Form

Michael D. Bailey, City Attorney

LINKING AGREEMENT BETWEEN THE CITY OF GLENDALE, ARIZONA AND PEORIA PEST CONTROL INC.

EXHIBIT A

City of Chandler Contract MU3-914-3165 - Manholes Insecticide Painting Services

CITY OF CHANDLER SERVICES AGREEMENT MANHOLE INDECTICIDE PAINTING SERVICES AGREEMENT NO.: MU3-014-3105

THIS AGREENT is made and entered into this _____day of _____2013, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, herainalitar referred to as "CITY", and Peorla Peet Control Inc. an S corporation, herainalitar referred to as "CONTRACTOR".

WHEREAS, CONTRACTOR represents that CONTRACTOR has the expertise and is quasified to perform the services described in the Agreement.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth horein, the parties inervice agree as follows:

- 1. CONTRACT ADMINISTRATOR:
- 1.1. Contrast Administrator. CONTRACTOR shall act under the authority and approval of the Wastewater Collection Superintendent/designee (Contract Administrator), to provide the services required by this Agreement.
- 1.2. Key Staff. This Contract has been awarded to CONTRACTOR based partially on the key personnel proposed to perform the services required herein. CONTRACTOR shall not change nor substitute any of these key staff for work on this Contract without prior written approval by CITY.
- 1.3. Subcontractors. During the performance of the Agreement, CONTRACTOR may engage such additional SUBCONTRACTORS as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with CONTRACTOR.
- 1.4. Subcontracts. CONTRACTOR shall not only into any Subcontract under this Contract for the parformance of this Contract without the advance written approval of CITY. The subcontract shall incorporate by reference the terms and conditions of this Contract.
- SCOPE OF WORK: CONTRACTOR shall provide pest control painting services on a citywide basis to manholes all as more specifically set forth in the Scope of Work, labeled Exhibit B, attached hereto and made a part hereof by reference and as set forth in the Specifications and details included therein.
- 2.1. Non-Discrimination. The CONTRACTOR shall comply with State Executive Order No. 99-4 and all other applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.
- 2.2. Licenses. CONTRACTOR shall maintain in current status all Federal, Sizte and local licenses and permits required for the operation of the business conducted by the CONTRACTOR as applicable to this contract.

CONTRACTOR shall ensure that license, qualifying party and applicator certifications are kept current. Applicators must be certified to use restricted use posticides and should have the proper certification and training for chemical application, including residual dust and baits. All related documents shall be provided to the Contract Administrator/designee prior to commencement of work and shall be updated as applicable.

2.3. Advertising, Publishing and Promotion of Contract. The CONTRACTOR shall not use, advartise or promote information for benefit concerning this Contract without the prior written approval of the CITY.

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- 2.4. Compliance with Applicable Laws. CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable licenses and permit requirements.
- 2.4.1 Pursuant to the provisions of A.R.S. § 41-4401, the Contractor heraby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").
- 2.4.2 A breach of the Contractor immigration Warranty (Exhibit A) shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.
- 2.4.3 The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.
- 2.4.4 The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verifications.
- 2.4.5 The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.
- 2.4.6 In accordance with A.R.S. §35-393.05, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Iran.
- 2.4.7 In accordance with A.R.S. §35-391.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Sudan.
- 2.6. Warranties.
- 2.6. Two-Year Warranty. Product and workmanship must be guaranteed by the Contractor(s) for a minimum of two (2) years from the date of application. If ten (10) or more live roaches are found at a treated structure during the warranty period, the structure must be re-treated by the Contractor within 10 calendar days at no additional cost to the City. The scheduling of warranty work will be coordinated through the contract monitor for the City.
- 3. ACCEPTANCE AND DOCUMENTATION: Each task shall be reviewed and approved by the Contract Administrator to determine acceptable completion.
- 3.1. Records. The CONTRACTOR shall retain and shall contractually require each SUBCONTRACTOR to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.
- 3.2. Audit. At any time during the term of this Contract and five (5) years thereafter, the CONTRACTOR'S or any SUBCONTRACTOR'S books and records shall be subject to audit by the City to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, the CONTRACTOR shall produce a legible copy of any or all such records.
- 3.3. New/Current Products. All equipment, materials, parts and other components incorporated in the work or services performed pursuant to this Contract shell be new, or the latest model and of the most suitable grade for the purpose intended. All work shell be performed in a skilled and workmanlike manner.

- 3.4. Property of CITY. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of CITY. CONTRACTOR is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. CONTRACTOR shall not use or release these materials without the prior written consent of CITY.
- 4. PRICE: CITY shall pay to CONTRACTOR a total amount not to exceed one hundred and forty four thousand Dollars (\$144,000) for the completion of all the work and services described herein, which sum shall include all costs or expenses incurred by CONTRACTOR, payable as set forth in Exhibit C, attached hereto and made a part hereof by reference.
- 4.1. Taxes. CONTRACTOR shall be solely legally responsible for any and all tax obligations, which may result out of CONTRACTOR'S performance of this Contract. CITY shall have no legal obligation to pay any amounts for taxes, of any type, incurred by CONTRACTOR. City agrees that Contractor may bill the City for applicable privilege license taxes which are paid for by Contractor and that the City will reimburse Contractor for privilege license taxes actually paid by Contractor. If Contractor obtains any refund of privilege license taxes paid, City will be entitled to a refund of such amounts.
- 4.2. CONTRACTOR shall be solely responsible for any and all tax obligations, which may result out of the CONTRACTOR'S performance of this Agreement. The CITY shall have no obligation to pay any amounts for taxes, of any type, incurred by the CONTRACTOR.
- 4.3. Payment. A separate invoice shall be issued for each shipment of material or service performed, and no payment will be issued prior to receipt of material and/or completion of specified services and receipt of a correct invoice.
- 4.4. Estimated Quantities. Any quantities shown on Exhibit C (the Price List) are estimates only, based upon available information. Payment shall be based on actual quantities and there is no guarantee that any certain quantity shall be required by CITY. City reserves the right to increase or decrease the quantities actually required.
- 4.5. IRS W9 Form. In order to receive payment CONTRACTOR shall have a current I.R.S. W9 Form on file with CITY, unless not required by law.
- 4.6. Price Adjustment. All prices offered herein shall be firm against any increase for two (2) years from the effective date of the Contract. Prior to commencement of subsequent renewal terms, CITY will entertain a fully documented request for price adjustment. The requested increase shall be based upon a cost increase to CONTRACTOR that was clearly unpredictable at the time the Contract was executed directly correlated to the price of the product concerned.
- 4.7. Acceptance by City. CITY reserves the right to accept or reject the request for a price increase. If CITY approves the price increase, the price shall remain firm for the renewal term for which it was requested. If a price increase is agreed upon a written Contract Amendment must be approved and executed by the Parties.
- 4.8. Price Reduction. CONTRACTOR shall offer CITY a price reduction for its services concurrent with a published price reduction made to other customers.
- 5. TERM: The term of the Contract is two year (a), commencing on the 1st day of March, 2013 and terminating on February 28, 2015 unless sooner terminated in accordance with the provisions herein. CITY reserves the right, at its sole discretion, to extend the Contract for up to one additional term of two (2) years. Additionally, the contract may be extended unilaterally for a period of thirty-one days or a portion thereof.
- 6. USE OF THIS CONTRACT: The Contract is for the sole convenience of the City of Chandler. CITY reserves the rights to obtain like services from another source to secure significant cost savings or when timely completion cannot be met by CONTRACTOR.

6.1. Cooperative Use of Contract. In addition to the City of Chandler and with approval of the CONTRACTOR, this Contract may be extended for use by other municipalities, school districts and government agencies of the State. A current listing of eligible entities may be found at <u>www.maricopg.gov/materials</u> and then click on 'Contracts', 'S.A.V.E.' listing and 'ICPA'. Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.

If required to provide services on a school district property at least five (5) times during a month, CONTRACTOR shall submit a full set of fingerprints to the school district in accordance with A.R.S. 15-512 of each person or employee who may provide such service. The District shall conduct a fingerprint check in accordance with A.R.S. 41-1750 and Public Law 92-544 of all CONTRACTORS, sub-CONTRACTORS or vendors and their employees for which fingerprints are submitted to the District. Additionally, the CONTRACTOR shall comply with the governing body fingerprinting policies of each individual school district/public entity. CONTRACTOR, sub-contractors, vendors and their employees shall not provide services on school district properties until euthorized by the District.

Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. The CITY shall not be responsible for any disputes arising out of transactions made by other agencies who utilize this Agreement.

- 6.2. Emergency Purchases: CITY reserves the rights to purchase from other sources those items, which are required on an emergency basis and cannot be supplied immediately by the CONTRACTOR.
- 7. CITY'S CONTRACTUAL REMEDIES:
- 7.1. Right to Assurance. If the City in good faith has reason to believe that the CONTRACTOR does not intend to, or is unable to perform or continue parforming under this Contract, the Contract Administrator may demand in writing that the CONTRACTOR give a written assurance of intent to perform. Failure by the CONTRACTOR to provide written assurance within the number of Days specified in the demand may, at the City's option, be the basis for terminating the Contract in addition to any other rights and remedies provided by law or this Contract.
- 7.2. Stop Work Order. The City may, at any time, by written order to the CONTRACTOR, require the CONTRACTOR to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the City after the order is delivered to the CONTRACTOR. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the CONTRACTOR shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
- 7.3. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the CONTRACTOR shall resume work. The Contract Administrator shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 7.4. Non-exclusive Remedies. The rights and the remedies of the City under this Contract are not exclusive.
- 7.5. Nonconforming Tender. Services and materials supplied under this Contract shall fully comply with Contract requirements and specifications. Services or materials that do not fully comply constitute a breach of contract.
- 7.6. Right of Offset. The City shall be entitled to offset against any sums due CONTRACTOR, any expenses or costs incurred by the City, or damages assessed by the City concerning the CONTRACTOR'S non-conforming performance or failure to perform the Contract, including expenses to complete the work and other costs and damages incurred by CITY.

8. TERMINATION:

8.1 Termination for Convenience: CITY reserves the right to terminate this Agreement or any part thereof for its sole convenience with thirty (30) days written notice. In the event of such termination, CONTRACTOR shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and sub-CONTRACTORs to cease such work. As compensation in full for services performed to the date of such termination, the CONTRACTOR shall receive a fee for the percentage of services actually performed. This fee shall be in the amount to be mutually agreed upon by the CONTRACTOR and CITY, based on the agreed Scope of Work. If there is no mutual agreement, the Management Services Director shall determine the percentage of work performed under each task detailed in the Scope of Work and the CONTRACTOR'S compensation shall be based upon such determination and CONTRACTOR'S fee schedule included herein.

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- 8.2 Termination for Cause: City may terminate this Agreement for Cause upon the occurrence of any one or more of the following events:
 - 1) If CONTRACTOR fails to perform pursuant to the terms of this Agreement
 - 2) If CONTRACTOR is adjudged a bankrupt or insolvent;
 - 3) If CONTRACTOR makes a general assignment for the benefit of craditors;
 - 4) If a trustee or receiver is appointed for CONTRACTOR or for any of CONTRACTOR'S property;
 - If CONTRACTOR files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws;
 - 6) If CONTRACTOR disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction;
 - 7) Where Agreement has been so terminated by CITY, the termination shall not affect any rights of CITY against CONTRACTOR then existing or which may thereafter accrue.
- 8.3. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, CITY may cancel this Contract after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.
- 8.4. Gratuities. CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by CONTRACTOR or a representative of CONTRACTOR to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by CONTRACTOR.
- 8.5. Suspension or Debarment. CITY may, by written notice to the CONTRACTOR, immediately terminate this Contract if CITY determines that CONTRACTOR has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a SUBCONTRACTOR of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the CONTRACTOR is not currently suspended or debarred. If CONTRACTOR becomes suspended or debarred, CONTRACTOR shall immediately notify CITY,
- 8.6. Continuation of Performance Through Termination. The CONTRACTOR shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

- 8.7. No Walver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
- 8.8. Availability of Funds for the next Fiscal Year. Funds may not presently be available under this agreement beyond the current fiscal year. No legal liability on the part of the CITY for services may arise under this agreement beyond the current fiscal year until funds are made available for performance of this agreement. The CITY may reduce services or terminate this agreement without further recourse, obligation, or penalty in the event that insufficient funds are appropriated. The City Manager shall have the sole and unfettered discretion in determining the availability of funds.
- 9. FORCE MAJEURE: Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.
- 10. DISPUTE RESOLUTION:
- 10.1 Arizona Law. This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 10.2 Jurisdiction and Venue. The parties agree that this Agreement is made in and shall be performed in Maricopa County. Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of Maricopa County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.
- 10.3 Fees and Costs. Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this Agreement is entitled to an award of reasonable attorney's fees, expert witness faes and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication.
- 11. INDEMNIFICATION: To the fullest extent permitted by law, CONTRACTOR its successors, assigns and guarantors, shall defend, indemnify and hold harmless City and any of its elected or appointed officials, officers, directors, commissioners, board members, agents or employees from and against any and all allegations, demands, claims, proceedings, suits, actions, damages, including, without limitation, property damage, environmental damages, personal injury and wrongful death claims, losses, axpenses (including claim adjusting and handling expenses), penalties and fines (including, but not limited to, attorney fees, court costs, and the cost of appellate proceedings), judgments or obligations, which may be imposed upon or incurred by or asserted against the City by reason of this Agreement or the services performed or permissions granted under it, or related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by CONTRACTOR or any of its subcontractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, relating to the discharge of any duties or the exercise of any rights or privileges arising from or incidental to this Agreement, including but not limited to, any injury or damages claimed by any of CONTRACTOR's and subcontractor's employees.

12. INSURANCE;

- 12.1. Insurance Representations and Requirements:
- 1. General.
 - A. At the same time as execution of this Agreement, the CONTRACTOR shall furnish the City of

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Chandler a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY.

- B. The CONTRACTOR and any of its subcontractors, subconsultants or sublicensees shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.
- C. The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.
- D. The City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect CONTRACTOR from liabilities that might arise out of the performance of the Agreement services under this Agreement by CONTRACTOR its agents, representatives, employees, subcontractors, sublicensees or subconsultants and the CONTRACTOR is free to purchase any additional insurance as may be determined necessary.
- E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve the CONTRACTOR from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.
- F. Use of SubContractors: If any work is subcontracted in any way, the CONTRACTOR shall execute a written agreement with Subcontractor containing the same Indemnification Clause and insurance Requirements as the City requires of the CONTRACTOR in this Agreement. The CONTRACTOR is responsible for executing the Agreement with the Subcontractor and obtaining Certificates of Insurance and verifying the Insurance requirements.
- 2. <u>Minimum Scope And Limits Of Insurance</u>. The CONTRACTOR shall provide coverage with limits of liability not less than those stated below.
 - A. Commercial General Liability-Occurrence Form. CONTRACTOR must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent contractors, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this peragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.
 - 8. Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles Vehicle Liability: CONTRACTOR must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on CONTRACTOR owned, hired, and non-owned vehicles assigned to or used in the performance of the [Party contracting with City]'s work or services under this Agreement. If any Excess or Umbrelia insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrelia Insurance must be "follow form" equal or broader in coverage scope than underlying insurance.
 - C. Workers Compensation and Employers Liability Insurance: CONTRACTOR must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of CONTRACTOR employees engaged in the performance of work or services under this Agreement and must also maintain Employees' Liability insurance of not less than \$500,000 for each accident and \$500,000 disease for each employee.
- 3. Additional Policy Provisions Required.

- A. Self-insured Retentions Or Deductibles. Any self-insured retentions and deductibles must be declared and approved by the City. If not approved, the City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to the City, its officers, officials, agents, employees, and volunteers.
- B. City as Additional Insured. The policies are to contain, or be endorsed to contain, the following provisions:
- 1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the CONTRACTOR including the City's general supervision of the CONTRACTOR; Products and Completed operations of the CONTRACTOR; and automobiles owned, leased, hired, or borrowed by the CONTRACTOR.
- The CONTRACTOR's insurance must contain broad form contractual liability coverage and must not exclude liability arising out of explosion, collapse, or underground property damage hszards ("XCU") coverage.
- 3. The City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the CONTRACTOR even if those limits of liability are in excess of those required by this Agreement.
- 4. The CONTRACTOR's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, and employees shall be in excess of the coverage provided by the CONTRACTOR and must not contribute to it.
- The CONTRACTOR's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- Coverage provided by the CONTRACTOR must not be limited to the liability assumed under the indemnification provisions of this Agreement.
- 7. The policies must contain a severability of interest clause and waiver of subrogation against the City, its officers, officials, agents, and employees, for losses arising from Work performed by the CONTRACTOR for the City.
- 8. The CONTRACTOR its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of 3 years following completion and acceptance of the Work. The CONTRACTOR must submit a Certificate of insurance evidencing Commercial General Liability insurance during this 3 year period containing all the Agreement insurance requirements, including naming the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional insured as required.
- 9. If a Certificate of Insurance is submitted as verification of coverage, the City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the required policies expire during the life of this Agreement, the CONTRACTOR must forward renewal or replacement Certificates to the City within 10 days after the renewal date containing all the necessary insurance provisions.

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13. NOTICES: All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of the CITY Contract Administrator: Contact: Mailing Address: Physical Ad	Contact: Mailing Address: Physical Address: City, State, Zip Phone:	Wastewater DivisionAlvin RobertsonPO Box 4008 - MS 908975 E Armstrong WayChandler AZ 85249480-782-3600	Firm Name: Peoria Pest Control Contact: Roger Jones Address: PO Box 9137 City, State, Zip Phone: 623-204-6224
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Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

14. CONFLICT OF INTEREST:

- 14.1. No Kickback. CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in CONTRACTOR'S proposal to the CITY.
- 14.2. Kickback Termination. CiTY may cancel any contract or agreement, without penalty or 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 or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a CONTRACTOR to any other party to the Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when written notice from CITY is received by all other parties, unless the notice specifies a later time (A.R.S. §38-511).
- 14.3. No Conflict: CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

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- 15. GENERAL TERMS:
- 15.1. Ownership. All deliverables and/or other products of the Contract (including but not limited to all software documentation, reports, records, summaries and other matter and materials prepared or developed by CONTRACTOR in performance of the Contract) shall be the sole, absolute and exclusive property of CITY, free from any claim or retention of right on the part of CONTRACTOR, its agents, sub-contractors, officers or employees.
- 15.2. Entire Agreement. This Agreement, including eli Exhibits attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.
- 15.3. Arizona Law. This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 15.4. Assignment: Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the CITY.

- 15.5. Amendments. The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the CONTRACTOR are violations of the Contract. Any such changes, including unauthorized written Contract Amendments shall be vold and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on such changes.
- 15.6. Independent CONTRACTOR. The CONTRACTOR under this Contract is an independent CONTRACTOR. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 15.7. No Parole Evidence. This Contract Is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

15.5. Authority: Each party hereby warrante and represente that it has full power and suthority to enter into and perform this Agreement, and that the paraon signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

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IN WITHERS WHEREOF, the parties have bereunio subscribed their names to this 4 day of ______2013.

FOR THE CITY OF CHANDLER	FOR THE CONTRACTOR
_ ally blanna	By: COlrine DUD
ATTEST:	
ma	ATTEST: If Corporation
City Clerk	Boardery
Approyed as to form:	*
Saven KM.	
City Attorney	

PAGE 11 OF 18

EXHIBIT A

Contractor Immigration Warrantly To Be Completed by Contractor Prior to Execution of Contract

A.R.S. § 41-4401 requires as a condition of your contract vertication of compliance by the contractor and subcontractors with the Federat Immigration and Nationality Act (FINA), all other Federak Immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

By completing and signing this form the contractor shall attest that it and all subcontractors performing work under the clied contract most all conditions contained herein.

Contract Number:	NU3-014-3185		
Name (as listed in the c	ontract);		
Bireet Name and Numbe	NR		
CR/:	alighter	Zip Code:	

I hereby allest that:

 The contractor complies with the Federal immigration and Nationality Act (FINA), all other Federal immigration iews and regulations, and A.R.S. § 23-214 misted to the immigration status of those employees performing work under this contract; i

 All subcontractors performing work under this contract comply with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration utatus of their employees.

Signature of Contractor (Employer) or Authorized Designee:

Send **Printed No** Vreside Title: Data (month/singlycar): 12913

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EXHIBIT & SCOPE OF WORK

- 1. <u>SCOPE</u>. CONTRACTOR shall provide all labor, material, equipment and insecticide required to treat sanitary sever manholes and cleanouts. It is estimated that approximately 18,000 sever manhole coverings will be treated per year during the two-year contract period, with one-half of the sever structures being treated each year. Differentiating between structures treated in year one of the contract versus those treated in year two must be provided in the form of different colors of insecticide paint. Insecticide shall be odorless and should have an active ingredient of Chlorpyrifos be added to a latex based paint product.
- 2. <u>AREA TO BE TREATED</u>. Treatment of all manholes shall be to an average depth of eight feet, with an average of 100 square feet per structure. Structures of less than eight feet in depth shall be treated in their entirety. Structures exceeding eight feet in depth will be treated using the "top" eight feet of the structure as a guideline.
- 3. <u>ACCESSIBILITY BY CONTRACTOR.</u> CONTRACTOR shall have reasonable accessibility to all designated manholes. Should this not be the case, CONTRACTOR shall work with Contract Administrator/designee to locate and expose the manhole covering. CONTRACTOR shall make a reasonable attempt to locate and treat the manhole covering during the initial visit. CONTRACTOR shall provide the following information to Contract Administrator/designee:
 - manhola numbers
 - Date exterminated
 - Description of problem, if unable to exterminate manhole
 - Location (major cross streets and local area description)

When an emergency situation is found, CONTRACTOR shall immediately notify the Contract Administrator/designee of an emergency situation should one arise. Emergency conditions include but are not limited to:

- Partial and full line blockages
- Surcharging manholes
- Missing or offset manholes covers, frames and cement collars
- Bee Hives

All manhole coverings requiring the breaking of a seal shall be reported to the Contract Administrator/designee no later than the end of the same business day. The Contract Administrator/designes will make arrangements to have the manhole resealed. CONTRACTOR shall remove all foreign matter from the manhole foundation (manhole ring/ monument box, debris, etc.) to ensure the covering seats properly upon completion of the treatment process.

- 4. WRITTEN COMPLETION REPORTS. CONTRACTOR shall submit a written completion report to Contract Administrator/designee within 30 days of completion of work, which details work completed. The report shall include, but may not be limited to:
 - Year-to-date count on sections completed
 - * Year-to-date count of manhole coverings completed within each section
 - Date each section was completed (mm/yy)
 - Warranty expiration date of treated manhole coverings (mm/yy)
 - " Location and type of emergency reported (include time/date and person contacted)
- 5. WORK HOURS. Work hours are 8:00 am to 5:00 PM local time, Monday through Friday, excluding City observed holidays. The Contract Administrator/designee may authorize changes to this schedule. No additional compansation will be paid by CITY to CONTRACTOR, without prior written approval from the Contract Administrator/designee AND the CITY Purchasing Division.

6. <u>RIGHT OF WAYS / EASEMENTS</u>. CONTRACTOR shall ensure public safety when treating structures in the right-of-way. All applicable requirements of the CITY shall be adhered to. No structures shall be left unattended at any time. Pedestrian traffic shall not be obstructed for any duration of time. Failure to adhere to the condition may result in immediate cancellation of this contract.

CONTRACTOR shall be expected to access sewer structures within public right of ways or easements, while at the same time respecting private property rights. Primary responsibility for customer contact will be placed on the contractor. Assistance for gaining access to private property may be provided by the Contract Administrator/designee. CONTRACTOR shall not enter private property to treat structures unless the property owner or the Contract Administrator/designee has granted prior permission. No vehicular traffic will be permitted on private property unless the property owner or the Contract Administrator/designee has granted prior permission. Work conducted on private property shall be completed expeditiously using the utmost professional courtesy when contacting the general public. Landsceping shall be undisturbed in easement areas or relumed to its original condition when applicable. Failure to adhere to these conditions may result in termination of this Agreement.

- 7. <u>CONTRACTOR EMPLOYEES</u>. CONTRACTOR employees shall include consist of, at a minimum, appropriate supervision to ensure satisfactory contract performance, and at least two product application crews dedicated to the daily performance of contract services. CONTRACTOR shall provide proper supervision during all phases of work. Work crews shall be visited by a supervisor at least once per day. Additionally, supervisor must be available by phone during working hours. The CITY will provide a full time Contract Administrator/designee to verify workmanship, facilitate public contact where necessary, and assist in structure location issues.
- 8. <u>EMPLOYEE SAFETY</u>. CONTRACTOR shall provide and enforce the use of all applicable personal protective equipment (PPE) for their employees. No manholes requiring confined space entry permits shall be entered without prior approval of the Contract Administrator/designee. The Contract Administrator/designee will ensure that all applicable requirements of the CITY's Confined Space Entry program are met prior to entry, should the need exist.

Exhibit C Price Sheet

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ITEM #	DESCRIPTION	UNIT PRICE
1.	Manhole Insecticide Treatment	\$8,00
	Product:	

LINKING AGREEMENT BETWEEN THE CITY OF GLENDALE, ARIZONA AND PEORIA PEST CONTROL INC.

EXHIBIT B

Peoria Pest Control Inc. - Pricing Sheets

Exhibit C Price Sheet

ALL REALIZATION

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ITEM #	DESCRIPTION	UNIT PRICE
1.	Manhole Insecticide Treatment	\$8.00
	Product:	

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AMENDMENT NUMBER ONE TO AGREEMENT BETWEEN THE CITY OF CHANDLER AND PEORIA PEST CONTROL INC FOR MANHOLE INSECTICIDE PAINTING SERVICES AGREEMENT NO. MU3-914-3165

This Amendment Number One to that certain Agreement Between the City Of Chandler (CITY) and Peoria Pest Control Inc. (CONTRACTOR) for Manhole Insecticide Painting Services dated, March 4, 2013 is entered into this day <u>26</u> of <u>Jonuary</u>, 2015.

WHEREAS, the parties entered into contract for a two-year term with provisions for one additional two-year extension, and

WHEREAS, the parties have agreed to execute the first extension.

NOW THEREFORE, the parties agree as follows.

- 1. This contract is extended for a two-year period, through February 28, 2017,
- All other terms and conditions of the above referenced Agreement shall remain unchanged and in full force and effect. All terms and conditions in the original Agreement not specifically amended herein shall be incorporated by reference in its entirety and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names this ______ day of _______, 2015.

CITY OF CHANDLER:	CONSULTANT:
By: Mayor	By: Orrine pro
APPROVED AS TO FORM	TTEST: (If corporation)
ATTEST: March Marker City Clerk	Secretary

WITNESS: (If individual or Partnership)

[SEAL]

CC 1-22-15



Legislation Description

File #: 15-131, Version: 1

AWARD OF IFB 15-32, AUTHORIZATION TO ENTER INTO AN AGREEMENT, AND APPROVE EXPENDITURE OF FUNDS FOR LEGAL ADVERTISING, WITH PUEBLO PUBLISHERS, INC., THE GLENDALE STAR Staff Contact: Pamela Hanna, City Clerk

Purpose and Recommended Action

This is a request for City council to award the IFB 15-32, authorize the City manager to enter into an agreement, and approve expenditure of funds for the legal advertising services from Pueblo Publishers, Inc., The Glendale Star (The Glendale Star) in an amount not to exceed \$50,000 (\$10,000 for the first year and \$10,000 for each of the four one-year extensions).

Background

City Charter requires the city manager shall let annually contracts for official advertising for the ensuing fiscal year or the city council can execute a contract for more than one year.

Article VIII, Section 6 of the City Charter:

"Sec. 6. - Contracts for official advertising.

The city manager shall let annually contracts for official advertising for the ensuing fiscal year. For this purpose he or she shall submit to each legal newspaper published in the city, a notice describing the contemplated advertising and asking for sealed proposals. The proposals shall specify the type and spacing to be used at the rate or rates named in the bid. The city manager shall let the contracts for such official advertising to the lowest and best bidder publishing a newspaper of general circulation in the city; provided that in his or her discretion he or she may reject any and all bids and proceed to secure new bids in the manner provided herein. This section shall not preclude the city council from executing a contract for more than one year subject to annual appropriation. (3-15-88)

The newspaper to which the award for such advertising is made shall be known and designated as the official newspaper."

<u>Analysis</u>

The city's Material Management Division in conjunction with the City Clerk Department developed an invitation for bid. One response was received from The Glendale Star. The single response was evaluated by a team consisting of the City Clerk, Deputy City Clerk and Materials Management representative, to be the lowest responsible, responsive proposal.

File #: 15-131, Version: 1

Previous Related Council Action

On March 24, 2009, Council approved the award of IFB 08-51 to Pueblo Publishers, Inc., The Glendale Star.

Community Benefit/Public Involvement

Entering into this agreement with The Glendale Star will provide the city with an official newspaper for the publication of legal notices and circulation of this information to the citizens complying with Glendale City Charter.

Budget and Financial Impacts

The funds are budgeted in the City Clerk advertising account.

Cost	Fund-Department-Account
\$10,000/year	1000-10210-517200 - City Clerk Advertising

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

AGREEMENT FOR

LEGAL ADVERTISING

City of Glendale Solicitation No. IFB 15-32

This Agreement for Legal Advertising ("Agreement") is effective and entered into between CITY OF GLENDALE, an Arizona municipal corporation ("City"), and PUEBLO PUBLISHERS, INC. dba The Glendale Star, an Arizona corporation, (the "Contractor"), as of the _____ day of _____, 2015.

RECITALS

A. The Glendale City Charter requires the designation of a newspaper for official legal advertising.

B. City has selected the lowest responsible bidder to perform publishing services in accordance with the requirements of City of Glendale solicitation No. IFB 15-32, ("Services"), all as attached and incorporated herein as **Exhibit A** (IFB 15-32 and Bid/Offer by Contractor) and **Exhibit B** (Compensation).

C. City and Contractor desire to memorialize their agreement with this document.

AGREEMENT

In consideration of the Recitals, which are confirmed as true and correct and incorporated by this reference, the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, City and Contractor agree as follows:

1. Services. Contractor will ensure all Services are completed timely and efficiently consistent with this Agreement and Exhibits A and B, attached.

2. Term.

- 2.1 <u>Initial</u>. The term of this Agreement commences on the Effective Date and continues for a oneyear initial period.
- 2.2 <u>Renewal</u>. The City may, at its option and with the approval of the Contractor, extend the term of this Agreement an additional four (4) years, renewable on an annual basis. The City Manager may exercise the City's option to renew this Agreement. Contractor shall be notified in writing by the City Materials Manager of the City's intention to renew the contract period at least thirty (30) calendar days prior to the expiration of the original contract period. There are no automatic renewals of this Agreement.
- 2.3 <u>Price Adjustments</u>. Price adjustments will only be reviewed during the Agreement renewal period. Contractor or City may request a price adjustment thirty (30) days prior to the renewal date of the Agreement. Any price adjustment shall be based upon mutual consistent of the Contractor and City. Any price adjustment will become effective only after written agreement by the Contractor and City and will be effective for at least one year from the date approved.

3. Contractor's Work.

3.1 <u>Standard</u>. Contractor must perform Services in accordance with the standards of due diligence, care and quality prevailing among contractors having substantial experience with the successful furnishing of the type of service required.

Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and

b. Neither Contractor nor any Sub-contractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").

- (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.
- (2) Contractor must notify City immediately if any Approvals or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default under the Agreement.
- 3.3 <u>Compliance</u>. Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by City.

Non-Discrimination. Contractor must not discriminate against any employee or applicant for employment on the basis race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

4. Key Personnel; Sub-contractors.

- 4.1 <u>Services</u>. Contractor will provide all work necessary to assure that Services are completed timely and efficiently consistent with Services requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors or consultants, retained by City.
- 4.2 Project Team.
 - a. Project Manager.
 - Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's option, complete the Project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement;
 - (2) The City must approve the designated Project Manager; and
 - (3) To assure the Project schedule is met, Project Manager may be required to devote no less than a specific amount of time as set out in Exhibit A.
 - b. Project Team.
 - (1) The Project Manager and all other employees assigned to the project by Contractor will comprise the "Project Team."
 - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the Project by Contractor.
 - c. Discharge, Reassign, Replacement.
 - (1) Contractor acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in the response to the Project's solicitation.
 - (2) Contractor will not discharge, reassign or replace or diminish the responsibilities of any of the employees assigned to the Project who have been approved by City without City's prior written consent unless that person leaves the employment of Contractor, in which event the substitute must first be approved in writing by City.
 - (3) Contractor will change any of the members of the Project Team at the City's request if an employee's performance does not equal or exceed the level of

competence that the City may reasonably expect of a person performing those duties or if the acts or omissions of that person are detrimental to the development of the Project.

d. <u>Sub-contractors</u>.

- (1) Contractor may engage specific technical contractor (each a "Sub-contractor") to furnish certain service functions.
- (2) Contractor will remain fully responsible for Sub-contractor's services.
- (3) Sub-contractors must be approved by the City, unless the Sub-contractor was previously mentioned in the response to the solicitation.
- (4) Contractor shall certify by letter that contracts with Sub-contractors have been executed incorporating requirements and standards as set forth in this Agreement.

5. Compensation for Services.

- 5.1 <u>Compensation</u>. Contractor's compensation for Services, including those furnished by any Subcontractors will not exceed \$1.95 per column inch, as defined and specifically detailed in **Exhibit B**.
- 5.2 <u>Change in Scope of Services</u>. The Compensation may be equitably adjusted if the original contemplated scope of Services as outlined in the solicitation is significantly modified.
 - a. Adjustment to Compensation requires a written amendment to this Agreement and may require City Council approval.
 - b. Additional services which are outside the scope of the Services contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.
 - c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take

6. Billings and Payment.

- 6.1 <u>Applications</u>.
 - a. Contractor will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.
 - b. The period covered by each Payment Application will be one calendar month ending on the last day of the month or as specified in the solicitation.

6.2 <u>Payment</u>.

- a. After a full and complete Payment Application is received, City will process and remit payment within 30 days.
- b. Payment may be subject to or conditioned upon City's receipt of:
 - (1) Completed work generated by Contractor and its Sub-contractors; and
 - (2) Unconditional waivers and releases on final payment from Sub-contractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

- 6.3 <u>Review and Withholding</u>. City's Project Manager will timely review and certify Payment Applications.
 - a. If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.
 - b. City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.

7. Termination.

- 7.1 <u>For Convenience</u>. City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 30 days following the date of delivery.
 - a. Contractor will be equitably compensated for Goods or Services furnished prior to receipt of the termination notice and for reasonable costs incurred.
 - b. Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with project closeout and delivery of the required items to the City.
- 7.2 <u>For Cause</u>. City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.
 - a. Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages, in accordance with the provision of § 5.
 - b. If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand; however, Contractor will not be subject to consequential damages of more than \$1,000,000 or the amount of this Agreement, whichever is greater.
- 8. Conflict. Contractor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

9. Insurance.

- 8.1 <u>Requirements</u>. Contractor must obtain and maintain the following insurance ("Required Insurance"):
 - a. Contractor and Sub-contractors. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively referred to herein as the "Contractor's Policies"), until each Party's obligations under this Agreement are completed.
 - b. General Liability.
 - (1) Contractor must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate for each property damage and contractual property damage.
 - (2) Sub-contactors must at all times relevant hereto carry a general commercial liability policy with a combined single limit of at least \$1,000,000 per occurrence.

- (3) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, XCU hazards if requested by the City, and a separation of insurance provision.
- (4) These limits may be met through a combination of primary and excess liability coverage.
- c. Auto. A business auto policy providing a liability limit of at least \$1,000,000 per accident for Contractor and \$1,000,000 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.
- d. Workers' Compensation and Employer's Liability. A workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.
- e. Notice of Changes. Contractor's Policies must provide for not less than 30 days' advance written notice to City Representative of:
 - (1) Cancellation or termination of Contractor or Sub-contractor's Policies;
 - (2) Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and
 - (3) Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.
- f. Certificates of Insurance.
 - (1) Within 10 business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which will confirm the existence or issuance of Contractor and Sub-contractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Sub-contractor's Policies in accordance with the provisions of this section.
 - (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.
 - (3) Contractor's failure to secure and maintain Contractor Policies and to assure Subcontractor policies as required will constitute a material default under the Agreement.
- g. Other Contractors or Vendors.
 - (1) Other contractors or vendors that may be contracted with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular contract.
 - (2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).
- h. Policies. Except with respect to workers' compensation and employer's liability coverages, City must be named and properly endorsed as additional insureds on all liability policies required by this section.
 - (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self insurance policies or programs maintained by the additional insureds.

(2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and reasonably acceptable to all parties.

8.2 <u>Sub-contractors</u>.

- a. Contractor must also cause its Sub-contractors to obtain and maintain the Required Insurance.
- b. City may consider waiving these insurance requirements for a specific Sub-contractor if City is satisfied the amounts required are not commercially available to the Sub-contractor and the insurance the Sub-contractor does have is appropriate for the Sub-contractor's work under this Agreement.
- c. Contractor and Sub-contractors must provide to the City proof of the Required Insurance whenever requested.
- 8.3 Indemnification.
 - a. To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense"; collectively, "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.
 - b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.
 - c. Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

9. Immigration Law Compliance.

- 9.1 Contractor, and on behalf of any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.
- 9.2 Any breach of warranty under subsection 9.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.
- 9.3 City retains the legal right to inspect the papers of any Contractor or subcontractor employee who performs work under this Agreement to ensure that the Contractor or any subcontractor is compliant with the warranty under subsection 9.1 above.
- 9.4 City may conduct random inspections, and upon request of City, Contractor shall provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under subsection 9.1 above. Contractor agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties

and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this section.

- 9.5 Contractor agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Contractor and expressly accrue those obligations directly to the benefit of the City. Contractor also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.
- 9.6 Contractor's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- 9.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

10. Notices.

- 10.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:
 - a. The Notice is in writing; and
 - b. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested); and
 - c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
 - Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service on or before 5:00 p.m.; or
 - (2) As of the next business day after receipt, if received after 5:00 p.m.
 - d. The burden of proof of the place and time of delivery is upon the Party giving the Notice; and
 - e. Digitalized signatures and copies of signatures will have the same effect as original signatures.
- 10.2 <u>Representatives</u>.
 - a. Contractor. Contractor's representative (the "Contractor's Representative") authorized to act on Contractor's behalf with respect to the Project, and his or her address for Notice delivery is:

William E. Toops c/o The Glendale Star 7122 North 59th Avenue Glendale, Arizona 85301 623-842-6000

b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale c/o Materials Management 5850 W Glendale Avenue, Suite 317 Glendale, Arizona 85301 623-930-2867 With required copy to:

City Manager City of Glendale 5850 West Glendale Avenue Glendale, Arizona 85301 City Attorney City of Glendale 5850 West Glendale Avenue Glendale, Arizona 85301

- c. Concurrent Notices.
 - (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
 - (2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
 - (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.
- d. Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.
- **11. Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

12. Entire Agreement; Survival; Counterparts; Signatures.

- 12.1 <u>Integration</u>. This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.
 - a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
 - b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
 - c. The solicitation, any addendums and the response submitted by the Contractor are incorporated into this Agreement as if attached hereto. Any Contractor response modifies the original solicitation as stated. Inconsistencies between the solicitation, any addendums and the response or any excerpts attached as Exhibits and this Agreement will be resolved by the terms and conditions stated in this Agreement.

12.2 Interpretation.

c.

- a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
 - The Agreement will be interpreted in accordance with the laws of the State of Arizona.
- 12.3 <u>Survival</u>. Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

- 12.4 <u>Amendment</u>. No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval. Electronic signature blocks do not constitute execution.
- 12.5 <u>Remedies</u>. All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.
- 12.6 <u>Severability</u>. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be deemed reformed to conform to applicable law.
- 12.7 <u>Counterparts</u>. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.
- **13. Dispute Resolution.** Each claim, controversy and dispute (each a "Dispute") between Contractor and City will be resolved in accordance with Exhibit C. The final determination will be made by the City.
- 14. Exhibits. The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A Services

- Exhibit B Compensation
- Exhibit C Dispute Resolution

(Signatures appear on the following page.)

The parties enter into this Agreement as of the effective date shown above.

City of Glendale, an Arizona municipal corporation

By: Brenda S. Fischer Its: City Manager

ATTEST:

Pam Hanna, City Clerk

(SEAL)

APPROVED AS TO FORM:

Michael D. Bailey, City Attorney

PUEBLO PUBLISHERS, INC.,

an Arizona corporation ン U

By: William E. Toops Its: Publisher/General Manager

(Revised 7_1_13)

EXHIBIT A

Pueblo Publishers, Inc. IFB 15-32

SERVICES

[See attached]



CITY OF GLENDALE MATERIALS MANAGEMENT INVITATION FOR BID

SOLICITATION NUMBER:

DESCRIPTION:

IFB 15-32

Legal Advertising

BID DUE DATE AND TIME:

January 6, 2015 AT 2:00 P.M. LOCAL TIME

Offers for the materials or services specified will be received by the City of Glendale, Materials Management at the below specified location until the time and date cited. Offers received by the Bid Due Date and Time stated above will be opened. The name of each Offeror and the amount of the bid will be publicly read.

BID OPENING & SUBMITTAL LOCATION:

City of Glendale Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

Bids must be in the actual possession of Materials Management on or prior to the Bid Due Date and Time at the location indicated. Materials Management is located on the third (3rd) floor of the Glendale Municipal Office Complex (City Hall) behind the Engineering Department. Bids are accepted from the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, unless otherwise indicated for a holiday. All bids will be time stamped at the Engineering Department's front counter. Late bids will not be considered.

Bids must be submitted in a sealed envelope with the <u>Solicitation Number</u>. The <u>Offeror's name and address</u> must be clearly indicated on the envelope. See Paragraph 3.3 for additional instructions for preparing an offer.

Bids shall be opened publicly at the time, place and location designated on this page. The name of each Offeror and price offered shall be publicly read and recorded.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION.

For questions regarding General Terms and Conditions contact: **Connie Schneider Purchasing and Materials Management** 623-930-2868 **CSchneider@glendaleaz.com**

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LEGAL ADVERTISING

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

1.0 INTRODUCTION

This solicitation is being release to provide The City of Glendale, Arizona (City), a resource for placing publications of all legal advertising and notices for the City of Glendale in the Newspaper. The term "Newspaper" shall mean a newspaper printed and published in Maricopa County, State of Arizona, which for at least one (1) year, has been admitted to the United States Mail as second class matter, as set forth and meets the requirements of A.R.S. 39-201 through 39-205 and 39-221.

The advertising will consist of, but is not limited to, advertisements and notices for elections, events, procurements, public meetings, public auctions, ordinances and resolutions both with and without exhibits. Exhibits of these can be found in Section 7.0. The publications will be made on an as-needed-basis.

2.0 SPECIFICATIONS

- **2.1** At a minimum, the Contractor's proposal shall contain information to support the following:
- 2.1.1 <u>**Circulation**</u> The City is requiring a minimum circulation of at least 5000 within the Glendale city limits.
 - 2.1.1.1 Describe how it meets the city's requirement that it is generally circulated within the City of Glendale. Circulation figures shall be broken out into paid subscriptions, newsstands, and any other types of distributions (i.e. Complimentary).
 - 2.1.1.2 Include number of home deliveries vs. single copy circulation methods, specifically in the City of Glendale (possibly by zip code).
 - 2.1.1.3 Describe any price variances based on circulation or by day of the week;
 - 2.1.1.4 Describe in detail the circulation numbers (by zip code or other geographic means) by day of week, so that the city may take advantage of higher circulation days for advertising.
- 2.1.2 **<u>Publication</u>** Publication within the City does not require "printing" within the City.
 - 2.1.2.1 Contractor shall state how frequently their paper is published. List the day of the week, press time deadline, and the number of hours prior to



LEGAL ADVERTISING

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

press time copy will be accepted <u>with</u> notice and <u>without</u> notice. The City is requiring that the publication be a minimum of once a week.

2.1.2.2 Contractor shall state how it meets the City Charter requirement that the legal newspaper is published in the City of Glendale.

2.1.3 **Qualifications**

- 2.1.3.1 Describe in detail the Contractor's qualifications.
- 2.1.3.2 Provide a brief description of how Contractor complies with A.R.S. 39-201 through 39-205 and 39-221.
- 2.1.3.3 Provide a description of the history of the Contractor;
- 2.1.3.4 Provide a list of no less than three (3) references with contact information.

2.1.4 <u>Technical Requirements</u>

- 2.1.4.1 Submitted documents shall be followed literally as far as wording, capitalization, bold lettering, accent, and punctuation.
- 2.1.4.2 Size of type shall not be less than five (5) or more than six (6) point type.
- 2.1.4.3 Should be set solid (no lead), unless specifically requested. This will apply whether letterpress, offset, computer tape, or disc format is used.
- 2.1.4.4 Variance in type size shall not be greater than 5% over or under the specified size range.
- 2.1.4.5 Continuous wrap for text must be applied in all publication and advertising matter.
- 2.1.5 <u>Cost</u>
 - 2.1.5.1 Provide a copy of the newspaper's rate sheet based upon a column inch of print.
 - 2.1.5.2 Complete Price Sheet including any variations based on day of week.
 - 2.1.5.3 For evaluation purposes, Offerors shall state the cost of the attached Exhibits (2-13) in Section 7.0.
 - 2.1.5.3.1 Each Bidder shall reproduce the exhibits in paragraph/column form showing the type of style that will be used in printing and publishing.
 - 2.1.5.3.2 These reproductions shall be included with the bid, be a separate layout for each exhibit and each on an 8 ½ by 11



LEGAL ADVERTISING

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sheet of paper, and identified by title and presented in Exhibit number order.

NOTE: Although the exhibits represent regular business, the City reserves the right to include any other document for publication as needed.

2.1.6 Method of Ordering -

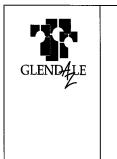
- 2.1.6.1 Copy for legal publication and advertising for the City shall be available via email whenever possible and may be in Word, Excel, PDF and any other format provided by the City.
- 2.1.6.2 Items which cannot be emailed shall be picked up by the Contractor or faxed by city, if appropriate. The City has been averaging between 300 and 400 documents annually with an average of 6000 column inches.

2.1.7 Verification of Publication:

- 2.1.7.1 The Contractor shall furnish, without additional cost, a copy of the legal advertisement and an affidavit of publication, within 10 days of publication, covering each legal publication published.
- 2.1.7.2 Include a copy of the actual Legal Advertisement "Tear Sheets" verifying publication and specifying the actual run date(s) thereof shall accompany each billing invoice.
- 2.1.7.3 Such proof shall be received by not later than ten (10) days after publication
- **2.2** This bid will be used for the 2015/16 fiscal year.
- **2.3** Specifically, the City of Glendale Charter reads as follows:

PART I THE CHARTER, ARTICLE VIII. CONTRACTS, Sec. 6. Contracts for Official Advertising.

The city manager shall let annually contracts for official advertising for the ensuing fiscal year. For this purpose he or she shall submit to each legal newspaper published in the city, a notice describing the contemplated advertising and asking for sealed bids. The bids shall specify the type and spacing to be used at the rate or rates named in the bid. The city manager shall let the contracts for such official advertising to the lowest and best offer publishing a newspaper of general circulation in the city; provided that in his or her discretion he or she may reject any and all bids and proceed to secure new bids in the manner provided herein.



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Solicitation Number: IFB 15-32

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This section shall not preclude the city council from executing a contract for more than one year subject to annual appropriation. (3-15-88)

The newspaper to which the award for such advertising is made shall be known and designated as the official newspaper.

2.4 Advertisement shall be issued for dissemination of news of a general and public character at stated short intervals of time. Such publication shall be from a known office of publication and shall bear dates of issue and be numbered consecutively. It shall not be designed primarily for advertising, free circulation or circulation at nominal rates, but shall have a bona fide list of paying subscribers.



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3.0 SPECIAL TERMS AND CONDITIONS

- 3.1 **INCORPORATION BY REFERENCE** All responses shall incorporate by reference the Scope/Specifications, Terms and Conditions, general instructions and conditions, and any attachments. The Standard Terms and Conditions applicable to this solicitation are posted on the Internet. They are available for review and download at the City of Glendale's Materials Management Internet home page, <u>www.glendaleaz.com/purchasing</u>. Contractors are advised to review all provisions of the General Instructions and Conditions for this solicitation.
- 3.2 <u>RETURN OF OFFER</u> One (1) hard copy marked as "original", one (1) flash drive or Compact Disc (CD), containing all original documents in PDF format and three (3) copies marked as "Copies".

The original copy of the bid should be clearly labeled "Original" and shall be singlesided. The sections of the submittal should be clearly identifiable and should follow the instructions noted in the Submission Requirements section of this Invitation for Bids. Failure to include the requested information may have a negative impact on the evaluation of the Contractor's bid.

- 3.3 **PREPARATION OF BID PACKAGE** The following items shall be completed and returned. Failure to include all the items may result in the bid being rejected. Bid packages shall be submitted in the following order:
 - 3.3.1 OFFER SHEET, Section 3
 - 3.3.2 PRICE SHEET, Section 4
 - 3.3.3 EXHIBITS (2-13), Section 7
 - 3.3.4 SPECIFICATION, Section 1
 - 3.3.5 ATTACHMENT 1, Section 6
- 3.4 **ALTERNATE OFFERS/EXCEPTIONS** Offers submitted as alternates, or on the basis of exceptions to specific conditions of purchase and/or required specifications, must be submitted as an attachment referencing the specific paragraph number(s) and adequately defining the alternate or exception submitted. Detailed product brochures and/or technical literature, suitable for evaluation, must be submitted with the bid. If no exceptions are taken, City will expect and require complete compliance with the specifications and all Conditions of Purchase.
- 3.5 **WITHDRAWAL OF BID** At any time prior to the specified solicitation due date and time, an Offeror may formally withdraw the bid by a written letter or electronic mail from the Offeror or a designated representative. Telephonic or oral withdrawals shall not be considered.

	Amber: IFB 15-32CITY OF GLENDALEOVERTISINGMaterials Management5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301
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3.6 **PROPRIETARY INFORMATION** - An Offeror shall clearly mark any proprietary information contained in its bid with the words "Proprietary Information." Offeror shall not mark any Solicitation Form as proprietary. Pricing data shall not be considered proprietary. Marking all, or nearly all, of a bid as proprietary may result in rejection of the bid.

Offerors acknowledge that the City is required by law to make certain records available for public inspection. In the event that the City receives a request for disclosure of Proprietary Information by any person, court, agency or administrative body, or otherwise has a reasonable belief that it is obligated to disclose the Proprietary Information to any such person or authority, the City will provide Offeror with prompt written notice so that Offeror may seek a protective order or other appropriate remedy. The Offeror, by submission of materials marked Proprietary Information, acknowledges and agrees that the City will have no obligation to advocate for non-disclosure in any forum or any liability to the Offeror in the event that the City must legally disclose the Proprietary Information.

- 3.7 **PRICE** All prices quoted shall be firm and fixed for the specified contract period.
- 3.8 **<u>TERM OF AGREEMENT</u>** The term of agreement for this Bid shall be for a one-year initial period.
- 3.9 **OPTION TO EXTEND** The City may, at its option and with the approval of the contractor, extend the term of this agreement an additional four (4) year(s), renewable on an annual basis. Contractor shall be notified in writing by the City Materials Manager of the City's intention to extend the contract period at least thirty (30) calendar days prior to the expiration of the original contract period. Price adjustments will only be reviewed during contract renewal.
- 3.10 **EVALUATION CRITERIA** Invitation for Bids (IFB) are awarded to the lowest responsible and responsive bidder whose bid conforms in all material respect to the requirements and criteria set forth in the Invitation for Bids.
- 3.11 **NO CONTACT, NO INFLUENCE DURING THE IFB PROCESS** The City is conducting a competitive bidding process for the contract, free from improper influence or lobbying. There shall be no contact concerning this solicitation from Contractors submitting an offer with any member of the City Council, Evaluation Committee Members, or anyone connected with the process for or on behalf of the City. Contact includes direct or indirect contact by the Contractor, its employees, attorneys, lobbyists, surrogates, etc. in an attempt to influence the bidding process.

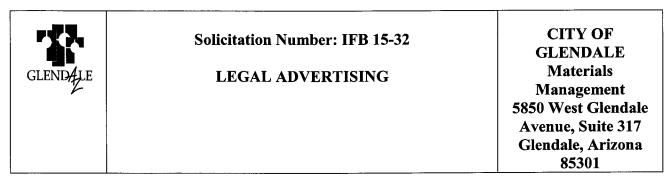
From the time the IFB is issued until the expiration of the protest period or the resolution of any protest, whichever is later (the "Black-Out Period"), Contractors, directly or

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indirectly through others, are restricted from attempting to influence in any manner the decision making process through, including but not limited to, the use of paid media; contacting or lobbying the City Council or City Manager or any other City employee (other than Material Management employees); the use of any media for the purpose of influencing the outcome; or in any other way that could be construed to influence any part of the decision-making process about this IFB. This provision shall not prohibit a Contractor from petitioning an elected official or engaging in any other protected first amendment activity after the protest period has run or any protest has been resolved, whichever is later.

Violation of this provision will cause the proposal or offer of the Contractor to be found in violation and to be rejected.

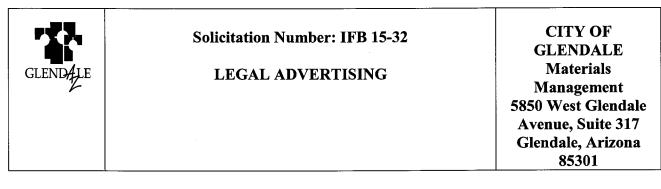
- 3.12 **INQUIRIES** Any question related to the Invitation for Bid shall be directed to the Contract Analyst whose name appears above. A Contractor shall not contact or ask questions of the department for whom the requirement is being procured. The Contract Analyst may require any and all questions be submitted in writing. Contractors are encouraged to submit written questions via electronic mail or facsimile, at least five (5) days prior to the proposal due date. Any correspondence related to a solicitation should refer to the appropriate IFB page and paragraph number. An envelope containing questions should be identified as such; otherwise it may not be opened until after the official proposal due date and time. Oral interpretations or clarifications will be without legal effect. Only questions answered by a formal written amendment to the IFB will be binding.
- 3.13 **<u>BID EVALUATION</u>** The City reserves the right to secure additional information from the Offeror in various forms and/or to award based on submitted information.
- 3.14 **DISCUSSIONS AND REVISIONS TO BID** Discussions may be conducted with responsible Offerors who submit bids determined to be reasonable susceptible of being selected for award; and may obtain pertinent information for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Should the City elect to call for 'best and final', Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of bids, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from bids submitted by competing Offerors.
- 3.15 **NOTICE OF INTENT TO AWARD** Information about the recommended award for this solicitation will be posted on the Internet. The information will be available for review on the City of Glendale's, Materials Management Internet home page www.glendaleaz.com/purchasing immediately after the City has completed its evaluation process of the offers received. If you have any questions, or would like further



information about an intended award, contact the contract analyst immediately. Any protest must be submitted to the Materials Manager no later than seven (7) calendar Internet. Please go to days from the date of posting on the http://www.glendaleaz.com/Purchasing/doingbusinesswithglendale.cfm for information and instructions on how to file a protest with the City of Glendale.

- 3.16 **COOPERATIVE USE OF CONTRACT** This agreement may be extended for use by other governmental agencies and political subdivisions of the State including all members of SAVE (Strategic Alliance for Volume Expenditures). Any such usage by other entities must be in accord with the ordinances, charter, rules and regulations of the respective entity and the approval of the Contractor and City. For a list of SAVE members click on the following link: <u>http://www.maricopa.gov/materials/SAVE/SAVE-members.PDF</u>
- 3.17 **PERMITS AND LICENSES** The Contractor shall be responsible for determining and securing, at his/her expense, any and all licenses and permits that are required by any statute, ordinance, rule or regulation of any regulatory body having jurisdiction in any manner connected with providing products and services. Such fees shall be included in and are part of the total offer cost. During the term of the contract, the Contractor shall notify the City in writing, within two (2) working days, of any suspension, revocation or renewal.
- 3.18 ADDITIONS / DELETIONS OF PRODUCTS OR SERVICES The City reserves the right to add additional products to this contract when deemed necessary by the City. If this occurs, the Contractor will be requested to submit a negotiable quotation for the additions. Upon approval and authorization by the Materials Manager such additions will be added to and become a part of the contract through properly executed forms.
- 3.19 **<u>PUBLIC RECORD</u>** Contractor acknowledges that the City is a public agency and must comply with all Public Records laws. All proposals submitted in response to the Solicitation shall become the property of the City and, subsequent to award recommendation, become a matter of public record available for review pursuant to Arizona Public Records Law.

If a Contractor believes that a specific section of its Bid response is confidential, that should be withheld from the public record, Contractor shall isolate the pages and mark each page confidential in a specific and clearly labeled section of its Proposal response. The Contractor shall include a written statement as to the basis for considering the marked pages confidential including the specific harm or prejudice if disclosed. The City Materials Management Division will review the material and make a determination as to the confidentiality of any of the information and/or material contained within the Submittal. In the event of a public records request for documents Contractor deems confidential, the City will notify Contractor of the request and if Contractor claims such

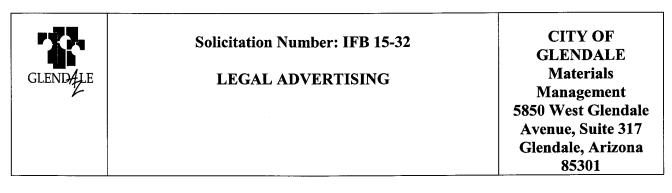


documents are confidential, it shall be the Contractor's sole responsibility, including sole cost, to take appropriate action, including legal action, to protect such documents.

3.20 **PRICE ESCALATION** - Price increases may be requested by the Contractor thirty (30) days prior to the renewal date of the contract. The increased rate shall be based upon mutual consent of the Contractor and the City. The City staff shall evaluate the Contractor's performance, services and records documentation to determine the appropriateness of the increase requested.

Price increases will become effective only after agreement by the Contractor and the City and will be effective for at least one year from the date of approval.

- 3.21 **ESTIMATED QUANTITIES** The Quantities listed are the City's best estimate and do not obligate the City to order or accept more than City's actual requirements during the period of this agreement as determined by actual needs and availability of appropriated funds. It is expressly understood and agreed that the resulting contract is to supply the City with its complete actual requirements for the contract period, except that the estimated quantity shown for each proposal item shall not be exceeded by 100% without the express written approval of the Materials Manager. Any demand or order made by any employee or officer of the City, other than the Materials Manager, for quantities in the excess of the estimated quantities shall be void if the written approval of the Materials Manager was not received prior to the Contractor's performance.
- 3.22 <u>**CERTIFICATION**</u> by signature on the Offer page, solicitation Amendment(s), or cover letter accompanying the submittal documents, Contractor certifies:
 - 2.22.1 The submission of the offer did not involve collusion or other anti-competitive practices;
 - 2.22.2. The Contractor shall not discriminate against any employee or applicant for employment in violation of Federal or State law;
 - 2.22.3. The Contractor has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with the submitted offer; and
 - 2.22.4. The Contractor hereby certifies that the individual signing the submittal is an authorized agent for the Contractor and has the authority to bind the Contractor to the Contract.
- 3.23 **<u>KEY PERSONNEL</u>** Contractor shall assign specific individuals to the key positions in support of the Contract. Once assigned to work under the Contract, key personnel shall

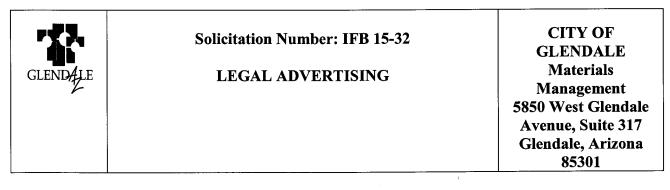


not be removed or replaced without the prior written approval of the City. Upon the replacement of any key personnel, Contractor shall submit the name(s) and qualifications of any new key personnel to the City Contract Administrator or Designee. With the concurrence of the Contract Administrator or Designee, the City shall amend the Contract to reflect the name(s) of any replacement key personnel. Upon any unplanned departure of key personnel, Contractor shall immediately notify the Contract Administrator or Designee.

For this purpose, a primary and secondary emergency contact name and phone number are required from the Contractor. It is critical to the City that the contactor's emergency contact information remains current. The Materials Management staff member, identified on page 1, is to be contacted by E-mail with any change to a contact name or phone number.

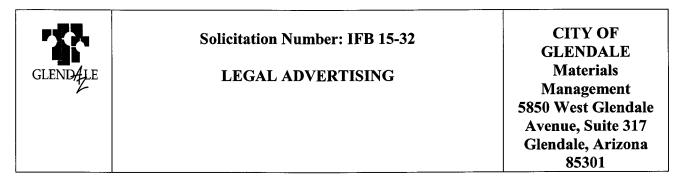
All products or services provided to meet an emergency phone request are to be supplied as per the contract prices, terms and conditions. The Contractor may provide the fee (pricing) for an after-hours emergency opening of the business separate from the Price Sheet (Section 5.0). In general, the order will be placed using a City Procurement Card. The billing is to include the emergency opening fee, if applicable.

- 3.24 **CONTRACT NEGOTIATIONS** Exclusive or concurrent negotiations may be conducted with responsible Contractor(s) for the purpose of altering or otherwise changing the conditions, terms and price of the proposed contract unless prohibited. Contractors shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing Contractors. Exclusive or concurrent negotiations shall not constitute a contract award nor shall it confer any property rights to the successful Contractor. In the event the City deems that negotiations are not progressing, the City may formally terminate these negotiations and may enter into subsequent concurrent or exclusive negotiations with the next most qualified firm(s).
- 3.25 **DEFAULT** In case of default by the contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the bid and/or performance bond; or (3) a combination of the aforementioned remedies or other remedies as provided by law.
- 3.26 **TERMINATION FOR CONVENIENCE** The City reserves the right to terminate any order or contract upon thirty days written notice. The City will be responsible only for those standard items which have been delivered and accepted. If the items are unique and not saleable or useable for any other application, the City will reimburse the Seller for actual labor, material, and burden costs, plus a profit not to exceed 8%. Title to all



materials, work-in-process, and completed but undelivered goods will pass to the City after costs are claimed and allowed.

3.27 **SUB-CONTRACTING** The contract or any portion thereof, shall not be sub-contracted without the prior written approval of the Materials Manager. No such approval will be construed as making the City a party of or to such sub-contract, or subjecting the City to liability of any kind to any sub-contractor. No sub-contract shall, under any circumstances, relieve the contractor of liability and obligation under this contract; and despite any such subletting the City shall deal through the contractor. Sub-contractors will be dealt with as workmen and representatives of the contractor.

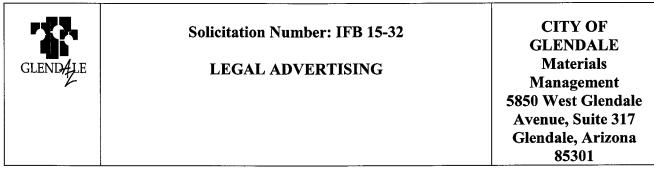


<u>NOTE</u>: In addition to completing this Section electronically and including it in the Flash Drive submittal, a printed version with original signature shall be submitted with Flash Drive at the time of Offer Due Date and Time.

4.0 **OFFER SHEET**

4.1 OFFER Offeror certifies that they have read, understand, and will fully and faithfully comply with this solicitation, its attachments and any referenced documents. Offeror also certifies that the prices offered were independently developed without consultation with any of the other Offerors or potential Offerers.

Authorized Signature	Company's Leg	Company's Legal Name	
Printed Name	Address	Address	
Title	City, State & Zi	City, State & Zip Code	
Telephone Number	FAX Number		
Authorized Signature E-mail Address	Company E-ma	Company E-mail Address	
For questions regarding this of	fer: (If different from	above)	
Contact Name	Phone Number	Fax Number	
Contact Email Address			
FEDERAL TAXPAYER ID NUMBER	R:		
Arizona Sales Tax No.		Tax Rate	



Offeror certifies it is a: Proprietorship ____ Partnership ____ Corporation ____.

Minority or woman owned business: Yes _____ No _____

<u>NOTE:</u> In addition to completing this Section electronically and including it in the CD-ROM submittal, a printed version shall be submitted with CD-ROM at the time of Offer due date and time.

5.0 PRICE SHEET

Company Name: _____

ITEM DESCRIPTION

PRICE

(Note: if pricing varies by day of week, please provide daily pricing under separate attachment. See Section 2.1.1.3)

1	Legal Notices	\$	/Column inch/insertion
2	Display Notices	\$	/Column inch/insertion
3	(List other type of Ad wi	\$\$	/Column inch/insertion
4	(List other type of Ad wi	\$ th Price)	/Column inch/insertion
5	(List other type of Ad wi	\$ th Price)	/Column inch/insertion

NOTE: An Affidavit of Publication for all legal notices will be supplied with the ad invoice. Affidavits shall include a clipping of the notice, the date or dates published and an oath signed by a newspaper official plus a notarization. For other types of ads, industry standard of proof of publication shall be supplied with invoice.

6 List type of proof of publication provided for non-legal type ads:

7 Li	st Frequency	of Publication:
------	--------------	-----------------

8 List Deadline for Submitting Ads for Publication:

9 Exhibits (2-13)

6.0 Attachment 1



LEGAL ADVERTISING

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

Legal Advertising (Notice of Bid Solicitation)

<u>Affidavit</u>

I affirm that the newspaper for which I am offering to accept legal advertisements for publication meets the definition of a newspaper as defined in A.R.S. 39-201 printed below, and that I am the publisher of record for said newspaper.

I further affirm the newspaper has been established and published within Maricopa County, State of Arizona, for a period of at least one (1) year prior to the filing of the affidavit and has been admitted to the United States mail as second-class matter for at least one (1) year.

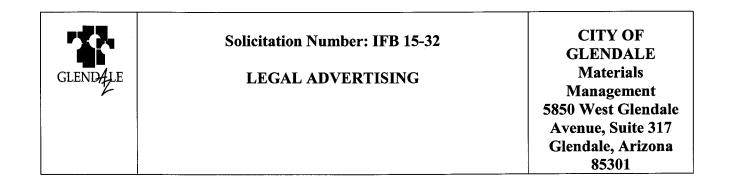
Signed: _____

Printed name: _____

A.R.S. 39-201. Definitions

A. In this chapter, unless the context otherwise requires, "newspaper" means a publication regularly issued for dissemination of news of a general and public character at stated short intervals of time. Such publication shall be from a known office of publication and shall bear dates of issue and be numbered consecutively. It shall not be designed primarily for advertising, free circulation or circulation at nominal rates, but shall have a bona fide list of paying subscribers.

B. "Newspaper" shall not include a publication which has not been admitted under federal law as second-class matter in the United States mails for at least one year.



7.0 EXHIBITS - Copies of a CD which list all the Exhibits can be picked up in the City of Glendale Materials Management Office, 6829 N. 58th Drive, Suite 202, Glendale AZ 85301. Bidder shall sign a document in Materials Management confirming that the Bidder has picked up a copy of the CD.

The following Exhibits (1-13) reflect examples of publication requests

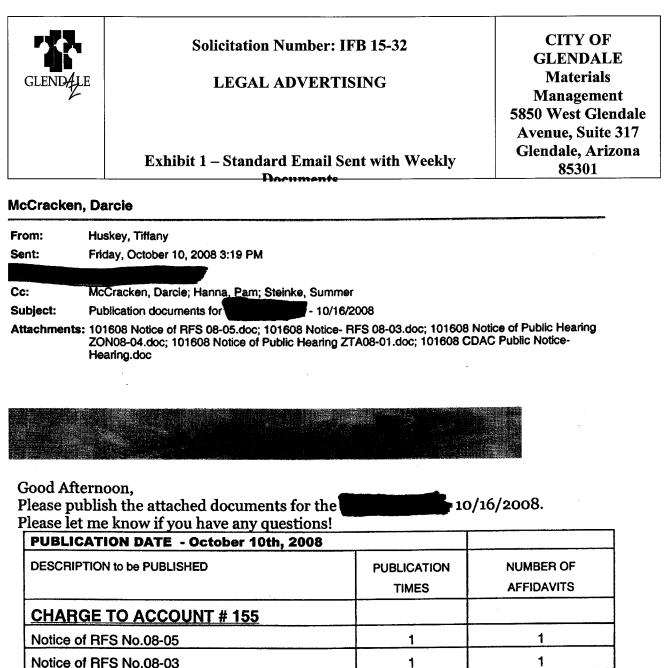
Bidders shall state the cost of the attached exhibits (2-13). Each Bidder shall reproduce the exhibits in paragraph/column form showing the type of style that will be used in printing and publishing. These reproductions shall be included with the bid, be a separate layout for each exhibit and each on an 8 $\frac{1}{2}$ by 11 sheet of paper, identified by title and presented in Exhibit number order.

NOTE: Although the exhibits represent regular business, the City reserves the right to include any other document for publication as needed.



LEGAL ADVERTISING

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301



Notice of RFS No.08-03 Notice of Public Hearing ZON08-04 Notice of Public Hearing ZTA08-01

CHARGE TO ACCOUNT # 2345 Public Notice- CDAC- Public Hearing

Thank You!

Have a Great Day!

Tiffany Huskey City of Glendale City Clerk's Office

623-930-3263

The secret of a good life is to have the right loyalties and hold them in the right scale of values.

Norman Thomas (1884 - 1968)

1

1

1

1

1

1



LEGAL ADVERTISING

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

Exhibit 2 – Notice Letter of Hearing Document (1 of 2)

August 8, 2008

Mr. Daryl L. Hutchinson 1346 S. Salem Mesa AZ 85206

Subject: 6071 W. Lamar, Glendale AZ. 85301 Book-Map-Parcel: 144-10-135-B

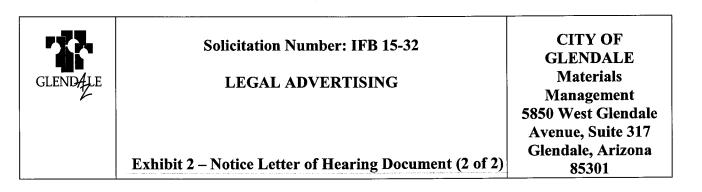
Dear Mr. Hutchinson,

The structure located at 6071 W. Lamar, Glendale Arizona, has been declared an imminently unsafe structure due to the structures deteriorating condition. Specifically the structure is in violation of sections the International Building Code sections; 115.3.5, 115.3.6, 115.3.7, 115.3.8, 115.3.9, 115.3.10, 115.3.11, 115.3.13, and 115.3.15.

Due to the hazards, The City of Glendale required that the building be repaired or demolished no later than June 27th 2008, as of the date of this letter, no action has been taken to address the conditions. Per the International Building Code section 115.6.5, a public hearing regarding the structure has been set for Tuesday September 16th, at 10:00 a.m. The hearing will be held in room B3, located in the Council Chambers building at the basement level, 5850 West Glendale Avenue, Glendale, Arizona. This building is part of the City Hall complex; parking is available in the adjacent parking garage.

The owner of the property, and other parties having interest should appear at the hearing on September 16th, 2008. You must be prepared to show cause why the damaged building has not been repaired or demolished. You must also be prepared to present the Hearing Officer with the following information: 1) documents indicating ownership of the property and/or an agreement between all parties in interest; 2) bids from contractors to abate the health hazard; 3) bids from contractors to demolish the property; or a precise estimate of the cost to completely repair the property; 4) a firm date of completion of all repair work needed to allow occupancy or a completion date for the demolition of the structures.

Section 115.6.5(e) of the IBC allows the Hearing Officer to grant additional time for repairs if good cause exists. If the damaged building is not repaired or demolished, the City Code requires the



Building Official, as directed by the Hearing Officer, to have it demolished. The costs of such demolition shall be charged against the real property as a lien.

Please note that any and all costs associated with this hearing, any costs incurred during any investigation, repair, abatement or demolition of this structure are to be borne by the owner of the property. These costs include, but may not be limited to professional services, materials, third party investigations, contractors, sub-contractors as well as hourly rates for City of Glendale employees. These fees will be due upon completion. Failure to reimburse the City for these funds will result in a lien being placed against the property to recover any associated costs.

One option available to property owners within the City of Glendale is voluntary demolition. There are programs available through the City of Glendale's Community Revitalization Department that can pay portions or all of the costs of demolition. Please contact Robert Essel at (623) 930-3674 for more information regarding this program.

If you or any other parties of interest have any questions, please contact me at 623-930-3137.

Sincerely

Mark Ptashkin Senior Building Inspector Building Safety Department

CC: Deborah Mazoyer, Building Safety Director Pam Wertz, Assistant Building Safety Director David Goulet, Councilmember, Ocotillo District Jon Froke, Deputy City Manager Craig Tindall, City Attorney Russ Romney, Assistant City Attorney Dan Gunn, Code Compliance Director Charyn Palmisano, Community Revitalization Robert Essel, Community Revitalization



LEGAL ADVERTISING

Exhibit 3 – Notice of Public Auction

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

CITY OF GLENDALE

NOTICE OF PUBLIC AUCTION

NOTICE IS HEREBY GIVEN THAT the City of Glendale will auction surplus property the first Saturday of the month at Sierra Auction. For further information call the City of Glendale auction HOT LINE at 623-930-2693.

Publish: July 24, 2008.



LEGAL ADVERTISING

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

Exhibit 4 - Ordinance – Short Version

ORDINANCE NO. 2904 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE EXECUTION OF A CONVEYANCE OF EASEMENT TO CENTURYLINK FOR PROPERTY LOCATED AT THE GLENDALE AIRPORT FOR THE PURPOSE OF UPGRADING AND REROUTING EXISTING TELEPHONE LINES; AND DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That the City's interest in the property located at the Glendale Airport, in Glendale, Arizona is hereby conveyed to CenturyLink. The legal description of said property is as follows:

(See Attachment 1 which is incorporated herein by this reference and depicted as Exhibit A to the Conveyance of Easement.)

SECTION 2. That the City Manager and City Clerk are hereby authorized and directed to execute a Conveyance of Easement and any and all documents necessary to complete this transaction.

SECTION 3. That the City Clerk be instructed and authorized to forward a certified copy of this ordinance for recording to the Maricopa County Recorder's Office.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 23rd day of September, 2014.

Jerry P. Weiers MAYOR

ATTEST:

Pamela Hanna City Clerk (SEAL)

APPROVED AS TO FORM:

Michael D. Bailey City Attorney

REVIEWED BY:



LEGAL ADVERTISING

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

Brenda S. Fischer City Manager



LEGAL ADVERTISING

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

Exhibit 5 – Notice of Unclaimed Personal Property

NOTICE OF UNCLAIMED PERSONAL PROPERTY

HERBY IS GIVEN that the City of Glendale, Arizona is in possession of the following described personal property which has been unclaimed for more than seven (7) days or the owner of the same, or his whereabouts is unknown to the City of Glendale, Arizona

	ltem #	DESCRIPTION
	3328	TEAL NEXT 26" MANS BIKE
or - o Principalita	3329	BLUE 26" MANS BIKE, UNKNOWN BRAND
	3330	TURQUOISE 26" MANS BIKE, UNKNOWN BRAND
	3331	BLACK 20" BOYS BIKE, UNKNOWN BRAND
	3332	GRAY THRUSTER 20" BOYS BIKE
	3333	RED HUFFY 26" MANS BIKE
	3334	BLACK GENESIS 26" MANS BIKE
	3335	WHITE 20" BOYS BIKE, UNKNOWN BRAND
	3336	RED NEXT 26" BIKE FRAME
	3337	PINK HELLO KITTY 12" GIRLS BIKE
	3338	BLUE GT 20" BOYS BIKE
	3339	GREEN CHAOS 20" BOYS BIKE
	3340	RED SCHWINN 26" LADIES BIKE
	3341	PURPLE ROADMASTER LADIES BIKE
	3342	ORANGE TREK 26" MANS BIKE
	3343	PURPLE NEXT 24" MANS BIKE
	3344	SILVER NEXT 20" BOYS BIKE
14.2 ED-171917 1-1	3345	BLACK GMC 28" MANS BIKE
	3346	BLUE K2 26" MANS BIKE
	make claim and proc	MADE upon all owners of the above described personal property of of ownership of the same satisfactory to the officer named be ithin thirty (30) days from the date of this notice.

FAILURE SO TO DO within the said thirty (30) day period shall be deemed to be an abandonment of the said personal property and the same may be disposed of by the City of Glendale, Arizona.

DATED this 9th DAY OF OCTOBER, 2014. By: JAMES PEER Title: PROPERTY AND EVIDENCE SUPERVISOR GLENDALE POLICE DEPARTMENT 6835 N 57th DRIVE GLENDALE, AZ 85301 (623) \$30 3375



LEGAL ADVERTISING

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

Exhibit 6 – Notice of Unclaimed Personal Property – Weapons (1 of 3)

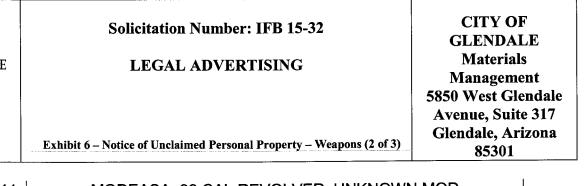
NOTICE OF UNCLAIMED PERSONAL PROPERTY

HERBY IS GIVEN that the City of Glendale, Arizona is in possession of the

following described personal property which has been unclaimed for more

than seven (7) days or the owner of the same, or his whereabouts is unknown to the City of Glendale, Arizona

Item	
#	DESCRIPTION
3217	LORCIN .25 SEMI-AUTO PISTOL, MOD LT25
3218	HANDGUN, SILVER SLINDE, BLACK BODY
3219	RUGER .22 CAL SEMI-AUTO PISTOL, MOD MARK II
3220	RUGER 9MM SEMI-AUTO PISTOL, MOD P89
3221	NEW ENGLAND FIREARMS .32 CAL REVOLVER, MOD R73
3222	INTERARMS .44 MAG REVOLVER, VIRGINIA DRAGOON
3223	CHARTER ARMS .38 CAL REVOLVER, UNDERCOVER
3224	GLOCK 9MM SEMI-AUTO PISTOL, MOD 26
3225	SMITH & WESSON .38 CAL REVOLVER, MOD 64-4
3226	RUGER 9MM SEMI-AUTO PISTOL, MOD P89DC
3227	TAURUS 9MM SEMI-AUTO PISTOL, MOD SLIM
3228	SMITH & WESSON 9MM SEMI-AUTO PISTOL, MOD 459
3229	GLOCK .40 CAL SEMI-AUTO PISTOL, MOD 22
3230	BERETTA .380 CAL SEMI-AUTO PISTOL, MOD UNKNOWN
3231	BERETTA 9MM SEMI-AUTO PISTOL, MOD 92BRIGADIER
3232	SMITH & WESSON 9MM SEMI-AUTO PISTOL, MOD 6906
3233	TANOGLIO GARDONE .22 CAL REVOLVER, DOD TA76
3234	RUGER .357 MAG REVOLVER, MOD SECURITY SIX
3235	SIG SAUER .45 CAL SEMI-AUTO PISTOL, MOD P250
3236	SMITH & WESSON .40 CAL PISTOL, MOD SW40VE
3237	RUGER .380 SEMI-AUTO PISTOL, MOD LCP
3238	TAURUS .40CAL SEMI-SUTO PISTOL, MOD PT24/7PRO
3239	TAURUS .380 CAL SEMI-AUTO PISTOL, MOD PT738
3240	SMITH & WESSON .357 MAG REVOLVER, MOD 66
3241	TAURUS .357 MAG REVOLVER, MOD ROSSI
3242	TAURUS .40 CAL SEMI-AUTO PISTOL, MOD PT140PRO
3243	BRYCO ARMS .38 CAL SEMI-AUTO PISTOL, MOD 38



GLE

3244	MODEASA .22 CAL REVOLVER, UNKNOWN MOD
3245	BERETTA .32 CAL SEMI-AUTO PISTOL, MOD 1934
3246	PHOENIX ARMS .22 SEMI-AUTO PISTOL, MOD HP22
3247	SMITH & WESSON 9MM SEMI-AUTO PISTOL, MOD MP9
3248	TAUDUS 257 CAL DEVOLVED MOD 047
3249	Exhibit 6– Notice of Unclaimed Personal Property - 3
3250	RUGER .357 MAG REVOLVER, MOD 5 SHOT
3251	HI POINT .45 CAL SEMI-AUTO PISTOL, MOD JHP
3252	HI POINT .45 CAL SEMI-AUTO PISTOL, MOD JHP
3253	MASTERPIECE ARMS 9MM SEMI-AUTO PISTOL, UNKNOWN MOD
3254	STURM .45 CAL SEMI-AUTO PISTOL, MOD RUGER
3255	HI POINT .380 CAL PISTOL
3256	SEMI-AUTO PISTOL W/O MAG, UNKNOWN MODEL
3257	RUGER .22 CAL SEMI-AUTO PISTOL, MOD UNKNOWN
3258	RUGER 9MM SEMI-AUTO PISTOL, MOD P89DC
3259	CONNECTICUT VALLEY ARMS .44 CAL REVOLVER, BLK
	POWDER
3260	KELTEC 9MM SEMI-AUTO PISTOL, MOD P11
3261	PHOENIX ARMS .25 CAL SEMI-AUTO PISTOL, MOD RAVEN
3262	GLOCK 9MM SEMI-AUTO PISTOL, MOD 26
3263	SMITH & WESSON .380 CAL SEMI-AUTO PISTOL, BODYGUARD
3264	GLOCK 9MM SEMI-AUTO PISTOL, MOD 26
3265	STERLING ARMS .25 CAL SEMI-AUTO PISTOL, UNKNOWN MOD
3266	RUGER 9MM SEMI-AUTO PISTOL, MOD P95
3267	JENNINGS .22 CAL SEMI-AUTO PISTOL, MOD J22
3268	RIVER JOHNSON .32 CAL REVOLVER, UNKNOWN MOD
3269	JIMENEZ 9MM SEMI-AUTO PISTOL, MOD JA NINE
3270	SMITH & WESSON .308 CAL SEMI-AUTO PISTOL, BODYGUARD 380
3271	SMITH & WESSON .38 CAL REVOLVER, MOD BODYGUARD
3272	COBRA .380 CAL SEMI-AUTO PISTOL, MOD FS380
3273	CDM PROD INC .22 CAL REVOLVER, MOD CDM
3274	MADISON IMPORT .32 CAL SEMI-AUTO PISTOL
3275	BERSA .380 CAL SEMI-AUTO PISTOL, MOD THUNDER
3276	RUGER .357 CAL REVOLVER, UNKNOWN MODEL
3277	SMITH & WESSON .40 CAL SEMI-AUTO PISTOL, MOD MP40 SHIELD



LEGAL ADVERTISING

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

Exhibit 6 – Notice of Unclaimed Personal Property – Weapons (3of 3)

3278	SMITH & WESSON .38 CAL REVOLVER
3279	SIG SAUER .40 CAL SEMI-AUTO PISTOL, MOD P229
3280	COBRA .380 CAL SEMI-AUTO PISTOL, MOD CA-380
3281	RUGER .22 CAL SEMI-AUTO PISTOL, MOD MK II
3282	SIG SAUER .40 CAL SEMI-AUTO PISTOL, MOD P229
3283	H & R .22 CAL REVOLVER, MOD 999
3284	WINCHESTER .3030 CAL RIFLE, MOD 94AE
3285	WINCHESTER .3030 CAL RIFLE, MOD 94
3286	MOSSBERG 12GA SHOTGUN, MOD 500A
3287	RUGER .22 CAL SEMI-AUTO RIFLE, MOD 10/22
3288	TAURUS .22 CAL RIFLE, MOD ROSSI
3289	SEARS & ROEBUCK 12GA SHOTGUN, MOD 1012380D
3290	GLENFIELD .22 CAL SEMI-AUTO RIFLE, MOD 66
3291	ROMARM SA/CUGIR .762 CAL RIFLE, UNKNOWN MODEL
3292	CRICKETT .22 CAL RIFLE, MOD LR
3293	WINCHESTER 20GA SHOTGUN, MOD 370
3294	WINCHESTER 20GA SHOTGUN, MOD
3295	MOSSBERG 20GA SHOTGUN, MOD 500C
3296	HARRINGTON & RICHARDSON 12GA SHOTGUN
3297	JC HIGGINS .22 CAL RIFLE, MOD 42
3298	MARLIN .22 CAL RIFLE, MOD 795
3299	SPRINGLFIELD .22 CAL RIFLE, MOD 84C
3300	RUGER .22 CAL RIFLE, MOD 10/22
3301	MARLIN .22 CAL RIFLE, MOD 60W
3302	MOSSBERG .22 CAL RIFLE, MOD 715T
3303	MOSSBERG 12GA SHOTGUN
3304	MOSSBERG 12GA SHOTGUN, MOD 500A
3305	MOSSBERG 12GA SHOTGUN, MOD MAVERICK
3306	MUZZLE LOADING FIREARM, UNKNOWN CAL
3307	MUZZLE LOADING FIREARM, UNKNOWN CAL

DEMAND IS HEREBY MADE upon all owners of the above described personal property to make claim and proof of ownership of the same satisfactory to the officer named below within thirty (30) days from the date of this notice.

FAILURE SO TO DO within the said thirty (30) day period shall be deemed to be an abandonment of the said personal property and the same may be disposed of by the City of Glendale, Arizona.

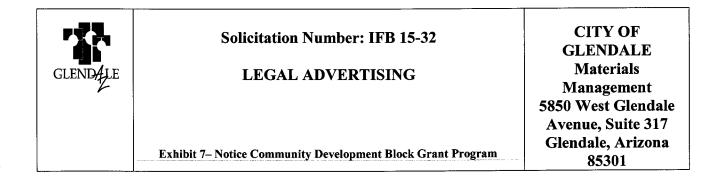
DATED this 9TH DAY OF OCTOBER, 2014 By: JAMES PEER



LEGAL ADVERTISING

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

Title: PROPERTY AND EVIDENCE SUPERVISOR GLENDALE POLICE DEPARTMENT 6835 N. 57th DRIVE GLENDALE, AZ 85301 (623) 930 3375



PUBLIC NOTICE

The City of Glendale, Arizona, in conjunction with its Community Development Block Grant Program, wishes to advise that any person having reason to believe that he or she has been discriminated against in the purchase or rental of a dwelling because of race, religion, color, sex, age, handicap, familial status or national origin may call:

COMMUNITY LEGAL SERVICES (602) 258-3434 X 230

Complaints of discrimination in the sale or rental of housing can be filed with this office.

Call...(602) 258-3434 X 230

Publish:

October 16, 2014

La Ciudad de Glendale, Arizona en union con su Programa de Otorgamientos para el Desarrollo de la Comunidad, desea informar que caualquier persona que tenga razon en creer que han descriminado contra el o ella, en la compra o renta de divined, poor motivo de religion, raza, color, sexo, edad, impedimento fisico posicion social o nacionalidad, puede llamar al:

SERVICIOS LEGAL DE LA COMUNIDAD (602) 258-3434 X 230

Quejas de descriminacion en la compra o renta de vivienda pueden ser sometidos a esta oficina.

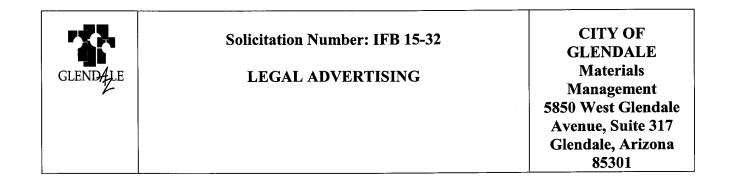
LLAME (602) 258-3434 X 230

Publish:

October 16, 2014







TO BE PUBLISHED IN NON-LEGAL SECTION WITH A BLACK LINE BORDER, HUD AND CITY LOGO IN BOTTOM RIGHT CORNER



LEGAL ADVERTISING

Exhibit 8 – Resolution (English)

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

RESOLUTION NO. 4190 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORI-ZING AND DIRECTING THAT TITLE TO AND POSSESSION OF CERTAIN REAL PROPERTY OWNED BY THE FLOOD CONTROL DISTRICT OF MARICOPA COUNTY LOCATED ON THE NORTH SIDE OF THE GRAND CANAL AT 79TH AVENUE BE ACCEPTED BY THE CITY OF GLENDALE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That it is deemed necessary and essential for the City of Glendale to accept from the Flood Control District of Maricopa County certain real property located on the north side of the Grand Canal at 79th Avenue in the City of Glendale, Maricopa County, Arizona, which property is more particularly described as follows:

[See Exhibit "A" attached hereto and incorporated herein by this reference.]

SECTION 2. That the City Manager and the City Clerk be, and they hereby are, authorized and directed to execute and any and all other documents necessary to accept said real property on behalf of the City of Glendale.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 9th day of September, 2008.

Elaine M. Scruggs MAYOR

ATTEST:

Pamela Hanna City Clerk (SEAL)

APPROVED AS TO FORM:

Craig Tindall City Attorney



LEGAL ADVERTISING

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

REVIEWED BY:

Ed Beasley City Manager



LEGAL ADVERTISING

Exhibit 9_– Resolution (Spanish) 1 of 3

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

RESOLUCIÓN NO. 4191 NUEVA SERIE

RESOLUCIÓN DEL CONCILIO DE LA CIUDAD DE GLENDALE, CONDADO DE MARICOPA, ARIZONA, DECLARANDO Y ADOPTANDO LOS RESULTADOS DE LA ELECCIÓN PRIMARIA CELEBRADA EL 2 DE SEPTIEMBRE, 2008; Y ORDENANDO QUE SE REGISTRE UNA COPIA CERTIFICADA DE LA PRESENTE RESOLUCIÓN.

MIENTRAS QUE, el Concilio de la Ciudad de Glendale, Condado de Maricopa, Arizona, mediante la Resolución No. 4171, Nueva Serie, adoptada el día 24 de junio, 2008, hizo que se presentara ante los electores cualificados de la Ciudad de Glendale (la "Ciudad") una notificación de la Elección Primaria convocada para, y celebrada en y por, la Ciudad el 2 de septiembre, 2008; con el propósito de: (1) nominar candidatos para los puestos de Alcalde y Concilio para los Distritos de Cactus, Sahuaro y Yucca; y (2) someter a votación la Proposición No. 404; una iniciativa, presentada por petición, proponiendo la enmienda del Artículo IX de la Carta Municipal de la Ciudad de Glendale, para cambiar el método de votación para puestos municipales (Mejor Boleta Glendale); y

MIENTRAS QUE, el Concilio mandó que la Secretaria de la Ciudad emitiera la notificación de la Elección Primaria, mediante publicación de la misma en el periódico **de publicación y circulación general dentro de la Ciudad.** Dicha notificación, según el texto publicado, indicaba específicamente los lugares en las cuales se celebraría dicha Elección Primaria, los nombres de los candidatos y el texto de la proposición sometida a votación. Una copia de dicha notificación, junto con el affidavit de publicación anexo a la misma, se encuentra ahora registrada como parte de las Actas del Concilio de Glendale; y

MIENTRAS QUE, el resultado de la elección ha sido presentado al Concilio y éste ha completado el escrutinio de los votos.

POR LO EXPUESTO, EL CONCILIO DE LA CIUDAD DE GLENDALE RESUELVE lo siguiente:

ARTÍCULO 1. Que el número total de votos emitidos en dicha Elección Primaria, según consta en el informe acumulativo, fue de 18,620 (dieciocho mil seicientos veinte).

ARTÍCULO 2. Que el número total de votos anulados fue de 136.

ARTÍCULO 3. Que los votos emitidos para los candidatos a Alcade fueron:

Distrito/Nombre

Total deVotos



LEGAL ADVERTISING

Exhibit 9 – Resolution (Spanish) 2 of 3

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

ALCALDE

Scruggs, Elaine	16,342
Pennington, Terry (añadidos)	144

ARTÍCULO 4. Que los votos emitidos en favor de los candidatos para el Concilio fueron:

Distrito/Nombre	Total deVotos
DISTRITO DE CACTUS	
Lieberman, Phil	1,514
Hirsch, Gary	1,378
DISTRITO DE SAHUARO	
Frate, Steven	3,157
DISTRITO DE YUCCA	
Clark, Joyce	1,431
Marx, Carole	546

ARTÍCULO 5. Que los votos emitidos para la Proposición fueron:

PROPOSICIÓN NO. 404 (Mejor Boleta Glendale)

Sí	7,046
No	8,541
TOTAL	15,587

ARTÍCULO 6. Que los Anexos A a G adjuntos a la presente Resolución incluyen un escrutinio detallado de los votos emitidos en la Elección Primaria del 2 de septiembre, 2008.

ARTÍCULO 7. Que por la presente se resuelve, determina y declara para el Acta que los siguientes candidatos recibieron más de la mitad del total de los votos válidos emitidos y, por consiguiente, se les otorga los debidos certificados de elección:

<u>ALCALDE</u>



LEGAL ADVERTISING

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

Exhibit 9 – Resolution (Spanish) 3 of 3

Scruggs, Elaine

DISTRITO DE CACTUS

Lieberman, Phil

DISTRITO DE SAHUARO

Frate, Steven

DISTRITO DE YUCCA

Clark, Joyce

ARTÍCULO 8. Que por la presente se resuelve, determina y declara para el Acta que, en cuanto a la Proposición No. 404 (Mejor Boleta Glendale), la mayoría de los votos emitidos no favorecieron la enmienda del Artículo IX de la Carta Municipal, para cambiar el método de votación para puestos municipales.

ARTÍCULO 9. Que por la presente se resuelve, determina y declara para el Acta que no será necesario celebrar una segunda ronda de elecciones para los puestos de Alcalde o Concilio.

ARTÍCULO 10. Que se le ordene y autorice a la Secretaria a enviar una copia certificada de la presente Resolución para su inscripción en la Oficina de Registros del Condado de Maricopa.

ACEPTADA, ADOPTADA Y APROBADA por el Alcalde y el Concilio de la Ciudad de Glendale, Condado de Maricopa, Arizona, este 16º día de septiembre, 2008.

ALCALDE

ATESTIGUA:

Secretaria (SELLO)



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APROBADA EN CUANTO A FORMA:

Abogado de la Ciudad

REVISADO POR:

Gerente de la Ciudad



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Exhibit 10 – Notice for Request for Proposal (RFP) 1 of 2

NOTICE OF REQUEST FOR PROPOSALS

CITY OF GLENDALE AIRPORT APRON REHABILITATION AND LIGHTING IMPROVEMENTS Project No. 131409

CONSULTING SERVICES

The City of Glendale is seeking a qualified consulting firm, or team, to provide design, preliminary cost estimating, permitting approvals and construction administration services for the rehabilitation of the aircraft parking apron for the Glendale Municipal Airport. All improvements will be designed and constructed in conformance with applicable FAA specifications and Advisory Circulars. The estimated construction cost for this project is approximately \$2,000,000.

1. PROJECT DESCRIPTION

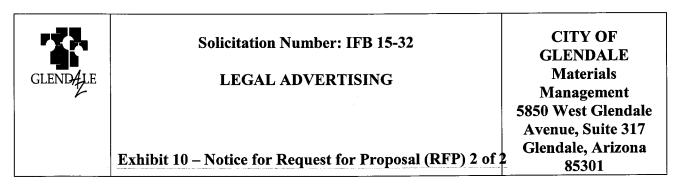
The Glendale Municipal Airport is located at 6801 North Glen Harbor Boulevard. The airport was constructed in 1986 and since this time the airport apron area has received several pavement treatments. The qualified consultant shall investigate the apron pavement to determine the level of rehabilitation required. There is approximately 48,500 square yards of existing aircraft parking apron and related taxi lanes in the airport center ramp area that needs to be evaluated. The project will also include the associated apron markings, aircraft tie-down restoration, and reconfiguring the apron lighting to maximize aircraft parking.

2. SCOPE OF WORK

The Engineer will work closely with the City, Airport staff, FAA and ADOT during the design and construction phases of this project. The City will utilize the services of the Engineer for programming, design, construction administration and cost estimating. This project will require the following professional services: civil, surveying, environmental, geotechnical and electrical. The Engineer will be required to prepare and submit all required FAA and ADOT forms associated with this project. The Engineer, if requested by the City, may also be required to make presentations, conduct public meetings and other related public involvement activities. The City reserves the right to delete any services not required and to initiate additional procurement action for any of the services included in this initial procurement.

3. PRE-SUBMITTAL CONFERENCE

A pre-submittal conference will be held on Thursday, October 10, 2013, at 10:00 a.m., in the Glendale Municipal Airport 2nd floor conference room, 6801 N. Glen Harbor Boulevard. At this meeting staff will discuss the scope of work, general contract issues and respond to questions from the attendees.



Because City staff may not have time to respond to individual inquiries regarding the scope outside of this pre-submittal conference, it is recommended that interested firms send a representative to this pre-submittal conference.

4. REQUEST FOR PROPOSAL PACKET

The RFP packet can be obtained at the City of Glendale Engineering Department, 5850 West Glendale Avenue, Glendale, AZ 85301, Office: (623) 930-3630 / Fax: (623) 930-2861.

To request that a copy of the RFP packet be sent to your firm through the U.S. Mail or by courier service, fax or mail your request on your company letterhead referencing to this RFP to the City of Glendale Engineering Department. If requesting to use a courier service the requestor must pay for and provide courier-shipping information.

To request the RFP Packet by email, please email <u>both</u> Kathy Mitchell at (<u>KMitchell@glendaleaz.com</u>) and Michelle Lizarraga (<u>MLizarraga@glendaleaz.com</u>) referencing this RFP.

Firms requesting an RFP Packet from the Engineering Department will be included on the Request for Proposal Holders List, however, the City accepts no responsibility for receipt of the RFP packets.

Questions pertaining to the RFP or consultant selection process should be directed in writing or emailed to Bill Passmore, Engineering Department, City of Glendale, 5850 West Glendale Avenue, Glendale, AZ 85301, or <u>bpassmore@glendaleaz.com</u>.

The RFP submittal date is: Friday, October 18, 2013, no later than 2:00 p.m. Any proposal received after this time will not be considered and will be returned to the consultant.

CITY OF GLENDALE, ARIZONA

Published: September 26 & October 3, 2013



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Exhibit 11 – Notice of Ordinance (Long Version) 1 of 8

ORDINANCE NO. 2656 NEW SERIES

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY GLENDALE, MARICOPA COUNTY, ARIZONA OF (1) AUTHORIZING THE EXECUTION AND DELIVERY OF A GROUND LEASE AND A 2008 LEASE AGREEMENT WITH THE WESTERN LOOP 101 PUBLIC FACILITIES CORPORATION RELATING TO THE FINANCING OF A SPRING TRAINING FACILITIES FOR MAJOR LEAGUE BASEBALL, RELATED FACILITIES AND OTHER PUBLIC INFRASTRUCTURE; (2) PLEDGING CERTAIN EXCISE TAXES AND RECEIPTS IMPOSED OR RECEIVED BY THE CITY; (3) APPROVING THE FORM OF AND REQUESTING THE EXECUTION AND DELIVERY BY WESTERN LOOP 101 PUBLIC FACILITIES CORPORATION OF A GROUND LEASE, A SERIES 2008 TRUST INDENTURE IN ONE OR MORE SERIES OF BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$200,000,000, SUCH SERIES 2008 LEASE AGREEMENT AND A PURCHASE AGREEMENT WITH RESPECT TO THE SALE OF SUCH BONDS; (4) DELEGATING TO THE CITY MANAGER OR THE CHIEF FINANCIAL OFFICER OF THE CITY THE AUTHORITY TO DESIGNATE BY SERIES THE FINAL PRINCIPAL AMOUNT, MATURITIES, INTEREST RATES AND OTHER MATTERS WITH RESPECT TO SUCH BONDS; (5) AUTHORIZING THE TAKING OF ALL OTHER ACTIONS CONSUMMATION OF THE NECESSARY TO THE TRANSACTIONS CONTEMPLATED BY THIS ORDINANCE, INCLUDING THE EXECUTION OF CERTAIN DOCUMENTS AND **OFFICIAL** DISTRIBUTION OF Α PRELIMINARY THE STATEMENT; AND (6) DECLARING AN EMERGENCY.

WHEREAS, the Western Loop 101 Public Facilities Corporation, (the "Corporation"), a nonprofit corporation, is authorized and empowered, among other things (a) to issue its special obligation bonds for the purposes of assisting the City of Glendale, Arizona (the "City") in acquiring and constructing certain municipal improvements and otherwise incurring expenses to improve the use of certain municipal facilities, (b) to enter into a lease and a ground lease and other necessary documents and to provide for rentals sufficient to pay the principal of and premium, if any, and interest on such bonds, (c) to secure such bonds as provided for herein, and (d) to enact this Resolution and enter into the Series 2008 Ground Lease and the Series 2008 Lease Agreement, all as hereinafter defined, upon the terms and conditions provided herein and therein; and

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WHEREAS, the City has determined that it is beneficial to its citizens to design, acquire, construct and equip certain spring training facilities for major league baseball and other infrastructure on the land associated with the spring training facilities (the "2008 Stadium Property" and the "2008 Stadium Project", respectively) and to design and construct certain public infrastructure necessary to support the spring training facilities (the "2008 Infrastructure Project" and together with the "2008 Stadium Project", the "2008 Project"); and

WHEREAS, the Board of Directors of the Corporation has indicated that they desire to assist the City in refinancing the 2008 Project and financing certain new costs, among other matters; and

WHEREAS, in order to finance the 2008 Project, the Corporation and the City deem it necessary and desirable for the Corporation to issue additional Bonds which may consist of the Corporation's Third Lien Excise Tax Revenue Bonds, Series 2008A (the "2008A Bonds"), Third Lien Excise Tax Revenue Bonds, Series 2008B (the "2008B Bonds") and Third Lien Excise Tax Revenue Bonds, Series 2008C (the "2008C Bonds" and together with the 2008A Bonds and 2008B Bonds, collectively, the "2008 Bonds"), of which one or more series may be issued as taxable 2008 Bonds, to be issued pursuant to the Series 2008 Trust Indenture dated as of October 1, 2008 (the "Indenture"); and

WHEREAS, in connection with the execution and delivery of the 2008 Bonds, the Corporation shall enter into a Series 2008 Ground Lease and a Series 2008 Lease Agreement, each dated as determined by the City Manager or Chief Financial Officer as provided herein (the "Lease Agreement") with the City pursuant to which the City leases the 2008 Stadium Property to the Corporation, and the Corporation leases the 2008 Stadium Property to the City agrees to make lease payments to secure the 2008 Bonds, respectively; and

WHEREAS, the City Manager or Chief Financial Officer will determine the underwriters of the bonds as provided herein (collectively, the "Original Purchaser"), who will offer to purchase, if executed and delivered, the 2008 Bonds pursuant to a Bond Purchase Agreement (the "Purchase Agreement"), by and among the Corporation, the Original Purchaser and the City, and the proceeds of the sale thereof will be applied for costs of the 2008 Project; and

WHEREAS, the City will pledge its Unrestricted Excise Taxes (as defined in the Lease Agreement) to the payment of its rental payments under the Lease Agreement, but on a basis subordinate to the City's Senior Obligations and Subordinate Obligations (as each such term is defined herein) as more fully described herein and in the Basic Documents (defined below); and

WHEREAS, there have been presented to the City Council of the City at the meeting of the City Council of the City at which this Ordinance is being adopted (i) the proposed form of 2008 Ground Lease; (ii) the proposed form of the Lease Agreement; (iii) the proposed form of the

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Continuing Disclosure Undertaking of the City and (vi) the proposed form of the Indenture (including the forms of the 2008 Bonds) (the items above referred to herein collectively as the "Basic Documents") and the form of Preliminary Official Statement to be distributed in connection with the offer and sale of the 2008 Bonds (the "Preliminary Official Statement"); and

WHEREAS, the Corporation has not made and does not intend to make any profit by reason of any business or venture in which it may engage or by reason of the assistance it renders the City in financing the 2008 Project, and no part of the net earnings of the Corporation, if any, shall ever inure to the benefit of any person, firm or corporation except the City; and

WHEREAS, this Council desires to authorize the execution and delivery of the Basic Documents and such other documents as may be necessary in connection with the execution and delivery of said Basic Documents, the pledge of Unrestricted Excise Taxes (as defined herein) for the payment of the amounts due under the Lease Agreement and the issuance of the 2008 Bonds.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GLENDALE, ARIZONA, THAT:

SECTION 1. In addition to words and terms elsewhere defined in this Ordinance, the capitalized words and terms used herein shall have the meaning given in Article 1 of the Lease Agreement.

SECTION 2. The lease of the 2008 Stadium Property from the City to the Corporation as set forth in the 2008 Ground Lease and the lease of the 2008 Stadium Property from the Corporation as set forth in the Lease Agreement is hereby reconfirmed; and the rent specified in the Lease Agreement for the 2008 Project for those periods specified in the Lease Agreement (the "Lease Payments") will at least be sufficient to pay the principal and interest on the 2008 Bonds and other obligations secured by the Lease Agreement and the Lease Agreement is hereby approved (but subject to the limitations on the source of City payments as set forth in Section 3). The Mayor and City Clerk of the City are hereby authorized and directed to execute the 2008 Ground Lease and the Lease Agreement on behalf of the City in substantially the form on file with the City Clerk and presented to this Council with such modifications, insertions and changes as may be approved by the executing officials, which approval shall be conclusively evidenced by their execution of the Lease Agreement.

SECTION 3. For the payment of the Lease Payments and other amounts due and payable under the Lease Agreement authorized in Section 2 hereof, there are hereby pledged, on a basis junior and subordinate to the City's Senior Obligations and Subordinate Obligations, the City's Unrestricted Excise Taxes. It is intended that this pledge of Unrestricted Excise Taxes will be sufficient to make the Lease Payments pursuant to the Lease Agreement and the City agrees and covenants to make said Lease Payments from such Unrestricted Excise Taxes, except to the extent that

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it chooses to make such payments from other funds, as permitted by law. Neither the Lease Agreement nor the promise to pay pursuant thereto nor the 2008 Bonds constitute a general obligation of the City nor shall the City be liable for the payments under the Lease Agreement from ad valorem taxes.

SECTION 4. The City Council of the City hereby finds and determines that the financing of the 2008 Project pursuant to the terms of the 2008 Ground Lease, the Indenture and the Lease Agreement and through the issuance and the sale of the 2008 Bonds are in furtherance of the purposes of the City and in the public interest will enhance the standard of living within the City and within the State.

The City Council of the City hereby increases the authorized amount of Bonds that may be issued by the Corporation to an amount not to exceed \$200,000,000.

The City Council of the City hereby restates its approval of the purposes and activities of the Corporation and the issuance of the 2008 Bonds by the Corporation and reconfirms its agreement to accept title to the 2008 Stadium Property upon discharge of the obligations related thereto, as provided in the Lease Agreement.

SECTION 5. The City hereby amends Resolution No. 4075 New Series, which authorized the creation of the Corporation, by increasing the amount of bonds that the Corporation may issue to \$200,000,000 total.

The City hereby approves the issuance and delivery of the 2008 Bonds, as hereinafter described, by the Corporation in an aggregate principal amount not to exceed \$200,000,000.

The 2008 Bonds shall be in the denomination of \$5,000 or any integral multiple thereof, shall be dated as determined by the Chief Financial Officer of the City, shall bear interest from such date payable on January 1 and July 1 of each year, commencing as determined by the Chief Financial Officer, and shall be fully registered bonds without coupons. The 2008 Bonds shall bear interest at an average rate per annum not to exceed 9.00% and shall mature on July 1 in the years determined by the Chief Financial Officer but not later than 2038.

The forms, terms and provisions of the 2008 Bonds and the provisions for the signatures, authentication, payment, registration, transfer, exchange and number shall be as set forth in the Indenture and are hereby approved.

The City Manager or Chief Financial Officer of the City are hereby authorized and directed to determine on behalf of the City and the Corporation by applicable series: (i) the principal amount of the 2008 Bonds; (ii) the final maturity schedule of the 2008 Bonds; (iii) the provisions for redemption in advance of maturity or payment of the 2008 Bonds; (iv) the interest rates on the 2008

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Bonds; (v) the sales price and terms of the purchase of the 2008 Bonds (including the underwriter's discount [which shall not exceed 1% of the aggregate principal amount of the 2008 Bonds] and the original issue discount or premium), (vi) the provisions for credit enhancement, if any, for the 2008 Bonds including a debt service reserve fund or surety bond; and (vii) the provisions for a revenue stabilization fund and/or contingency amount, if any, if deemed to be in the best interests of the City.

Each series of Bonds may be issued as tax-exempt or taxable as determined by the Chief Financial Officer of the City. The City Financial Officer may determine to issue only the Series 2008A Bonds and Series 2008B Bonds. If no Series 2008C Bonds are issued, references therein to such Bonds shall have no force and effect.

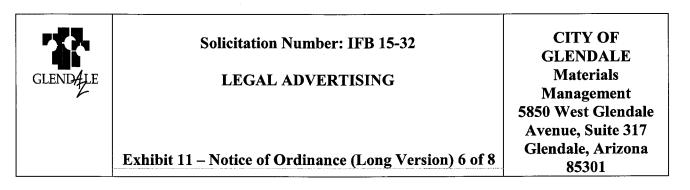
The provisions for redemption of the Bonds shall be as set forth in the Purchase Contract and the Indenture.

The forms and other terms and provisions of the 2008 Bonds and the provisions for the signatures, authentication, payment, registration, transfer, exchange and number shall be as set forth in the Indenture and are hereby approved.

SECTION 6. The City Manager or the Chief Financial Officer of the City are hereby authorized and directed to select the underwriter(s) of the bonds, provided that any such underwriter shall have net capital in excess of \$10,000,000 and has served as a senior manager or co-manager on an Arizona issue within the last twelve months. If the underwriter(s) have been selected as of the date of this Ordinance, the names of such underwriters shall be as set forth on Exhibit I. The 2008 Bonds shall be sold to the Original Purchaser pursuant to the Purchase Agreement (in a form satisfactory to the City and its counsel) and execution of such Purchase Agreement is hereby authorized and approved.

SECTION 7. The forms, terms and provisions of the Basic Documents, in substantially the forms of such documents (including the exhibits thereto) presented at the meeting of the City Council of the City at which this Ordinance is being adopted, are hereby approved. The Mayor of the City or any other member of the City Council of the City are hereby authorized and directed to execute and deliver, and the City Clerk of the City to attest, the Basic Documents, with such insertions, omissions and changes as shall be approved by the Mayor or the Chief Financial Officer of the City, the execution of such documents being conclusive evidence of such approval and particularly of approval and acceptance of the covenants contained therein by the City Council of the City on behalf of the City.

SECTION 8. The City Council of the City hereby requests the Corporation to take any and all action necessary in connection with the execution and delivery of the Basic Documents and requests that the Corporation execute and deliver the Basic Documents and any other documents



necessary in connection therewith and hereby acknowledges that the Corporation is acting on behalf of and at the direction of the City for all purposes described herein.

SECTION 9. The City Manager or Chief Financial Officer is authorized to enter into such agreements as he determines necessary in conjunction with obtaining bond insurance or a reserve fund surety bond, if any.

All actions of the City related to preparing and distributing the Preliminary Official Statement are hereby approved and ratified. The portions of the Official Statement regarding the 2008 Bonds which concern and describe the City are hereby approved and the City Manager or the Chief Financial Officer is hereby authorized and directed to execute the same and any required certificates as to the accuracy and completeness of said Official Statement descriptions of the City.

SECTION 10. The Preliminary Official Statement in substantially the form submitted to the City is approved and the distribution of the same is hereby approved. The Preliminary Official Statement is "deemed final" (except for permitted omissions), by the City as of its date for purposes of SEC Rule 15c212(b)(1) and a final official statement will be prepared and distributed to the Original Purchaser for purposes of SEC Rule 15c212(b)(3) and (4). Either the Mayor, City Manager or Chief Financial Officer of the City is authorized and directed to complete and sign on behalf of the City and in his or her official capacity, the Official Statement, with such modifications, changes and supplements as either the Mayor, City Manager or Chief Financial Officer of the City shall approve as being necessary or desirable for its purposes. The Mayor, City Manager or Chief Financial Officer of the City is authorized to use and distribute, or authorize the use and distribution of, the Official Statement and any supplements thereto as so signed in connection with the original issuance of the 2008 Bonds as may in his or her judgment be necessary or appropriate. The references to the City contained in the Preliminary Official Statement and such final Official Statement relating to the 2008 Bonds are hereby authorized and approved.

SECTION 11. The Mayor, the City Manager, the Deputy City Manager, the Clerk and the Chief Financial Officer of the City are hereby authorized and directed to do all such acts and things to execute, acknowledge and deliver all such documents (including, without limitation, tax compliance certificates, security agreements and financing statements or any amendments to such documents and all closing documents) as may in their discretion be deemed necessary or desirable to carry out and comply with the terms, provisions and intent of this Ordinance, and the Basic Documents and all exhibits to any of the foregoing. All of the acts of the officers of the City which are in conformity with the intent and purposes of this Ordinance, whether heretofore or hereafter taken or done, shall be and the same are hereby ratified, confirmed and approved in all respects.

SECTION 12. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the 2008 Bonds designated as "tax-exempt" (the "Tax-Exempt Bonds")

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in such manner and to such extent as may be necessary so that (a) the Tax-Exempt Bonds will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Section 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the "Code"), or (ii) be treated other than as bonds to which Section 103(a) of the Code applies, and (b) the interest thereon will not be treated as a preference item under Section 57 of the Code. The Mayor or the Chief Financial Officer, as the fiscal officer, or any other officer having responsibility for issuance of the Tax-Exempt Bonds shall, alone or with any other officer or employee or consultant to the City, give an appropriate certificate of the City, for inclusion in the transcript of proceedings for the Tax-Exempt Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Tax-Exempt Bonds, the facts, circumstances and estimates on which they are based and other facts and circumstances relevant to the tax treatment of interest on the Tax-Exempt Bonds.

The City covenants (a) that it will take or cause to be taken such actions which may be required of it for the interest on the Tax-Exempt Bonds to be and remain excluded from gross income for federal income tax purposes, (b) that it will not take or authorize to be taken any actions which would adversely affect that exclusion and (c) that it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Tax-Exempt Bonds to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code. The Mayor, the Chief Financial Officer and other appropriate officers are hereby authorized and directed to take any and all such actions, make calculations and rebate payments, and make or give such reports and certifications, as may be appropriate to assure such exclusion of that interest.

SECTION 13. After any of the 2008 Bonds are delivered by the Trustee to the Original Purchaser upon receipt of payment therefor, this Ordinance shall be and remain irrepealable until the 2008 Bonds and the interest thereon shall have been fully paid, canceled and discharged.

SECTION 14. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 15. All orders and Ordinances or parts thereof inconsistent herewith are hereby waived to the extent only of such inconsistency. This waiver shall not be construed as reviving any order or Ordinance or any part thereof.

SECTION 16. That pursuant to the Facilities Development Agreement, the Teams (as defined in the Lease Agreement), and/or its affiliated or related organizations, are required to make certain contributions ("Team Deposits") necessary for the development of the 2008 Stadium Project

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(as defined in the Lease Agreement) to the extent development costs are in excess of the city commitment amount. The Team Deposits are currently expected to not exceed 30,000,000. The Council hereby expresses its official intent pursuant to Treasury Regulation section 1.141-4(c)(3)(v) that such Team Deposits are to be allocated to equity for the 2008 Stadium Project. The Council may amend this Ordinance to reflect revised estimates of costs.

SECTION 17. The immediate operation of the provisions of this Ordinance is necessary for the public peace, health and safety of the residents and citizens of the City for the reason that the bonds herein authorized must be sold at the earliest possible time in order to obtain the most advantageous interest rate (including that certain of the 2008 Bonds will be sold on a tax-exempt basis subject to customary exceptions) on the 2008 Bonds; an emergency is, therefore, declared to exist, and this Ordinance shall be in full force and effect immediately upon its/passage and adoption by the Mayor and Council of the City of Glendale, and it is hereby exempt from the referendum provisions of the Constitution and laws of the State.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 23rd day of September, 2008.

Elaine M. Scruggs MAYOR

ATTEST:

Pamela Hanna City Clerk

APPROVED AS TO FORM:

Craig Tindall City Attorney

REVIEWED BY:

Ed Beasley



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City Manager



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Exhibit 12– Public Hearing Notice (1 of 4)

CITY OF GLENDALE

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT the City of Glendale City Council will hold a public hearing on September 9, 2014, at 6:00 p.m. in the Glendale Council Chambers Building, 5850 West Glendale Avenue, Glendale, Arizona, to hear the following:

<u>AN-173:</u>

A portion of the southeast quarter of Section 12, Township 2 North, Range 2 West of the Gila and Salt River Meridian, Maricopa County, Arizona, being more particularly described as follows:

Commencing at the south quarter corner of said Section 12, monumented by a Maricopa County aluminum cap in pothole, from which the southeast corner of said Section 12, monumented by a 2003 Maricopa County aluminum cap in hand hole stamped "LS 29891" bears as a basis of bearing South 89 degrees 30 minutes 14 seconds East, 2,633.08 feet;

Thence along said south line of said Section 12, South 89 degrees 30 minutes 14 seconds East, 612.58 feet;

Thence departing said south line, North 00 degrees 29 minutes 46 seconds East, 33.00 feet to the north line of the south 33.00 feet of said southeast quarter and the Point of Beginning;

Thence departing said north line, along the new right-of-way line of State Route 303L, as shown on the Final R/W Plans for Arizona Department of Transportation Project No. 303-A(209)N, North 69 degrees, 14 minutes, 25 seconds West, 170.35 feet;

Thence North 86 degrees 14 minutes 06 seconds West, 271.84 feet;

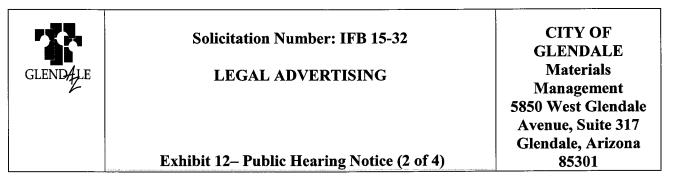
Thence North 12 degrees 13 minutes 58 seconds West, 150.04 feet;

Thence North 00 degrees 07 minutes 02 seconds East, 146.14 feet;

Thence North 02 degrees 01 minutes 02 seconds West, 1009.52 feet;

Thence North 04 degrees 00 minutes 09 seconds East, 866.57 feet;

Thence North 00 degrees 58 minutes 09 seconds East, 350.37 feet;



Thence South 89 degrees 01 minutes 51 seconds East, 150.00 feet;

Thence North 00 degrees 58 minutes 09 seconds East, 38.88 feet to the east-west mid-section line of said Section 12;

Thence departing said new right-of-way line, along said east-west mid-section line, South 89 degrees 44 minutes 53 seconds East, 990.98 feet to the northeast corner of the northwest quarter of the southeast quarter of said Section 12;

Thence departing said east-west mid-section line, along the east line of said northwest quarter of the southeast quarter of Section 12, South 00 degrees 08 minutes 47 seconds West, 1332.88 feet to the southeast corner of said northwest quarter of the southeast quarter of Section 12, said corner also being the northwest corner of the southeast quarter of the southeast quarter of said Section 12;

Thence departing said east line, along the north line of said southeast quarter of the southeast quarter of Section 12, South 89 degrees 37 minutes 33 seconds East, 1,284.20 feet to the west line of the east 33.00 feet of said southeast quarter of the southeast quarter of Section 12;

Thence departing said north line, along said west line, South 00 degrees 10 minutes 32 seconds West, 1,302.61 feet to the north line of the south 33.00 feet of the southeast quarter of said section 12;

Thence departing said west line, along said north line, North 89 degrees 30 minutes 14 seconds West, 1,987.31 feet to the Point of Beginning;

And that portion of the following described property, in the Southwest quarter of the Northeast quarter Section 13, Township 2 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

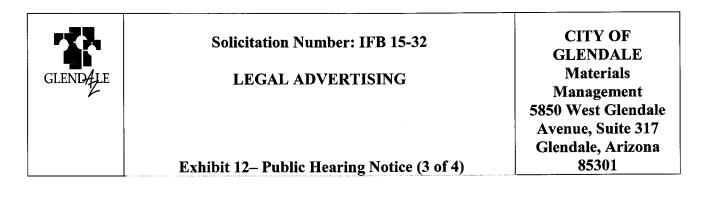
Commencing from a Maricopa County aluminum cap in pot hole marking the North quarter corner of said Section 13, being North 89 degrees 30 minutes 14 seconds West, 2,633.08 feet from a 2003 Maricopa County aluminum cap in hand hole stamped "LS29891" marking the Northeast corner of said section 13;

Thence along the north-south mid-section line of said Section 13, South 00 degrees 15 minutes 39 seconds West, 1323.13 feet;

Thence South 89 degrees 31 minutes 45 seconds East 100.76 feet, to Point of Beginning;

Thence South 89 degrees 31 minutes 45 seconds East, 1216.47 feet;

Thence South 00 degrees 13 minutes 19 seconds West, 1322.55 feet;

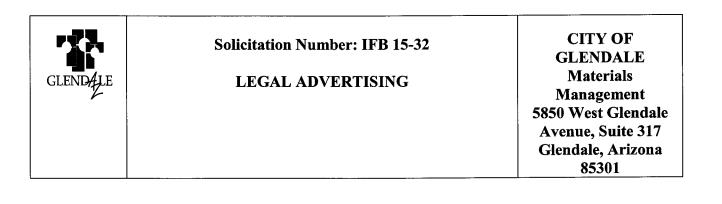


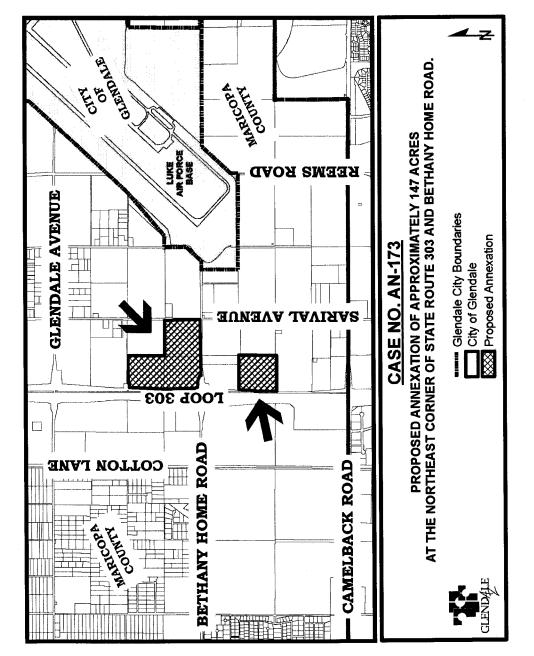
Thence North 89 degrees 33 minutes 15 seconds West, 1270.12 feet;

Thence along the new right-of-way line of State Route 303L, North 00 degrees 15 minutes 39 degrees East, 670.80 feet;

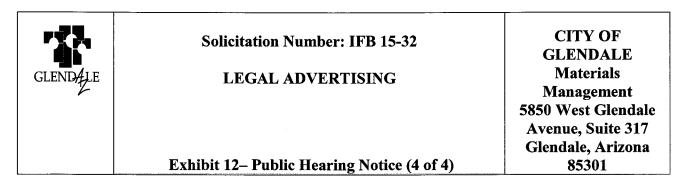
Thence North 04 degrees 53 minutes 15 seconds East, 654.09 feet to Point of Beginning.

The area described above encompasses approximately 147 acres and includes private property and the dedicated county roads located within the area. A complete description of the property to be annexed, along with a map of the area, can be obtained from the Planning Division, City of Glendale, 5850 West Glendale Avenue, Glendale, Arizona. Staff contact: Thomas Ritz (Municipal Planning Area).





Copies of all applications, exhibits, documents, and complete legal descriptions of the affected parcels are available for public review at the Development Services Department, 5850 West Glendale Avenue,



 2^{nd} Floor, Glendale, Arizona, between the hours of 8:00 a.m. and 5:00 p.m. weekdays. For further information, please call the staff contact listed for each application at (623) 930-2800. Interested parties are invited to attend and participate in the public hearing. If you require special accommodations due to a disability, please contact Diana Figueroa at (623) 930-2808 or dfigueroa@glendaleaz.com at least three working days prior to the meeting. Hearing impaired persons should call (623) 930-2197.

CITY OF GLENDALE Brenda S. Fischer, ICMA-CM City Manager

Publish:

August 21, 2014

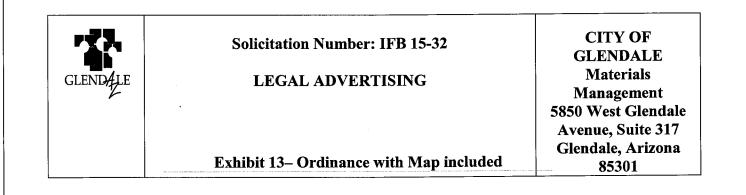
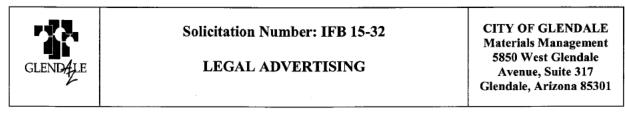


Exhibit 13 - Ordinance with Map included on following pages.



<u>NOTE:</u> In addition to completing this Section electronically and including it in the Flash Drive submittal, a printed version with original signature shall be submitted with Flash Drive at the time of Offer Due Date and Time.

4.0 OFFER SHEET

4.1 OFFER Offeror certifies that they have read, understand, and will fully and faithfully comply with this solicitation, its attachments and any referenced documents. Offeror also certifies that the prices offered were independently developed without consultation with any of the other Offerors or potential Offerers.

William Estorps	Pueblo Publishers, Inc. The Glendale Star
Authorized Signature	Company's Legal Name
William E. Toops	7122 N. 59th Ave.
Printed Name	Address
Publisher / General Manager	Glendale, AZ 85301
Title	City, State & Zip Code
623-842-6000	623-842-6013
Telephone Number	FAX Number
William Etopps wtoops@star-times.com	
Authorized Signature E-mail Address	Company E-mail Address

For questions regarding this offer: (If different from above)

Contact Name	Phone Number	Fax Number
Contact Email Address		
FEDERAL TAXPAYER ID NUMBER:	-	
Arizona Sales Tax No.		Tax Rate _ 2.9%
Offeror certifies it is a: Proprietorship	Partnership	Corporation $\underline{X}_{}$.
Minority or woman owned business: Ye	es No _X	



LEGAL ADVERTISING

<u>NOTE:</u> In addition to completing this Section electronically and including it in the CD-ROM submittal, a printed version shall be submitted with CD-ROM at the time of Offer due date and time.

5.0 PRICE SHEET

Company Name: Pueblo Publishers, Inc. / The Glendale Star

ITEM DESCRIPTION

PRICE

(Note: if pricing varies by day of week, please provide daily pricing under separate attachment. See Section 2.1.1.3)

1	Legal Notices	\$ <u>1.95</u>	_/Column inch/insertion
2	Display Notices	\$ _1.95	/Column inch/insertion
3	NA (List other type of Ad with Pri	\$ <u>NA</u>	/Column inch/insertion
4	NA (List other type of Ad with Pri	\$ <u>NA</u>	/Column inch/insertion
5	NA (List other type of Ad with Pri	\$ <u>NA</u> ce)	/Column inch/insertion

NOTE: An Affidavit of Publication for all legal notices will be supplied with the ad invoice. Affidavits shall include a clipping of the notice, the date or dates published and an oath signed by a newspaper official plus a notarization. For other types of ads, industry standard of proof of publication shall be supplied with invoice.

6 List type of proof of publication provided for non-legal type ads: Printed tear sheet

- 7 List Frequency of Publication: Weekly
- 8 List Deadline for Submitting Ads for Publication: Regular: 4pm Thursday prior Final: 12 Noon Mon. prior
- 9 Exhibits (2-13)

Exhibit 2 – Notice Letter of Hearing Six (6) column inches @\$1.95 per column inch

Cost per publication: \$11.70



HEARING DEFINITION August 8, 2008 Mr. Dayl L. Hutchinson 1346 S, 3am Mesa AZ 85206 Subject: 6071 W. Lamar, Glendale AZ. 85301 Book-Map-Parcei: 144-10-135-B Dear Mr. Hutchinson, The structure located at 6071 W. Lamar, Glendale Arizona, has been declared an imminently unsale structure due to the structure is in vollation of sections the International Building Code sec-tions; 11535, 1153.6, 1153.3, 1153.3, 1153.3, 115.3, 10, 115.3, 115.3, 1153.3, 1153.3, 1153.9, 115.3, 10, 115.3, 115.3, 1153.3, 1153.3, 1153.9, 115.6, 115.2, 115.0, 1153.3, 1153.9, 1153.0, 1155.0, 115

a liam, note that any and all costs associated Please note that any and all costs associated with this hearing, any costs incurred during any investigation, repair, abatement or demolition of this structure are to be borne by the owner of the property. These costs include, but may not be lim-ined to professional services, materials, third party investigations, contractors, sub-contractors as well as houtry rates for City of Glandale employees. These fees will be due upon completion. Failure to reimburse the City for these funds will be used in a lien being placed against the property to recover

lien being placed against the property to recover any associated costs. One option available to property owners within the City of Glendale is voluntary demolition. There are programs available through the City of Glendale's community Revitalization Department that can pay portions or all of the costs of demolition. Please contact Robert Essel at (623) 930-3674 for more information regarding this program. If you or any other parties of interest have any guestions, please contact me at 623-930-3137. Sincereiv

Introduction regaining the program and the set of the set of 23-930-3137. Sinceres, please contact me at 623-930-3137. Sinceres, please contact me at 623-930-3137. Sinceres, please contact me at 623-930-3137. Building Safety Department CC: Deborah Mazoyer, Building Safety Director Dawid Goulet, Councilmember, Ocotillo District Jon Froke, Deputy City Manager Craig Tindall, City Attorney Dan Gunn, Code Compliance Director David Gune, Assistant City Attorney Dan Gunn, Code Compliance Director Charyn Palmisano, Community Revitalization Robert Essel, Community Revitalization Robert Essel, Community Revitalization Publish The Glendale Star March 26, 2015

Exhibit 3 – Notice of Public Auction One (1) column inches @\$1.95 per column inch

Cost per publication: \$1.95



CITY OF GLENDALE

CITY OF GLENDALE NOTICE CF PUBLICAUCTION NOTICE IS HERREBY GIVEN THAT the City of Glen-dale will auction surplus property the first Saturday of the month at Sierra Auction. For further informa-tion call the City of Glendale auction HOT LINE at 623-930-2693. Publish The Glendale Star March 26, 2015. March 26, 2015

Exhibit 4 – Ordinance – Short Version 3.25 column inches @\$1.95 per column inch **Cost per publication: \$6.34**



ORDINANCE NO, 2904 NEW SERIES AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARCOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE EXECU-TION OF A CONVEYANCE OF EASEMENT TO CENTURYLINK FOR PROPERTY LOCATED AT THE GLENDALE AIRPORT FOR THE PURPOSE OF UPGRADING AND REROUTING EXISTING TELEPHONE LINES; AND DIRECTING THE CITY OF GLENDALE AIRPORT FOR THE PURPOSE OF UPGRADING AND REROUTING EXISTING TELEPHONE LINES; AND DIRECTING THE CITY OF GLENDALE AIRPORT FOR THE DIROT CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE:D BY THE COUNCIL OF THE CITY OF GLENDALE as follows: SECTION 1. That the Gity sinterest in the property located at the Glendale Afront, in Glendale, Arizoa is hereby convyed to Centu-a the Glendale Afront, in Glendale, Arizoa is hereby convyed to Centu-a the Glendale afront, in Glendale, Arizoa at hereby convyed to Centu-a to the Conveyance of Easement). SECTION 2. That the City Manager and City Clerk are hereby authorized and directed to execute a Conveyance of Easement and any and all docu-ments necessary to complete this transaction. SECTION 3. That the City Clerk be instructed and authorized to forward a certified copy of this ordinance for recording to the Maricopa County Recorder's Office. PASSED, ADOPTED AND APPROVED by the May-or and Council of the City of Glendale, Maricopa County, Arizona, this 23rd day of September, 2014. Jarry P. Weinsts MAYOR ATTEST: Pamala Hanna City Clerk (SEAL)

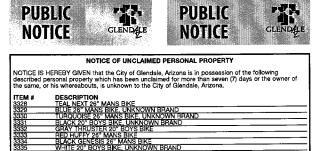
ATTEST: Parmela Hanna City Clerk (SEAL) APPROVED AS TO FORM: Michael D. Bailey City Attorney REVIEWED BY: Brende S. Flischer City Manager Publish The Glendale Star March 26, 2015

Exhibit 5 – Notice of Unclaimed **Personal Property**

Six (6) column inches (2x3)

@\$1.95 per column inch

Cost per publication: \$11.70



	WHITE ZU BUTS DIKE, UNKINUWIN DRAND
3336	RED NEXT 26" BIKE FRAME
3336 3337	PINK HELLO KITTY 12" GIRLS BIKE
3338	BLUE GT 20" BOYS BIKE
3338 3339 3340	GREEN CHAOS 20" BOYS BIKE
3340	RED SCHWINN 26" LADIES BIKE
3341	PURPLE ROADMASTER LADIES BIKE
3342	ORANGE TREK 26" MANS BIKE
3343	PURPLE NEXT 24" MANS BIKE
3344 3345	SILVER NEXT 20" BOYS BIKE
3345	BLACK GMC 28" MANS BIKE
3346	BLUE K2 26" MANS BIKE

p of the same satisfactory to the officer named below within thirty (30) days f and proof of ownership of the same satisfactory to the officer named Derow wurner time (evo) ways more the date of this notice. FAILURE SO TO DO within the said thirty (30) day period shall be deemed to be an abandonment of the said personal property and the same may be disposed of by the City of Glendale, Arizona. DATED this 8th DAY OF OCTOBER, 2014. By: JAMES PEER Tifle: PROPERTY AND EVIDENCE SUPERVISOR GLENDALE POLICE DEPARTMENT 8838 N, 57th DRIVE GLENDALE, AZ 85301 (623) 930 3375 Publish The Glendale Star March 26, 2015

Exhibit 6 – Notice of Unclaimed Personal Property - Weapons 16 column inches (2x8) @\$1.95 per column inch

Cost per publication: \$31.20

NU	DTICE CLENDORE NOTICE CLENDORE
NO [*] describ	NOTICE OF UNCLAIMED PERSONAL PROPERTY TICE IS HEREBY GIVEN that the City of Glendale, Arizona is in possession of the following ed personal property which has been unclaimed for more than seven (7) days or the owner of the same, or his whereabouts, is unknown to the City of Glendale, Arizona.
TEM 3217	 TICE IS HEREBY GIVEN that the City of Glendale, Arizona is in possession of the following depensional property which has been unchaimed for more than seven (7) days of the owner of the same, or his whereabouts, is unknown to the City of Glendale, Arizona. DESCRIPTION DESCRIPT
3218 3219	HANDGUN, SILVER SLINDE, BLACK BODY RUGER .22 CAL SEMI-AUTO PISTOL, MOD MARK II
3220 3221	RUGER 9MM SEMI-AUTO PISTOL, MOD P89 NEW ENGLAND FIREARMS .32 CAL REVOLVER, MOD R73
3222	INTERARMS .44 MAG REVOLVER, VIRGINIA DRAGOON CHARTER ARMS .38 CAL REVOLVER, UNDERCOVER
3224 3225	GLOCK 9MM SEMI-AUTO PISTOL, MOD 26 SMITH & WESSON .38 CAL REVOLVER, MOD 64-4
3226 3227	RUGER 9MM SEMI-AUTO PISTOL, MOD P89DC TAURUS 9MM SEMI-AUTO PISTOL, MOD SLIM
3227 3228 3229	SMTH & WESSON 9MM SEMI-AUTO PISTOL, MOD 459 GLOCK, 40 CAL SEMI-AUTO PISTOL, MOD 22
3230 3231	BERETTA 380 CAL SEMI-AUTO PISTOL, MOD UNKNOWN BERETTA 9MM SEMI-AUTO PISTOL, MOD 92BRIGADIER
3232 3233	SMITH & WESSON 9MM SEMFAUTO PISTOL, MOD 6906 TANOGLIO GARDONE, 22 CAL REVOLVER, DOD TA76
3234 3235 3236	RUGER 357 MAG REVOLVER, MOD SECURITY SIX SIG SAUER 45 CAL SEMI-AUTO PISTOL, MOD P250
3237	RUGER 380 SEMI-AUTO PISTOL, MOD SW40VE
3238 3239 3240	TAURUS JAUGAL SEMI-SUTU PISTOL, MOU PIZ4/7PRU TAURUS 380 CAL SEMI-AUTO PISTOL, MOU PIZ4/7PRU
3240 3241 3242	TAURUS 357 MAG REVOLVER, MOD ROSSI
3243 3244	BRYCO ARMS 38 CAL SEMI-AUTO PISTOL, MOD PT140PRO BRYCO ARMS 38 CAL SEMI-AUTO PISTOL, MOD 38
3245 3246	BERETTA 32 CAL REVOLVER, UNRNOWN MOD BERETTA 32 CAL SEMI-AUTO PISTOL, MOD 1934
3247	SMITH & WESSON 9MM SEMI-AUTO PISTOL, MOD HP22
3248 3249	NORINCO 3/ CAL HEVOLVEN, MOD 247
3250 3251 3252 3253 3253 3254	HI POINT 45 CAL SEMI-AUTO PISTOL, MOD JHP
3253	MASTERPIECE ARMS 9MM SEMI-AUTO PISTOL, MOD JHP MASTERPIECE ARMS 9MM SEMI-AUTO PISTOL, UNKNOWN MOD
3255 3256	HI POINT 380 CAL SEMI-AUTO FISTOL, MOD HOGEN HI POINT 380 CAL PISTOL SEMI-AUTO DISTOL W/O MAG. LINIKNOWN (MODEL
3257	RUGER .22 CAL SEMI-AUTO PISTOL, MOD UNKNOWN
3259 3260	CONNECTICUT VALLEY ARMS 44 CAL REVOLVER, BLK POWDER
3261	PHOENIX ARMS 25 CAL SEMI-AUTO PISTOL, MOD RAVEN
3261 3262 3263 3264	SMITH & WESSON 380 CAL SEMI-AUTO PISTOL, BODYGUARD
3265 3266	STERLING ARMS. 25 CAL SEMI-AUTO PISTOL, UNKNOWN MOD BUGER 9MM SEMI-AUTO PISTOL, MOD P95
3267 3268	JENNINGS 22 CAL SEMI-AUTO PISTOL, MOD J22 BIVER JOHNSON 32 CAL BEVOLVER, UNKNOWN MOD
3269	JIMENEZ 9MM SEMI-AUTO PISTOL, MOD JA NINE SMITH & WESSON 308 CAL SEMI-AUTO PISTOL, BODYGUARD 380
3270 3271 3272	SMITH & WESSON .38 CAL REVOLVER, MOD BODYGUARD COBRA ,380 CAL SEMI-AUTO PISTOL, MOD FS380
3273 3274	CDM PROD INC .22 CAL REVOLVER, MOD CDM MADISON IMPORT .32 CAL SEMI-AUTO PISTOL
3275 3276	BERSA .380 CAL SEMI-AUTO PISTOL, MOD THUNDER RUGER .357 CAL REVOLVER, UNKNOWN MODEL
3277 3278	SMITH & WESSON .40 CAL SEMI-AUTO PISTOL, MOD MP40 SHIELD SMITH & WESSON .38 CAL REVOLVER
3279 3280	SIG SAUER .40 CAL SEMI-AUTO PISTOL, MOD P229 COBRA .380 CAL SEMI-AUTO PISTOL, MOD CA-380
3281 3282	SIG SAUER 40 CAL SEMI-AUTO PISTOL, MOD MK II SIG SAUER 40 CAL SEMI-AUTO PISTOL, MOD P229
3283 3284	H & R. 22 CAL REVOLVER, MOD 999 WINCHESTER .3030 CAL RIFLE, MOD 94AE
3285 3286 3287	Million Egiten Jourgo Gal Aller Le, MOD 344 MOSSBERG 12GA SHOTGUN, MOD 500A BLICED 32 CAL SEMI AUTO DICLE MAD 14/22
3288	TAURUS 22 CAL RIFLE, MOD ROSSI SEARS & ROERLICK 1268 SHOTZLIN, MOD 1012380D
3289 3290 3291	GLENFIELD 22 CAL SEMI-AUTO RIFLE, MOD 66 BOMARM SACUGER 762 CAL BIELE UNKNOWN MODEL
3291 3292 3293	CRICKETT 22 CAL RIFLE, MOD LR WINCHESTER 20GA SHOTGUN, MOD 370
3294	WINCHESTER 20GA SHOTGUN, MCD MOSSBERG 20GA SHOTGUN, MCD 500C
3296 3297	HARRINGTON & RICHARDSON 12GA SHOTGUN JC HIGGINS ,22 CAL RIFLE, MOD 42
3295 3296 3297 3298 3298 3299	MARLIN .22 CAL RIFLE, MOD 795 SPRINGLFIELD .22 CAL RIFLE, MOD 84C
3300	RUGER .22 CAL RIFLE, MOD 10/22 MARLIN .22 CAL RIFLE, MOD 60W
3302 3303	MOSSBERG 22 CAL RIFLE, MOD 715T MOSSBERG 12GA SHOTGUN
3304 3305 3306	MUSSBERG 12GA SHOTGUN, MOD 500A MOSSBERG 12GA SHOTGUN, MOD MAVERICK
DEMAN and pro	SIG SAUER, 40 CAL SEMI-AUTO PISTOL, MOD P229 H & R. 22 CAL REVOLVER, MOD 939 WINCHESTER, 30: 30 CAL RIFLE, MOD 94A MOSER PER 21 AS NOTO MINE 300A MOSER PER 21 AS NOTO MINE 300A SEARS & ROEBUCK 12 AS NOTO MINE 300A GLENFELD 22 CAL SEMI-AUTO RIFLE, MOD 66 ROMARM SACUGIR, 722 CAL RIFLE, UNKNOWN MODEL CRICKET 22 CAL RIFLE MOD ROSS WINCHESTER 200A SHOTGUN, MOD 370 WINCHESTER 200A SHOTGUN, MOD 370 WINCHESTER 200A SHOTGUN, MOD 370 MOSER PER 200A SHOTGUN, MOD 300 MOSSBERS 200A SHOTGUN, MOD 300 MOSSBERS 200A SHOTGUN, MOD 300 MOSSBERS 200A SHOTGUN, MOD 200C HARRINGTON & RICHARDON 12 CA SHOTGUN JANNIN 22 CAL RIFLE, MOD 702 MOSSBERS 120A SHOTGUN, MOD 50C HARRINGTON & RICHARDON 12 CA SHOTGUN JANNIN 22 CAL RIFLE, MOD 702 MOSSBERS 120A SHOTGUN, MOD 50C MOSSBERS 120A SHOTGUN, MOD 50CA MOSSBERS 120A SHOTGUN, MOD MAVERICK MUZZLE LOADING FIRAAM, UNKNOWN CAL MUZZLE LOADING FIRAAM, UNKNOWN CAL MUZZLE LOADING FIRAAM, UNKNOWN CAL MUZZLE LOADING FIRAAM, UNKNOWN CAL MUZZLE LOADING FIRAAM, UNKNOWN CAL SS OT D DO within the said actor the officer named below within thirty (30) days from the date of this notice. E SO TO DO within the said beremed to be an abandomment of th
8	aid personal property and the same may be disposed of by the City of Glendale, Arizona. DATED this 9TH DAY OF OCTOBER, 2014. By JAMES PEER Title: PROPERTY AND EVIDENCE SUPERVISOR GI FUNAL F. POLICE OPERATURENT
	GLENDALE POLICE DEPARIMENT 6835 N. 57th DRIVE GLENDALE, AZ 85301

Exhibit 7 – Notice Community Development Block Grant Program

Five (5) column inches @\$1.95 per column inch **Cost per publication: \$9.75**



PUBLIC NOTICE

The City of Glendale, Arizona, in conjunction with its Community Development Block Grant Program, wishes to advise that any person having reason to believe that he or she has been discriminated against in the purchase or rental of a dwelling because of race, religion, color, sex, age, handicap, familial status or national origin may call:

COMMUNITY LEGAL SERVICES (602) 258-3434 X 230

Complaints of discrimination in the sale or rental of housing can be filed with this office. Call......602/265-3434 X 230 Publish: The Glendale Star

Publish: The Glendale Sta March 26, 2015

La Ciudad de Glendale, Arizona en union con su Programa de Otorgamientos para el Desarrollo de la Comunidad, desea informar que caualquier persona que tenga razon en creer que han descriminado contra el o ella, en la compra o renta de vivienda, por motivo de religion, raza, color, sexo, edad, impedimento físico posicion social o nacionalidad, puede llamar al:

SERVICIOS LEGAL DE LA COMUNIDAD (602) 258-3434 X 230

Queías de descriminacion en la compra o renta de vivienda pueden ser sometidos a esta oficina.

LLAME (602) 258-3434 X 230 Publish: The Glendale Star March 26, 2015

Exhibit 8 – Resolution (English) Three (3) column inches @\$1.95 per column inch

Cost per publication: \$5.85

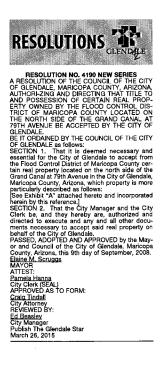


Exhibit 9 – Resolution (Spanish) 12 column inches (2x6) @\$1.95 per column inch Cost per publication: \$23.40



RESOLUCIÓN NO. 4191 NUEVA SERIE
 RESOLUCIÓN NO. 4191 NUEVA SERIE
 RESOLUCIÓN DEL CONCILIO DE LA CIUDAD DE
 GUENDALE. CONDADO DE MARICOPA ANDO
 YADOPTANDO LOS RESULTADOS DE LA CIUDAD DE
 GUENDALE. CONDADO DE MARICOPA ANDO
 YADOPTANDO LOS RESULTADOS DE LA CIUCIÓN PRIMARÍA
 CELEBRADA EL 2 DE SEPTIEMBRE. 2006; Y ORDENANDO QUE
 SE REGISTRE UNA COPA CENTIFICADA DE LA PRESENTE RESOLUCIÓN
 MIENTRAS CUE, el Concilio de la Ciudad de GUENTA DE LA PRESENTE RESOLUCIÓN
 MIENTRAS CUE, el Concilio de la Ciudad de GUENTE CON DE LA PRESENTE RESOLUCIÓN
 MIENTRAS CUE, el Concilio de la Ciudad de GUENTE CON DE LA PRESENTE RESOLUCIÓN
 MIENTRAS CUE, el Concilio de la Ciudad de GUENTE CON DE LA PRESENTE RESOLUCIÓN
 MIENTRAS CUE, el Concilio para los Distritos de Cardato, Santaría convocada para
 y colebrada en y por, la Ciudad el 2 de septiembre. 2008; con al propósio de: (1) nominar candidatos para
 portecipada de la Ciudad de GUENTES CON DE VICEN, y VICEN, y (2) Sometar a votación la
 roposición No. 404; una iniciativa, presentada por petición, proponiendo la emmienda del Artículo X de la
 Carta Municipal de la Ciudad de GUENTES CON DE VICEN, y VICEN, y (2) Sometar a votación lo de
 Votación para publicación de la misma en el periódico. The Glendale Star, conforme a derecto, siendo
 set un patriódico de publicación de la arosación sometida a votación, una devento, siendo
 texto publicación de la sepcelinamente los lugares en las cuales se celebraria dicha Elección
 Primaria, mediante publicación a de la proposición sometida a votación, de la Elección
 primatia, se el los candidatos y el texto de la proposición sometida a votación, una conja de dicha not ficación, junto con el afidiavit de publicación anexos a la misma, se encuentra ahora registrada como parte
 de las Arctas del Concilio de la elección ha sido presentado al Concilio y séte ha completado el escru POR LO REVIENTO. EL CONCILIO DE LA ELUIDAD DE CE GUENDAL FRESUELVE lo sinciunte:

timio de los votos. POR LO EXPUESTO, EL CONCILO DE LA CUIDAD DE GLENALE RESUELVE lo siguiente: ARTICULO 1. Que el número total de votos emitidos en diche Elección Primaria, según consta en el informe acumulativo, los de 18,820 (dicicición mil eleciontos vertine), ARTICULO 2. Que el número total de votos anulados fue de 136. ARTICULO 2. Que los vincos emitidos para los candidatos a Alcade fueron:

ARTIGULO 5. Que los volos emilidos para los candidalos a Alcade rueron.	
Distrito/Nombre	Total deVotos
ALCALDE	
	16.342
Scruggs, Elaine	144
Pennington, Terry (añadidos)	
ARTICULO 4. Que los votos emitidos en favor de los candidatos para el Concili	o fueron:
Distrito/Nombre	Total deVotos
DISTRITO DE CACTUS	
	1,514
Lieberman, Phil	
Hirsch, Gary	1,378
DISTRITÓ DE SAHUARO	
Frate, Steven	3,157
DISTRITO DE YUCCA	
	1,431
Clark, Joyce	546
Marx, Carole	546
ARTICULO 5. Que los votos emitidos para la Proposición fueron:	
PROPOSICION NO, 404 (Mejor Boleta Glendale)	
Sí 7.046	
0 7,040	

No	8,54

No 8,541 TOTAL 15,587 ARTICULO 6, Que los Anaxos A a G adjuntos a la presente Resolución incluyen un escrutinio detallado de los votos emitidos en la Elección Primaria del 2 de septiembre, 2008. ARTICULO 7. Que por la presente se resuelve, determina y declara para el Acta que los siguientes candi-datos recibieron más de la mitad del total de los votos válidos emitidos y, por consiguiente, se les otorga to debias candidención: los debidos certificados de elección: ALCALDE

DISTRITO DE CACTUS Lieberman, Phil DISTRITO DE SAHUARO

DISTRITO DE YUCCA

Data una esta construction de la presente se resuelve, determina y declara para el Acta que, en cuanto a la Proposición No. 404 (Mejor Boleta Giendale), la mayoria de los votos emitidos no favorecieron la eminienda del Artículo IX de la Carta Municipal, para cambiar el método de votación para puestos municipales. Artículo S. Que por la presente se resuelve, determina y declara para el Acta que no será necesario celebrar una segunda ronda de elecciones para los puestos de Artículo S. Que por la presente se resuelve, determina y declara para el Acta que no será necesario celebrar una segunda ronda de elecciones para los puestos de Actaldo e Concilio. O cue se la conten y autorito de Regeneraria envirar una copia contificada de la presente Resenticin para su Inscriptiva Penda Dicha de Regeneraria del Condado de Maricopa. Accona, este 15º día de septiembre, 2008.

ALCALDE ATESTIGUA:

Secretaria (SELLO) APROBADA EN CUANTO A FORMA:

Abogado de la Ciudad REVISADO POR:

Gerente de la Ciudad Publish The Glendale Star March 26, 2015

Exhibit 10 – Notice of Request for Proposal (RFP) 6.5 column inches @\$1.95 per column inch Cost per publication: \$12.68



NOTICE OF REQUEST FOR PROPOSALS CITY OF ALENDALE MIRPORT APRON REHABILITATION DEVICE TO A STATE OF A STATE Project No. 131409 ONSULTING SERVICES ONSULTING SERVICES ONSULTING SERVICES ONSULTING SERVICES of Gendale is seeking a qualified con-timinary cost estimating, permitting approvals and construction administration services for the elabilitation of the aircraft parking aprover and construction administration services for the elabilitation of the aircraft parking aprover and construction cost for this proj-ect is approximately \$2,000,000. PEOIECT DESCRIPTION To Giendale Municipal Airport is located at 6801 North Gien Harbor Boulevard. The airport was constructed in 1986 and since this time the airport apron are has received several paverment treets

The Glands Arbor Boulever, DESCRIPTION
 The Glands Arbor Boulever, The sirport was constructed in 1986 and since this time the airport apron area has received several pavement treatments. The qualified consultant shall investigate the apron pavement to determine the level of relations of the series approximately 48,500 square yards of existing aircraft parking apron and related taxil anes in the airport center ramp area that needs to be evaluated. The project will also include the associated apron markings, aircraft bedown restoration, and reconfiguring the apron and related taxil anes in the airport center ramp area that needs to be evaluated. The project will also include the associated part marking apronalighting to anximize aircraft parking. The Trajent Statistics is a proximating and the services of the gropiest. The Gity will utilize the services of the Bigineer for programming, design, construction administration and cost settings and other required and electrical. The Engineer, in requested by the City, may also be required to prepare and submit all required FAA and ADOT forms associated with this project. The Engineer, if requested by the City, may also be more the guine of the altor on the services included in this initiat conference will be required to a child at additional procurement action for any of the services included in this initiat conference will be fuelled applic involvement activities. The Gity and theor engineer and submit all requires the services included in this initiat conference will be the office of the services included in this initiate conference room the senting all and the required and the required and representation. The RESUBMITAL CONFERENCE
 Meresubmitat conference. The RESUBMITAL CONFERENCE
 Meresubmitat conference. Bar and a construction of the services are advised and the restores of the weat are presentation. The requesting to the sentions are accured from send arepresentation to seption than there to a conference room of

Glendale, AC 03501, 01 Meterstanding COD. The RFP submittal date is: Friday, October 18, 2013, no later than 2:00 p.m. Any proposal received after this time will not be considered and will be returned to the consultant. CITY OF GLENDALE, ARIZONA

March 26, 2015

Exhibit 11 – Notice of Ordinance (Long Version) 33.5 column inches @\$1.95 per column inch

Cost per publication: \$65.33



CLEND4: ORDINANCE OF THE MAYOR AND COUN-CIU OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA (1), ANTHORIZING, THE DECEMBER AND ANOD LEASE AGREACH THE EASE AND ANOD LEASE AGREACH THE EASE AND ANOD LEASE AGREACH THE CORPORTION HELATING TO THE FINANCING OF A SPRING TRAINING FACILITIES COM DIFER PUBLIC INFRASTRUCTURE; (2) PLEDG-ING CERTAIN EXCISE TAXES AND RECIPTS IMPOSED OR RECEIVED BY THE CITY; (3) APPROVING THE FORM OF AND RECUESTING THE EXECUTION AND DELIVERY BY WESTERN LOOP TO FUELIC INFRASTRUCTURE; (2) PLEDG-ING CERTAIN EXCISE TAXES AND RECIPTS IMPOSED OR RECEIVED BY THE CITY; (3) APPROVING THE FORM OF AND RECUESTING FA GROUND LEASE, A SERIES 2005 THUST INDEXED AND LEASE ASCHES 2005 THUST INDEXED AND AND COMPANY AND AND AND AND INDEXE AGREEMENT AND A PURCHASE 2008 LEASE AGREEMENT AND A

The series and conditions provided herein and therein; and the boson start has resolvable and the Sinked upon the terms and conditions provided herein and therein; and WHEREAS, the City has determined that it is ben-ficial to its citizens to design, acquire, construct and squip certain spring training facilities for major league basedual and other infrastructure on the land associated with the spring training facilities (the "2008 Stadium Property" and the "2008 Stadium Project", respectively) and to design and construct certain public infrastructure on the land associated with the spring training facilities (the "2008 Stadium Property" and the "2008 Stadium Project", respectively) and to design and construct ture Project" and logather with the "2008 Stadium Project", the "2008 Project"; and WHEREAS, the Board of Directors of the Corpor-tion As indicated that they desire to assist the City in refinancing the 2008 Project and financing certain new costs, among other matters; and WHEREAS, in order to finance the 2008 Project, the Corporation and the City deem it necessary and desirable for the Corporation to issue addi-tional Bondak, Series 2008 Bonds; Collectively, the "2008 Chod", and the "2008 Bonds", and the 2008 Project, and the "2008 Bonds", Third Lien Excles Tax Pervanue Bonds, Series 2008 Chod; and together with the 2008 A the "2008 Bonds, collectively, the "2008 Bonds and 2008 Bonds, collectively, the "2008 Bonds", of which one runce series may be issued as taxable 2008 Bonds, collectively, the "2008 Bonds and 2008 Bonds, collectively, the City and the 2008 Bonds, collectively, the "2008 Bonds and 2008 Bonds, collectively, the City and the City agrees to Addied as of October 1, 2008 Bonds, the corporation, and the Cor-poration leases the 2008 Bonds, the securitor and delivery of the 2008 Bonds, the securitor and addieter in the "Lease Agreement", the "City agrees to City and the Cor-poration leases the 2008 Bonds, the Securitor and delivered, the 2008 Bonds, respectively, and "HEREAS, the City wates

thereof will be applied for costs or the Less ect; and WHEREAS, the City will pledge its Unrestricted Excise Taxes (as defined in the Less Agreement) to the payment of its rental payments under the Less Agreement, but on a basis subordinate Obli-gations (as each such term is defined herein) as more fully described herein and in the Basic Docu-ments (defined below); and "Interface there have been presented to the

WHEREAS, there have been presented to the City Council of the City at the meeting of the

City Council of the City at which this Ordinance is being adopted (i) the proposed form of 2008 Ground Lass; (ii) the proposed form of the Lasse Agreement; (iii) the proposed form of the Contin-ing Disclosure Undertaking of the City and (vi) forms of the 2008 Bonds (the items above referred to herein collectively as the "Basic Documents") and the form of Preliminary Official Statement to be cistributed in connection with the offer and sale of the 2008 Bonds (the "Preliminary Official State-ment"); and

u une zube Bonse (the "Preiminary Oficial State-iment"): and WHEREAS, the Corporation has not made and does not intend to make any profit by reason of any business or venture in which II may engage or himericing the 2008 Project, and no part of the net earnings of the Corporation, if any, shall ever inure to the benefit of any person, firm or corporation except the City; and WHEREAS, this Council desires to authorize the execution and delivery of the Basic Documents and such other documents as may be necessary in connection with the execution and delivery of said Basic Documents, the pledge of Unrestricted Excise Taxes (as defined herein) for the payment of the amounts due under the docs. NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GLEN-DALE, ARIZONA, THAT: SECTION 1. In addition to words and terms else-where defined in this Ordinance, the capitalized words and terms used herein shall have the mean-ing given in Article 1 of the Lease Agreement. SECTION 1. The lease of the 2008 Statium Prop-erty from the City to the Corporation as set forth in the 2008 Project for those periods specified in the Lease Agreement (the "traces Payments") will at least be sufficient to pay the principal and interest on the 2008 Brogist and ther lease Agreement is hareby approved (but subject to the limitations on the source of City payments as set forth in the Sate Agreement (the "Lease Agreement is hareby approved (but subject to the limitations on the source of City payment as set forth in Sattin S). The Mayor and City Cierk of the City and Bor and City Cierk and presented to this Council with such modifications, insertions and changes as may be approved by the executing officials, which approval able bo conclusively evidenced by their secution of the Lease Agreement on behalf of the City in substantially the Germent on behalf of the City in substantially the Germent on behalf of the City in substantially the Germent on behalf of the City insetwerk with any consist and substanta Other amounts due and

amount of bonds that the Corporation may issue to \$200,000,000 total. The City hereby approves he issuance and delivery of the Styte Porty approves he issuance and delivery of the Station in ds, surgreeina fix described, by the Core of the Station of the Station in the surgreeina fix described, by the Core of the Station of the Statio

Documents and any other documents necessary in connection therewith and hereby actionwiedges that the Corporation is acting on behalf of and at the direction of the City for all purposes described Defines a subhorized to enter into such agreements the direction of the City for all purposes described officer is authorized to enter into such agreements barbed defines necessary in conjunction anety bond. If any. All actions of the City related to preparing and distributing the Preliminary Official Statement are hereby approved and ratified. The portions of the Official Statement regarding the 2008 Bonds which concern and describe the City are hereby approved and the City Manager or the Chief Financial Officer is hereby aptroved and ratified. The portions of the Official Statement regarding the 2008 Bonds which concern and describe the City are hereby approved and the City Manager or the Chief Financial Officer is hereby authorized and directed to execute the same and any required certificates at the the same and any required certificates at the the same and any required certificates at the same the same of the City. SECTION 10. The Preliminary Official Statement is substantially the form submitted to the City is approved. The Preliminary Official Statement is "deemed final" (except for purposes of SEC Rule 1522/12(b)(1) and a final official statement will be prepared and distribution of the Sity. Different the Mayor, City Manager or Chief Financial Officer of the City is authorized and directed to complete and sign to behalf of the City and in his or her official capacity, the Official Statement, will submodifications, changes and supplements as either the Mayor, City Manager or Chief Financial Officer of the City is all approve as being neces-sary or Gastribution of the Official Statement and any supplements therato as so signed in connec-tion with the original issuence of the Zity contained in the Preliminary Official Statement and such final Official Statement relating to the 2008 Bonds are hereby authorized

deemed necessary or desirable to carry out and comply with the terms, provisions and intent of this Ordinance, and the Basic Documents and all exhibits to any of the foregoing, All of the acts of the officers of the CDW why ratified, confirmed and approved in all respects. SECTION 12. The CDV powenants that it will use, and will restrict the use and investment of, the proceeds of the 2008 Bonds designated as "tax-everpt" (the "Tax-Exempt Bonds will not (I) consil-tute private activity bonds, arbitrage bonds or hedge bonds under Section 141, 143 or 149 of the internal Revenue Code of the 2008 Bonds as intax-everpt" (the "Tax-Exempt Bonds will not (I) consil-tute private activity bonds, arbitrage bonds or hedge bonds under Section 57 of the Code. The Mayor or the Chief Financial Officer, as the fiscal officer, or any other officer having responsibility for issuance of the Tax-Exempt Bonds shall, alone or whe Chief Financial Officer, as the fiscal officer, or any other officer having responsibility for issuance of the Tax-Exempt Bonds shall, alone or whe Chief Jimatic carificate of the City, for inclusion in the transcript of proceedings for the Eax-Exempt Bonds, suiting forth the resumt and exe of all the proceeds of the Tax-Exempt Bonds, the facts, circumstances and estimates on which the tax to circumstances and estimates on which the tax to circumstances of the Tax-Exempt Bonds, the facts, circumstances (b) that it will take or cause to it for the interest on the Tax-Exempt Bonds shall, alone or parons at purposes, (b) that it will not take or work affect that extra or and circumstances repert Bonds. The City covenants (a) that it will take or cause to it for the interest on the Tax-Exempt Bonds to be and remain excluded from gross income for fad-eral income tax purposes (b) that twill not take or work affect that exclusion and (c) that it, or parons at purposes (b) that twill not take or work affect that exclusion and (c) that it, or parons at purposes (b) the structure of the or tax in the orgen ports.

ATTEST: Pamela Hanna City Clerk APPROVED AS TO FORM: Craig Tindall City Attorney REVIEWED BY: Ed Beasley City Manager Publish The Glendale Star March 26, 2015

Exhibit 12 – Public Hearing Notice 19 column inches @\$1.95 per column inch

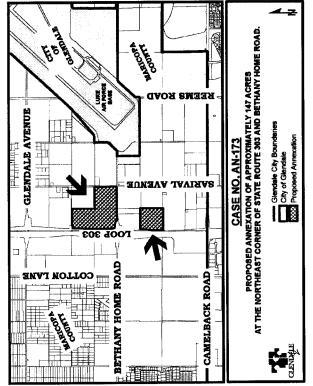
Cost per publication: \$37.05





CITY OF GLENDALE NOTICE IS HEREBY GIVEN THAT the City of Glendale City Council will hold a public hearing on September 9, 2014, at 6:00 p.m. in the Glendale Council Chambers Building, 5850 West Glendale Avenue, Glendale, Arizona, to hear the following: An-173:

NOTICE IS HEREBY GIVEN INAT the Giv of Glendale Give Council will hold a public hearing on September 9, 2014, at 6:00 pm. In the Glendale Council Chambers Building, 5850 West Glendale Avenue, Glendale, Arzona, to hear the following: **AD-173** A portion of the southeast quarter of Saction 12, Township 2 North, Range 2 West of the Gila and Salt River Meridian. Maricopa County. Arizona, being more particularly described as follows: Commencing at the south quarter comer of said Section 12, monumented by a 2003 Maricopa County aluminum cap in hand hole stamped 'LS 29991' bears as a basis of bearing South 89 degrees 30 minutes 14 seconds East, 2.633.08 feet; Thence along said south hine, North 00 degrees 20 minutes 14 seconds East, 612.58 feet; Thence departing said south hine, North 00 degrees 20 minutes 48 seconds East, 30.0 feet to said southeast quarter and the Point of Beginning: Thence departing said north line, along the new right-of-way line of State Route 303L, as shown on the Final RW Plans for Arizona Department of Transportation Project No. 303-4(209), North 69 degrees, 14 minutes, 25 seconds West, 170.35 feet; Thence North 12 degrees 13 minutes 05 seconds West, 150.04 feet; Thence North 12 degrees 00 minutes 09 seconds East, 363.37 feet; Thence North 00 degrees 58 minutes 09 seconds East, 363.37 feet; Thence North 00 degrees 58 minutes 09 seconds East, 363.37 feet; Thence Aventh 00 degrees 58 minutes 09 seconds East, 363.00 feet; Thence departing said new right-of-way line along said east-west mid-section line of said Section 12; Thence departing said areat-west mid-dection line, south 89 degrees 44 minutes 53 seconds East, 369.09 feet to the northwest quarter of the south-set quarter of Said Gegrees 37 minutes 39 seconds East, 124.20 feet to the west line of the south-set quarter of Said Gegrees 37 minutes 30 seconds East, 124.20 feet to the west line of the south-set on 12. Thence departing said areat-west mid-dection line, along taid southeast quarter of the south-set on 12.



Copies of all applications, exhibits, documents, and complete legal descriptions of the affected parcels are available for public review at the Development Services Department, 5850 West Glendale Avenue, 2 not Floor, Glendale, Arizona, between the hours of 8:00 a.m. and 5:00 p.m. weekdays. For further information, please call the staff contact isted for each application at (623) 930-2800. Interested parties are invited to attend and participate in the public hearing. If you require special accommodations due to a disability, please contact Diana Figuenca at (623) 930-2800 or <u>difuence3@fleadleal.com</u> at least three working days prior to the meeting. Hearing impaired persons should call (623) 930-2197.

Publish The Glendale Star March 26, 2015

CITY OF GLENDALE Brenda S. Fischer, ICMA-CM City Manager

The Glendale Star - Peoria Times

glendalestar.com - peoriatimes.com

January 5, 2015

Ms. Connie Schneider, C.P.M. Purchasing Materials Management Division City of Glendale 5850 W. Glendale Ave. Glendale, AZ 85301-2599

Dear Ms. Schneider,

Thank you for the opportunity to submit a bid for the City of Glendale's Official Legal Advertising, Solicitation Number **IFB 15-32**. As *Glendale's Community Weekly since 1978*, *The Glendale Star* is the ideal medium to maximize the city's reach to local residents while minimizing the expense of its legal and public notice advertising, fulfilling all publication requirements as established by city charter and defined by state law.

As a paid-subscription newspaper of general circulation, *The Glendale Star* meets the publication criteria and legal requirements for all public notice advertising as established by Arizona statute for Maricopa County, as well as Article VIII, Section Six of the Glendale City Charter. Owned and operated by Pueblo Publishers, Inc., *The Star* is the only newspaper that delivers more than 36 years of exclusive citywide publishing experience. *The Glendale Star* has published more legal and public notice advertising for the City of Glendale than any other newspaper in Maricopa County.

Established as a paid-circulation, community weekly in December 1978, *The Glendale Star* is independently owned and operated by its parent company, Pueblo Publishers, Inc. Delivered primarily by mail, *The Star* currently maintains an 80 percent paid distribution as verified by the United States Postal Service's most recent annual audit, PS Form 3526, 9-15-2014.

Published weekly every Thursday morning since December 1978, *The Glendale Star* has proudly maintained its designation as the official newspaper of record for the City of Glendale. Our independent, family-owned and operated corporation also produces, publishes and distributes the *Peoria Times*. The *Times* is recognized as the official newspaper of record for the City of Peoria. In addition, we routinely place and publish legal and public notice advertising for major institutions and government agencies such as the Arizona State Land Department, Arizona Department of Transportation, Arizona State and Northern Arizona University, as well as the Town of Youngtown, local law offices, area corporations and individual residents throughout the Valley.

The Glendale Star is delivered by Periodical Mail, Publication Number PE 998340, United States Postal Service, to paid subscribers comprised of single family homes, local businesses and area agencies located throughout the city of Glendale. *The Star* is also distributed in Phoenix, Peoria, Sun City and Luke Air Force Base. It is available through local convenience stores, paid newsstand locations and select bulk delivery drops. As of the Jan. 1, 2015 issue, our current paid mailing list reflects a total of 5,365 subscribers served by direct mail delivery within the municipal boundaries of the City of Glendale. A detailed breakdown by zip code is enclosed for your reference.

The Glendale Star is also distributed through a combination of 17 newsstand and counter sales locations with a paid circulation of approximately 250 copies weekly. An additional 985 complimentary copies are delivered to 28 bulk drops of key public, private and commercial locations strategically situated throughout the city. The cumulative total of paid subscribers, newsstand and counter sales distribution, and bulk deliveries combine for an average weekly circulation of 6,600 copies.

The Glendale Star is published and distributed Thursday morning. The regular deadline for submitting legal advertising placements is 4 p.m. Thursday prior to publication. In order to provide the City of Glendale maximum flexibility in the scheduling, processing and placement of its legal advertising, we will extend a final

deadline of 12 noon Monday prior to publication. In addition, we will make every effort to accommodate emergency ad placement and publication requests subsequent to the established deadlines and prior to final printing.

Our legal advertising and public notice clerk, Kelly Lyons, will serve as your direct contact. Ads may be scheduled and placed at your convenience by email, phone, fax or mail. You can reach Kelly by phone at 623-847-4600, by email at notices@star-times.com, or by fax at 623-842-6013. The preferred formats for electronic submissions are Word, Excel and PDF files.

The Glendale Star is published in a six-column by 16-inch tabloid format. A single column inch width measure is 1.583 inches wide by one inch long. All notices will be published using five and one half (5.5) point type solid, no additional leading, unless otherwise specified. All legal advertising notices, both in-column and display, will be priced at a rate of \$1.95 per column inch for each publication. A notarized affidavit of publication and actual newspaper clipping will be provided for each notice placed as proof of publication.

Priced significantly below our retail advertising rates, the proposed legal advertising price reflects the philosophy and purpose we embrace as an established public information provider and active community advocate. We view print legal advertising as a vital and effective form of public communication. It is imperative to the lives and livelihoods of the citizens directly impacted by their city's decisions and actions. We have aggressively priced these required advertisements in order to minimize the city's expense, yet maximize the exposure of its local ordinances, resolutions and notices to the largest possible penetration of Glendale residents and business owners.

Thank you for your review and consideration of this bid. We sincerely value the professional relationships we have established over more than three and one half decades of service to the community and enthusiastically welcome the opportunity to provide the City of Glendale with the highest level of quality, value and service for all of its legal advertising placements. If you have any questions or require additional information of any kind, please contact me directly.

Sincerely,

William E. Toops Publisher/General Manager

Pueblo Publishers, Inc.

7122 N. 59th Ave., Glendale, Arizona 85301 623-842-6000 FAX 623-842-6013

The Glendale Star - Peoria Times

glendalestar.com - peoriatimes.com

<i>The Glendale Star</i> Subscription Mailing List January 1, 2015 Issue		
Zip Code	Mailed Copies	
85301	1,436	
85302	962	
85303	375	
85304	740	
85305	322	
85306	523	
85307	90	
85308	652	
85309	85	
85310	132	
85311	21	
85312	22	
85318	5	
	5,365	

1-1-2015 Mailing List Total

Pueblo Publishers, Inc.

7122 N. 59th Ave., Glendale, Arizona 85301 623-842-6000 FAX 623-842-6013

The Glendale Star - Peoria Times

glendalestar.com - peoriatimes.com

The Glendale Star Legal Advertising References

City of Peoria City Clerk's Office

Linda Blas 8401 W. Monroe Peoria, AZ 85345 623.773.7360 Linda.Blas@peoriaaz.gov

Town of Youngtown Town Clerk's Office

Letty Goldberg 12030 Club House Square Youngtown, AZ 85363 623.933.8286 LGoldberg@youngtownaz.org

Northern Arizona University

Capital Assets & Services Eileen Michelle Brown PO Box 5637 Flagstaff, AZ 86011 928.523.3839 eileen.brown@nau.edu

Arizona State University

Pamela Thompson Lefkowitz PO Box 875212 Tempe, AZ 85287-5212 480.965.3665 Pamela.Thompson2@asu.edu

Arizona Newspapers Association Executive Director Paula Casey 1001 N. Central Avenue, Suite 670 Phoenix, AZ 85004-1947 602-261-7655, Ext. 102 p.casey@ananews.com

Pueblo Publishers, Inc.

7122 N. 59th Ave., Glendale, Arizona 85301 623-842-6000 FAX 623-842-6013



Solicitation Number: IFB 15-32

6.0 Attachment 1

Legal Advertising (Notice of Bid Solicitation)

<u>Affidavit</u>

I affirm that the newspaper for which I am offering to accept legal advertisements for publication meets the definition of a newspaper as defined in A.R.S. 39-201 printed below, and that I am the publisher of record for said newspaper.

I further affirm the newspaper has been established and published within Maricopa County, State of Arizona, for a period of at least one (1) year prior to the filing of the affidavit and has been admitted to the United States mail as second-class matter for at least one (1) year.

Signed:	William Estoops
· · · · · · · · · · · · · · · · · · ·	

Printed name: _____ William E. Toops

A.R.S. 39-201. Definitions

A. In this chapter, unless the context otherwise requires, "newspaper" means a publication regularly issued for dissemination of news of a general and public character at stated short intervals of time. Such publication shall be from a known office of publication and shall bear dates of issue and be numbered consecutively. It shall not be designed primarily for advertising, free circulation or circulation at nominal rates, but shall have a bona fide list of paying subscribers.

B. "Newspaper" shall not include a publication which has not been admitted under federal law as second-class matter in the United States mails for at least one year.

EXHIBIT B Pueblo Publishers, Inc. IFB 15-32

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

Per column inch of print not to exceed \$1.95 per column inch.

NOT-TO-EXCEED AMOUNT

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the entire term of the Project must not exceed \$N/A.

DETAILED PROJECT COMPENSATION

Pursuant to IFB-15-32 and Contractor's Bid/Offer, all as attached as Exhibit A.

EXHIBIT C

Pueblo Publishers, Inc. IFB 15-32

DISPUTE RESOLUTION

1. Disputes.

- 1.1 <u>Commitment</u>. The parties commit to resolving all disputes promptly, equitably, and in a goodfaith, cost-effective manner.
- 1.2 <u>Application</u>. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.
- 1.3 <u>Initiation</u>. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.
- 1.4 <u>Informal Resolution</u>. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.
 - a. The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;
 - b. The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and
 - c. The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

2. Arbitration.

- 2.1 <u>Rules</u>. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the parties may agree, in writing, that the Dispute will be decided by binding arbitration in accordance with Commercial Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
 - a. The parties will exercise best efforts to select an arbitrator within 5 business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.
 - b. The arbitrator selected must be an attorney with at least 10 years experience, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 <u>Discovery</u>. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten (10) days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.
- 2.3 <u>Hearing</u>. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.

- 2.4 <u>Award</u>. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.
- 2.5 <u>Final Decision</u>. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.
- 2.6 <u>Costs</u>. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party shall pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.
- 3. Services to Continue Pending Dispute. Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of required services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Contractor in accordance with this Agreement.

4. Exceptions.

- 4.1 <u>Third Party Claims</u>. City and Contractor are not required to arbitrate any third-party claim, crossclaim, counter claim, or other claim or defense of a third-party who is not obligated by contract to arbitrate disputes with City and Contractor.
- 4.2 <u>Liens</u>. City or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.
- 4.3 <u>Governmental Actions</u>. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.

Legislation Description

File #: 15-135, Version: 1

AUTHORIZATION TO ENTER INTO THE FOURTH AMENDMENT TO AN EXISTING STANDARD COMMERCIAL LEASE AGREEMENT FOR PROPERTY UTILIZED BY THE GLENDALE POLICE DEPARTMENT

Staff Contact: Debora Black, Police Chief

Purpose and Recommended Action

This is a request for City Council to authorize the City Manager to enter into the fourth amendment to an existing standard commercial lease agreement for property utilized by the Glendale Police Department (GPD) and authorize payment of the 36 month lease in an amount not to exceed \$364,795.20.

Background

It is necessary at times for the City of Glendale to seek available property for lease to meet the specialized needs of certain functions. The City of Glendale has leased this property since 2005. Both the GPD and the property lessor have indicated their desire to extend the lease with the same terms and conditions, except where stated in the amendment, for an additional 36 month period.

<u>Analysis</u>

The base rental rate of the location, including applicable sales tax is \$7651.60 per month. The monthly operating expenses, including applicable sales tax are \$2481.60. The total monthly amount paid to the Lessor is \$10,133.20 for 36 months. This amendment extends the term of lease from March 1, 2015 to February 28, 2018. Staff is requesting that Council authorize the City Manager to enter into the fourth amendment to the existing standard commercial lease agreement and authorize the payment of the 36 month lease in an amount not to exceed \$364,795.20.

Previous Related Council Action

On March 27, 2012, City Council authorized the City Manager to enter into a three-year extension of the existing standard commercial lease agreement, with the amendment expiring on February 28, 2015.

Budget and Financial Impacts

Racketeering Influenced Corrupt Organization (RICO) funds will be utilized for the lease payments.

Cost	Fund-Department-Account
\$364,795.20	1860-32030-528600, State RICO

Capital Expense? No

File #: 15-135, Version: 1

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

FOURTH AMENDMENT TO STANDARD COMMERCIAL LEASE

1 PAGE TOTAL

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Legislation Description

File #: 15-136, Version: 1

AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH INFORMER SYSTEM, LLC AND APPROVE THE PURCHASE OF SCHEDULING SOFTWARE FOR THE GLENDALE POLICE DEPARTMENT UTILIZING A CITY OF SAN DIEGO, CALIFORNIA PURCHASING COOPERATIVE AGREEMENT

Staff Contact: Debora Black, Police Chief

Purpose and Recommended Action

This is a request for City Council to authorize the City Manager to enter into a linking agreement with Informer System, LLC and approve the purchase of scheduling software for the Glendale Police Department (GPD) in an amount not to exceed \$54,300.24. This cooperative purchase is available through an agreement between the City of San Diego, California and Informer System, LLC (Contract Number 4600001356, Bid No. 10022814-12-Z) and is effective through September 3, 2015.

Background

The GPD currently handles its scheduling using an Excel program. Often times, supervisors will utilize the system concurrently to make scheduled and unscheduled leave time adjustments. The Excel program does not allow users to see real time data, which can result in staffing issues, such as shortages. Schedule Express is real time scheduling software system developed by Informer System, LLC. The system allows program rules to be implemented to automatically recognize staffing shortages in advance, reducing the need for overtime hiring to provide coverage. In addition, the system will track employee sick and vacation leave, and will also allow the Police Department to delegate extra duty assignments more efficiently and equitably to ensure the GPD Union Memorandum of Understanding requirements are met. The system can provide schedule information and request processing anytime, anywhere, via the internet.

Informer System, LLC was awarded the bid for a scheduling system by the City of San Diego (Bid No. 10022814 -12-Z). The City of Glendale and San Diego are participating agencies with US Communities and the contract is available for use by the City of Glendale. Utilizing an outside vendor who specializes in providing this service is the most cost effective solution. Materials Management and the City Attorney's Office has reviewed and approved the use of the cooperative contract with Informer System, LLC. The City Attorney's Office has prepared a linking agreement for use with the contract.

<u>Analysis</u>

Cooperative purchasing allows counties, municipalities, schools, colleges and universities in Arizona to use a contract that was competitively procured by another governmental entity or purchasing cooperative. Such purchasing helps reduce the cost of procurement, allows access to a multitude of competitively bid contracts, and provides the opportunity to take advantage of volume pricing. The Glendale City Code authorizes cooperative purchases when the solicitation process utilized complies with the intent of Glendale's

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procurement processes. This cooperative purchase is compliant with Chapter 2, Article V, Division 2, Section 2 -149 of the Glendale City Code, per review by Materials Management.

Staff is requesting that Council authorize the City Manager to enter into the linking agreement with Informer System, LLC and approve the purchase in an amount not to exceed \$54,300.24. The total expenditure authority requested includes an allowance for tax.

Budget and Financial Impacts

If the request is approved by Council, Racketeering Influenced Corrupt Organization (RICO) funds will be utilized for this purchase. There are no ongoing maintenance or upgrade costs.

Cost	Fund-Department-Account
\$54,300.24	1860-32030-526800, State RICO

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

LINKING AGREEMENT BETWEEN THE CITY OF GLENDALE, ARIZONA AND INFORMER SYSTEMS, LLC_

THIS LINKING AGREEMENT (this "Agreement") is entered into as of ______, 20__, between the City of Glendale, an Arizona municipal corporation (the "City"), and Informer Systems, LLC, a Delaware corporation ("Contractor"), collectively, the "Parties."

RECITALS

A. After a response to a request for proposals, on September 4, 2012 the City of San Diego entered into Contract Number 10022814-12-Z with Contractor (the "Informer Contract"), which is incorporated by this reference.

B. The City is permitted to purchase the goods and services described in the Informer Contract without further public bidding, and the Informer Contract at Paragraph I.46 permits its cooperative use by other governmental agencies.

C. Section 2-149 of the City's Procurement Code permits the Materials Manager to authorize procurement through the use of a contract initiated by another governmental entity when that government entity's procurement actions complied with the intent of the City's purchasing procedures in City Code Sections 2-145 and 2-146 and such purchase is in the best interest of the City. The City believes these conditions are met for purposes of the Informer Agreement.

D. The City desires to contract with Contractor for supplies, goods or services identical, or nearly identical, to the supplies, goods or services Contractor is providing the City of San Diego under the Informer Contract, Contractor consents to the City's utilization of the Informer Contract as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the goods and services set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Linking Agreement, the parties agree as follows:

- 1. <u>Term of Agreement</u>. This Agreement is effective as of the date first set forth above and expires on July 1, 2016, or the date on which the Informer Contract expires, whichever occurs first.
- 2. Scope of Work; Terms, Conditions, and Specifications.
 - a) Contractor agrees to comply with all the terms, conditions and specifications of the Informer Contract for the purposes of this

Agreement, and the terms, conditions, and specifications of the Informer Contract are incorporated into this Agreement by this reference. The "City of Glendale" is substituted for "City of San Diego" or similar reference to the City of San Diego throughout the Informer Contract. Terms of the Informer Contract that are particular to the City of San Diego are not incorporated into this Agreement.

3. Compensation.

- a) The total purchase price for the Services as authorized in this Agreement is not to exceed Fifty-Four Thousand Three Hundred Dollars and Twenty-Four Cents (\$54,300.24).
- 4. <u>Cancellation</u>. This Agreement may be cancelled pursuant to ARIZ. REV. STAT. § 38-511.
- 5. <u>E-verify</u>. Contractor complies with ARIZ. REV. STAT. § 23-214 and agrees to comply with the requirements of ARIZ. REV. STAT § 41-4401.
- 6. This Agreement is governed by the laws of the State of Arizona. This **Paragraph 6** explicitly supersedes and replaces the conflicting language in **Paragraph 11.1** of the Schedule Express Terms of Service Agreement (the "Terms of Service") attached and incorporated to this Agreement as Exhibit A.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

"City"

City of Glendale, an Arizona municipal corporation

By:____

Brenda S. Fischer, City Manager

"Contractor"

Informer Systems, LLC_ an Delaware corporation

By: Mark D. Musik

Name: <u>Mark D. Musick</u>

Title: <u>President</u>

Approved as to Form:

Michael D. Bailey, City Attorney

Exhibit A [Schedule Express – Terms of Service Agreement]

Terms of Service

THESE "TERMS OF SERVICE" GOVERN YOUR PURCHASE OF OUR SERVICES. THESE TERMS OF SERVICE WILL ALSO GOVERN YOUR PURCHASE AND ONGOING USE OF THOSE SERVICES. PLEASE READ THESE TERMS OF SERVICE CAREFULLY BEFORE USING THE SERVICES. BY USING THE SERVICES, YOU SIGNIFY YOUR ASSENT TO THESE TERMS OF SERVICE. IF YOU DO NOT AGREE TO THESE TERMS OF SERVICE, YOU MAY NOT USE THE SERVICES. IF YOU ARE ENTERING INTO THESE TERMS OF SERVICE ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THESE TERMS OF SERVICE AND MAY NOT USE THE SERVICES.

These Terms of Service were last updated on December 30, 2014. They are effective between You and Us as of the date You commence using the Services. We may, in Our sole and absolute discretion, change these Terms of Service from time to time. We will post a copy of the Terms of Service as changed on the Site. Your continued use of the Services constitutes your agreement to abide by the Terms of Service as changed. If you object to any such changes, your sole recourse shall be to cease using the Services.

1. DEFINITIONS

"Affiliate" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"Malicious Code" means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

"Purchased Services" means Services that You or Your Affiliates purchase.

"Services" means the online, Web-based applications and platform provided by "Us" via www.scheduleexpress.com and/or other designated websites (collectively, the "Site").

"**Users**" means individuals who are authorized by You to use the Services, for whom subscriptions to a Service have been purchased, and who have been supplied user identifications and passwords by You (or by Us at Your request). Users include Your employees and agents.

"We," "Us" or "Our" means the Informer Systems, LLC.

"You" or "Your" means the company or other legal entity for which you are accepting the Terms of Service and Affiliates of that company or entity.

"Your Data" means all electronic data or information submitted by You to the Purchased Services.

2. PURCHASED SERVICES

2.1. Provision of Purchased Services. We shall make the Purchased Services available to You pursuant to these Terms of Service. You agree that Your purchase hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Us regarding future functionality or features.

2.2. User Subscriptions. Services are purchased as User Subscriptions and may be accessed by no more than the specified number of Users. User Subscriptions may be added during the subscription term at the same pricing as that for the pre-existing subscriptions, prorated for the remainder of the subscription term in effect at the time the additional User Subscriptions are added. Added User Subscriptions shall terminate on the same date as the pre-existing subscriptions. Subscriptions are for designated Users and cannot be shared or used by more than one User.

3. USE OF THE SERVICES

3.1 Our Responsibilities. We shall: (i) provide to You basic support for the Purchased Services at no additional charge, (ii) use commercially reasonable efforts to make the Purchased Services available 24 hours a day, 7 days a week, except for: (a) planned downtime (of which We shall give ample notice via the Purchased Services and which We shall schedule to the extent practicable during the weekend hours from 6:00 p.m. Pacific time Friday to 3:00 a.m. Pacific time Monday), or (b) any unavailability caused by circumstances beyond Our reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Our employees), or Internet service provider failures or delays, and (iii) provide the Purchased Services only in accordance with applicable laws and government regulations.

3.2. Your Responsibilities. You shall (i) be responsible for Users' compliance with these Terms of Service, (ii) be solely responsible for the accuracy, quality, integrity and legality of Your Data and of the means by which You acquired Your Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Us promptly of any such unauthorized access or use, and (iv) use the Services only in accordance with its intended use and applicable laws and government regulations. You shall not (a) make the Services available to anyone other than Users, (b) sell, resell, rent or lease the Services, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or their related systems or networks.

4. FEES AND PAYMENT FOR PURCHASED SERVICES

4.1. User Fees. Subscription fees are based on monthly periods that begin on the first day of the month. Subscriptions that are activated within the month will be prorated, e.g. fees for Subscriptions activated in the middle of a monthly period will be prorated for that monthly period. You shall pay all fees specified in all invoices hereunder. Except as otherwise specified herein, (i) fees are quoted and payable in United States dollars (ii) fees are based on services purchased and not actual usage, (iii) payment obligations are non-cancelable and fees paid are non-refundable. Current fees for the Services may be obtained by calling our Sales Department at 800-470-6102.

4.2. Invoicing and Payment. You will provide Us with valid and updated contact information with a valid purchase order or alternative document reasonably acceptable to Us. Payment can be made in advance, either monthly or annually; or in accordance with a mutually agreed upon billing cycle. We will invoice You in advance and otherwise in

accordance with these Terms of Service. Invoiced charges are due net 30 days from the invoice date. You are responsible for maintaining complete and accurate billing and contact information in the Services.

4.3. Overdue Charges. If any charges are not received from You by the due date, then at Our discretion, (a) such charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

4.4. Suspension of Service and Acceleration. If any amount owing by You under these Terms of Service or any other agreement for Our services is 30 or more days overdue, We may, without limiting Our other rights and remedies, accelerate Your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Our services to You until such amounts are paid in full.

4.5. Payment Disputes. We shall not exercise Our rights under Section 4.3 (Overdue Charges) or 4.4 (Suspension of Service and Acceleration) if the applicable charges are under reasonable and good-faith dispute and You are cooperating diligently to resolve the dispute.

4.6. Taxes. Unless otherwise stated, Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "**Taxes**"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this paragraph, the appropriate amount shall be invoiced to and paid by You, unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority.

4.7. Payment Terms. Payment terms for the initial annual subscription shall be 50% upon contract signature and 50% upon completion of training. Payment terms for all succeeding years (after the initial annual subscription payment terms), shall be invoiced for a full 12 month period and will be due in full net 30 days from the invoice date.

5. PROPRIETARY RIGHTS

5.1. Reservation of Rights. Subject to the limited rights expressly granted hereunder, We reserve all rights, title and interest in and to the Services, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.

5.2. Restrictions. You shall not, (i) permit any third party to access or use the Services except as permitted herein, (ii) create derivate works based on the Services, (iii) copy, frame or mirror any part or content of the Services, other than copying or framing on Your own intranets or otherwise for Your own internal business purposes, (iv) reverse engineer the Services, or (v) access the Services in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Services.

5.3. Ownership of Your Data. As between Us and You, You exclusively own all rights, title and interest in and to all of Your Data.

5.4. Suggestions. We shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by You, including Users, relating to the operation of the Services.

6. CONFIDENTIALITY

6.1. Definition of Confidential Information. As used herein, "**Confidential Information**" means all confidential information disclosed by a party (" **Disclosing Party**") to the other party (" **Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information shall include Your Data; Our Confidential Information shall include the Services; and Confidential Information of each party shall include the Terms of Service, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than Your Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

6.2. Protection of Confidential Information. Except as otherwise permitted in writing by the Disclosing Party, (i) the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of these Terms of Service, and (ii) the Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with these Terms of Service and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

6.3. Protection of Your Data. Without limiting the above, We shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Data. We shall not (a) modify Your Data, (b) disclose Your Data except as compelled by law in accordance with Section 6.4 (Compelled Disclosure) or as expressly permitted in writing by You, or (c) access Your Data except to provide the Services or prevent or address service or technical problems, or at Your request in connection with customer support matters.

6.4. Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

7. WARRANTIES AND DISCLAIMERS

7.1. Our Warranties. We warrant that (i) the Services shall perform materially in accordance with the Terms of Service and the functionality of the Services will not be materially decreased during a subscription term. For any breach of either such warranty, Your exclusive remedy shall be as provided in Section 10.3 (Termination for Cause) and Section 10.4 (Refund or Payment upon Termination) below.

7.2. Disclaimer. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF

MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

8. INDEMNIFICATION

8.1 Indemnification by Us. Subject to the limitation of liability set forth herein, We will defend You and Your agents, servants, officials and employees from any and all Claims, arising out of (a) any gross negligence, reckless or intentional act, error or omission of Us or our officers, agents, servants or employees in the performance of the Purchased Services or accruing, resulting from or relating to the subject matter of these Terms of Service including, any and all claims, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property as the result of gross negligent design, manufacture, installation, or servicing of any part of the Services, and (b) any actual or alleged infringement (including contributory infringement), misappropriation, or violation of any third party's patents, copyrights, trade secret rights, trademarks, or other intellectual property or proprietary rights of any nature in any jurisdiction in the world resulting from Your use of the Service as permitted under these Terms of Service. This indemnification is contingent on You providing Us with prompt written notice of such a Claim, granting Us, with the prior written approval of Your City/County Attorney, not to be unreasonably withheld, sole control of the defense of any such Claim, along with the right and opportunity to approve or reject any settlement of any claim for which You will seek indemnification from Us. In the event Your City/County Attorney does not provide such prior written approval, We will have no obligation to indemnify You pursuant to this Section 8.2. You will use reasonable efforts to notify Us promptly of any third party claim, suit, or action for which You believe you are entitled to indemnification hereunder.

8.2 Notwithstanding the foregoing, We will not be obligated to indemnify You to the extent that an infringement or misappropriation claim is based upon (i) any modification You make to the Services or Your use of the Services in a manner that We have not authorized in writing (ii) use of the Services in combination with other products not supplied or recommended by Us as being compatible with the Services, if such infringement or misappropriation would not have occurred but for such combined use; (iii) use of any release of the Services other than the most current release actually furnished, if the most current release was furnished to You specifically to avoid such infringement or misappropriation and if such infringement or misappropriation would have been avoided by use of the most current release; or (iv) any modification of the Services made by You (other than at Our direction), if such infringement or misappropriation would not have occurred but for such cocurred but for such modification. Our obligation to indemnify You in any event shall be reduced proportionately by the extent to which the injury or damage, which forms the basis of the underlying Claim, was caused by the Your negligent or wrongful act or omission.

9. LIMITATION OF LIABILITY

9.1. Limitation of Liability. IN NO EVENT SHALL OUR AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS OF SERVICE, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT PAID BY YOU HEREUNDER OR, WITH RESPECT TO ANY SINGLE INCIDENT, THE LESSER OF \$500,000 OR THE AMOUNT PAID BY YOU HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT.

9.2. Exclusion of Consequential and Related Damages. IN NO EVENT SHALL WE HAVE ANY LIABILITY TO YOU FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT YOU HAVE BEEN ADVISED OF THE

POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

10. TERM AND TERMINATION

10.1. Term. These Terms of Service commence on the date You commence using the Services and continue until all User subscriptions granted in accordance with the Terms of Service have expired or been terminated.

10.2. Term of Purchased User Subscriptions. User subscriptions purchased by You commence at the end of the training period and will continue until terminated or cancelled. Except as otherwise specified, all User subscriptions shall automatically renew for additional monthly or annual periods, unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription month. The perunit pricing during any such renewal month shall be the same as that during the prior term unless We have given You written notice of a pricing increase at least 30 days before the end of such prior monthly term, in which case the pricing increase shall be effective upon renewal and thereafter.

10.3. Termination for Cause. A party may terminate the Terms of Service for cause: (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

10.4. Refund or Payment upon Termination. Upon any termination for cause by You, any prepaid fees covering the remainder of the term of all subscriptions shall not be refunded after the effective date of termination. Upon any termination for cause by Us as indicated in Section 3.2 (Your Responsibilities), Section 4.4 (Suspension of Service and Acceleration), Section 5.1 (Reservations of Rights), Section 5.2 (Restrictions), and Section 6.2 (Protection of Confidential Information), You shall pay any unpaid fees covering the remainder of the term after the effective date of termination. In no event shall any termination relieve You of the obligation to pay any fees payable to Us for the period prior to the effective date of termination.

10.5. Return of Your Data. Upon request by You made within 30 days after the effective date of termination of a Purchased Services subscription, We will make available to You for download a file of Your Data in comma separated value (.csv) format along with attachments in their native format. After such 30-day period, We shall have no obligation to maintain or provide any of Your Data and shall thereafter, unless legally prohibited, delete all of Your Data in Our systems or otherwise in Our possession or under Our control.

10.6. Surviving Provisions. Section 4 (Fees and Payment for Purchased Services), 5 (Proprietary Rights), 6 (Confidentiality), 7.2 (Disclaimer), 8 (Indemnification), 9 (Limitation of Liability), 10.4 (Refund or Payment upon Termination), 10.5 (Return of Your Data), 10.6. (Surviving Provisions) 11 (Notices, Governing Law and Jurisdiction) and 12 (General Provisions) shall survive any termination or expiration of these Terms of Service.

11. NOTICES, GOVERNING LAW AND JURISDICTION

11.1. General. Notices should be directed and sent to CEO, Informer Systems, LLC, 560 S. Winchester Blvd. | Suite 500, San Jose, CA 95128. These Terms of Service are governed by and construed in accordance with the laws of the State of Arizona, United States of America, without regards to its principles of conflicts of law. You agree to submit to the exclusive jurisdiction of any State or Federal court located in the County of Maricopa, United States of America, and waive any jurisdictional, venue or inconvenient forum objections to such courts.

Schedule Express – Terms of Service – Glendale, AZ

11.2. Manner of Giving Notice. Except as otherwise specified in the Terms of Service, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (iv) the first business day after sending by email (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Notices to You shall be addressed to the system administrator designated by You for Your relevant Services account, and in the case of billing-related notices, to the relevant billing contact designated by You.

11.3. Waiver of Jury Trial. Each party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to the Terms of Service.

12. GENERAL PROVISIONS

12.1. Export Compliance. Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Services. Without limiting the foregoing, (i) each party represents that it is not named on any U.S. government list of persons or entities prohibited from receiving exports, and (ii) You shall not permit Users to access or use Services in violation of any U.S. export embargo, prohibition or restriction.

12.2. Relationship of the Parties. The parties are independent. The Terms of Service do not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

12.3. No Third-Party Beneficiaries. There are no third-party beneficiaries to the Terms of Service.

12.4. Waiver and Cumulative Remedies. No failure or delay by either party in exercising any right under the Terms of Service shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

12.5. Severability. If any provision of the Terms of Service is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of the Terms of Service shall remain in effect.

12.6. Attorney Fees. You shall pay on demand all of Our reasonable attorney fees and other costs incurred by Us to collect any fees or charges due Us under these Terms of Service following Your breach of Section 4.2 (Invoicing and Payment)

12.7. Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign the Terms of Service in its entirety, without consent of the other party, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. A party's sole remedy for any purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party's election, termination of the Terms of Service upon written notice to the assigning party. In the event of such a termination, We shall not refund to You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Subject to the foregoing, the Terms of Service shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

12.8. Entire Agreement. This Agreement, the Terms of Service and the Informer Contract constitute the entire understanding between the parties.

12.9. Electronic Signatures and Contracts. Your use of the Services includes the ability to enter into agreements and/or to make transactions electronically. You acknowledge that Your electronic submissions via the Site constitute Your agreement and intent to be bound by and to pay for such agreements and transactions. Your agreement and intent to be bound by electronic submissions applies to all records relating to all transactions You enter into on the Site, including notices of cancellation, policies, contracts, and applications. In order to access and retain Your electronic records, you may be required to have certain hardware and software, which are Your sole responsibility.

12.10. Notice for California Users. Under California Civil Code Section 1789.3, California Site users are entitled to the following specific consumer rights notice: The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 400 R Street, Suite 1080, Sacramento, California 95814, or by telephone at (916) 445-1254 or (800) 952-5210.

12.11 U.S. Government Rights. If You are, or are entering into these Terms of Service on behalf of, any agency or instrumentality of the United States Government, the Services, including related software, technology and documentation, are "commercial computer software" and "commercial computer software documentation", and pursuant to FAR 12.212 or DFARS 227.7202, and their successors, as applicable, use, reproduction and disclosure of the Services, including related software, technology and documentation, are governed by the terms of these Terms of Service.

Informer Systems

Quote Date: February 1, 2015

Schedule Express

Customer Name: Glendale Police Department - Glendale, AZ					
	License Fee	Discount	Number	Total	Total
Number of Users	Per User	per # of Users	of Users	Monthly	Annually
1-30	\$20.00	0%	0	\$0	\$0
31-150	\$12.00	40%	0	\$0	\$0
151-300	\$11.75	41%	0	\$0	\$0
301-500	\$11.50	43%	400	\$4,600	\$55,200
501-1000	\$11.25	44%	0	\$0	\$0
1001-1500	\$11.00	45%	0	\$0	\$0
1501-2000	\$10.50	48%	0	\$0	\$0
2001-2500	\$10.00	50%	0	\$0	\$0
2501-3000	\$9.50	53%	0	\$0	\$0
3001-3500	\$9.00	55%	0	\$0	\$0
3501-4000	\$8.50	58%	0	\$0	\$0
4001 and above	\$8.00	60%	0	\$0	\$0
	10% discount for paying full year in advance.			(addl savin	gs = \$5,520)
	10% additional number of users at no charge for paying full yea	r in advance.	40		igs = \$4,968)
	(1) full day (10 hours) of Refresher Training at no charge for pay				gs = \$1,250)
			(Overall savings for one year = \$11,7		
		Tota	al Annually v	v/Discounts	\$49,680
					\$49,000
Professional Services					
On-Site Configuration	On-site data collection and custom configuration.			Included	Included
On-Site Implementation	On-site deployment of fully functional scheduling solution.			Included	Included
On-Site Training	Initial on-site training for all users.			Included	Included
Live Web-Based Training	Post-implementation 'live' web-based training			Included	Included
Service, Support & Maint.	Future updates/upgrades, maintenance and support.			Included	Included
Additional Services		Rate		Quantity	Total
Custom Reports	Modification of Existing Report or Creation of New Report	\$750 ea	ch		
On-Site Refresher Training	On-Site Refresher Training	\$250 hour			
(Post - Implemetation)		.5	(5 hour min 1st day) (2 hour min addl. days)		
Programming Services	Custom Development or Integration with Third Party Applications	Contact SE fo			
System Analysis Services	Anaysis & Evaluation of Work Force Management Processes & Procedures	Contact SE fo	or Quote		

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Legislation Description

File #: 15-142, Version: 1

AUTHORIZATION TO INCREASE SPENDING AUTHORITY AND APPROVE AMENDMENT NO. 4 TO THE CONTRACT FOR PURCHASE OF PERSONAL PROTECTIVE EQUIPMENT WITH MUNICIPAL EMERGENCY SERVICES, INC.

Staff Contact: Mark Burdick, Fire Chief

Purpose and Recommended Action

This is a request for City Council to approve an increase to a purchase order for Municipal Emergency Services (MES) and approve extension of the current agreement for the purchase of Personal Protective Equipment (PPE).

Background

This increase approval in purchasing authorization will allow the Glendale Fire Department to stay in compliance with the latest National Fire Protection Association (NFPA)/Occupational Safety and Health Association (OSHA) safety standards for PPE. These standards call for a 10 year replacement cycle of PPE, or when the safety equipment is not meeting minimum safety testing during annual inspections. This increase also allows for the purchase of additional PPE for our Special Operations team and for our new firefighter recruits who were hired through our SAFER Grant. Procurement of the PPE now requires Council approval of an increase for the existing purchase order for this fiscal year. The procurement of turnout gear will continue utilizing IFB-11-25, C-7984. Based on the original contract approved on February 22, 2011, this is the last available extension to the contract.

<u>Analysis</u>

Staff recommends Council approve this request allowing the Glendale Fire Department to stay compliant with NFPA/OSHA safety standards for protective equipment. There are no alternatives to these compliance standards. These standards are outlined in the department's accreditation documents. The standards allow city firefighters to continue with the service delivery models currently used. The standards also provide a minimum level of safety for city firefighters to operate within.

Previous Related Council Action

Council has annually approved the purchase of PPE to meet all NFPA/OSHA safety standards. Council approved additional funding to meet the compliance standard on November 19, 2013. Additional grant funding was approved by Council on October 28, 2014 for the RRT Sustainment Grant.

Community Benefit/Public Involvement

File #: 15-142, Version: 1

By maintaining the safety standards of the PPE used by city firefighters, the department can continue to use the risk management policies currently employed. This policy provides the highest level of customer service by allowing the firefighter to enter into hazardous conditions to save lives and property.

Budget and Financial Impacts

RRT Sustainment Grant funds were appropriated to account 1840-34090-521000. Funding for the equipment for the SAFER recruits was approved by council on March 25, 2014. This request will increase the purchase order to \$197,809 for FY 2014/15 and FY 2015/16. The additional \$302,189 is for potential increase in expenses in hiring of new fire personnel.

Cost	Fund-Department-Account
\$29,950	RRT Sustainment Grant 1840-34090-521000
\$55,859	Fire Operations 1000-12422-512600
\$112,000	Fire Resource Management 1000-12433-512600
\$302,189	Potential Account To Be Determined (Pending Grant Applications)

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

AMENDMENT NO. 4

FIREFIGHTER TURNOUT GEAR SERVICE AGREEMENT (IFP 11-25 Contract No. C-7984)

This Amendment to the Firefighter Turnout Gear Service Agreement is made this _____day of _____, 2015 ("Effective Date"), by and between the City of Glendale, an Arizona municipal corporation ("City") and Municipal Emergency Services, Inc., a Nevada corporation authorized to do business in Arizona ("Contractor").

RECITALS

- A. City and Contractor previously entered into Firefighter Turnout Gear Service Agreement, Contract No. C-7984, dated February 22, 2011 ("Agreement") with an original term of one (1) year; and
- B. The Agreement had an initial one-year term beginning February 22, 2011 through February 21, 2012 and provided the option to extend the term for an additional five (5) years in one-year increments; and
- C. City and Contractor previously entered into Amendment No. 1, extending the term of the Agreement from February 29, 2012 through February 28, 2013 and making certain rate adjustments; and
- D. City and Contractor previously entered into Amendment No. 2, extending the term of the Agreement from February 22, 2013 to February 21, 2014 and making certain rate adjustments; and
- E. City and Contractor previously entered in Amendment No. 3, extending the term of the Agreement from February 22, 2014 to February 21, 2015 and making certain rate adjustments; and
- F. City and Contractor wish to again extend the term of the Agreement without any price adjustments, subject to and strictly in accordance with the terms of this Amendment.

AGREEMENT

In consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Contractor hereby agree as follows:

1. **Recitals.** The recitals set forth above are not merely recitals, but form an integral part of this Amendment.

- 2. Term. The term of the Agreement is extended for a one (1) year period from February 22, 2015 through February 21, 2016, unless otherwise terminated or canceled as provided by the Agreement.
- Compensation. The compensation of the Agreement shall not exceed the amount 3. of \$500,000 for the new term.
- 4. Insurance Certificate. The existing insurance certificate is expiring and a new certificate applying to the extended term is required and must be received by the Contract Specialist prior to December 29, 2015.
- 5. Ratification of Agreement. City and Contractor hereby agree that except as expressly provided herein, the provisions of the Agreement shall be, and remain in full force and effect and that if any provision of this Amendment conflicts with the Agreement, then the provisions of this Amendment shall prevail.

CITY OF GLENDALE, an Arizona municipal corporation

Brenda S. Fischer, City Manager

ATTEST:

Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

Michael D. Bailey, City Attorney

Municipal Emergency Services, Inc., a Connecticut Corporation

By: **Barry Richardson**

Its: Regional Manager



Legislation Description

File #: 15-116, Version: 1

AUTHORIZATION FOR COOPERATIVE PURCHASE OF A CATERPILLAR TRASH COMPACTOR FROM EMPIRE SOUTHWEST, LLC, FOR THE GLENDALE MUNICIPAL LANDFILL

Staff Contact: Jack Friedline, Director, Public Works

Purpose and Recommended Action

This is a request for City Council to authorize the cooperative purchase of a Caterpillar trash compactor from Empire Southwest, LLC (Empire), for the Glendale Municipal Landfill (Landfill) in an amount not to exceed \$1,119,512.82.

<u>Background</u>

The trash compactor is a critical piece of heavy equipment used by staff for the daily management of waste and maximization of air space at the Glendale Landfill. The Landfill received approximately 275,000 tons last fiscal year (FY) and is on pace to process approximately 320,000 tons of garbage this FY. The existing Al-Jon 91K Compactor has been in service for over 14 years and has reached the end of its serviceable life.

Empire was awarded Contract No. 120377 by the City of Tucson through the National Intergovernmental Purchasing Alliance (National-IPA) Master Intergovernmental Cooperative Purchasing Agreement. All agreements offered through the National-IPA have been awarded through a Request for Proposal (RFP) competitive solicitation by a public Principal Procurement Agency (PPA). The PPA's for Arizona are the City of Tucson and Maricopa County.

The City of Tucson Master Intergovernmental Cooperative Purchasing Agreement is accessible for use by Glendale through Council adoption of resolution 4684 New Series authorizing and directing the city's participation in the National-IPA for the purpose of making cooperative purchases. This contract provides the best pricing available for the purchase of the Caterpillar trash compactor.

Materials Management and the City Attorney's Office have reviewed and approve the action to cooperatively utilize the City of Tucson contract through National-IPA for the purchase of a Caterpillar trash compactor.

<u>Analysis</u>

The existing Landfill Al-Jon 91K Compactor has reached the end of its serviceable life and cannot be refurbished due to the extreme wear on all equipment components (engine, drive-train, chassis and electrical/mechanical systems). The Caterpillar trash compactor requested for purchase comes with a standard manufacturer warranty of 12 months with unlimited hours. The city will also be purchasing a Global Positioning System (GPS) to optimize the units' production and the powertrain extended warranty which covers the unit for 3 years or 7500 hours. The GPS system and the extended warranty purchase price are

File #: 15-116, Version: 1

included in the \$1,119,512.82 purchase price. Empire SW is the local authorized dealer and service provider for this equipment.

Cooperative purchasing allows counties, municipalities, schools, colleges and universities in Arizona to use a contract that was competitively procured by another governmental entity or purchasing cooperative. Such purchasing helps reduce the cost of procurement, allows access to a multitude of competitively bid contracts, and provides the opportunity to take advantage of volume pricing. The Glendale City Code authorizes cooperative purchases when the solicitation process utilized complies with the intent of Glendale's procurement processes. This cooperative purchase is compliant with Chapter 2, Article V, Division 2, Section 2 -149 of the Glendale City Code, per review by Materials Management.

Previous Related Council Action

On June 11, 2013, Council adopted resolution No. 4686 New Series to allow the use of National-IPA cooperative purchasing agreements for the City of Glendale.

Community Benefit/Public Involvement

The equipment will be used to compact and bury waste received at the Glendale Municipal Landfill in a safe and cost effective manner. The landfill is a responsible, progressive and environmentally sound long-term solution to solid waste management essential to the future health, welfare and prosperity of Glendale residents.

Budget and Financial Impacts

Funds for this purchase are available in the FY 2014-15 capital improvement plan of the Landfill Enterprise Fund. The operating and maintenance costs associated with this purchase will be absorbed by the Landfill operating budget.

Cost	Fund-Department-Account
\$1,119,512.82	2440-78511-551400, Landfill Compactor Replacement

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

LINKING AGREEMENT BETWEEN THE CITY OF GLENDALE, ARIZONA AND EMPIRE SOUTHWEST, LLC

THIS LINKING AGREEMENT (this "Agreement") is entered into as of _____

_____, 2015, between the City of Glendale, an Arizona municipal corporation (the "City"), and Empire Southwest, LLC, a Delaware company authorized to do business in Arizona ("Contractor"), collectively, the "Parties."

RECITALS

A. The City of Tucson on May 1, 2012 entered into National Intergovernmental Purchasing Alliance Contract Number 120377, a copy of which is incorporated by this reference.

B. The City is permitted to purchase the goods and services described in the Contract without further public bidding, and the Heavy Equipment, Parts, Accessories, Supplies and Related Services Contract permits its cooperative use by other governmental agencies, including the City.

- C. Section 2-149 of the City's Procurement Code permits the Materials Manager to authorize procurement through the use of a contract initiated by another governmental entity when that government entity's procurement actions complied with the intent of the City's purchasing procedures in City Code Sections 2-145 and 2-146 and such purchase is in the best interest of the City. The City believes these conditions are met for purposes of the Heavy Equipment, Parts, Accessories, Supplies and Related Services Contract.
- D. The City desires to contract with Contractor for supplies, goods or services identical, or nearly identical, to the supplies, goods or services Contractor is providing the City of Tucson under the Heavy Equipment, Parts, Accessories, Supplies and Related Services Contract, Contractor consents to the City's utilization of the Heavy Equipment, Parts, Accessories, Supplies and Related Services, Supplies and Related Services Contract desires to enter into this Agreement to provide the goods and services set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Agreement, the parties agree as follows:

1. <u>Term of Agreement</u>. This Agreement is effective as of the date first set forth above and expires on April 30, 2015. Should the City of Tucson exercise their right to extend this contract, the City of Glendale may submit a request to amend this linking agreement and extend for one additional year.

2. Scope of Work; Terms, Conditions, and Specifications

- a) Contractor will provide City the identical supplies, goods or services Contractor provided the City of Tucson under the Heavy Equipment, Parts, Accessories, Supplies and Related Services Contract, as requested by the City in the proposal attached as Exhibit "A."
- b) Contractor agrees to comply with all the terms, conditions and specifications of the Heavy Equipment, Parts, Accessories, Supplies and Related Services Contract for the purposes of this Agreement, and the terms, conditions, and specifications are incorporated in this Linking Agreement by this reference. The "City of Glendale" shall be substituted for "End User" or similar references throughout the Heavy Equipment, Parts, Accessories, Supplies and Related Services Contract.
- 3. Compensation.
 - a) City shall pay Contractor the same compensation the End User pays Contractor under the Heavy Equipment, Parts, Accessories, Supplies and Related Services Contract.
 - b) The total purchase price for the Good or Services as authorized in this agreement is not to exceed \$1,119,512.82 over the entire term of the agreement. In addition, the City may from time to time elect to purchase additional goods and services from Contractor pursuant to the Contract, and the City will comply with all applicable laws regarding procurement and approval of such purchases.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

"City"

City of Glendale, an Arizona municipal corporation

By: Brenda S. Fischer Its: City Manager "Contractor"

Empire Southwest, LLC a Delaware limited liability company

By: Jim Smith Its: Executive Vice President

ATTEST:

Pamela Hanna City Clerk (SEAL)

Approved as to Form

Michael D. Bailey City Attorney

EXHIBIT A



CITY OF TUCSON CONTRACT #120377

HEAVY EQUIPMENT, PARTS, ACCESSORIES, SUPPLIES AND RELATED SERVICES

THIS CONTRACT is made and entered into this 1st day of May, 2012, by and between the CITY OF TUCSON, hereinafter referred to as the "City", and CATERPILLAR, INC., hereinafter referred to as the "Contractor" for HEAVY EQUIPMENT, PARTS, ACCESSORIES, SUPPLIES AND RELATED SERVICES.

For this Contract, the City, as the Principal Procurement Agency, has partnered with the National Intergovernmental Purchasing Alliance Company ("National IPA") to make the Contract available to other public agencies nationally, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies"), through National IPA's cooperative purchasing program. The City is acting as the contracting agency for any other Public Agency that elects to utilize the resulting Master Agreement. Use of the Contract by any Public Agency is preceded by their registration with National IPA as a Participating Public Agency in National IPA's cooperative purchasing program.

SCOPE OF SERVICES

PRODUCT OFFERING

The products offered under this Contract are identified in Attachment A: Caterpillar Equipment Discounts and Freight. For more information on these specific products, go to <u>www.cat.com</u>.

Understanding that Cat Dealers have been developing and maintaining customers relationships at the local level for more than 80 years, it is Caterpillar's intent to continue to support this proven model. It will be the local Cat Dealer that will quote, deliver, and support the products in this contract.

On the <u>www.Cat.com</u> site, customers can find their local supporting Cat Dealer as well as price out a machine using the Build and Price function, locate used equipment, and review financing options. Through the local Cat Dealer, customers can also subscribe to a variety of equipment management solutions which include equipment security management, health monitoring as well as a full host of online technical service manuals and parts databases. 1

Cat Dealers have application specialists that can help an agency identify the best equipment option to fit the customer's application. Once a need has been identified, it would be in the customer's best interest to consult with the local Cat Dealer to develop the best possible solution. Should additional expertise be required, Caterpillar has additional resources within the enterprise that can also provide assistance to ensure the most favorable outcome.

Depending on Cat Dealer inventory, delivery can be as quick as a day, but depending on demand, orders from the factory may take as long as 180 days to deliver. In general Cat Dealers have been able to commit to a less than 90 day delivery timeframes.

Any questions with regards to a customer order will be addressed by the local supporting Cat Dealer. Should a US military equipment order be placed at the factory it will take precedence over

any other customer order which may delay the actual delivery of any non-military orders to the end user.

PRICING

Pricing under this contract is listed in Attachment A, Caterpillar Equipment Discounts and Freights. Caterpillar does not offer payment discounts and does not accept credit card. Any and all payment terms and/or the ability to accept credit card will be at the discretion of the local supporting Cat dealer.

Each Caterpillar machine model will be assigned by Caterpillar a specific discount off the manufacturers published list price for that particular machine and or piece of equipment. This discount will be extended to all additional options from the machine / option price list that are requested by the customer and become part of the final machine configuration. The published list price for the base machine and or any additional options included in the published machine / option price sheet will be considered the maximum allowable price for the specific final machine configuration. The associated discount will be considered the minimum discount that the local supporting Cat Dealer will be required to honor. In any communications / training that are provided to both customers and or dealers, Caterpillar will refer to this as the "Maximum Price / Minimum Discount" pricing model. The most current published pricing will be used in the quotation of equipment for this contract by the supporting Cat Dealers.

Any additional items such as prep, extended warranties, customer service agreements, predelivery and installation, will be priced at the supporting Cat Dealer's discretion.

Financing for users of new and used Caterpillar products is available through a variety of financial products including Installment Sales Contracts, Finance Lease and Off Balance Sheet Operating Lease contracts. We emphasize prompt and responsive service dedicated to meet customer requirements and offer various financing plans designed to increase the opportunity for sales of our products and generate financing income for our company. Financial Products activity is conducted primarily in the United States, with additional offices in Asia, Australia, Canada, Europe and Latin America.

In an effort to provide even more customer solutions, Caterpillar will be supporting a special Used Equipment program for customers that choose to purchase products using this contract. With the exception of vocational trucks and Cat work tools, Caterpillar will be extending a 20% discount off the original list price of used Caterpillar equipment that is currently in the Cat Dealer's rental fleet. At their discretion, Cat Dealers will have the ability to extend this program to customers for the purchase of vocational trucks and works tools. Please note that this used program is subject to availability.

Given the territory that Caterpillar is committed to supporting in conjunction with this proposal, Caterpillar cannot assign a fixed cost for the actual delivery of the equipment to the customer's site. Caterpillar, through the supporting local Cat Dealer will honor a freight charge that will be included as a separate line item on the customer's invoice. This charge will cover delivery of the machine to the supporting Cat Dealer's place of business. Customers will be held responsible for any additional freight and or delivery charges required to deliver the machine to the customer's requested final destination.

All freight will be charged to the customer and noted accordingly on the customers' invoice. For machines, freight has been calculated to take into account that which is required to deliver the base machine to the servicing dealer's location. Any additional consideration required to deliver the machine to the customer's location will be charged and noted on the customer invoice

accordingly. These base freight numbers take into consideration dealer location as well as factory location and or port of entry.

WARRANTY

Caterpillar will support the standard manufacturer's warranties for the products included herein.

Additional extended equipment protection plans can be customized to meet each customer's specific need. The following is an example of some of the options that would be available through the local supporting Cat Dealer.

140M2 Motor Grader

	<u>iviontns</u>	<u>Hours</u>
Premier	24 to 84	5000 to 7500
Powertrain & Hydraulics	24 to 84	5000 to 10000
Powertrain	24 to 84	5000 to 10000

Warranted claims will be presented by the customer to the supporting Cat Dealer and will be administered at the local level. The supporting Cat Dealer will then file a claim with Caterpillar to be reimbursed for all warranted services rendered to the customer.

For additional information on the systems and components covered under these plans as well as the definitions associated to the standard warranties being offered, please see Attachment B: Warranties.

Please note that all manufacturers' warranties and/or extended coverage plans do not cover the same components and/or systems that Caterpillar's protection plans cover. Repairs and/or replacement of components not covered by other manufacturers can present a significant cost to the overall ownership of a machine. The breadth of coverage provided through Caterpillar's coverage plans re-emphasizes the confidence Caterpillar has in its products as well as ensures the lowest total cost solution for our customers.

Since Cat Dealers are independently owned businesses, the actual costs associated to supporting such warranties can vary and cannot be quoted on a national scale by Caterpillar Inc. as fixed amounts. Such factors include but are not limited to the individual dealer's shop labor rates, transportation costs both for the machine as well as the technician and many others. It is recommended that warranty considerations be clearly stated and agreed to prior to any transaction as a result of this contract taking place.

DEALER SERVICES

Cat Dealers are independently owned and as such Caterpillar does not have the authority to dictate pricing. The discounts being supported by Caterpillar in this contract are the best discounts Caterpillar currently offers to Cat Dealers on a national scale. It is the intent that with the "Maximum Price / Minimum Discount" model, that all Cat Dealers will have the flexibility to extend the lowest price possible to the agencies who choose to use the contract. Manufacturer's incentives may be periodically provided and may be regionally based.

No additional volume rebate program is included in this proposal, however customers and their local Cat Dealer may enter into agreement for additional discounts and or other value added

provisions within the spirit of the "Maximum Price / Minimum Discount" model for volume purchases that are in line and conform to all the terms and conditions covered by the contract.

All participating Dealers employ trained, experienced technicians to support Caterpillar's full range of products. Dealer Technical Communicators (TC) provide additional support to field/shop technicians to aid in rapid product or applications resolution. Dealer TC's have a direct line of communication with Caterpillar Inc. through the Dealer Solution Network to expedite problem solving.

Caterpillar's North American dealer network currently employs over 30,000 employees of which approximately 60% are dedicated to the product support business. With over 468 service locations with over 8,000 service bays' and over 8,500 field service trucks, these highly skilled and trained Cat dealer technicians are in close proximity to provide unmatched service capabilities to meet your servicing requirements. As part of a commitment to servicing customers, Cat dealers invest nearly \$18 Million annually in technician, parts counter, and product support representative training. Over the last 85 years, our philosophy has been to provide our customers with a level of product support unequalled in our industry through a financially healthy and viable dealer network that is dedicated to the business of our customers.

Caterpillar's ability to meet 24-hour service needs is based on servicing dealer discretion at time of transaction. However, most dealers offer a 24-hour emergency service call-out option with a price based on local market rates.

For additional dealer services, participating agencies should contact their local dealer for accessories, parts, and services that are available. Pricing for non-CAT accessories or parts are determined by each local dealer.

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ADDITIONAL REQUIREMENTS

- 1. **PRODUCTION REPORTS:** The Contractor must have the ability to furnish the agency ordering equipment and National IPA monthly progress reports confirming status of delivery dates as agreed upon. These reports shall consist of, but not limited to the following:
 - a. Copy of Contractor's order to the factory.
 - b. Copy of factory acknowledgment of order indicating scheduled date of production and shipment from factory.
 - c. Factory generated computer status reports.
 - d. Notification to the City of any changes in production or shipping dates.
 - e. Any special information the Contractor shall have that would affect the timely delivery of the vehicles ordered in accordance with original delivery date promise.

In lieu of written reports submitted to City of Tucson Fleet Services, the Contractor may provide access to an Internet based on-line order tracking system. Any on-line system provided must provide the information required above. The Contractor must provide all access codes necessary to view this information.

2. DELIVERY AND DELIVERY DOCUMENTATION: The following documents are due upon delivery of the completed vehicles to the City:

- a. Invoice
- b. Warranty document
- c. Level 1 Inspection
- d. Required manuals

The Contractor is required to supply a delivery ticket specifying the purchase order number of each vehicle.

Delivery to the City of Tucson: All deliveries shall be made Monday through Friday from 8:00 a.m. to 3:00 p.m. The Contractor shall be required to give the Operations/Fleet Services Department a minimum of 24-hour notification prior to delivery with the anticipated time of delivery and quantity of units to be delivered.

3. VEHICLE INSPECTION: The purchasing agency will assist the Contractor or the authorized dealer in arranging for inspection of each piece of equipment purchased. Each vehicle delivered shall be subject to a complete inspection by the purchasing agency's staff prior to acceptance. Inspection criteria shall include, but not be limited to, conformity to the specifications, mechanical integrity, quality, workmanship and materials. If delivered equipment is returned to the Contractor prior to acceptance for any reason, all corrections shall be made without any inconvenience to the City.

4. **TRAINING:** The Contractor shall provide, at no additional cost, training for each basic unit of equipment purchased. This training shall be adequate to the needs of the typical equipment operator and service technician in order to assure proper operation, utilization and maintenance of the equipment supplied. Any manuals necessary to perform the required training shall be furnished by the Contractor. The trainer shall be factory-trained and thoroughly knowledgeable in equipment operator and service technician functions.

Cat Dealers also support a variety of training options. Upon delivery of the machine, operators as well as technicians will be given basic equipment orientation, operating procedures, and any service maintenance information required to put the machine into service. Should an agency require additional training, such consideration can be included in the customer's equipment quotation and any related charges for such training be agreed

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to by both parties. Caterpillar also offers a variety of operator training classes that provide certification to those agencies that require a higher level of operational expertise. For additional information on these and other training options, please visit Caterpillar's Operator Training Services site - <u>http://www.cat.com/cda/layout?m=38000&x=7</u>.

Caterpillar Inc. has taken a leadership position in the market due to the material it has developed through its Caterpillar Safety Services Division. Caterpillar believes in the importance of safety, which is why we strive to ensure our own employees arrive Safely Home. Everyone. Every Day.[™] To support our customers with this same mission, Caterpillar Safety Services offers a variety of free, online safety resources including Toolbox Talks, Safety Videos, Checklists, Virtual Walk Arounds, and much more.

Customers can also conduct their own safety training through a variety of safety culture and compliance training products. The online shopping cart has over 100 options to choose from including MSHA Part 46, Forklift Safety, Personal Protective Equipment, Effective Communication, Supervisor Training and much more. Caterpillar Safety Services' consultants also perform instructor-led training on changing safety culture, Near Miss Reporting, Supervisor Training in Accident Reduction Techniques (START), MSHA Part 46, Aerial Work Platforms, Telehandler Operator Training, and more.

Caterpillar Safety Services also provides Safety Culture Solutions and Jobsite Safety Consulting to help customers develop a sustainable culture of safety excellence. Safety Culture Solutions are based off of Caterpillar Safety Services' Zero-Incident Performance (ZIP[™]) program, which encompasses engaging leadership, assessing the culture, building a plan, developing processes, implementing processes, and checking processes. Consultants facilitate effective working sessions for any stage of the ZIP[™] program. Jobsite Safety Consulting consists of performing jobsite and program assessments. Prioritized recommendations for improvement are made and our services are available to develop new programs including Safety or Environmental Management Systems, Job Safety Analysis, Hazardous Material Management, Hazard Communication, and Ergonomics.

For additional information on the services offered by Caterpillar Safety Services please visit SAFETY.CAT.COM™.

8. VEHICLE RECALL NOTICES: In the event of any recall notice, technical service bulletin, or other important notification affecting a vehicle purchased from this contract, a notice shall be sent to the purchasing agency's representative. For the City of Tucson, all notices shall be sent to General Services, Fleet Services Division, 4004 S. Park Avenue, Building 1, Tucson, AZ 85714.

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SPECIAL TERMS AND CONDITIONS

1. FEDERAL, STATE AND LOCAL TAXES, LICENSES AND PERMITS: The Supplier shall comply with all Federal, State, and local licenses and permits required for the operation of the business conducted by the Supplier as applicable to this Contract. The Supplier shall, at no expense to the City, National IPA, or other Participating Public Agencies, procure and keep in force during the entire period of the Agreement all such permits and licenses.

2. **SUBCONTRACTORS:** No subcontract shall be made by the contractor with any other party for furnishing any of the services herein contracted for without the advance written approval of the Department of Procurement. All subcontractors shall comply with Federal and State laws and regulations that are applicable to the services covered by the subcontractor and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. Contractor is responsible for contract performance whether or not subcontractors are used.

3. FOB DESTINATION FREIGHT PREPAID: Prices shall be FOB Destination Freight Prepaid to the delivery location designated. Contractor shall retain title and control of all goods until they are delivered and the Contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the Contractor. All claims for visible or concealed damage shall be filed by the Contractor. The City will assist the Contractor in arranging for inspection.

It is the City's intention that equipment shall be delivered F.O.B. Destination to all customers and freight prepaid to the City of Tucson. Orders for other agencies may be subject to freight charges.

4. **INSURANCE:** The Contractor agrees to:

A. Obtain insurance coverage of the types and amount required in this section and keep such insurance coverage in force throughout the life of this Contract. All policies will contain an endorsement providing that written notice be given to the City at least ten (10) calendar days prior to termination, cancellation, or reduction in coverage in any policy.

B. The Comprehensive General Liability Insurance and Comprehensive Automobile Liability Insurance policies will include the City as an additional insured with respect to liability arising out of the performance of this Contract. The Contractor agrees that the insurance hereunder will be primary and that any insurance carried by the City will be excess and not contributing.

Statute

\$100,000

\$1,000,000 Bodily Injury

\$100,000 Property Damage

Combined Single Limit

C. Provide and maintain minimum insurance limits as applicable. Coverage Afforded Limits of Liability

> Workmen's Compensation Employer's Liability

> Comprehensive General Liability Insurance Including: (1) Products & Completed Operations (2) Blanket Contractual

Comprehensive Automobile

Including:

(1) Non-Owned

(2) Leased

\$1,000,000 Bodily Injury Liability InsuranceCombined Single Limit\$100,000 Property Damage

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(3) Hired Vehicles

Contractor will present to the City written evidence (Certifications of Insurance) of compliance with Items A., B and C. above. Said evidence shall be to the City Procurement Director's satisfaction.

5. **PAYMENTS**: All payments made by the City of Tucson for goods or services will be made to the vendor named on the Offer and Acceptance form. If you do not wish payment to be made to that address, you must submit an attached sheet indicating the proper mailing address with this bid.

6. RIGHT TO TERMINATE FOR CHANGE IN OWNERSHIP OR MATERIAL RESTRUCTURE OF THE CONTRACTOR: In addition to the Termination of Contract clause in the Standard Terms and Conditions section of this solicitation and resulting contract, the City reserves the right to cancel the whole or part of this contract within 60 days written notice of the completion of any material change of ownership in the Contractor's company, including its sale, merger, consolidation or dissolution.

7. TERM AND RENEWAL: The term of the Contract shall commence upon award and shall remain in effect for a period of one (1) year, unless terminated, canceled or extended as otherwise provided herein. The Contractor agrees that the City of Tucson shall have the right, at its sole option, to renew the Contract for four (4) additional one-year periods or portions thereof. In the event that the City exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the possible exception of price and minor scope additions and/or deletions.

8. PRICE ADJUSTMENT: The Contractor may implement new published manufacturer price lists on the effective date of the price list. However, the Contractor must maintain the minimum discount offered for all items. The Contractor will provide the City updated published price lists with 30 days advance notification of the effective date. Upon receipt of the revised price list, , the City will consider said documents to be those referenced upon their effective date until such time as the price list is replaced, The Contractor's most current published vendor price list will be used in the final determination of price at the time of the customer's quote.

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STANDARD TERMS AND CONDITIONS

- 1. ADVERTISING: Contractor shall not advertise or publish information concerning this Contract without prior written consent of the City's Director of Procurement.
- 2. AFFIRMATIVE ACTION: Contractor shall abide by the provisions of the Tucson Procurement Code Chapter 28, Article XII.
- 3. AMERICANS WITH DISABILITIES ACT: The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101, et seq.) and applicable Federal regulations under the Act.
- 4. APPLICABLE LAW: This Contract shall be governed, and the City and Contractor shall have all remedies afforded to each, by the Tucson Procurement Code and the law of the State of Arizona, State law claims shall be brought only in Pima County Superior Court.
- 5. ASSIGNMENT-DELEGATION: No right or interest in this Contract shall be assigned by the Contractor without prior written permission of the City, and no delegation of any duty of the Contractor shall be made without prior written permission of the City's Director of Procurement. The City shall not unreasonably withhold approval and shall notify the Contractor of the City's position by written notice.
- 6. CERTIFICATION OF COMPLIANCE WITH A.R.S. SEC. 35-393 ET SEQ.: By signing this contract, the Contractor certifies that it does not have scrutinized business operations in Iran as required by A.R.S. sec. 35-393 et seq. If the City determines that the Contractor has submitted a false certification, the City may impose remedies as provided in the Tucson Procurement Code up to and including termination of this contract.
- 7. CHILD/SWEAT-FREE LABOR POLICY: The Contractor shall comply with all applicable provisions of the United States Federal and State Child Labor and Worker's Right laws and agrees if called upon to affirm in writing, that they, and any subcontractor involved in the provision of goods to the City, are in compliance.
- 8. CLEAN UP: The Contractor shall at all times keep the contract area, including storage areas used by the Contractor, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of the City. Upon completion of the repair, the Contractor shall leave the work and premises in clean, neat and workmanlike condition.
- 9. COMMENCEMENT OF WORK: The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives purchase order or is otherwise directed to do so, in writing, by the City.
- 10. CONFIDENTIALITY OF RECORDS: The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that no information contained in its records or obtained from the City or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the City. Information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the City.
- 11. CONTRACT AMENDMENTS: The Procurement Department has the authority, with the concurrence of the Contactor to:
 - A. Amend the contract or enter into supplemental verbal or written agreements;
 - B. Grant time extensions or contract renewals;
 - C. Otherwise modify the scope or terms and provisions of the contract.

This Contract shall only be modified per above with the approval of the Department of Procurement. Except In the case of a documented emergency, approval must be granted prior to performance. Any contract modification not explicitly approved by the Procurement Department through a written contract amendment or change order is performed at the sole risk of the Contractor and may not be eligible for payment by the City.

12. CONTRACT: The Contract shall be based upon the Request for Proposal issued by the City and the Offer submitted by the Contractor in response to the Request for Proposal. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the Request for Proposal. The City reserves the right to clarify any contractual terms with the concurrence of the Contractor;

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- however, any substantial non-conformity in the offer, as determined by the City's Director of Procurement, shall be deemed non-responsive and the offer rejected. The Contract shall contain the entire agreement between the City of Tucson and the Contractor relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.
- 13. DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH: Contractor shall deliver conforming materials in each installment or lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials, or default of any nature, may constitute breach of the Contract. Noncompliance may be deemed a cause for possible Contract termination.
- 14. DUPLEXED/RECYCLED PAPER: In accordance with efficient resource procurement and utilization policies adopted by the City of Tucson, the Contractor shall ensure that, whenever practicable, all printed materials produced by the Contractor in the performance of this Contract are duplexed (two-sided copies), printed on recycled paper and labeled as such.
- **15. EXCLUSIVE POSSESSION:** All services, information, computer program elements, reports and other deliverables created under this Contract are the sole property of the City of Tucson and shall not be used or released by the Contractor or any other person except with prior written permission by the City.
- 16. FEDERAL IMMIGRATION LAWS AND REGULATIONS: Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214(A) and that it requires the same compliance of all subcontractors under this Contract. Contractor acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of this Contract subject to penalties up to and including termination of this Contract. The City retains the legal right to audit the records of the Contractor and inspect the papers of any employee who works for the Contractor to ensure compliance with this warranty and the Contractor shall assist in any such audit. The Contractor shall include the requirements of this paragraph in each contract with subcontractors under this Contract.

If the Contractor or subcontractor warrants that it has complied with the employment verification provisions prescribed by sections 274(a) and 274(b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A), the Contractor or subcontractor shall be deemed to be in compliance with this provision. The City may request proof of such compliance at any time during the term of this Contract by the Contractor and any subcontractor.

17. FORCE MAJEURE: Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.

If either party is delayed at any time in the progress of the work by Force Maleure, the delayed party shall notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand-delivered or mailed certified-retum receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

- 18. GRATUITIES: The City may, by written notice to the Contractor, terminate this Contract if it is found that gratuities, in the form of entertainment, gifts, meals or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City amending, or the making of any determinations with respect to the performing of such Contract. In the event this Contract is terminated by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.
- **19. HUMAN RELATIONS:** Contractor shall abide by the provisions of the Tucson Clty Code Chapter 28, Article XII.
- 20. INDEMNIFICATION: To the fullest extent permitted by law, Contractor shall pay, defend, indemnify and hold harmless the City of Tucson, its agents, representatives, officers, directors, officials and employees ("Indemnitees") from and against all allegations, demands, proceedings, suits, actions, claims, damages,

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losses, reasonable expenses, including but not limited to, reasonable attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, incurred or sustained by any Indemnitee and related to (i) injury to or death of, or property damage sustained by, any natural person who is an Indemnitee, or (ii) claims of patent or copyright infringement, to the extent caused by any actions, acts, errors, mistakes or omissions of Contractor relating to work, services and/or products provided in the performance of this Contract, including but not limited to, any Subcontractor retained by Contractor or anyone directly or indirectly employed by Contractor or such Subcontractor, and except to the extent that the injury to, death of, or property damage sustained by such person is attributable to the negligent acts or omissions or willful misconduct of the City or any of its affiliates or their respective employees, agents or subcontractors.

21. INDEPENDENT CONTRACTOR: It is understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose.

The Contractor shall not be entitled to compensation in the form of salaries, paid vacation or sick days by the City.

The City of Tucson will not provide any insurance coverage to the Contractor, including Worker's Compensation coverage. The Contractor is advised that taxes, social security payments, and other withholdings shall not be withheld from a City payment issued under this Contract and that Contractor should make arrangements to directly pay such expenses.

- 22. INSPECTION AND ACCEPTANCE: All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this Contract shall be held at the Contractor's risk and may be returned to the Contractor. If returned, all costs are the responsibility of the Contractor. Noncompliance may be deemed a cause for possible Contract termination.
- 23. INTERPRETATION-PAROLE EVIDENCE: This Contract is intended by the parties to be a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or consent in the course of performance under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or consenting party has knowledge of the nature of the performance and the opportunity to object.
- 24. LICENSES: Contractor shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.
- **25.** LIENS: All materials, services, and other deliverables supplied to the City under this Contract shall be free of all liens other than the security interest. Security interest shall extinguish upon full payment made by the City. Upon the City's request, the Contractor shall provide a formal release of all liens.
- 26. NO REPLACEMENT OF DEFECTIVE TENDER: Every tender of materials must fully comply with all provisions of this Contract. If a tender is made which does not fully comply, this shall conform to the termination clause set forth within this document.
- 27. NON-EXCLUSIVE CONTRACT: Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the City of Tucson. The City reserves the right to obtain like goods or services from another source when necessary.
- 28. OVERCHARGES BY ANTITRUST VIOLATIONS: The City maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the materials or services used to fulfill the Contract.
- 29. PAYMENT: The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.
- 30. PROTECTION OF GOVERNMENT PROPERTY: The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on City property. If the Contractor fails to do so and damages such property, the Contractor shall replace or repair the damage at no expense to the City, as determined and approved by the City's Director of Procurement. If the Contractor fails or refuses to make such repair or replacement, the City will determine a cost and the Contractor shall be liable for the cost thereof, which may be deducted from the Contract price.

- **31. PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall be amended to make such insertion or correction.
- **32.** RECORDS: Internal control over all financial transactions related to this Contract shall be in accordance with sound fiscal policies. The City may, at reasonable times and places, audit the books and records of the Contractor and/or any subcontractors. Said audit shall be limited to this Contract.
- **33. RIGHT TO ASSURANCE:** Whenever one party to this Contract has reason to question, in good faith, the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as the other party's intent not to perform and as a cause for possible Contract termination.
- **34. RIGHT TO INSPECT:** The City may, at reasonable times, and at the City's expense, inspect the place of business of a Contractor or subcontractor which is related to the performance of any Contract as awarded or to be awarded.
- **35. RIGHTS AND REMEDIES:** No provision in this document or in the Contractor's proposal shall be construed, expressly or by implication, as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim, default or breach of contract. The fallure of either party to insist upon the strict performance of any term or condition of the Contract, to exercise or delay the exercise of any right or remedy provided in the Contract or by law, or to accept materials or services required by this Contract or by law shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.
- **36.** SEVERABILITY: The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which may remain in effect without the valid provision or application.
- **37. SHIPMENT UNDER RESERVATION PROHIBITED:** No tender of a bill of lading shall operate as a tender of the materials. Non-compliance shall conform to the termination clause set forth within this document.
- **38. SUBCONTRACTS:** No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein without the advance written approval of the City's Director of Procurement. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used.
- **39. SUBSEQUENT EMPLOYMENT:** The City may terminate this Contract without penalty or further obligation pursuant to A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract, on behalf of the City, is or becomes, at any time while the Contract or any extension of the Contract is in effect, an employee of, or a contractor to, any other party to this Contract with respect to the subject matter of the Contract. Termination shall be effective when written notice from the City's Director of Procurement is received by the parties to this Contract, unless the notice specifies a later time.
- 40. TERMINATION OF CONTRACT: This Contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty (30) days written notice. If this Contract is terminated, the City shall be liable only for payment under the payment provisions of this Contract for services rendered and product obligations incurred by the City before the effective date of termination.

The City reserves the right to terminate the whole or any part of this Contract due to the failure of the Contractor to carry out any term or condition of the Contract, which failure the contractor has not commenced to remedy within thirty days of receipt of notice of such failure, the City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as specified in any of the following:

In the reasonable opinion of the City, the Contractor provides personnel that do not meet the requirements of the Contract;

In the reasonable opinion of the City, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;

In the reasonable opinion of the City, the Contractor attempts to impose personnel, materials, products or . workmanship of an unacceptable quality;

The Contractor fails to furnish the required service and/or product within the time stipulated in the Contract;

In the reasonable opinion of the City, the Contractor fails to make progress in the performance of the requirements of the Contract;

The Contractor gives the City a positive Indication that the Contractor will not or cannot perform to the requirements of the Contract.

Each payment obligation of the City created by this Contract Is conditioned upon the availability of City, State and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the City at the end of the period for which funds are available. The City will notify the Contractor in the event that continued service will or may be affected by nonappropriation. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

- 41. TITLE AND RISK OF LOSS: The title and risk of loss of material or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.
- 42. WARRANTIES: Contractor warrants that all material or service delivered under this Contract shall conform to the specifications of this Contract. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by the City shall not alter or affect the obligations of the Contractor or the rights of the City under the foregoing warranties. Additional warranty requirements may be set forth in this document.

OFFER AND AGCEPTANCE

This Contract represents the entire agreement between the City of Tucson and the Contractor relating to this requirement and shall preval over any and all previous verbal and written agreements.

CITY OF TUCSON:

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Mark A. Neihart/G.F.M. CPPB, A.F.P., C as Director of Prozurement and Not Personally CATERPILLAR, INC

Steve Hinton North American Marketing Mahager Gaterpillar, Inc: 100 NE Adams Peorta, IL 61629

Contract contact: Jason Walker Government Sales Consultant 309-675:4095 Walker_jason_c@cat.com

Mar, 2012. Approved as to form this _

As Tucson City Attomey and not personally



City of Glendale Landfill Attention: Ernie Ruiz Re: National IPA – City of Tucson Quotation

Dear Emie, on behalf of NIPA Empire Machinery and Caterpillar Inc., we are pleased to quote the following.

2014 New Caterpillar 836K Landfill Compactor Standard Equipment

CONSIST NOTE The standard equipment list includes all

no-charge (NC) items from the Mandatory Attachment section.

POWERTRAIN

Advanced Productivity Electronic Control Shifting (APECS) Air to air aftercooler Brakes, full hyd., enclosed, wet multiple disc service brakes Cat clean emission module (insulated) (HRC) Electro hydraulic parking brake Engine, Cat C18 w/ACERT Technology US EPA T4/EU Stage IV Technology (HRC) Tier 3 Equivalent Technology (LRC) Fuel priming pump (electric) Fuel to air cooler Ground level engine shutoff Guard, (3 pc) transmission Heat Shield, turbo and exhaust manifold Hydraulically driven demand fan Integrated braking Muffler (under hood) (LRC) Radiator, Next Generation Modular (NGMR) Separated cooling system Starting aid (ether) automatic Throttle lock Torque converter with lock up clutch (LUC) Turbine precleaner, engine air intake Transmission, planetary, with 2F/2R speed range control Underhood ventilation system

ELECTRICAL

Alarm, back-up Alternator (150-amp) Batteries, maintenance-free (4-1000CCA) Converter, 10/15 amp, 24V to 12V Lighting system, halogen (front & rear) lighting, access stairway Starter, electric (heavy duty) Hydraulic oil temperature Speedometer/Tachometer Torque convertor temperature Instrumentation, Warning Indicators: Action alert system, three category Axle/Brake oil temp. (front) Brake oil pressure Electrical system, low voltage Engine failure malfunction alert and action lamp Mirrors, Rearview (externally mounted) Parking brake status Radio, CB (ready) Seat, Cat Comfort (cloth) air suspension Seat belt, retractable, 76mm (3") wide STIC Control system with steering lock Sun visor, front Tinted glass Transmission gear (indicator) Vital Information Management System (VIMS) with graphical information display: external data port, customizable operator profiles Wet-Arm Wipers/Washers (front and rear) Intermittent Wipers (front and rear)

TIRES, RIMS, AND WHEELS Wheels, combination tlps

GUARDS

Guards, axle (front and rear) Guard, cab window Guards, crankcase and powertrain, hydraulically powered Guard, rear fan and grill

BLADES

Bulldozer arrangement is included in the base machine. Bulldozer blades are in the optional attachment section.

FLUIDS

Antifreeze, premixed 50% concentration of extended life coolant with freeze 12/31/14

Starter lockout (ground level) Starting receptacle for emergency start Transmission lockout (ground level)

OPERATOR ENVIRONMENT Air conditioner Cab, sound-suppressed pressurized, Internal four-post rollover protective structure (ROPS/FOPS). Radio ready for (entertainment) includes antenna, speakers, converter (12-volt 10-15 amp) 12-volt power port for mobile phone or laptop connection Camera, rear vision Coat and hard hat hooks Flip-up armrest Heater and defroster Horn, electric Hydraulic controls (floor mounted) Implement hydraulic lockout Laminated glass Light, (dome) cab Lunchbox and beverage holders Instrumentation, Gauges: DEF fluid level (HRC) Engine coolant temperature Fuel level

protection to -34C (-29F)

OTHER STANDARD EQUIPMENT Auto Blade Positioner (ABP) Counterweight Demand fan/swing out (hyd. reversible) Doors, service access (locking) Ecology drains for engine, radiator, hydraulic tank Electronic clutch pressure control & remote mounted pressure taps Emergency platform egress Engine, crankcase, 250 hour interval with CJ-4 oil Fuel tank, 793 L (210 gal) Hitch, drawbar with pin Hoses, Cat XT(TM) Hydraulic oil cooler Hydraulic, steering and brake filtration/screening system Oil sampling valves Product Link Stairways, fixed-L/R (rear access) Steering, load sensing Vandalism protection caplocks Venturi stack

Ref# Description Price 3475200 836K DCA1 \$1,102,850 FUEL LINES, HEATED \$0 FUEL TANK, STANDARD FILL \$0 **GUARD ACTUATION, PREMIUM 4VL** \$0 INCLUDES: \$0 MIRRORS, HEATED \$0 **OIL CHANGE SYS, HIGH SPEED** \$0 PRECLEANER, CAB AIR, POWERED \$0 PRECLEANER, ENG (DUAL STAGE) \$0 SEAT, HEATED, VENTILATED \$0 STAIRWAYS, SWINGOUT \$0 STRIKER BARS, STANDARD \$0 3767129 LIGHT, WARNING (LED STROBE) \$0 3788646 MIRROR, INTERNAL (PANORAMIC) \$0 0P9003 LANE 1 ORDER \$0 BLADE, SEMI U 3157877 \$38,271 NO SOUND SUPPRESSION 3475115 \$0 3814540 SEAT BELT, 3" WIDE \$0 AXLES, NO-SPIN FRONT & REAR 3689306 \$0 3739361 HYDRAULICS, STANDARD \$D CAB GLASS, RUBBER MOUNTED 3754691 \$0 3780419 WHEELS, COMBINATION TIPS \$0 4351131 ENVIRONMENT PKG, DRY \$0 4351171 FEATURE PKG, COLD \$0 SERVICE PKG, DELUXE 4351211 \$0 HORN, ELECTRIC (STANDARD) 4362290 \$0 4459322 PRODUCT LINK, CELLULAR PL522 \$0 STANDARD WARRANTY 12 MONTHS / UNLIMITED HOURS \$0

Pricing Summary

List Price:	\$1,141,121.00
NIPA – City of Tucson Contract Discount #120377 of 18%:	(205,401.78)
Freight and Pre-delivery per NIPA Matrix (DISCOUNTED):	6,163.45
Trade value of Cat 140G S.N. 72V171560 \$63,240 and Al-Jon 91K S.N. 13745 \$12,060 :	(75,300.00)
Extended powertrain warranty of 3 years or 7500 hours, whichever comes first:	10,620.00
CAES Terrain GPS Compactor Complete per NIPA pricing:	160,154,00
Sales tax of 8.05% based on taxable amount of \$1,020,573.22:	82,156.15
Net Invoice Total:	\$1,119,512.82

If you have any questions regarding this information please let me know. Thank you for allowing Empire Machinery to assist with your Caterpillar equipment needs.

Sincerely,

١ Doug Calvet Account Manager

This quote is good for thirty days and prices are subject to change. All finance options are subject to credit approval. Due to market issues outside of Empire's control, any tires listed on this quote may not be available at time of shipment. All tire makes, models and costs are subject to change.



Legislation Description

File #: 15-117, Version: 1

AUTHORIZATION FOR THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH PET AND ANIMAL LOVERS SERVICE, INC., FOR THE COLLECTION AND DISPOSAL OF DEAD ANIMALS

Staff Contact: Jack Friedline, Director, Public Works

Purpose and Recommended Action

This is a request for City Council to authorize the City Manager to enter into an initial two-year agreement with Pet and Animal Lovers Service (PALS) in an amount not to exceed \$50,000 annually for the collection and disposal of dead animals on city streets and rights-of-way (ROW), or city property. This request also authorizes the City Manager, at her discretion, to renew the agreement annually for an additional three years in an amount not to exceed \$250,000 over the full five-year period.

Background

The city collects approximately 1,260 dead animals annually, or an average of 105 dead animal collections per month. On November 1, 2012, the city entered into an agreement with PALS for Dead Animal Collection Services (C-8211) in an amount not to exceed \$50,000 annually, with the option to extend the term of the agreement an additional four years, renewable on an annual basis. The agreement was administratively approved based on the expenditure amount being less than \$50,000 per year to PALS. City policy changed in 2013 and required Council approval for any agreement with expenditures that exceed \$50,000 over the entire term of the agreement. As such, city staff rebid the service and is seeking Council approval for a new agreement for the collection and disposal of dead animals.

<u>Analysis</u>

Materials Management issued a Request for Proposals (RFP) 14-29 for dead animal collection and disposal services and received four offers. An evaluation panel reviewed the response and concurred that PALS submitted the lowest responsive, responsible proposal.

PALS will remove and dispose of all animals collected in accordance with the standards set and approved by the Maricopa County Health Department. In addition, PALS will attempt to contact the animal's owner within one (1) working day should contact information be provided on the animal's identification tag. With regard to untagged animals, PALS will collect and record information that could be used to respond to inquiries from the public and potentially identify the deceased animal's owner. This information will include: the type of animal, color, approximate weight, or size, and the location of the pickup.

Staff recommends entering into an agreement with PALS for the collection of dead animals from any city street, alley, ROW easement, or city property within the City of Glendale. Expenditures over the past three fiscal years (FY) have averaged approximately \$33,000, and the city is projected to spend a little over \$30,000

File #: 15-117, Version: 1

by the end of this current fiscal year. This is a request for expenditure authority only and does not mean that the city will expend the full authorized amount with PALS in any given year.

Community Benefit/Public Involvement

The removal of dead animals from city streets and public ROW is necessary for the health and well-being of the community.

Budget and Financial Impacts

Funds are available in the FY 2014-15 Sanitation operating and maintenance budget. Expenditures with Pet and Animal Lovers Service are not to exceed \$50,000 annually, and annual funding is contingent upon Council approval of the fiscal year operating budgets. Total expenditures over the life of the agreement, including any extensions authorized by the City Manager, are not to exceed \$250,000.

Cost	Fund-Department-Account
\$50,000	2480-17830-518200, Sanitation - Curb Service

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

AGREEMENT FOR

DEAD ANIMAL COLLECTION AND DISPOSAL SERVICES

City of Glendale Solicitation No. RFP 14-29

This Agreement for dead animal collection and disposal services("Agreement") is effective and entered into between CITY OF GLENDALE, an Arizona municipal corporation ("City"), and Pet and Animal Lovers Service, Inc., an Arizona corporation, authorized to do business in Arizona, (the "Contractor"), as of the _____ day of _____, 2015.

RECITALS

- A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in Exhibit A, pursuant to Solicitation No. RFP 14-29 (the "Project");
- B. City desires to retain the services of Contractor to perform those specific duties and produce the specific work as set forth in the Project attached hereto;
- C. City and Contractor desire to memorialize their agreement with this document.

AGREEMENT

In consideration of the Recitals, which are confirmed as true and correct and incorporated by this reference, the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, City and Contractor agree as follows:

1. Key Personnel; Sub-contractors.

1.1 <u>Services</u>. Contractor will provide all services necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors or consultants, retained by City.

1.2 Project Team.

- a. Project Manager.
 - (1) Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's option, complete the Project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement;
 - (2) The City must approve the designated Project Manager, and
 - (3) To assure the Project schedule is met, Project Manager may be required to devote no less than a specific amount of time as set out in Exhibit A.
- b. Project Team.
 - (1) The Project manager and all other employees assigned to the project by Contractor will comprise the "Project Team."
 - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the project by Contractor.
- c. Discharge, Reassign, Replacement.
 - (1) Contractor acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in the response to the Project's solicitation.

- (2) Contractor will not discharge, reassign or replace or diminish the responsibilities of any of the employees assigned to the Project who have been approved by City without City's prior written consent unless that person leaves the employment of Contractor, in which event the substitute must first be approved in writing by City.
- (3) Contractor will change any of the members of the Project Team at the City's request if an employee's performance does not equal or exceed the level of competence that the City may reasonably expect of a person performing those duties or if the acts or omissions of that person are detrimental to the development of the Project.

d. <u>Sub-contractors</u>.

- (1) Contractor may engage specific technical contractor (each a "Sub-contractor") to furnish certain service functions.
- (2) Contractor will remain fully responsible for Sub-contractor's services.
- (3) Sub-contractors must be approved by the City, unless the Sub-contractor was previously mentioned in the response to the solicitation.
- (4) Contractor shall certify by letter that contracts with Sub-contractors have been executed incorporating requirements and standards as set forth in this Agreement.
- 2. Schedule. The services will be undertaken in a manner that ensures the Project is completed timely and efficiently in accordance with the Project.

3. Contractor's Work.

- 3.1 <u>Standard</u>. Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.
- 3.2 Licensing. Contractor warrants that:
 - a. Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and
 - b. Neither Contractor nor any Sub-contractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
 - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.
 - (2) Contractor must notify City immediately if any Approvals or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default under the Agreement.
- 3.3 <u>Compliance</u>. Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by City.
- 3.4 <u>Coordination; Interaction</u>.
 - a. For projects that the City believes requires the coordination of various professional services, Contractor will work in close consultation with City to proactively interact with any other professionals retained by City on the Project ("Coordinating Project Professionals").
 - b. Subject to any limitations expressly stated in the Project Budget, Contractor will meet to review the Project, Schedule, Project Budget, and in-progress work with Coordinating

Project Professionals and City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.

- c. For projects not involving Coordinating Project Professionals, Contractor will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.
- 3.5 <u>Work Product</u>.
 - a. Ownership. Upon receipt of payment for services furnished, Contractor grants to City, and will cause its Sub-contractors to grant to the City, the exclusive ownership of and all copyrights, if any, to evaluations, reports, drawings, specifications, project manuals, surveys, estimates, reviews, minutes, all "architectural work" as defined in the United States Copyright Act, 17 U.S.C § 101, *et seq.*, and other intellectual work product as may be applicable ("Work Product").
 - (1) This grant is effective whether the Work Product is on paper (e.g., a "hard copy"), in electronic format, or in some other form.
 - (2) Contractor warrants, and agrees to indemnify, hold harmless and defend City for, from and against any claim that any Work Product infringes on third-party proprietary interests.
 - b. Delivery. Contractor will deliver to City copies of the preliminary and completed Work Product promptly as they are prepared.
 - c. City Use.
 - (1) City may reuse the Work Product at its sole discretion.
 - (2) In the event the Work Product is used for another project without further consultations with Contractor, the City agrees to indemnify and hold Contractor harmless from any claim arising out of the Work Product.
 - (3) In such case, City shall also remove any seal and title block from the Work Product.

4. Compensation for the Project.

- 4.1 <u>Compensation</u>. Contractor's compensation for the Project, including those furnished by its Subcontractors will not exceed \$50,000 annually, or a maximum of \$250,000 if all options to renew this Agreement are exercised as provided in Section 13 below and as specifically detailed in **Exhibit B** (the "Compensation").
- 4.2 <u>Change in Scope of Project</u>. The Compensation may be equitably adjusted if the originally contemplated scope of services as outlined in the Project is significantly modified.
 - a. Adjustments to the Compensation require a written amendment to this Agreement and may require City Council approval.
 - b. Additional services which are outside the scope of the Project contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.

5. Billings and Payment.

- 5.1 <u>Applications</u>.
 - a. Contractor will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.
 - b. The period covered by each Payment Application will be one calendar month ending on the last day of the month or as specified in the solicitation.

5.2 <u>Payment</u>.

- a. After a full and complete Payment Application is received, City will process and remit payment within 30 days.
- b. Payment may be subject to or conditioned upon City's receipt of:
 - (1) Completed work generated by Contractor and its Sub-contractors; and
 - (2) Unconditional waivers and releases on final payment from Sub-contractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.
- 5.3 <u>Review and Withholding</u>. City's Project Manager will timely review and certify Payment Applications.
 - a. If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.
 - b. City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.

6. Termination.

- 6.1 <u>For Convenience</u>. City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 30 days following the date of delivery.
 - a. Contractor will be equitably compensated for Service and Repair furnished prior to receipt of the termination notice and for reasonable costs incurred.
 - b. Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with project closeout and delivery of the required items to the City.
- 6.2 <u>For Cause</u>. City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.
 - a. Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages, in accordance with the provision of § 5.
 - b. If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand; however, Contractor will not be subject to consequential damages of more than \$1,000,000 or the amount of this Agreement, whichever is greater.
- 7. Conflict. Contractor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

8. Insurance.

- 8.1 <u>Requirements</u>. Contractor must obtain and maintain the following insurance ("Required Insurance"):
 - a. Contractor and Sub-contractors. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively referred to herein as the "Contractor's Policies"), until each Party's obligations under this Agreement are completed.

- b. General Liability.
 - Contractor must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate for each property damage and contractual property damage.
 - (2) Sub-contactors must at all times relevant hereto carry a general commercial liability policy with a combined single limit of at least \$1,000,000 per occurrence.
 - (3) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, XCU hazards if requested by the City, and a separation of insurance provision.
 - (4) These limits may be met through a combination of primary and excess liability coverage.
- c. Auto. A business auto policy providing a liability limit of at least \$1,000,000 per accident for Contractor and \$1,000,000 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.
- d. Workers' Compensation and Employer's Liability. Contractor and sub-contractor must, at all times relevant hereto, carry a workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.
- e. Notice of Changes. Contractor's Policies must provide for not less than 30 days' advance written notice to City Representative of:
 - (1) Cancellation or termination of Contractor or Sub-contractor's Policies;
 - (2) Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and
 - (3) Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.
- f. Certificates of Insurance.
 - (1) Within 10 business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which will confirm the existence or issuance of Contractor and Sub-contractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Sub-contractor's Policies in accordance with the provisions of this section.
 - (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.
 - (3) Contractor's failure to secure and maintain Contractor Policies and to assure Subcontractor policies as required will constitute a material default under the Agreement.
- g. Other Contractors or Vendors.
 - (1) Other contractors or vendors that may be contracted with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular contract.
 - (2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).

- h. Policies. Except with respect to workers' compensation and employer's liability coverages, City must be named and properly endorsed as additional insureds on all liability policies required by this section.
 - (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self insurance policies or programs maintained by the additional insureds.
 - (2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and reasonably acceptable to all parties.
- 8.2 <u>Sub-contractors</u>.
 - a. Contractor must also cause its Sub-contractors to obtain and maintain the Required Insurance.
 - b. City may consider waiving these insurance requirements for a specific Sub-contractor if City is satisfied the amounts required are not commercially available to the Sub-contractor and the insurance the Sub-contractor does have is appropriate for the Sub-contractor's work under this Agreement.
 - c. Contractor and Sub-contractors must provide to the City proof of the Required Insurance whenever requested.
- 8.3 <u>Indemnification</u>.
 - a. To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense"; collectively, "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.
 - b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.
 - c. Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

9. Immigration Law Compliance.

- 9.1 Contractor, and on behalf of any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.
- 9.2 Any breach of warranty under subsection 9.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.

- 9.3 City retains the legal right to inspect the papers of any Contractor or subcontractor employee who performs work under this Agreement to ensure that the Contractor or any subcontractor is compliant with the warranty under subsection 9.1 above.
- 9.4 City may conduct random inspections, and upon request of City, Contractor shall provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under subsection 9.1 above. Contractor agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this section.
- 9.5 Contractor agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Contractor and expressly accrue those obligations directly to the benefit of the City. Contractor also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.
- 9.6 Contractor's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- 9.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

10. Notices.

- 10.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:
 - a. The Notice is in writing; and
 - b. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested); and
 - c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
 - (1) Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service on or before 5:00 p.m.; or
 - (2) As of the next business day after receipt, if received after 5:00 p.m.
 - d. The burden of proof of the place and time of delivery is upon the Party giving the Notice; and
 - e. Digitalized signatures and copies of signatures will have the same effect as original signatures.

10.2 <u>Representatives</u>.

a.

Contractor. Contractor's representative (the "Contractor's Representative") authorized to act on Contractor's behalf with respect to the Project, and his or her address for Notice delivery is:

Pet and Animal Lovers Services, Inc. c/o Katherine Heuerman 3629 N. 40th Avenue Phoenix, AZ 85019 (602) 455-6677

b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale c/o Christina Betz City of Glendale 6210 W. Myrtle Avenue, Suite #111 Glendale, Arizona 85301 (623) 930-2659

With required copy to:

City Manager City of Glendale 5850 West Glendale Avenue Glendale, Arizona 85301 City Attorney City of Glendale 5850 West Glendale Avenue Glendale, Arizona 85301

- c. Concurrent Notices.
 - (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
 - (2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
 - (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.
- d. Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.
- **11. Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a nonprofit corporation or other entity whose primary purpose is to own or manage the Project.

12. Entire Agreement; Survival; Counterparts; Signatures.

- 12.1 <u>Integration</u>. This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.
 - a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
 - b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.

c. The solicitation, any addendums and the response submitted by the Contractor are incorporated into this Agreement as if attached hereto. Any Contractor response modifies the original solicitation as stated. Inconsistencies between the solicitation, any addendums and the response or any excerpts attached as Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

12.2 Interpretation.

- a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.
- 12.3 <u>Survival</u>. Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.
- 12.4 <u>Amendment</u>. No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval. Electronic signature blocks do not constitute execution.
- 12.5 <u>Remedies</u>. All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.
- 12.6 <u>Severability</u>. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be deemed reformed to conform to applicable law.
- 12.7 <u>Counterparts</u>. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.
- 13. Term. The term of this Agreement commences upon the effective date and continues for a two year initial period. The City may, at its option with the approval of the Contractor, extend the term of this Agreement an additional three years, renewable on an annual basis. Contractor will be notified in writing by the City of its intent to extend the Agreement period at least 30 calendar days prior to the expiration of the original or any renewal Agreement period. Price adjustments will only be reviewed during the Agreement renewal period. There are no automatic renewals of this Agreement.
- 14. **Dispute Resolution.** Each claim, controversy and dispute (each a "Dispute") between Contractor and City will be resolved in accordance with Exhibit C. The final determination will be made by the City.
- 15. Exhibits. The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A Project

- Exhibit B Compensation
- Exhibit C Dispute Resolution

The parties enter into this Agreement as of the effective date shown above.

City of Glendale, an Arizona municipal corporation

By: Brenda S. Fischer Its: City Manager

ATTEST:

Pam Hanna City Clerk (SEAL)

APPROVED AS TO FORM:

Michael D. Bailey City Attorney

> Pet and Animal Lovers Service, Inc., an Arizona corporation

By: Katherine Hauerman Its: President

EXHIBIT A

DEAD ANIMAL COLLECTION AND DISPOSAL SERVICES

PROJECT

The scope of work is for dead animal collection and disposal service for the City, on an "on-call", as needed basis.



1.0

Solicitation Number: RFP 14-29

DEAD ANIMAL COLLECTION AND DISPOSAL SERVICES

SPECIFICATIONS

1.1 INTRODUCTION

The City of Glendale, Arizona ("City") intends to establish a contract with a qualified firm to provide dead animal collection and disposal services for the City.

1.2 DESCRIPTION OF DEAD ANIMAL COLLECTION AND DISPOSAL SERVICES

- **1.2.1** The Contractor shall furnish all labor, materials, supplies and equipment necessary to perform dead animal collection and disposal services for the City of Glendale on an "as needed" basis.
- **1.2.2** The City currently collects approximately 1,260 dead animals annually. This is an average of 105 dead animal collections per month.
- **1.2.3** Majority of the 1,260 collections are for cats and dogs. In few instances, other dead animals, such as sheep, may be encountered.
- **1.2.4** The Contractor shall remove dead animals from any street, alley, right-of-way, easement or other property within the corporate limits of the City of Glendale as directed by designated City staff.
- **1.2.5** The Contractor's removal of dead animals on private property shall be considered a "special pickup" and shall only be done at the property owner's request and expense.
- **1.2.6** The Contractor shall dispose of all animals collected in accordance with the standards set by and/or approved by the Maricopa County Health Department.
- **1.2.7** The Contractor shall remove animals within three (3) hours of notification by a City representative.
- **1.2.8** If the Contractor fails to remove the animal within one hour of a second notification, the City shall have the immediate right to complete the work, through the use of City employees or outside contractors as deemed necessary and shall deduct the amount necessary to recover from any balances due or to become due the Contractor.
- **1.2.9** The minimum deduction for work not completed by the Contractor after a second notification shall be twenty-five dollars (\$25.00).



DEAD ANIMAL COLLECTION AND DISPOSAL SERVICES

1.2.10 TAGGED ANIMALS

- **1.2.10.1** The Contractor shall remove tags from carcasses before disposing of the remains.
- **1.2.10.2** The Contractor shall retain the removed tags for sixty (60) days.
- **1.2.10.3** Depending upon the type of tag, the Contractor shall contact the appropriate agency or animal's owner.
- **1.2.10.4** When a government agency is contacted, the Contractor shall provide the tag number and other pertinent information such as type of animal, size, color, weight and location of pickup.
- **1.2.10.5** The City shall provide the Contractor with the owner's available information.
- **1.2.10.6** The Contractor shall then attempt to contact the animal's owner. This shall be done on a daily basis and within one (1) working day.
- **1.2.10.7** The return of tags shall be at the request and expense of the requester.

1.2.11 UNTAGGED ANIMALS

- **1.2.11.1** Contractor shall record the type of animal, color, approximate weight or size, and the location of the pickup. This information will be used to respond to inquiries from the public to the best of the Contractor's ability.
- **1.2.11.2** The Contractor shall record the type of animal, color, weight, and location of pickup on a log sheet.
- **1.2.11.3** The Contractor shall forward the log sheets to the City on a weekly basis.
- **1.2.11.4** In response to citizen inquiries, the City will provide to the Contractor the citizen's name and telephone number.
- **1.2.11.5** The Contractor must call the City twice a day to obtain lost animal information and attempt to contact the citizen within twenty-four (24) hours.



DEAD ANIMAL COLLECTION AND DISPOSAL SERVICES

- **1.2.11.6** Regular collections shall be for calls received between 8:00 AM and 4:00 PM, Monday through Friday.
- 1.2.11.7 Special collections shall be for calls issued to the Contractor between 4:00 PM and 8:00 AM Monday through Friday and all calls on Saturdays and Sundays.
- **1.2.11.8** The Contractor's documentation of special collection shall be provided with the invoice of these charges, including the following information: date, time, location, and person authorizing the pickup.

1.3 CONTRACTOR REQUIREMENTS

1.3.1 CONTRACTOR EXPERIENCE AND QUALIFICATION

- **1.3.1.1** The Contractor shall have at least three (3) consecutive years of experience in providing similar services.
- **1.3.1.2** The Contractor shall maintain in current status all Federal, State, County and Local licenses and permits required to operate the Contractor's business.

1.3.2 CONTRACTOR NOTIFICATION

- **1.3.2.1** The City shall notify the Contractor of the location of all animal carcasses within the corporate limits of the City of Glendale, as those limits may change during the term of this Contract.
- **1.3.2.2** The Contractor shall answer calls placed by the City 24-hours per day, seven days a week. City staff shall use this telephone number to notify the Contractor of all City required collections.
- **1.3.2.3** The Contractor shall notify the Contractor's driver/collector within thirty (30) minutes of the City's notification of the Contractor.

1.3.3 EMERGENCY RESPONSE TIME

The Contractor shall be required to respond to emergency calls within one (1) hour of notification.



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DEAD ANIMAL COLLECTION AND DISPOSAL SERVICES

1.3.4 EQUIPMENT IDENTIFICATION

1.3.4.1 Vehicles used by the Contractor must be clearly identified with the company name, address, and phone number of the local office on each side, including personal transportation vehicles used for business.

1.3.5 LOCAL OFFICE

Throughout the period of this contract, the Contractor shall establish and maintain a local office and an authorized managing agent.

1.3.6 CONTACT

The Contractor's managing agent shall serve as the point of contact for the City.

1.3.7 EMERGENCY CONTACT INFORMATION

The Contractor shall provide the City a 24-hour emergency telephone number.

1.3.8 CONTRACTOR PERFORMANCE

- **1.3.8.1** All work specified shall be completed under the direction and satisfaction of the City of Glendale.
- **1.3.8.2** The City will monitor the Contractor's performance weekly to present a monthly evaluation of the Contractor's overall compliance with the contract.
- **1.3.8.3** The Contractor shall comply with Occupational Safety and Health Administration (OSHA) standards during the performance of all contracted services.

1.3.8.4 PUBLIC COMPLAINTS

- **1.3.8.4.1** The City will notify the Contractor by telephone, email and/or by facsimile of each contract complaint reported by the public.
- **1.3.8.4.2** A citizen report will be given to the Contractor which will identify (1) the day and hour the complaint was observed or reported, (2) the location and description of the complaint,



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DEAD ANIMAL COLLECTION AND DISPOSAL SERVICES

and (3) the amount to be deducted from contract payment, if appropriate.

1.3.8.4.3 The Contractor will have three (3) hours to correct the problem after the receipt of the telephone call, email or the facsimile.

1.3.8.5 DEFICIENCIES IN WORK, PENALTIES AND REMEDIES

- **1.3.8.5.1** In the event the Contractor is deficient in any required service, the City may perform the service by City personnel or by separate contract.
- **1.3.8.5.2** The cost of services performed by City personnel or separate contract will be deducted from the Contractor's monthly invoice.

1.4 PRICING

1.4.1 The Contractor shall charge the same rate at all service locations.

1.4.2 The Contractor's pricing shall include all costs associated with the removal, hauling and disposal of dead animals, including all taxes, fees, etc.

1.5 INVOICING

- **1.5.1** The Contractor shall bill the City on a monthly basis for any work done during the calendar month.
- **1.5.2** The Contractor shall bill the City in a timely manner. Any invoices submitted more than 60 days past the service date shall not be paid by the City.
- **1.5.3** The Contractor shall bill the City's Field Operations department at the address provided by this department.
- **1.5.4** The Contractor's documentation of special collection shall be provided with the invoice of these charges, including the following information: date, time, location, and person authorizing the pickup.

EXHIBIT B

DEAD ANIMAL COLLECTION AND DISPOSAL SERVICES

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

Method of payment is provided in Paragraph 5 of the Agreement. The compensation shall be on a monthly basis, at the rates provided in the attached rate schedule.

NOT-TO-EXCEED AMOUNT

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the entire term of the Project must not exceed \$50,000 annually, or a maximum of \$250,000 if all renewal options are exercised in accordance with Section 13 (Term) of the Agreement.

DETAILED PROJECT COMPENSATION

The following Unit Price includes all applicable taxes, costs, and fees associated with the performance of the services:

- Regular Collection Fee per Animal (includes animals of 125 lbs. or less with the exception of sheep): \$28.68/each
- Large Dogs and Pets Collection and Disposal Fee per Animal (126 to 250 lbs.): \$75.00/each
- Sheep Collection Fee per Animal: \$75.00/each
- After regular hours collections between 4:00 p.m. and 8:00 a.m. Monday-Friday and on Saturdays and Sundays: \$50.00/each



Solicitation Number: RFP 14-29

DEAD ANIMAL COLLECTION AND DISPOSAL SERVICES CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

4.0

OFFER SHEET

4.1 <u>OFFER</u> Offeror certifies that they have read, understand, and will fully and faithfully comply with this solicitation, its attachments and any referenced documents. Offeror also certifies that the prices offered were independently developed without consultation with any of the other Offerors or potential Offerors.

Authorized Signature	Pet and Animal Lovers Service, Inc Company's Legal Name D.BA. PALS
Katherine Heverman Printed Name	<u>3629 North 40th Avenue</u> Address
President Title	Phoenix, Arizona 85019 City, State & Zip Code
<u>602-455-6677</u> Telephone Number	Katherine @ourpals.com Email Address
kathenine Courpals. com Authorized Signature Email Address	<u>3·25·14</u> Date
For questions regarding this offer: (If dif	ifferent from above)
Contact Name Ph	Phone Number FAX Number
Email Address	
FEDERAL TAXPAYER ID NUMBER:	86-0709817
Arizona Sales Tax No. 07-4296	679 Tax Rate
Offeror certifies it is a: Proprietorship	_ Partnership Corporation _X
Minority or woman owned business: Yes	_X_No



Solicitation Number:

SOLICITATION ADDENDUM

CITY OF GLENDALE Materials Management 5850 W. Glendale Avenue Suite 317 Glendale, AZ 85301 Phone: (623) 930-2866

Page 1 of 4

Solicitation Due Date: April 7, 2014 2:00 P.M. (Local Time)

RFP 14-29

RFP 14-29

Addendum No. 1

DEAD ANIMAL COLLECTION AND DISPOSAL SERVICES ADDENDUM NO. 1

The following revisions have been made to Request for Proposal No. 14-29:

1. NOTICE OF SOLICITATION, Page 1, OFFER DUE DATE AND TIME shall be amended as follows:

CHANGE March 28, 2014 at 2:00 PM (Local Time)

TO April 7, 2014 at 2:00 PM (Local Time)

2. <u>DELETE</u> SPECIFICATIONS Section 1.2.11.7 and <u>REPLACE WITH</u>:

"After regular hours collection shall be for calls issued to the Contractor between 4:00 PM and 8:00 AM Monday through Friday and all calls on Saturdays and Sundays."

3. DELETE PRICE SHEET, Section 5.0 thru 5.4 and REPLACE WITH:

The **REVISED PRICE SHEET** (see below).



SOLICITATION ADDENDUM

HE Solicitation Number:

RFP 14-29 Addendum No. 1

Page 2 of 4

CITY OF GLENDALE Materials Management 5850 W. Glendale Avenue Suite 317 Glendale, AZ 85301 Phone: (623) 930-2866

Solicitation Due Date: April 7, 2014 2:00 P.M. (Local Time)

5.0

REVISED PRICE SHEET

5.1 <u>UNIT PRICE</u> The Unit Price shall include all applicable taxes, costs, and fees associated with the performance of the services.

Item No.	Description	Estimated Annual Number of Collections (A)	Unit of Measure	Unit Price (B)	Extended Price (A X B)
5.1.1	Regular Collection and Disposal Fee per Animal (Includes animals of 125 lbs. or less with the exception of sheep)	1260	Each	\$28.68	\$ 36,136.80
		Grand '	Total		\$

Item No.	Description	Unit of Measure	Unit Price
5.1.2	Large Dogs and Pets Collection and Disposal Fee per Animal (126 to 250 lbs.)	Each	\$ 75.00
5.1.3	Sheep Collection Fee per Animal	Each	\$ 75.00

Optional Pricing: The Contractor should provide pricing for the following item. This item shall not be included in the RFP price evaluation process.

Item	Description	Unit of	Unit
No.	t"	Measure	Price
	After regular hours collections between		
5.1.4	4:00 PM and 8:00 AM Monday-Friday,		
	and on Saturdays and Sundays	Each	\$ 50.00

GLENDALE	SOLICITATION ADDENDUM Solicitation Number: RFP 14-29 Addendum No. 1 Page 3 of 4 Solicitation Due Date: April 7, 2014 2:00 P.M. (Local Time)	CITY OF GLENDALE Materials Management 5850 W. Glendale Avenue Suite 317 Glendale, AZ 85301 Phone: (623) 930-2866
5.2 <u>PF</u>	ROCUREMENT CARD ORDERING CAPABILITY Please check	
	YES, I will accept payment under this contract with the Procurement	
	NO, I will not accept payment under this contract with the Procureme	ent Card.
lt	DITIONAL DISCOUNT(S) OFFERED TO THE CITY available, the Contractor should provide and honor additional dis ntractor to its general customers.	count rates offered by the
Ye	s \boxtimes No \square Additional Discount Rate: 2% (10 days	
Company	Name Pet and Animal Lovers Service, In	<u>nc.</u> (PALS)
	· · · · · · · · · · · · · · · · · · ·	
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EXHIBIT C

DEAD ANIMAL COLLECTION AND DISPOSAL SERVICES

DISPUTE RESOLUTION

1. Disputes.

- 1.1 <u>Commitment</u>. The parties commit to resolving all disputes promptly, equitably, and in a goodfaith, cost-effective manner.
- 1.2 <u>Application</u>. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.
- 1.3 <u>Initiation</u>. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.
- 1.4 <u>Informal Resolution</u>. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.
 - a. The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;
 - b. The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and
 - c. The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

2. Arbitration.

- 2.1 <u>Rules</u>. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the parties may agree, in writing, that the Dispute will be decided by binding arbitration in accordance with Commercial Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
 - a. The parties will exercise best efforts to select an arbitrator within 5 business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.
 - b. The arbitrator selected must be an attorney with at least 10 years experience, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 <u>Discovery</u>. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten (10) days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.
- 2.3 <u>Hearing</u>. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.

- 2.4 <u>Award</u>. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.
- 2.5 <u>Final Decision</u>. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.
- 2.6 <u>Costs</u>. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party shall pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.
- 3. Services to Continue Pending Dispute. Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of required services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Contractor in accordance with this Agreement.

4. Exceptions.

- 4.1 <u>Third Party Claims</u>. City and Contractor are not required to arbitrate any third-party claim, crossclaim, counter claim, or other claim or defense of a third-party who is not obligated by contract to arbitrate disputes with City and Contractor.
- 4.2 Liens. City or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.
- 4.3 <u>Governmental Actions</u>. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.



EVALUATOR'S INDIVIDUAL SCORES RFP 14-29 DEAD ANIMAL COLLECTION AND DISPOSAL SERVICES

EVALUATION CRITERIA	MAXIMUM POINTS	CLEAN SCENE AZ, LLC	NATIONAL ENVIRONMENTAL SOLUTIONS, LLC	PET AND ANIMAL LOVERS SERVICE, INC.	DENNIS R. GRESHAM ENTERPRISES, INC.
Compliance with Specifications (40%)	400				
		200	300	400	200
		200	300	400	200
		300	300	400	300
CONSENSUS SCORE		233.33	300.00	400.00	233.33
Experience and Capabilities of Firm and Staff (40%)	400				
		200	400	400	200
		200	200	400	300
		200	300	400	200
CONSENSUS SCORE		200.00	300.00	400.00	233.33
Cost (20%)	200				
		200.00	188.67	181.33	185.72
CONSENSUS SCORE		200.00	188.67	181.33	185.72
TOTAL SCORES	1000	633.33	788.67	981.33	652.39

AWARD DETERMINATION

Award is recommended to: PET AND ANIMAL LOVERS SERVICE, INC. (PALS)

PET AND ANIMAL LOVERS SERVICE, INC. (PALS) is deemed to be responsible and responsive proposer whose proposal is determined in writing to be the most advantageous to the City and best meets the overall needs of the City taking into consideration the evaluation of factors set forth in the request for proposals.



Legislation Description

File #: 15-119, Version: 1

AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH VALLEY WIDE ELECTRIC CO. LLC, FOR ELECTRICAL REPAIRS AT CITY FACILITIES

Staff Contact: Jack Friedline, Director, Public Works

Purpose and Recommended Action

This is a request for the City Council to authorize the City Manager to enter into a linking agreement with Valley Wide Electric Co., LLC for electrical repairs, in an amount not to exceed \$100,000 for projects at city facilities, including city parks.

Background

The Public Works Department's Facilities Management Division is responsible for completing preventative maintenance, emergency repairs, and capital improvements to over 150 city buildings and over 70 park facilities. This request is for electrical repairs at two city parks, including the immediate need for repair of parking lot lighting at Sahuaro Ranch Park and the park lighting system control panel at Montara Park.

<u>Analysis</u>

Cooperative purchasing allows counties, municipalities, schools, colleges and universities in Arizona to use a contract that was competitively procured by another governmental entity or purchasing cooperative. Such purchasing helps reduce the cost of procurement, allows access to a multitude of competitively bid contracts, and provides the opportunity to take advantage of volume pricing. The Glendale City Code authorizes cooperative purchases when the solicitation process utilized complies with the intent of Glendale's procurement processes. This cooperative purchase is compliant with Chapter 2, Article V, Division 2, Section 2 -149 of the Glendale City Code, per review by Materials Management.

Valley Wide Electric Co., LLC was awarded a bid by Maricopa County through a competitive bid process for relamping and repair services and staff is requesting to utilize the cooperative purchase with Strategic Alliance for Volume Expenditures (SAVE). SAVE is a consortium of local municipalities, in which Glendale is a member. Materials Management has reviewed and approved the utilization of the cooperative purchasing agreement through Maricopa County for products and services. Materials Management concurs the cooperative purchase is in the City's best interest.

Previous Related Council Action

On November 24, 2014, Council approved budget appropriation contingency transfer to capital projects building maintenance reserve fund for various critical and safety-related repair and replacement projects at city facilities.

Community Benefit/Public Involvement

Purchasing from cooperative contracts provides both competitive and optimal pricing for equipment and services. The electrical repairs to the two city park lighting systems needs to be completed as soon as possible for the safety of our citizens utilizing these facilities.

Budget and Financial Impacts

Funding is available in the fiscal year 2014-15 Building Maintenance Reserve for electrical repairs to the parking lot lights at Sahuaro Ranch Park and the replacement of the park light system control panel in Montara Park.

Cost	Fund-Department-Account	
\$100,000	1000-81013-551000, Building Maintenance Reserve	

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

LINKING AGREEMENT BETWEEN THE CITY OF GLENDALE, ARIZONA AND VALLEY WIDE ELECTRIC CO., LLC

THIS LINKING AGREEMENT (this "Agreement") is entered into as of ______, 2015, between the City of Glendale, an Arizona municipal corporation (the "City"), and Valley Wide Electric Co., LLC, an Arizona limited liability company ("Contractor"), collectively, the "Parties."

RECITALS

- A. On August 4, 2010, Maricopa County entered into a contract with Contractor to purchase the goods and services described in the Re-lamping and Repair Services Contract, Contract No. 10043-S, which is attached hereto as Exhibit A. The Maricopa County's Re-lamping and Repair Services Contract permits its cooperative use by other governmental agencies including the City. The Maricopa County's Re-lamping and Repair Services Contract is hereinafter referred at as the Cooperative Purchasing Agreement.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Linking Agreement, the parties agree as follows:

1. <u>Term of Agreement</u>. The City is purchasing the supplies and/or services from Contractor pursuant to Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement award and rate sheet, which are attached hereto as part of **Exhibit B**, purchases can be made by governmental entities from the date of award, which was August 4, 2010, until the date the contract expires on August 31, 2016, unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not extend the contract beyond August 31, 2016. The initial period of this Agreement is therefore is the period from the Effective Date of this Agreement until August 31, 2016.

- 2. <u>Scope of Work; Terms, Conditions, and Specifications.</u>
 - a) Contractor shall provide City the supplies and/or services identified in the Scope of Work attached hereto as **Exhibit B**.
 - b) Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporate into and are an enforceable part of this Agreement.
- 3. <u>Compensation</u>.
 - a) City shall pay Contractor compensation at the same rate and on the same schedule as the Cooperative Purchasing Agreement, unless the City and Contractor agree otherwise, as provided in **Exhibit B** hereto.
 - b) The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed \$100,000.00 for the entire term of this Agreement, including the initial term and any renewal terms the City wishes to exercise in accordance with Paragraph 1 above.
- 4. <u>Cancellation</u>. This Agreement may be cancelled pursuant to ARIZ. REV. STAT. § 38-511.
- 5. <u>E-verify</u>. Contractor complies with ARIZ. REV. STAT. § 23-214 and agrees to comply with the requirements of ARIZ. REV. STAT § 41-4401.
- 6. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale c/o Montana Slack 6210 W. Myrtle Avenue, Suite #111 Glendale, Arizona 85301 623-930-2621

and

Valley Wide Electric Co., LLC c/o Robert Lamore 22415 N. 16th Street Phoenix, AZ 85024 623-587-0802 ext 107

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

"City"

"Contractor"

City of Glendale, an Arizona municipal corporation

By:

Brenda S. Fischer, City Manager

ATTEST:

Pamela Hanna, City Clerk (SEAL)

Approved as to Form:

Michael D. Bailey, City Attorney

Valley Wide Electric Co., LLC an Arizona limited liability company

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Robert Lamore, Authorized Representative

EXHIBIT A

Maricopa County Contract No. 10043-S - Re-Lamping and Repair Services

SERIAL 10043 S RE-LAMPING AND REPAIR SERVICES

DATE OF LAST REVISION: July 14, 2014

CONTRACT END DATE: August 31, 2016

CONTRACT PERIOD THROUGH AUGUST 31, 2013 2016

TO: All Departments

FROM: Office of Procurement Services

SUBJECT: Contract for RE-LAMPING AND REPAIR SERVICES

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on August 04, 2010.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

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Wes Baysinger, Chief Procurement Officer Office of Procurement Services

DW/ub Attach

Copy to:

Office of Procurement Services Don Jeffery, Facilities Management

(Please remove Serial 04023-S from your contract notebooks)

RE-LAMPING AND REPAIR SERVICES

1.0 INTENT:

The intent of this Invitation for Bid is to establish a listing of qualified lighting contractors to replace lamps/bulbs on building interiors and exteriors, parking lots, emergency lighting, signalized intersections and other lighting applications. It will also provide re-lamping upgrades for energy efficiency at selected sites on an as needed basis. Multiple awards (listing of qualified contractors) will be made. At the time a requirement is identified, requests for quotation will be issued to each qualified contractor. Award(s) will be made to the contractor meeting specification and offering the lowest price.

Other governmental entities under agreement with the County may have access to services provided hereunder (see also Sections 2.33 and 2.34, below).

The County reserves the right to award in whole or in part, by item or group of items, by section or geographic area, or make multiple awards, where such action serves the County's best interest.

The County reserves the right to add additional contractors, at the County's sole discretion, in cases where the currently listed contractors are of an insufficient number or skill-set to satisfy the County's needs or to ensure adequate competition on any project or task order work.

2.0 SCOPE OF SERVICES:

- 2.1 Contractor shall provide all test equipment, tools, labor, supervision, materials, parts, transportation, and all effort necessary to carry out the specifications herein.
- 2.2 HOURS OF SERVICE:

REGULAR SERVICE shall be work performed at regular County business hours (6:00 AM to 6:00 PM), Monday through Friday, excluding County holidays.

AFTER HOURS SERVICE shall be work performed after 6:00 PM and before 6:00 AM the next morning and Saturday work.

SUNDAY & HOLIDAY SERVICE shall be work performed during Sunday or during any County holiday.

Due to the nature of many County facilities operating on a seven/twenty-four schedule, each contractor awarded this bid shall make available to the County electrical services 365 days per year, 24 hours per day.

- 2.3 Response time for a requested service call shall be six (6) hours (on-site) after Contractor receives request from FMD for REGULAR hours, and three (3) hour respond on-site for calls AFTER HOURS. There shall also be a two (2) hour on-site response for any call during REGULAR hours if requested as an EMERGENCY.
- 2.4 Contractor to source all lamps, ballasts, and parts. All replacement components to be new. Ballasts shall be warranted for one year. While under warranty, labor to replace shall be at no additional cost to the County
- 2.5 Some lighting systems shall require replacement/repair while energized.
- 2.6 Project Work and Time and Materials:
 - 2.6.1 Project work shall mean re-lamping performed as an all-inclusive price; not time and materials. The Contractor(s) shall meet with the FMD staff at the site to ascertain what work is to be performed. Each of the contractors assigned to this contract shall be provided a request for project quote with a detailed Scope of Work. As such, each contractor MUST submit a response, with award to the lowest quote of the project.

Contractors are not to submit their own project quote sheets. Only County letterhead quote sheets are acceptable. All terms and conditions are those established under this agreement. All additional labor charges outside the Scope Of Work are those established in Attachment A, PRICING.

Contractor shall be compensated for additional work requested that is <u>not detailed in the</u> <u>scope</u> via the labor rates bid in Attachment A, PRICING.

2.6.1.1 The threshold from time and materials to project work shall be \$5,000.00. Exceptions to this shall be emergencies that arise and must be dealt with immediately without the time for project quotes. This figure is not firm fixed. The County reserves the right to adjust this figure to a higher-level if deemed in the best interest of the department.

2.6.1.2 The project quote sheet will contain the following information: The contract serial number and name; Name and address of site; FMD site number; Detailed scope of work, Other information relative to the S-O-W, Project start/finish time line (optional), Price

2.6.2 The submitted project price quote will be all-inclusive. Any cost overruns will be absorbed by the Contractor, or cost savings to be additional profit. Exceptions to this are changes requested by the County that incur higher project cost and longer delays. All change orders to a project <u>must be in writing</u>, referencing the contract serial number, and approved by FMD prior to any authorization to proceed. The Contractor who fails to acquire change orders in writing runs the risk of incurring these additional costs without payment.

Project pricing shall include everything the contractor anticipates is necessary to complete the job (i.e., rental equipment, materials, labor, supervision, subcontractor costs, mobilization costs, demobilization costs, permits, etc.). These costs to be part of the overall project price and as such not itemized. Construction tax may be applied, but shall be part of the project cost and not a separate line item.

2.6.3 Project Price Ceiling Limits:

Projects shall not exceed \$150,000.00 each. If an emergency occurs, this price ceiling may be lifted if approved by the Office of Procurement Services Procurement Officer assigned to this contract, otherwise, the project may be separately bid outside of this contract document. This to ensure the County receives adequate competition for such work.

2.6.4 Time and Materials:

This contract may also be used for time and materials work (not to exceed \$5,000 without approval from the Office of Procurement Services) and priced per hour as bid in the pricing section.

2.7 BALLASTS:

The Contractor must provide high performance electronic ballasts, which meet or exceed the following requirements:

2.7.1 Ballasts shall be of a universal type and be able to operate at 60 Hz input source at universal voltages with sustained variations of ±5% (voltage and frequency) with no damage to ballasts.

2.7.2 Ballasts shall be a high-frequency electronic type and operate lamps at a frequency above 25

kHz with no visible flicker (<4% flicker index).

- 2.7.3 Must withstand transients as specified by ANSI C.62.41 for location category A3 in the normal mode and location category A1 in the common mode.
- 2.7.4 Must meet applicable ANSI standards.
- 2.7.5 Must have a minimum power factor of 0.90.
- 2.7.6 Should not weigh more than 3 pounds each.
- 2.7.7 Shall have less than 10% Total Harmonic Distortion (THD).
- 2.7.8 Height shall be no greater than 2 inches.
- 2.7.9 Sound rating "A".
- 2.7.10 Certification: CBM certified, Class P, and bear the Underwriters Laboratories (UL) label. Exterior fixtures shall have ballasts designed for 0 degree F operation.
- 2.7.11 Provide normal rated lamp life as stated by lamp manufacturers. Ballasts shall have a manufacturer's warranty of not less than three years from date of purchase.
- 2.7.12 Normal light output ballasts shall be used (unless otherwise specified) and shall have a minimum ballast factor of 0.85. The power factor shall be greater than 0.98 for primary lamp applications.

The Contractor shall specify use of "instant start" ballasts for all County facilities since switching of lamps is very infrequent (See also §2.7).

2.8 LAMPS:

The Contractor shall specify energy efficient fluorescent lamps/fixtures. Use of incandescent lamps/fixtures is not only discouraged but must receive the prior written approval of the County: When used, incandescent bulbs shall be frosted inside unless otherwise requested.

- 2.8.1 Lamps shall be 4-foot long, T8 sized lamps for ceiling mounted fluorescent fixture applications. Lamps shall be low-mercury content and shall be below the legal limit of the EPA'S toxicity characteristic leaching procedure.
- 2.8.2 Lamps shall provide a light output not less than 2850 lumens.
- 2.8.3 Color temperature of lamps shall be 4100k, with a minimum C.R.I of 82. Compact fluorescent lamps T-4, T-5, and 2-D through all color temperatures shall have a minimum C.R.I of 82.
- 2.8.4 Lamps shall bear labels of General Electric, Philips or Sylvania.
- 2.8.5 Lamps shall be 32W 25W AC unless otherwise requested.

The Contractor shall submit to the County approved manufacturers data sheet for all project light fixtures.

2.9 EMERGENCY FLUORESCENT FIXTURES, IDENTIFICATION:

Emergency fluorescent fixtures have a special ballast unique to those fixtures. The emergency ballasts must be taken into account when a lighting audit is done. To aid identification of fixtures that contain emergency ballasts, we ask that a red adhesive sticker, 1" in diameter, be affixed to the T-bar next to the fixture so that it will be visible from the floor.

2.10 LUMINANCE LEVELS:

Luminance levels shall conform to IES Lighting Handbook recommendations, latest edition.

- 2.11 If a County agency requests the Contractor to convert a working fluorescent fixture to energy saving type, Contractor must inform FMD of such request with written cost estimate, and is not to proceed without written authorization from FMD. Any deviation from this requirement will be the financial responsibility of the Contractor.
- 2.12 Contractor must clean all lenses, diffusers, covers, or globes before reinstallation.
- 2.13 Diffusers found to be damaged and not feasible for reinstallation shall be replaced with matching type sourced by Contractor. Damaged diffusers are to be returned to FMD for confirmation.
- 2.14 All defective mercury vapor lamps shall be replaced with metal halide type.
- 2.15 Contractor to provide lifting devices. Detention facilities usually require a minimum height of 20 feet. Warehouse space a minimum height of 30 ft. Parking lot/landfill lights a minimum of 65 feet.
- 2.16 Maricopa County Sheriff's Office background check will be a requirement for all employees of Contractor's staff providing services to the County. This requirement is essential due to the need to access areas within the County such as detention facilities, court buildings, and many other restricted areas. The cost for this requirement shall be incurred by the County.
- 2.17 The Contractor shall perform the work in a way to minimize disruption to the normal operation of building tenants. Upon completion of work the Contractor is responsible for cleaning and removing from the job site all debris, materials, and equipment associated with the work performed.
- 2.18 The Contractor shall make necessary repairs in such a manner that does not damage County property. In the event damage occurs to Maricopa County property, or any adjacent property by reason of any repairs or installations performed under this Contract, the Contractor shall replace or repair the same at no cost to the County. If damage caused by the Contractor has to be repaired or replaced by the County, the cost of such work shall be deducted from the monies due the Contractor.
- 2.19 In the event the work performance of the Contractor is unsatisfactory, the Contractor will be notified by the County and be given one day to correct the work. Labor for all re-work will be at no cost to the County.

2.20 SIGNALIZED INTERSECTIONS:

MCDOT signalized intersections will require luminary service throughout Maricopa County. MCDOT will supply luminary parts and provide traffic control for work at signalized intersections. This service will be provided on an <u>as needed basis</u> and shall be bid per hour. Upon notification by MCDOT, the Contractor shall be at the specified location(s) prepared to perform the work within seven working days. Notification will be via facsimile and followed up by a telephone call. These sites are:

University Dr. at Signal Butte Rd. University Dr. at Crismon Rd.

There may be additional sites requested by MCDOT as necessary.

2.21 EMPLOYEES OF THE CONTRACTOR:

No one except authorized employees of the Contractor is allowed on the premises of Maricopa County its buildings or complexes. Contractor's employees are NOT to be accompanied in their

work area by acquaintances, family members, assistants, or any other person unless said person is an authorized employee of the Contractor or authorized subcontractor.

2.22 REMOVAL OF CONTRACTOR'S EMPLOYEES:

The Contractor agrees to utilize only experienced, responsible and capable people in the performance of the work. The County may require that the Contractor remove from the job covered by this contract, employees who endanger persons or property or whose continued employment under this contract is inconsistent with the best interest of Maricopa County.

2.23 Any damage to light fixture sockets, diffusers, diffuser frames, or any other component of fixtures, caused by careless lamp installation procedures by Contractor's staff, shall become the Contractor's responsibility to correct damage to the County's satisfaction. FMD technical staff shall inspect suspected damage fixture and if determined that damage was incurred by the Contractor, Contractor shall be notifies and given four (4) hours to correct problem.

All labor and component parts shall be a no additional cost to the County. The Facilities Management Department reserves the right to make repairs to a damaged fixture, and the cost shall be deducted from any monies due the Contractor.

2.24 In the event the work performance of the Contractor is unsatisfactory, the Contractor will be notified by the County and be given one day to correct the work. Labor for all re-work will be at no cost to the County.

2.25 INVOICING:

After completion of services, the Contractor shall submit an invoice to the County:

All invoicing MUST include:

For T&M work:

Purchase order number or P-card notation; Terms as bid; Contract serial number; Requestor; Job site name and address, with FMD site number; Description of work performed; Total labor hours; Labor rate as bid; Itemized parts; Rented equipment charges (must attach invoice from rental firm. The contractor shall not add additional sales tax other than what the rental firm has posted. If rented equipment requires a supply of fuel, the cost of fuel is allowed but only at the prevailing rates. A 5% maximum mark-up is allowed for rental equipment. Tax on parts/materials only; TOTAL

If project work:

Purchase order number or P-card notation; Terms as bid; Contract serial number; Job site name and address, with FMD site number; Project description, Project cost, Change order cost (if applicable) TOTAL

Invoicing that does not have all the required information as listed above, will be sent back for corrections, delaying payment to the Contractor.

2.26 REQUIRED SUBMITTALS:

- 2.26.1 The Contractor must be in the lamping repair/re-lamping service business a minimum five (5) consecutive years, and completely familiar with the specified requirements and methods needed for proper performance of this contract. <u>Proof of these requirements</u> must accompany bid package.
- 2.26.2 The Contractor's service truck fleet shall carry sufficient supply of test equipment, tools, materials, and parts etc., needed to perform the technical requirements herein. Proof of such must accompany bid package. Additionally, these requirements shall be verified by FMD via a formal inspection after bid submittals and prior to bid award.
- 2.26.3 Contractor shall be licensed by the State of Arizona, Registrar of Contractors, and have an electrical services license classification K11 or L11. <u>Copies of licenses must</u> accompany bid package.

2.27 USAGE REPORT:

The Contractor shall furnish the County a <u>quarterly</u> usage report delineating the acquisition activity governed by the Contract. The format of the report shall be approved by the County and shall disclose the quantity and dollar value of each contract item by individual unit.

2.28 ACCEPTANCE:

Upon successful completion of the performance period, the system shall be deemed accepted and the warranty period begins. All documentation shall be completed prior to final acceptance.

2.29 INVOICES AND PAYMENTS:

- 2.29.1 The Contractor shall submit two (2) legible copies of their detailed invoice before payment(s) can be made. At a minimum, the invoice must provide the following information:
 - Company name, address and contact
 - County bill-to name and contact information
 - Contract Serial Number
 - County purchase order number
 - Invoice number and date
 - Payment terms
 - Date of service or delivery
 - Quantity (number of days or weeks)
 - Contract Item number(s)
 - Description of Purchase (product or services)
 - Pricing per unit of purchase
 - Extended price
 - Arrival and completion time (if applicable)
 - Total Amount Due

- 2.29.2 Problems regarding billing or invoicing shall be directed to the using agency as listed on the Purchase Order.
- 2.29.3 Payment shall be made to the Contractor by Accounts Payable through the Maricopa County Vendor Express Payment Program. This is an Electronic Funds Transfer (EFT) process. After Award the Contractor shall fill out an EFT Enrollment form located on the County Department of Finance Website as a fillable PDF document (www.maricopa.gov/finance/).
- 2.29.4 EFT payments to the routing and account numbers designated by the Contractor will include the details on the specific invoices that the payment covers. The Contractor is required to discuss remittance delivery capabilities with their designated financial institution for access to those details.
- 2.30 TAX:

No tax shall be levied against labor. It is the responsibility of the Contractor to determine any and all taxes and include the same in proposal price.

A construction tax (65%) can be applied to project wok but must be included in the project cost and not line itemed separately.

2.31 DELIVERY:

It shall be the Contractor's responsibility to meet the proposed delivery requirements. Maricopa County reserves the right to obtain services on the open market in the event the Contractor fails to make delivery and any price differential will be charged against the Contractor.

2.32 FUEL COST PRICE ADJUSTMENT:

- 2.32.1 This provision provides for limited increased or decreased costs of motor fuels (fuels) used to perform services under this Contract. This provision does not apply to burner fuel (i.e. propane, natural gas, fuel oil, used motor oil). It applies to motor fuel only. Fuel cost adjustments may be either positive or negative. A positive fuel cost adjustment will result in an increase in payments to Contractor while a negative fuel cost adjustment will result in a decrease in payments to Contractor.
- 2.32.2 This provision is intended to minimize risk to both parties to this Contract due to fuel cost fluctuations that may occur during the term of this Contract. This provision is not designed to estimate actual quantities of fuel used in providing services under this Contract, but to provide a reasonable basis for calculating a fuel cost adjustment based on average conditions.
- 2.32.3 Application of this provision will come into effect upon Contractor submittal of a fuel cost adjustment request. A request may be submitted only when the increased cost of fuel, established as a percentage of total contract price (base fuel cost) upon award of this Contract, exceeds ten (10%) percent of the base fuel cost. The Contractor may request a fuel surcharge no more than four (4) times annually, during the month(s) of March, June, September and December. The request must be submitted no later than the tenth (10th) of the month. Any surcharge shall be effective the first of the following month after receipt and approval. The date of County approval of a fuel cost adjustment request shall become the base date for any future Contractor adjustment requests.
- 2.32.4 Contractor shall include, as part of its price bid, the percentage of total contract price fuel represents (e.g., fuel cost equals 10% of Contractor cost) (see also, Attachment A, Prices). This percentage will represent and establish the base fuel cost for this Contract. The base fuel cost shall be established as the due date for submission of proposals for this Contract. All subsequent fuel cost adjustments shall be based upon the date the County approves a Contractor's request for fuel cost adjustment (e.g. fuel cost adjustment).

approved by County on January 1, 2006, January 1, 2006 becomes base date for any next Contractor request for adjustment).

2.32.5 Fuel Cost Application Requirement. The Contractor must provide documentation including type of motor fuel and fuel invoices with price of the fuel used in providing services under this Contract, from the month bids were due and the month of the cost adjustment request, with any fuel cost adjustment application. The fuel cost adjustment application must be completed with all applicable data, and signed by the Contractor.

- 2.32.6 The fuel surcharge shall be based on the current quarterly index of the West Coast (PADD5) Diesel (On-Highway)-All Types or Reformulated Areas Gasoline compared to the previous quarterly index period as reported on the Energy Information Administration (EIA) website: <u>http://www.eia.doe.gov/</u>
- 2.32.7 The computation of the fuel surcharge amount shall be determined as follows:
 - 2.32.7.1 The fuel cost component from Attachment A (Pricing) of the Contract with Maricopa County, multiplied by the percent of change indicated by the EIA. report from the previous index period.
 - 2.32.7.2 Upon agreement by the County to the surcharge, the County shall issue written approval of the change <u>prior</u> to any adjusted invoicing submitted for payment.
 - 2.32.7.3 The surcharge shall be added as a separate line item to the invoice.

2.33 STRATEGIC ALLIANCE for VOLUME EXPENDITURES (\$AVE):

The County is a member of the \$AVE cooperative purchasing group. \$AVE includes the State of Arizona, many Phoenix metropolitan area municipalities, and many K-12 unified school districts. Under the \$AVE Cooperative Purchasing Agreement, and with the concurrence of the successful Respondent under this solicitation, a member of \$AVE may access a contract resulting from a solicitation issued by the County. If you do not want to grant such access to a member of \$AVE, please so state in your proposal. In the absence of a statement to the contrary, the County will assume that you do wish to grant access to any contract that may result from this Request for Proposal.

2.34 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENTS (ICPA's)

County currently holds ICPA's with numerous governmental entities throughout the State of Arizona. These agreements allow those entities, with the approval of the Contractor, to purchase their requirements under the terms and conditions of the County Contract. Please indicate on Attachment A, your acceptance or rejection regarding such participation of other governmental entities. Your response will not be considered as an evaluation factor in awarding a contract.

3.0 CONTRACTUAL TERMS & CONDITIONS:

3.1 CONTRACT TERM:

This Invitation for Bid is for awarding a firm, fixed price purchasing contract to cover a three (3) year term.

3.2 OPTION TO RENEW:

The County may, at their option and with the approval of the Contractor, renew the term of this Contract up to a maximum of <u>three</u>(3) additional years, (or at the County's sole discretion, extend the contract on a month to month basis for a maximum of six (6) months after expiration). The Contractor shall be notified in writing by the Office of Procurement Services of the County's

intention to renew the contract term at least thirty (30) calendar days prior to the expiration of the original contract term.

3.3 PRICE ADJUSTMENTS:

Any requests for reasonable price adjustments must be submitted sixty (60) days prior to the Contract annual anniversary date. Requests for adjustment in cost of labor and/or materials must be supported by appropriate documentation. If County agrees to the adjusted price terms, County shall issue written approval of the change. The reasonableness of the request will be determined by comparing the request with the (Consumer Price Index) or by performing a market survey.

3.4 INDEMNIFICATION:

- 3.4.1 To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold hamless County, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including, but not limited to, attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent acts, errors, omissions, mistakes or malfeasance relating to the performance of this Contract. Contractor's duty to defend, indemnify and hold harmless County, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense that is caused by any negligent acts, errors, omissions or mistakes in the performance of this Contract by the Contractor, as well as any person or entity for whose acts, errors, omissions, mistakes or malfeasance Contractor may be legally liable.
- 3.4.2 The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.
- 3.4.3 The scope of this indemnification does not extend to the sole negligence of County.

3.5 INSURANCE:

- 3.5.1 Contractor, at Contractor's own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of A+. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of County. The form of any insurance policies and forms must be acceptable to County.
- 3.5.2 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of County, constitute a material breach of this Contract.
- 3.5.3 Contractor's insurance shall be primary insurance as respects County, and any insurance or self-insurance maintained by County shall not contribute to it.
- 3.5.4 Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the County's right to coverage afforded under the insurance policies.
- 3.5.5 The insurance policies may provide coverage that contains deductibles or selfinsured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to County under such policies. Contractor shall be solely responsible for the deductible and/or self-insured retention and County, at its option, may require Contractor to secure payment of

such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

3.5.6 County reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance certificates. County shall not be obligated to review policies and/or endorsements or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of County's right to insist on strict fulfillment of Contractor's obligations under this Contract.

- 3.5.7 The insurance policies required by this Contract, except Workers' Compensation, shall name County, its agents, representatives, officers, directors, officials and employees as Additional Insureds.
- 3.5.8 The policies required hereunder, except Workers' Compensation, shall contain a waiver of transfer of rights of recovery (subrogation) against County, its agents, representatives, officers, directors, officials and employees for any claims arising out of Contractor's work or service.
- 3.5.9 Commercial General Liability:

Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than \$2,000,000 for each occurrence, \$2,000,000 Products/Completed Operations Aggregate, and \$4,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

3.5.10 Automobile Liability:

Commercial/Business Automobile Liability insurance and, if necessary, Commercial Umbrella insurance with a combined single limit for bodily injury and property damage of not less than \$2,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services under this Contract.

- 3.5.11 Workers' Compensation:
 - 3.5.11.1 Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services under this Contract; and Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.
 - 3.5.11.2 Contractor waives all rights against County and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Contractor pursuant to this Contract.
- 3.5.12 Certificates of Insurance.
 - 3.5.12.1 Prior to commencing work or services under this Contract, Contractor shall furnish the County with certificates of insurance, or formal endorsements as required by the Contract in the form provided by the County, issued by

Contractor's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this contract number and title.

- 3.5.12.1.1 In the event any insurance policy (ies) required by this contract is (are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of Contractor's work or services and as evidenced by annual Certificates of Insurance.
- 3.5.12.1.2 If a policy does expire during the life of the Contract, a renewal certificate must be sent to County fifteen (15) days prior to the expiration date.

3.5.13 Cancellation and Expiration Notice.

Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty (30) days prior written notice to the County.

3.6 PROCUREMENT CARD ORDERING CAPABILITY:

County may determine to use a procurement card that may be used from time-to-time, to place and make payment for orders under this Contract. Contractors without this capability may be considered non-responsive and not eligible for award consideration.

3.7 INTERNET ORDERING CAPABILITY:

It is the intent of County to use the Internet to communicate and to place orders under this Contract. Contractors without this capability may be considered non-responsive and not eligible for award consideration.

3.8 ORDERING AUTHORITY.

- 3.8.1 Respondents should understand that any request for purchase of materials or services shall be accompanied by a valid purchase order, issued by the Office of Procurement Services, or by a Certified Agency Procurement Aid (CAPA).
- 3.8.2 Maricopa County departments, cities, other counties, schools and special districts, universities, nonprofit educational and public health institutions may also purchase from under this Contract at their discretion and/or other state and local agencies (Customers) may procure the products under this Contract by the issuance of a purchase order to the Respondent. Purchase orders must cite the Contract number.
- 3.8.3 Contract award is in accordance with the Maricopa County Procurement Code. All requirements for the competitive award of this Contract have been met. A purchase order for the products is the only document necessary for Customers to purchase and for the Respondent to proceed with delivery of materials available under this Contract.
- 3.8.4 Any attempt to represent any product not specifically awarded under this Contract is a violation of the Contract. Any such action is subject to the legal and contractual remedies available to the County, inclusive of, but not limited to, Contract cancellation, suspension and/or debarment of the Respondent.

3.9 REQUIREMENTS CONTRACT:

3.9.1 Contractors signify their understanding and agreement by signing a bid submittal, that the Contract resulting from the bid will be a requirements contract. However, the Contract does not guarantee any minimum or maximum number of purchases will be made. It only indicates that if purchases are made for the materials contained in the Contract, they will be purchased from the Contractor awarded that item. Orders will only be placed

when the County identifies a need and proper authorization and documentation have been approved.

3.9.2 County reserves the right to cancel Purchase Orders within a reasonable period of time after issuance. Should a Purchase Order be canceled, the County agrees to reimburse the Contractor but only for actual and documentable costs incurred by the Contractor due to and after issuance of the Purchase Order. The County will not reimburse the Contractor for any costs incurred after receipt of County notice of cancellation, or for lost profits, shipment of product prior to issuance of Purchase Order, etc.

3.9.3 Contractors agree to accept verbal notification of cancellation from the Office of **Procurement Services** Procurement Officer with written notification to follow. By submitting a bid in response to this Invitation for Bids, the Contractor specifically acknowledges to be bound by this cancellation policy.

3.10 UNCONDITIONAL TERMINATION FOR CONVENIENCE:

Maricopa County may terminate the resultant Contract for convenience by providing sixty (60) calendar days advance notice to the Contractor.

3.11 TERMINATION FOR DEFAULT:

If the Contractor fails to meet deadlines, or fails to provide the agreed upon service/material altogether, a termination for default will be issued. The termination for default will be issued only after the County deems that the Contractor has failed to remedy the problem after being forewarned.

3.12 TERMINATION BY THE COUNTY:

If the Contractor should be adjudged bankrupt or should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, the County may terminate the Contract. If the Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to provide enough properly skilled workers or proper materials, or persistently disregard laws and ordinances, or not proceed with work or otherwise be guilty of a substantial violation of any provision of this Contract, then the County may terminate the Contract. Prior to termination of the Contract, the County shall give the Contractor fifteen- (15) calendar day's written notice. Upon receipt of such termination notice, the Contractor shall be allowed fifteen (15) calendar days to cure such deficiencies.

3.13 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:

Notice is given that pursuant to A.R.S. § 38-511 the County may cancel any Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S § 38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the Contract.

3.14 OFFSET FOR DAMAGES;

In addition to all other remedies at Law or Equity, the County may offset from any money due to the Contractor any amounts Contractor owes to the County for damages resulting from breach or deficiencies in performance of the contract.

3.15 ADDITIONS/DELETIONS OF SERVICE:

The County reserves the right to add and/or delete materials to a Contract. If a service requirement is deleted, payment to the Contractor will be reduced proportionately, to the amount of service reduced in accordance with the bid price. If additional materials are required from a Contract, prices for such additions will be negotiated between the Contractor and the County.

3.16 SUBCONTRACTING:

- 3.16.1 The Contractor may not assign a Contract or Subcontract to another party for performance of the terms and conditions hereof without the written consent of the County. All correspondence authorizing subcontracting must reference the Bid Serial Number and identify the job project.
- 3.16.2 The Subcontractor's rate for the job shall not exceed that of the Prime Contractor's rate, as bid in the pricing section, unless the Prime Contractor is willing to absorb any higher rates. The Subcontractor's invoice shall be invoiced directly to the Prime Contractor, who in turn shall pass-through the costs to the County, without mark-up. A copy of the Subcontractor's invoice must accompany the Prime Contractor's invoice.

3.17 AMENDMENTS:

All amendments to this Contract shall be in writing and approved/signed by both parties. Maricopa County Office of Procurement Services shall be responsible for approving all amendments for Maricopa County.

3.18 ACCESS TO AND RETENTION OF RECORDS FOR THE PURPOSE OF AUDIT AND/OR OTHER REVIEW:

In accordance with section MCI 367 of the Maricopa County Procurement Code the Contractor agrees to retain all books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is latest. The County, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of, any and all said materials.

If the Contractor's books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract are not sufficient to support and document that requested services were provided, the Contractor shall reimburse Maricopa County for the services not so adequately supported and documented.

If at any time it is determined by the County that a cost for which payment has been made is a disallowed cost, the County shall notify the Contractor in writing of the disallowance. The course of action to address the disallowance shall be at sole discretion of the County, and may include either an adjustment to future claim submitted by the Contractor by the amount of the disallowance, or to require reimbursement forthwith of the disallowed amount by the Contractor by issuing a check payable to Maricopa County

3.19 PUBLIC RECORDS:

All Offers submitted and opened are public records and must be retained by the Records Manager at the Office of Procurement Services. Offers shall be open to public inspection after Contract award and execution, except for such Offers deemed to be confidential by the Office of Procurement Services. If an Offeror believes that information in its Offer should remain confidential, it shall indicate as confidential, the specific information and submit a statement with its offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise. The Records

Manager of the Office of Procurement Services shall determine whether the identified information is confidential pursuant to the Maricopa County Procurement Code.

3.20 AUDIT DISALLOWANCES:

If at any time it is determined by the County that a cost for which payment has been made is a disallowed cost, the County shall notify the Contractor in writing of the disallowance and the required course of action, which shall be at the option of the County either to adjust any future claim submitted by the Contractor by the amount of the disallowance or to require repayment of the disallowed amount by the Contractor forthwith issuing a check payable to Maricopa County.

3.21 VALIDITY:

The invalidity, in whole or in part, of any provision of the Contract shall not void or affect the validity of any other provision of the Contract.

3.22 RIGHTS IN DATA:

The County shall have the use of data and reports resulting from a Contract without additional cost or other restriction except as may be established by law or applicable regulation. Each party shall supply to the other party, upon request, any available information that is relevant to a Contract and to the performance thereunder.

3.23 RELATIONSHIPS:

In the performance of the services described herein, the Contractor shall act solely as an independent contractor, and nothing herein or implied herein shall at any time be construed as to create the relationship of employer and employee, partnership, principal and agent, or joint venture between the County and the Contractor.

3.24 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

- 3.24.1 The undersigned (authorized official signing for the Contractor) certifies to the best of his or her knowledge and belief, that the Contractor, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:
 - 3.24.1.1 are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;
 - 3.24.1.2 have not within 3-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statues or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - 3.24.1.3 are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
 - 3.24.1.4 have not within a 3-year period preceding this Contract had one or more public transaction (Federal, State or local) terminated for cause of default.
- 3.24.2 Should the Contractor not be able to provide this certification, an explanation as to why should be attached to the Contact.

3.24.3 The Contractor agrees to include, without modification, this clause in all lower tier covered transactions (i.e. transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this Contract.

3.25 ALTERNATIVE DISPUTE RESOLUTION:

- 3.25.1 After the exhaustion of the administrative remedies provided in the Maricopa County Procurement Code, any contract dispute in this matter is subject to compulsory arbitration. Provided the parties participate in the arbitration in good faith, such arbitration is not binding and the parties are entitled to pursue the matter in state or federal court sitting in Maricopa County for a de novo determination on the law and facts. If the parties cannot agree on an arbitrator, each party will designate an arbitrator and those two arbitrators will agree on a third arbitrator. The three arbitrators will then serve as a panel to consider the arbitration. The parties will be equally responsible for the compensation for the arbitrator(s). The hearing, evidence, and procedure will be in accordance with Rule 74 of the Arizona Rules of Civil Procedure. Within ten (10) days of the completion of the hearing the arbitrator(s) shall:
 - 3.25.1.1 Render a decision;
 - 3.25.1.2 Notify the parties that the exhibits are available for retrieval; and
 - 3.25.1.3 Notify the parties of the decision in writing (a letter to the parties or their counsel shall suffice).
- 3.25.2 Within ten (10) days of the notice of decision, either party may submit to the arbitrator(s) a proposed form of award or other final disposition, including any form of award for attorneys' fees and costs. Within five (5) days of receipt of the foregoing, the opposing party may file objections. Within ten (10) days of receipt of any objections, the arbitrator(s) shall pass upon the objections and prepare a signed award or other final disposition and mail copies to all parties or their counsel.
- 3.25.3 Any party which has appeared and participated in good faith in the arbitration proceedings may appeal from the award or other final disposition by filing an action in the state or federal court sitting in Maricopa County within twenty (20) days after date of the award or other final disposition. Unless such action is dismissed for failure to prosecute, such action will make the award or other final disposition of the arbitrator(s) a nullity.

3.26 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS:

- 3.26.1 By entering into the Contract, the Contractor warrants compliance with the Immigration and Nationality Act (INA using e-verify) and all other federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214(A). The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the Contract and verify employee compliance using the E-verify system and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer. I-9 forms are available for download at USCIS.GOV.
- 3.26.2 The County retains the legal right to inspect contractor and subcontractor employee documents performing work under this Contract to verify compliance with paragraph 3.26.1 of this Section. Contractor and subcontractor shall be given reasonable notice of the County's intent to inspect and shall make the documents available at the time and date

specified. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County will consider this a material breach of the contract and may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or department of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

3.27 VERIFICATION REGARDING-COMPLIANCE WITH ARIZONA REVISED STATUTES §§35-391.05 AND 35-393.06 BUSINESS RELATIONS WITH SUDAN AND IRAN:

- 3.27.1 By entering into the Contract, the Contractor certifies it does not have scrutinized business operations in Sudan or Iran. The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract.
- 3.27.2 The County may request verification of compliance for any contractor or subcontractor performing work under the Contract. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County may pursue any and all remedies allowed by law, including, but not limited to: suspension of work termination of the Contract for default, and suspension and/or department of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

3.28 CONTRACTOR LICENSE REQUIREMENT:

- 3.28.1 The Respondent shall procure all permits, insurance, licenses and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any required certification requirements, required by any and all governmental or non-governmental entities as mandated to maintain compliance with and in good standing for all permits and/or licenses. The Respondent shall keep fully informed of existing and future trade or industry requirements, Federal, State and Local laws, ordinances, and regulations which in any manner affect the fulfillment of a Contract and shall comply with the same. Contractor shall immediately notify both the Office of Procurement Services and the using agency of any and all changes concerning permits, insurance or licenses.
- 3.28.2 Respondents furnishing finished products, materials or articles of merchandise that will require installation or attachment as part of the Contract, shall possess any licenses required. A Respondent is not relieved of its obligation to posses the required licenses by subcontracting of the labor portion of the Contract. Respondents are advised to contact the Arizona Registrar of Contractors, Chief of Licensing, at (602) 542-1525 to ascertain licensing requirements for a particular contract. Respondents shall identify which license(s), if any, the Registrar of Contractors requires for performance of the Contract.

3.29 INFLUENCE

As prescribed in MC1-1202 of the Maricopa County Procurement Code, any effort to influence an employee or agent to breach the Maricopa County Ethical Code of Conduct or any ethical conduct, may be grounds for Disbarment or Suspension under MC1-902. An attempt to influence includes, but is not limited to:

- 3.29.1 A Person offering or providing a gratuity, gift, tip, present, donation, money, entertainment or educational passes or tickets, or any type valuable contribution or subsidy,
- 3.29.2 That is offered or given with the intent to influence a decision, obtain a contract, garner favorable treatment, or gain favorable consideration of any kind.

If a Person attempts to influence any employee or agent of Maricopa County, the Chief Procurement Officer, or his designee, reserves the right to seek any remedy provided by the

Maricopa County Procurement Code, any remedy in equity or in the law, or any remedy provided by this contract.

3.30 POST AWARD MEETING:

The Contractor may be required to attend a post-award meeting with the Using Agency to discuss the terms and conditions of this Contract. This meeting will be coordinated by the Procurement Officer of the Contract.

EXHIBIT B

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Valley Wide Electric Co., LLC - Pricing Sheet

VALLEY WIDE ELECTRIC CO., 22415 N 16TH STREET, PHOENIX, AZ 85024 21241 N. 23RD AVENUE SUITE 5, PHOENIX, AZ 85027

	YES	NO	REBATE
WILL ALLOW OTHER GOVERNMENTAL ENTITIES TO PURCHASE FROM THIS CONTRACT:	M		
WILL ACCEPT PROCUREMENT CARD FOR PAYMENT:	Z	П	
WILL OFFER REBATE (CASH OR CREDIT) FOR UTILIZING PROCUREMENT CARD:		N	%
(Payment shall be made within 48 hours of utilizing the Purchasing Card)			

FUEL COMPRISES 10 % OF TOTAL BID AMOUNT. (If Applicable)

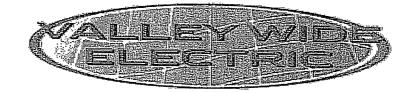
PRICING SHEET: NIGP CODE 91082

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SECOND CALL:

		Unit			Total	
Bid	Tifle	Price	Qty	UofM	Price	Description
10043-S-1-01	Normal Business Hours	\$35.00	1	hour	\$35.00	Labor rate during Normal business hours
10043-S-1-02	After Hours and Saturday Work	\$52.50	1	hour	\$52.50	Labor During After Hours and Saturday
10043-S-1-03	Sunday and Holidays	\$150.00	1	hour	\$150.00	Labor Hours for Sundays and Holidays
10043-S-1-04	Materials (Cost Plus %)	15.00%	1	fee	15.00%	Materials (Cost Plus %)
10043-S-1-05	Equipment Rental - Man-Lift w/1 Technician	\$563.50	1	day	\$563.50	Man-Lift w/1 Technician
10043-S-1-06	Equipment Rental - Man-Lift w/2 Technicians	\$885.50	1	day	\$885.50 ·	Man-Lift w/2 Technicians
10043-S-1-07	Equipment Rental - Service Truck up to 42 feet	\$525.00	1	day	\$525.00	Service Truck up to 42 feet
10043-S-1-08	Equipment Rental - Service Truck over 42 feet	\$710.00	1	day	\$710.00	Service Truck over 42 feet

Terms:	2% 10 DAYS NET 30 DAYS
Vendor Number:	W000006482 X
Telephone Number:	623-587-0802 Ext. 107
Fax Number:	623-587-0855
Contact Person:	Robert Lamore
E-mail Address:	robert@vweco.com
Certificates of Insurance	Not Required
Contract Period:	To cover the period ending August 31, 2013 2016.



22415 N 16th St. Phoenix, AZ 85024 O 623-587-0802 F 623-587-0855

PROPOSAL

Proposal No. 8143-14 Date: 12/12/14

PROPOSAL SUBMITTED TO:		WORK TO BE PERFORMED AT:		
Name: Norman Gordon / City of Glendale		Sahuaro Ranch Park 9802 N. 59 th Ave		
Address:	6210 W. Myrtle Ave	Glendale, AZ 85302		
	Glendale, AZ 85301	Date of Plans:		
Phone:	623-930-2647	Fax: 623-930-2647		

We hereby propose to furnish labor and material to:

1. Pull in new wire through out the light poles on the west side of the park and the parking lot.

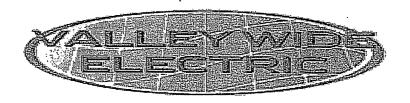
All installation work to be performed and completed in a substantial workmanship manner for the sum of \$32,339.53 + (5.525% Tax) \$1,786.76 = \$34,126.29

<u>This Proposal Excludes the Following Items:</u> City Permits, Bonding Repair of broken conduits Removal of light poles

Respectfully submitted by: Shawn Cavinder O 623-587-0802 Ext #112 C 623-696-5883 shawn@vweco.com



Where Customer Satisfaction Is Our No. 1 Goal



22415 N 16th St. Phoenix, AZ 85024 O 623-587-0802 F 623-587-0855

PROPOSAL

Proposal No. 8144-14 Date: 12/12/14

PROPOSAL SUBMITTED TO:

WORK TO BE PERFORMED AT:

Name:	Norman Gordon / City of Glendale	Montara Park 64 th Ln. And Becker		
Address:	6210 W. Myrtle Ave	Glendale, AZ		
	Glendale, AZ 85301	Date of Plans:		
Phone:	623-930-2647	Fax: 623-930-2647		

We hereby propose to furnish labor and material to:

- 1. Remove and replace SES cabinet.
- 2. Install new contactors and time clock.

All installation work to be performed and completed in a substantial workmanship manner for the sum of \$7,573.40+ (5.525% Tax) \$418.43 = \$7,991.83

This Proposal Excludes the Following Items:

City Permits, Bonding

Respectfully submitted by:

Shawn Cavinder O 623-587-0802 Ext #112 C 623-696-5883 shawn@vweco.com



Where Customer Satisfaction Is Our No. 1 Goal

Legislation Description

File #: 15-120, Version: 1

AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH RUMMEL CONSTRUCTION, INC., FOR LANDFILL GAS AND GROUND WATER SYSTEMS MAINTENANCE, INSTALLATION, PARTS AND SERVICE

Staff Contact: Jack Friedline, Director, Public Works

Purpose and Recommended Action

This is a request for City Council to approve a construction agreement with Rummel Construction, Inc. in an amount not to exceed \$500,000 annually for the maintenance, installation, parts and service of the Landfill's methane gas collection system and ground water monitoring system. This agreement will also authorize the City Manager to annually renew the agreement, at her discretion, for an additional four years and in an amount not to exceed \$2,500,000 over the full five-year period.

<u>Background</u>

The Landfill is comprised of two main sections, the north and south areas. The south area is approaching capacity and is projected to close in 2017. The current scale house, administration building and heavy equipment maintenance facility all are located in a portion of the south area that is planned to be filled with solid waste prior to closure. Once these facilities are vacated and demolished, the existing methane gas collection system must be extended to capture the landfill gas that will be produced in the new disposal area prior to filling this area with waste. Along with the methane gas system improvements, the ground water monitoring wells will need to be raised and in some cases rehabilitated during the transition to the north area.

<u>Analysis</u>

The Public Works Department, with the assistance and guidance of the Materials Management Department, placed an Invitation for Bid (IFB15-12) out in August 2014 to acquire a landfill gas and ground water maintenance, installation, parts and services contract for upcoming projects at the landfill. Two bids were received with Rummel Construction, Inc. providing the lowest responsible and responsive offer. The panel determined that Rummel Construction, Inc. was the strongest candidate and the best fit for the city because of their field and technical expertise to handle upcoming landfill methane gas and ground water installation and maintenance projects.

Public Works Staff, Materials Management and the City Attorney's office has reviewed and approved the utilization of this construction agreement and concurs the agreement is in the City's best interest.

Community Benefit/Public Involvement

As the landfill disposal area grows in size, additional gas wells and collection pipes are essential to prevent offsite migration of methane gas. The landfill gas system expansion and ground water monitoring system

File #: 15-120, Version: 1

preventative maintenance projects will be instrumental towards maintaining environmental compliance as required by State and Federal regulations.

The landfill is a responsible, progressive and environmentally sound long-term solution to solid waste management essential to the future health, welfare and prosperity of Glendale residents.

Budget and Financial Impacts

Funds for this project are available in the fiscal year 2014-15 capital improvement plan (CIP) budget of the Landfill Enterprise Fund and the Landfill Gas Management and Landfill Operating budget. Expenditures with Rummel Construction, Inc. are not to exceed \$500,000 annually, and in an amount not to exceed \$2,500,000 over the full five-year term period pending Council approval.

Cost	Fund-Department-Account	
\$425,000	2440-78526-550800, Landfill Gas System Modifications	
\$50,000	2440-17720-518200, Gas Management System	
\$25,000	2440-17710-518200, Landfill	

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

CONSTRUCTION AGREEMENT

This Construction Agreement ("Agreement") is entered into this _____ day of _____, 2015, and is effective between the City of Glendale, an Arizona municipal corporation ("City"), and Rummel Construction, Inc., an Arizona corporation authorized to do business in the State of Arizona ("Contractor").

RECITALS

- A. City intends to undertake a project for the benefit of the public, with public funds, that is more fully set forth in **Exhibit A** attached ("Project");
- B. City desires to retain the services of Contractor to perform those specific duties and produce the specific work as set forth in the Project;
- C. City and Contractor desire to memorialize their agreement with this document.

AGREEMENT

The parties hereby agree as follows:

1. Project.

- 1.1 <u>Scope</u>. Contractor will provide all services and material necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors, providers or consultants retained by City.
- 1.2 Project Team.
 - a. Project Manager. Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, to complete the Project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement.
 - b. Project Team.
 - (1) The Project Manager and all other employees assigned to the Project by Contractor will comprise the "Project Team."
 - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the Project by Contractor.
 - c. Sub-contractors.
 - (1) Contractor may engage specific technical contractor (each a "Sub-contractor") to furnish certain service functions.
 - (2) Contractor will remain fully responsible for Sub-contractor's services.
 - (3) Sub-contractors must be approved by the City, unless the Sub-contractor was previously mentioned in the response to the solicitation.
 - (4) Contractor shall certify by letter that contracts with Sub-contractors have been executed incorporating requirements and standards as set forth in this Agreement.
- 2. Schedule. The Project will be undertaken in a manner that ensures it is completed in a timely and efficient manner. The Project shall be completed in accordance with the schedule contained in Exhibit A.

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3. Contractor's Work.

- 3.1 <u>Standard</u>. Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services and materials for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.
- 3.2 Licensing. Contractor warrants that:
 - a. Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and
 - b. Neither Contractor nor any Sub-contractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
 - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.
 - (2) Contractor must notify City immediately if any Approval or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default of this Agreement.
- 3.3 <u>Compliance</u>. Services and materials will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, or other standards and criteria designated by City.

3.4 <u>Coordination; Interaction</u>.

- a. If the City determines that the Project requires the coordination of professional services or other providers, Contractor will work in close consultation with City to proactively interact with any other contractors retained by City on the Project ("Coordinating Entities").
- b. Subject to any limitations expressly stated in the budget, Contractor will meet to review the Project, schedules, budget, and in-progress work with Coordinating Entities and the City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.
- c. If the Project does not involve Coordinating Entities, Contractor will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.
- 3.5 <u>Hazardous Substances</u>. Contractor is responsible for the appropriate handling, disposal of, and if necessary, any remediation and all losses and damages to the City, associated with the use, release or threat of release of any pollutant, contaminant or hazardous substances by Contractor in connection with completion of the Project.
- 3.6 <u>Warranties</u>. At any time within two years after completion of the Project, Contractor must, at Contractor's sole expense and within 20 days of written notice from the City, uncover, correct and remedy all defects in Contractor's work. City will accept a manufacturer's warranty on approved equipment.
- 3.7. <u>Bonds</u>. Upon execution of this Agreement, and if applicable, Contractor must furnish Payment and Performance Bonds as required under A.R.S. § 34-608.

4. Compensation for the Project.

4.1 <u>Compensation</u>. Contractor's compensation for the Project, including those furnished by its Sub-contractors will not exceed \$500,000 per fiscal year, or a maximum of \$2,500,000 if the City exercises all renewal options contemplated in Section 13 (Term) of this agreement, as specifically detailed in Exhibit B ("Compensation").

- 4.2 <u>Change in Scope of Project</u>. The Compensation may be equitably adjusted if the originally contemplated scope of services as outlined in the Project is significantly modified by the City.
 - a. Adjustments to the Scope or Compensation require a written amendment to this Agreement and may require City Council approval.
 - b. Additional services which are outside the scope of the Project and not contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.
 - c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take priority and govern the conduct of the parties.

5. Billings and Payment.

- 5.1 <u>Applications</u>.
 - a. Unless Exhibit B (Compensation) dictates otherwise, the Contractor will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.
 - b. The period covered by each Payment Application will be one calendar month ending on the last day of the month.

5.2 <u>Payment</u>.

- a. After a full and complete Payment Application is received, City will process and remit payment within 30 days.
- b. Payment may be subject to or conditioned upon City's receipt of:
 - (1) Completed work generated by Contractor and its Sub-contractors; and
 - (2) Unconditional waivers and releases on final payment from Sub-contractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.
- 5.3 <u>Review and Withholding</u>. City's Project Manager will timely review and certify Payment Applications.
 - a. If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.
 - b. City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.
 - c. Contractor will provide, by separate cover, and concurrent with the execution of this Agreement, all required financial information to the City, including City of Glendale Transaction Privilege License and Federal Taxpayer identification numbers.
 - d. City will temporarily withhold Compensation amounts as required by A.R.S. § 34-221(C).

6. Termination.

- 6.1 <u>For Convenience</u>. City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 15 days following the date of delivery.
 - a. Contractor will be equitably compensated any services and materials furnished prior to receipt of the termination notice and for reasonable costs incurred.

- b. Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with Project closeout and delivery of the required items to the City.
- 6.2 <u>For Cause</u>. City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.
 - a. Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages.
 - b. If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand; however, Contractor will not be subject to consequential damages more than \$1,000,000 or the amount of this Agreement, whichever is greater.

7. Insurance.

For the duration of the term of this Agreement, Contractor shall procure and maintain insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of all tasks or work necessary to complete the Project as herein defined. Such insurance shall cover Contractor, its agent(s), representative(s), employee(s) and any subcontractors.

7.1 Minimum Scope and Limit of Insurance. Coverage must be at least as broad as:

(A) **Commercial General Liability (CGL)**: Insurance Services Office Form CG 00 01, including products and completed operations, with limits of no less than **\$1,000,000** per occurrence for bodily injury, personal injury, and property damage. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

(B) Automobile Liability: Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than \$1,000,000 per accident for bodily injury and property damage.

(C) Worker's Compensation: Insurance as required by the State of Arizona, with Statutory Limits, and Employers' Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.

7.2 Other Insurance Provisions. The insurance policies required by Section 7.1 above must contain, or be endorsed to contain the following insurance provisions:

(A) The City, its officers, officials, employees and volunteers are to be covered as additional insureds of the CGL and automobile policies for any liability arising from or in connection with the performance of all tasks or work necessary to complete the Project as herein defined. Such liability may arise, but is not limited to, liability for materials, parts or equipment furnished in connection with any tasks, or work performed by Contractor or on its behalf and for liability arising from automobiles owned, leased, hired or borrowed on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor's existing insurance policies, provide such endorsement is at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37, if later revisions are used.

(B) For any claims related to this Project, the **Contractor's insurance coverage shall be primary insurance** as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.

(C) Each insurance policy required by the Section shall provide that coverage shall not be canceled, except after providing notice to the City.

- 7.3 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII, unless the Contractor has obtained prior approval from the City stating that a non-conforming insurer is acceptable to the City.
- 7.4 Waiver of Subrogation. Contractor hereby agrees to waive its rights of subrogation which any insurer may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation Policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agent(s) and subcontractor(s).
- 7.5 Verification of Coverage. Within 10 days of the Effective Date of this Agreement, Contractor shall furnish the City with original certificates and amendatory endorsements, or copies of any applicable insurance language effecting the coverage required by this Agreement. All certificates and endorsements must be received and approved by the City before work commences. Failure to obtain, submit or secure the City's approval of the required insurance policies, certificates or endorsements prior to the City's agreement that work may commence shall not waive the Contractor's obligations to obtain and verify insurance coverage as otherwise provided in this Section. The City reserves the right to require complete, certified copies of all required insurance policies, including any endorsements or amendments, required by this Agreement at any time during the Term stated herein.

Contractor's failure to obtain, submit or secure the City's approval of the required insurance policies, certificates or endorsements shall not be considered a Force Majeure or defense for any failure by the Contractor to comply with the terms and conditions of the Agreement, including any schedule for performance or completion of the Project.

- 7.6 **Subcontractors.** Contractor shall require and shall verify that all subcontractors maintain insurance meeting all requirements of this Agreement.
- 7.7 Special Risk or Circumstances. The City reserves the right to modify these insurance requirements, including any limits of coverage, based on the nature of the risk, prior experience, insurer, coverage or other circumstances unique to the Contractor, the Project or the insurer.
- 7.8 Indemnification.
 - a. To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense"; collectively, "Demands or Expenses") asserted by a third-party (*i.e.*, a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.
 - b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.
 - c. Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

8. Immigration Law Compliance.

- 8.1 Contractor, and on behalf any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.
- 8.2 Any breach of warranty under subsection 8.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.
- 8.3 City retains the legal right to inspect the papers of any Contractor or subcontractor employee who performs work under this Agreement to ensure that the Contractor or any subcontractor is compliant with the warranty under subsection 8.1 above.
- 8.4 City may conduct random inspections, and upon request of City, Contractor shall provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under subsection 8.1 above. Contractor agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this section.
- 8.5 Contractor agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Contractor and expressly accrue those obligations directly to the benefit of the City. Contractor also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.
- 8.6 Contractor's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- 8.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.
- 9. Conflict. Contractor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.
- 10. Non-Discrimination Policies. Contractor must not discriminate against any employee or applicant for employment on the basis of race, religion, color sex or national origin. Contractor must develop, implement and maintain non-discrimination policies and post the policies in conspicuous places visible to employees and applicants for employment. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section.

11. Notices.

- 11.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:
 - a. The Notice is in writing, and
 - b. Delivered in person or by private express overnight delivery service (delivery charges prepaid), certified or registered mail (return receipt requested).
 - c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
 - (1) Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier on or before 5:00 p.m.; or

(7/17/14)

:

- (2) As of the next business day after receipt, if received after 5:00 p.m.
- d. The burden of proof of the place and time of delivery is upon the Party giving the Notice.
- e. Digitalized signatures and copies of signatures will have the same effect as original signatures.

11.2 <u>Representatives</u>.

a. Contractor. Contractor's representative ("Contractor's Representative") authorized to act on Contractor's behalf with respect to the Project, and his or her address for Notice delivery is:

Rummel Construction, Inc. Rick J. Rummel, Vice President 7520 East Adobe Drive Scottsdale, AZ 85255 Phone: 480-222-9922

b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale City of Glendale Ernie Ruiz, LF-MRF Superintendent 6210 W. Myrtle, Suite 111 Glendale, Arizona 85301 Phone: 623-930-4722

With required copies to:

City of Glendale City Manager 5850 West Glendale Avenue Glendale, Arizona 85301 City of Glendale City Attorney 5850 West Glendale Avenue Glendale, Arizona 85301

Concurrent Notices.

C.

- (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
- (2) A notice will not be considered to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.
- d. Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.
- 12. Financing Assignment. City may assign this Agreement to any City-affiliated entity, including a nonprofit corporation or other entity whose primary purpose is to own or manage the Project.

13. Term. The term of this contract is for a one-year initial period, which shall commence on the Effective Date of this Agreement, and may be subsequently renewed for four (4) one-year terms. The City may give the Contractor notice of its intent to renew this Agreement thirty (30) days prior to the anniversary of the Effective Date to effectuate such a one-year renewal. Renewals are not automatic and shall only occur if the City gives the Contractor notice of its intent to renew and the Parties agree in writing to such renewal.

14. Entire Agreement; Survival; Counterparts; Signatures.

- 14.1 <u>Integration</u>. This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.
 - a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
 - b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
 - c. Any solicitation, addendums and responses submitted by the Contractor are incorporated fully into this Agreement as Exhibit A. Any inconsistency between Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

14.2 Interpretation.

- a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.
- 14.3 <u>Survival</u>. Except as specifically provided otherwise in this Agreement each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.
- 14.4 <u>Amendment</u>. No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval.
- 14.5 <u>Remedies</u>. All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.
- 14.6 <u>Severability</u>. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform to applicable law.
- 14.7 <u>Counterparts</u>. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.
- **15. Dispute Resolution.** Each claim, controversy and dispute ("Dispute") between Contractor and City will be resolved in accordance with Exhibit C. The final determination will be made by the City.
- 16. Exhibits. The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.
 - Exhibit A[·] Project
 - Exhibit B Compensation
 - Exhibit C Dispute Resolution

The parties enter into this Agreement as of the date shown above.

City of Glendale, an Arizona municipal corporation

By: Brenda S. Fischer Its: City Manager

ATTEST:

Pamela Hanna (SEAL) City Clerk

APPROVED AS TO FORM:

Michael D. Bailey City Attorney

Rummel Construction, Inc. an Arizona corporation

Mum

By: Rick J. Rummel Its: Vice President

WOMEN-OWNED/MINORITY BUSINESS [] YES [] NO

.

EXHIBIT A CONSTRUCTION AGREEMENT

PROJECT

[See attached]

:



Exhibit A CITY OF GLENDALE MATERIALS MANAGEMENT INVITATION FOR BIDS

SOLICITATION NUMBER: IFB 15-12

DESCRIPTION:

LANDFILL GAS AND GROUND WATER SYSTEMS MAINTENANCE, INSTALLATION, PARTS AND SERVICE

OFFER DUE DATE AND TIME: AUGUST 21, 2014, AT 2:00 P.M. LOCAL TIME

Offers for the materials or services specified shall be received by the City of Glendale, Materials Management at the specified due date, time and location. Offers received by the correct time and date will be opened and the name of each bidder and the amount of the bid will be publicly read.

SUBMITTAL LOCATION:

City of Glendale Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

Offers must be in the actual possession of Materials Management on or prior to the time and date, and at the location indicated above. Materials Management is located on the 3rd floor of the Glendale Municipal Office Complex (City Hall) behind the Engineering Department. Offers are accepted from the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, unless otherwise indicated for a holiday. All offers will be time stamped at the Engineering Department's front counter. Late offers will not be considered.

Offers must be submitted in a sealed envelope with the <u>Solicitation Number</u> and the Offeror's name and <u>address</u> clearly indicated on the envelope. See Paragraph 2.3 for additional instructions for preparing an offer.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION PRIOR TO SUBMITTING THEIR BIDS.

For questions regarding this solicitation, please contact: Elmer Garcia, CPPB Contract Analyst 623-930-2866 Egarcia1@glendaleaz.com



1.0

Solicitation Number: IFB 15-12

LANDFILL GAS AND GROUNDWATER SYSTEMS MAINTENANCE, INSTALLATION PARTS AND SERVICE. CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

SPECIFICATIONS

1.1 INTRODUCTION

1.1.1. The City of Glendale ("City") intends to enter into a contract with a qualified Contractor for fabrication, installation and delivery of products for the City Landfill methane gas management and water systems, including, but not limited to, earthmoving, backhoe, trenching, and shoring services.

1.2 SCOPE OF WORK

- 1.2.1 The Contractor shall furnish all labor, materials, supplies and equipment necessary to fabricate, install and deliver products to the City Landfill for maintaining its gas and water management systems.
- 1.2.2 Contractor must be able to perform maintenance and service on, but not limited to, the following products:

1.2.2.1 SDR 11 HDPE

1.2.2.2 HDPE and PVC-18", 12", 6", 4" and 2" pipe

- 1.2.3 Majority of these services shall be performed on-site at the City of Glendale Landfill located at 11480 W. Glendale Avenue, Glendale, AZ 85307.
- 1.2.4 Maintenance services and inspections shall be completed as requested and in accordance with manufacturer's recommendations and warranty requirements.
- 1.2.5 Contractor will be required to return calls for service within 24 hours.
- **1.2.6** Contractor must provide a minimum of one year warranty for labor and parts for services provided to the City.
- 1.2.7 Travel charges will be allowable for Contractor on-site trips. However, the City will not pay travel charges for technician if work is performed off-site at the Contractor's location.

1.3 CONTRACTOR REQUIREMENTS

1.3.1 The Contractor shall have at least five (5) years of experience in providing fabrication, maintenance and installation of methane gas recovery and ground water monitoring systems products and services.



Solicitation Number: IFB 15-12

LANDFILL GAS AND GROUNDWATER SYSTEMS MAINTENANCE, INSTALLATION PARTS AND SERVICE

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

- 1.3.2 The Contractor shall maintain in current status all Federal, State, County and Local licenses and permits required to operate the Contractor's business.
- 1.3.3 The Contractor shall comply with Occupational Safety and Health Administration (OSHA) standards during the performance of all contracted services.
- 1.3.4 Contractor should be available on NORMAL BUSINESS HOURS (Monday through Friday, 7:00 AM to 6:00 PM), and AFTER BUSINESS HOURS. The City observes the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, the day after Thanksgiving and Christmas.
- **1.3.5** All of the Contractor's materials, techniques and processes used for this contract shall comply with all Federal, State, local laws, regulations, permits, standards and ordinances pertaining to health, safety and environmental protection.

1.4 SERVICE ADDITIONS/INTERRUPTIONS/END OF CONTRACT CONDITIONS

- 1.4.1 The City reserves the right to add or delete necessary parts, services or equipment during the contract period.
- 1.4.2 In the event of such a substitution or deletion of service areas, the City will give the Contractor 10-days notice prior to date of discontinuance of maintenance services and responsibilities.
- 1.4.4 The Contractor shall not be compensated for the loss of work due to deletions or substitutions.
- 1.4.5 In the event the City and the Contractor cannot agree on additional service or equipment charges, the City reserves the right to perform the additional services with City personnel, or other outside contract services.
- 1.5 WASTE
 - 1.5.1 The Contractor, at his expense, shall remove and dispose waste products and debris from the site in compliance with Federal, State, County and City laws and regulations. Contractor should factor in the environmental fees in their contract price.



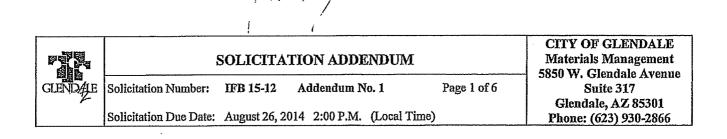
Solicitation Number: IFB 15-12

LANDFILL GAS AND GROUNDWATER SYSTEMS MAINTENANCE, INSTALLATION PARTS AND SERVICE

CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301

1.6 DEFICIENCIES IN WORK, PENALTIES AND REMEDIES

- **1.6.1** When damages to City property occurs as a result of Contractor's negligence, the City will arrange for repairs to be made and the costs for making repairs to the areas will be deducted from final payments to the Contractor.
- 1.6.2 In the event the Contractor's performance does not meet one or more of the performance standards described herein, the Contractor will be given written notice setting forth the deficiencies to be concected to the Landfill Supervisor's approval.
- 1.6.3 In the event the Contractor has been notified of a deficiency and the deficiency is not corrected, Landfill Operations may perform the services using city personnel or by a separate contract. The cost for follow-up inspections and of the services performed may be deducted from the Contractor's monthly invoice.
- 1.6.4 Failure to correct the deficiency within a reasonable timeframe may result in termination of the contract for default.



IFB 15-12

LANDFILL GAS AND GROUND WATER SYSTEMS MAINTENANCE, INSTALLATION, PARTS AND SERVICE

ADDENDUM NO. 1

The following revisions and clarifications have been made to Invitation for Bids No. 15-12:

1. COVER SHEET, Page 1, OFFER DUE DATE AND TIME, DELETE and REPLACE WITH

AUGUST 26, 2014, AT 2:00 P.M. LOCAL TIME

2. SPECIFICATIONS, 1.1 INTRODUCTION, add Item 1.1.2 as follows:

"Any manufacturer's names, trade names, brand names or catalog numbers used in the specification are for the purpose of describing and/or establishing the quality, design and performance required. Any such reference is not intended to limit or restrict an offer by any supplier but is only enumerated in order to advise potential contractors of the requirements of the City. Any offer which proposes like quality, design or performance will be considered."

3. PRICE SHEET 5.0, DELETE and REPLACE WITH the REVISED PRICE SHEET BELOW:



SOLICITATION ADDENDUM

Solicitation Number: IFB 15-12 Addendum No. 1

dum No. 1 Page 2 of 6

CITY OF GLENDALE Materials Management 5850 W. Glendale Avenue Suite 317 Glendale, AZ 85301 Phone: (623) 930-2866

Solicitation Due Date: August 26, 2014 2:00 P.M. (Local Time)

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REVISED PRICE SHEET

	LABOR PRICIN		
All pri	ices quoted shall be firm and fixed for the specified co t, insurance, warranty and any other associated direct	onfract period. All pri or indirect costs, exc	cing shall include all ept faxes.
Itëm No	Description	Unit of Measure	Unit Price
5.1	Standard services performed during normal business hours (Monday through Friday, 7:00 AM to 6:00 PM) which includes fabrication, installation, delivery of HDPE/PVC products for the landfill methane gas management and ground water systems as per Specifications.	Per Crew Hour	\$ <u>115.00</u> /Ĉrew Hour
5.2	Overtime services performed after normal business hours as per specifications.	Per Crew Hour	<u>\$ 171.00 /Crew</u> Hour
5.3	Travel charges for Contractor on site trips (Flat	Per Crew Call	<u>\$_115.00</u> /Crew Call

EQUIPMENT PRICING

All prices quoted shall be firm and fixed for the specified contract period. All pricing shall include all towing and hauling costs, insurance, warranty and any other associated direct or indirect costs, except taxes.

taxes. Item Nó.	Description	Unit of Measure	Unit Price
5.4	Backhoe, Approximately 14' Make & Model: Caterpillar 420	Per Hour	\$ <u>90.00</u> /Hour
5.5	Scraper, Approximately 24 cubic yards capacity Make & Model: Caferpillar 637	Per Hour	<u>\$ 265.00 /</u> Hour
5.6	Track Dozers, Approximately 70-190 hp Make & Model: <u>Caterpillar D6</u>	Per Hour	\$ <u>135.00</u> /Hour
5.7	Wheel Loaders, Approximately 2.5 yard loader. Make & Model: Caterpillar 950	Per Hour	\$ <u>110.00/</u> Ĥou <u>r</u>

	ELENDALE	SOLICITATION ADDEN Solicitation Number: IFB 15-12 Addendum No. Solicitation Due Date: August 26, 2014 2:00 P.M. (1	g¢ 3 of 6	Materials 5850 W. Gl Sui Glendal	GLENDALE Management endale Avenue te 317 e, AZ 85301 23) 930-2866	
	Ś.	8 Other Equipment: (Pls. Specify equip make and model) McElroy #618 Fusion Machine 6"-18	Per Hour	.\$ <u>.45.00</u>	"/Ĥour	
		WCEIroy #618 Fusion Machine 6 -16	<u> </u>	······		
		HDPE AND				
	Ite N	m	ALS ONLY Estimated Quantities (A)	Unit of	Unit Price (B)	Extended Amount (A X B)
	5.	9 HDPE (FRIATEC or approved equivalent), 6 inch fusion coupling	1	Each	\$ <u>105.4</u> 3	\$ <u>105.43</u>
	5.		1.	Each	<u>\$ 41.75</u>	\$ <u>41.75</u>
	5,	(1 HDPE. (FRIATEC. ör approved equivalent), 2 inch füsion coupling	1	Each	<u>\$ 13.64</u>	<u>\$_13.64</u>
	5,	12 HDPE, 18 inch pipe - 20 foot section.	Ï	Each	\$ 721.25	<u>\$ 721.25</u>
	5.	13 HDPB, 12 inch pipe - 20 foot section	1	Each	\$ 361.92	\$ 361.92
ł	.5.	14 HDPE, 6 inch pipe - 20 foot section	<u>.</u>	Each	\$100.36	\$ <u>100.36</u>
	. 5.	15 HDPE, 2 inch pipe – 50 foot section	Ĩ	Each_	\$ <u>66.17</u>	\$ <u>66.17</u>
		16 HDPE, 6 inch 90° elbow.	.1	Each	\$ <u>46,25</u>	<u>\$ 46.25</u>
	.5	17 HDPE, 6 inch 45° elbow	.1	Each	<u>\$ 46.25</u>	\$ 46.25
		18 HDPE, 6 inch "T".	I	Each	\$ 59.76	<u>\$ 59.76</u>
		19 HDPE, 4 inch to 2 inch reducers.	1	Eạch	\$ 12.50	\$_12.50
		SCHEDULE 80 PVC				· · · · · · · · · · · · · · · · · · ·
	5	.20 PVC, 18 inch pipe – 20 foot section	Ï	Each	\$.1816.72	\$ 1816.72
- 1			1	1	1	

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	SOLICITATION ADDEN Solicitation Number: IFB 15-12 Addendum No. Solicitation Due Date; August 26, 2014 2:00 P.M. ()	CITY OF GLENDALE Materials Management 5850 W. Glendale Avenue Suite 317 Glendale, AZ 85301 Phone: (623) 930-2866			
5.2	1 PVC, 12 inch pipe - 20 foot section	İ	Each	\$ 305.28	\$ 305.28
5.2		1	Each	\$ 239.04	<u>\$ 239.04</u>
5.2		1	Each	\$ 38.65	\$ 38,65
5,2	÷	Ĭ	Each	\$ 46.44	\$_46.44
5.2		<u>1.</u>	Each	\$ 65,00	\$ 65.00
5.2		1	Each	\$ 597.50	\$ 597.50
			otal (Items	5,4 to 5.26)	\$ 4,683.91

Note: The City of Glendale's system uses 2 inch spiral flex hoses to connect the wells to the laterals. This 2 inch spiral flex hose is an off size. Vendors need to make sure that the spiral flex hose will fit over a 2 inch PVC or HDPE pipe. The list provided above is not an all-inclusive list but will be used to gauge the contractor's ability to provide materials at a fair market value.

5.27 <u>TAX AMOUNT</u> Contractor should not include any use tax or federal tax in their bid price. The City is exempt from the payment of federal excise tax and will add use tax as applicable. For the purpose of determining the lowest cost, the City will not take tax into consideration.

Tax %: 5:98

- 5.28 <u>DELIVERY</u> All services shall be performed in accordance with the Specifications.
- 5.29 PROCUREMENT CARD ORDERING CAPABILITY Please check the appropriate box.

X Yes, I will accept payment under this contract with the Procurement Card.

No, I will not accept payment under this contract with the Procurement Card.

		CITY OF GLENDALE Materials Management 5850 W. Glendale Avenue			
GLENDALE	Solicitation Number:	IFB 15-12	Addendum No. 1	Page 5 of 6	Suite 317 Glendale, AZ 85301
r r	Solicitation Due Date:	August 26, 2	014 2:00 P.M. (Local Ti	me)	Phone: (623) 930-2866

4. The following questions were submitted by a potential offeror (in BOLD print) and the City's response:

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Question 1: Page 14, 5.1: Please elaborate on what services are to be included in this per hour rate. Is this rate a per worker-hour rate or a per crew-hour rate? Should this rate include equipment costs? If so, what equipment should be anticipated? Please note that equipment costs will vary significantly depending on the type of pipe being installed. Is any of the pipe to be buried?

Answer 1: This is a per crew hour rate, Equipment costs are separated and the list of equipment are included (see attached REVISED PRICE SHEET 5.0). Yes, some pipes will be buried.

Question 2: Page 14, 5.4-5.21: Should these line items include only the material cost of the item, or should they also include installation of the item?

Answer 2: Materials only (see attached REVISED PRICE SHEET 5:0).

Question 3: Page 14, 5:4,5.5 & 5.6: Should the contractor assume that all 6", 4", and 2" pipe will be welded using electrofusion couplings (and not butt fusion welded)?

Answer 3: We are requesting pricing for electro-fusion couplings, built fusing does not require couplings.

Question 4: Page 14, 5.4, 5.5 & 5.6: Is the Friatec brand required or can equivalent product be used?

Answer 4: Any manufacturer's names, trade names, brand names or catalog numbers used in the specification are for the purpose of describing and/or establishing the quality, design and performance required. Any such reference is not intended to limit or restrict an offer by any supplier but is only enumerated in order to advise potential contractors of the requirements of the City. Any offer which proposes like quality, design or performance will be considered.

Question 5: Page 14, 5.7 & 5.8: Please confirm the section length. In our experience, we have found that 40' or 50' length is standard for this size range of HDPE.

Answer: We are requesting the price for 20' sections so we can compare pricing, apples to apples.

Question 6: Page 15, 5.10: Please confirm the section length. In our experience, we have found that this size of pipe can be procured in 500' coils as well as the standard 40' or 50' straight lengths.

Answer 6: We are requesting the price for 50' sections so we can compare pricing, apples to apples,

PR.	SOLICITATION ADDENDUM	Materials Management 5850 W. Glendale Avenue
GLENDALE	Solicitation Number: IFB 15-12 Addendum No. 1 Page 6 of 6	
	Solicitation Due Date: August 26, 2014 2:00 P.M. (Local Time)	Phone: (623) 930-2866
'me	testion 7: Page 14-15, 5.7-5.14: Please confirm the resin specet. In our experience, PE-4710 is most commonly required.	ification that all HDPE should
	and the second of the second sec	PVC is required for each item.

Question 8: Page 15, 5.15-5.20: Please confirm that Schedule 80 PVC is required for each item. Would C900 or another specification be sufficient for any of the items?

CITY OF GLENDALE

Answer 8: We are requesting the price for Schedule 80 PVC so we can compare pricing, apples to apples.

Question 9: Page 15, 5.21: Please provide additional detail and specifications on the desired product. An example & model number may be helpful in ensuring the correct product is priced.

Answer 9: The contractor shall provide pricing on standard spiral flex hose that they will be using, insuring that it will connect with 2" PVC or 2" HDPE pipe.

All other solicitation provisions, terms and conditions and scope of work shall remain the same. Offeror must acknowledge receipt and acceptance of this addendum by returning the entire addendum with the proposal.

Name of Company:	Rummel Construction, inc
Address:	7520 East Adobe Drive, Scottsdale, AZ 85255
Authorized Signature:	
Print Name and Title:	Pete Woods, Project Manager
Print Name and Title:	Fele Wouds, i Tojeot Managor

	SOLICITATION ADDENDUM	CITY OF GLENDALE Materials Management 5850 W. Glendale Avenue
GLENDALE	Solicitation Number: IFB 15-12 Addendum No. 2 Page 1 of 2	Suite 317 Glendale, AZ 85301
	Solicitation Due Date: August 26, 2014 2:00 P.M. (Local Time)	Phone: (623) 930-2866

IFB 15-12

LANDFILL GAS AND GROUND WATER SYSTEMS MAINTENANCE, INSTALLATION, PARTS AND SERVICE

ADDENDUM NO.2

The following clarifications and revisions have been made to Invitation for Bids No. 15-12:

1. REVISED PRICE SHEET, Hem 5.1, Description, shall be revised as follows:

Standard services performed during normal business hours (Monday through Friday, 7:00 AM to 6:00 PM) which includes fabrication, installation, delivery of HDPE/PVC products for the landfill methane gas management and ground water systems as per Specifications.

Pricing shall include labor, truck, tools, and consumables (but excludes equipment). For purposes of this solicitation, a typical crew shall consist of <u>one supervisor</u> and <u>two laborers</u>.

2. REVISED PRICE SHEET, Item 5.5, Description, shall be revised as follows:

Tandem Power Scraper, Approximately 24 cubic yards capacity See Attached Make & Model:

3. REVISED PRICE SHEET, Item 5.8, Description, shall be revised as follows:

Fusion Machine Make & Mödel: ______ See Attached

4. REVISED PRICE SHEET, Item 5.12 through 5.15, description of HDPE pipes shall include "DR based" or "Dimension Rating Based".

GLENDALE	SOLICITATION ADDENDUM	CITY OF GLENDALE Materials Management 5850 W. Glendale Ayenue
GLENDALE	Solicitation Number: IFB 15-12 Addendum No. 2 Page 2 of 2	Suite 317 Glendale, AZ 85301
r -	Solicitation Due Date: August 26, 2014 2:00 P.M. (Local Time)	Phone: (623) 930-2866

5. REVISED PRICE SHEET, ITEM 5.16 through 5.19, description of HDPE dimension shall include the following:

Se	nedule	80 P.V.C	2 Pipe	Dimensi	ins -
PIPE SIZE	O,D,	AVE. I.D.	Min Wall	NOM. WEIGHT (Wt./ft.)	MAX. W.P. PSI
ë ^q	6.625	5.709	.432	5.610	28 <u>0</u>
: <u>1</u> 2"	12,750	11.294	.687	17.984	-23 <u>0</u> :

Sizes are marked as being in compliance with ASTM D1785 (pressure pipe) and ASTM D2665 (drain, waste & vent pipe--DWV).

6. REVISED PRICE SHEET, Add Item 5,30, Optional Equipment, as follows:

"Optional Equipment: Bidders may submit a list of equipment they intend to offer to the City on a separate sheet of paper. The list should include prices, equipment make and model. Optional equipment shall not be included in the City's bid evaluation process. The City reserves the right to accept or reject the optional items upon contract award. When accepted by the City, these optional items shall become part of the contract."

All other solicitation provisions, terms and conditions and scope of work shall remain the same. Offeror must acknowledge receipt and acceptance of this addendum by returning the entire addendum with the proposal.

Name of Company:	Rummel Construction, Inc.
Äddress:	7520/East Adobe Drive, Scottsdale, AZ 85255
Authorized Signature:	21 Die De la la suit
Print Name and Title:	Pete Wooss Phoyent monager

2.4 Alternate Offers/Exceptions

Items 5.4 – 5.8 Equipment Pricing

All Equipment is pricing includes fuel, maintenance and operator.



September 2011 Standard Rev 2

EFFECTIVE DATE

\$26,00

RUMMEL CONSTRUCTION. INC.

TIME AND MATERIALS RATES 09/01/2011 HOURLY RATE RESOURCE MOTOR GRADERS \$115.00 CAT 140 **CAT 14** \$135.00 \$155.00 CAT 16 ere group de la straite de la s WHEEL LOADERS CAT.950 S110.00 CAT 965 \$130.00 ĊAT 980 \$160.00 \$235.00 CAT 988 SCRAPERS 1.1 \$115.00 CAT'513 ELEVATING SCRAPER \$185.00 CAT'621 AUGER SCRAPER \$185.00 CAT 623 ELEVATING SCRAPER \$215.00 CAT 631 SCRAPER CAT 627 FUSH PULL SCRAPER \$215.00 \$265.00 CAT 637 PUSH PULL SCRAPER CAT 657 PUSH PULL SCRAPER \$335,00 REYNOLDS 12CY LASER PLANE W / 200HP TRACTOR \$125,00 DOZERS D6 CRAWLER TRACTOR \$135.00 DB CRAWLER TRACTOR \$190.00 D9 CRAWLER TRACTOR \$235.00 \$285,00 DID CRAWLER TRACTOR Ľ. BACKHOE / SKIP LOADER CAT 345CL EXCAVATOR \$185.00 CAT 345CL EXCAVATOR W/7500# HAMMER \$300.00 \$125,00 CAT 930DL EXCAVATOR CAT 330BL EXCAVATOR W/7500# HAMMER \$245,00 CAT 3300L EXCAVATOR W/ LEADING EDGE RIPPER BUCKET \$195.00. \$85.00 CAT 30BC EXCAVATOR CAT SOBC EXCAVATOR W/ 1300# HAMMER \$130.00 CAT 420E W/1500# HAMMER \$135.00 \$80,00 CAT 420E BACKHOE CASE 570 & DEERE 210LE GANNON TRACTOR \$75.00 TRUCKS 10 WHEEL DUMP TRUCK \$75:00 SEMIEND DUMP" \$85,00 SEMIBELLY DUMP S85.00 25-30 TON ARTICULATED ROCK TRUCKS \$145.00 35-40 TON ARTICULATED ROCK TRUCKS \$160.00 J. N. COMPACTION EQUIPMENT CAT CP563E VIBRATORY COMPACTOR \$95.00 CAT PS350C.7 WHEEL PNEUMATIC ROLLER 595.00 CAT BISF SHEEPSFOOT COMPACTOR \$145.00 \$140,00 AG TRACTOR & DISK \$140.00 AG TRACTOR & BEEGEE WATER EQUIPMENT 1.1.1 10,000 GALLON WATER PULL \$180.00 8,000 GALLON WATER PULL (SINGLE ENGINE) ,\$145.00 ·\$175.00 8,000 GALLON WATER PULL (TWIN ENGINE) \$110.00 5.000 GALLON WATER PULL \$80.00 4,000 GALLON WATER TRUCK \$70.00 2,000 GALLON WATER TRUCK \$1,000.00 12" HURRICANE PUMP WEEKLY 10000 GALLON KLEIN TANK WEEKLY \$550,00 RECLAIMERS / SOIL STABILIZERS CMI B' SOIL STABILIZER \$200,00 BOMAG 6.5' SOIL STABILIZER \$80.00 MISC. EQUIPMENT i in the second second EXTEC TRACK MOUNTED BX10 VIBRATING SCREEN \$100,00 \$295,00 PIONEER-2650 JAW CRUSHER OTHER FOREMAN/PICKUP \$60.00. \$45.00 GRADE CHECKER

NOTES:

1) Rales do not apply to Davis Bacon Wage projects unless noted otherwise.

2) Rales do not apply to Weekend or Holdzy work.

-3) Gonstiliction water or other insterials will be charged at a rate of cost plus 15% (overhead & profil).

4) Trücking rates are subject to current market rates and do not include any appacable travel lime.

.5) Additional charges may apply for Rock or Severe Appscation jobs.

B) Mobilization and Demobilization to be chaiged separately.

7) Rales based on 53:50 per gallon fuel cost. Any increase above 5% subject to increase/swicharge.

B) Rales exclude operator and edditional support equipment required (Vorify with General Supl.)

LABORER



FINANCE DEPARTMENT/MATERIALS MANAGEMENT IFB NAME: LANDFILL GAS & GROUND WATER SYSTEMS MAINTENANCE, INSTALLATION, PARTS AND SERVICE IFB NO.: 15-12

IFB NO.: 15-12 DUE DATE: August 26, 2014					RUMMEL		STRATEGIC CONSTRUCTION	
CONT	CONTRACT ANALYST: Elmer Garcia			CONSTRUCTION INC.		SOLUTIONS		
ITEM NO.	DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY (A)	UNIT PRICE (B)	RICE EXTENDED PRICE		EXTENDED PRICE (A X B)	
	LABOR PRICING							
5.1	Standard services performed during normal business hours (Monday through Friday, 7:00 AM to 6:00 PM) which includes fabrication, installation, delivery of HDPE/PVC products for the landfill methane gas management and ground water systems as per Specifications. Pricing shall include labor, truck, tools, and consumables (but excludes equipment). For purposes of this solicitation, a typical crew shall consist of one supervisor and two laborers.		240	\$115.00	\$27,600.00	\$206.00	\$49,440.00	
	Overtime services performed after normal	Per Crew						
5.2	business hours as per specifications.	Hour	10	\$171.00	\$1,710.00	\$267.00	\$2,670.00	
5.3	Travel charges for Contractor on-site trips 5.3 (Flat fee per call)		20	\$115.00	\$2,300.00	\$665.00	\$13,300.00	
Subto	Subtotal (Items 5.1 thru 5.3)				\$31,610.00		\$65,410.00	
	EQUIPMENT PRICING		•					
5.4	Backhoe, Approximately 14' Make and Model:	Per Hour	8	\$90.00	\$720.00	\$45.00	\$360,00	
	Tandem Power Scraper, Approximately 24 Cubic yards capacity Make and Model:	Per Hour	8	\$265.00	\$2,120.00	\$285.00	\$2,280.00	
	Track Dozers, Approximately 70-190 hp Make and Model:	Per Hour	8	\$135.00		\$60.00	\$480.00	
	Wheel Loaders, Approximately 2.5 yard loader Make and Model:	Per Hour	8	\$110.00	\$880.00	\$76.00	\$608.00	
	Fusion Machine			φ110.00		\$10.00	4000.00	
5.8	1		200	\$45.00	\$9,000.00	\$62.00	\$12,400.00	
Subtot	al (Items 5.4 thru 5.8)				\$13,800.00		\$16,128.00	
	HDPE AND PVC PRICING (MATERIALS ONLY)							

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FINANCE DEPARTMENT/MATERIALS MANAGEMENT IFB NAME: LANDFILL GAS & GROUND WATER SYSTEMS MAINTENANCE, INSTALLATION, PARTS AND SERVICE

IFB NO.: 15-12 DUE DATE: August 26, 2014 CONTRACT ANALYST: Elmer Garcia			RUMMEL CONSTRUCTION INC.		STRATEGIC CONSTRUCTION SOLUTIONS		
	HDPE (FRIATEC or approved equivalent), 6 Inch fusion coupling	Each	50	\$105.43	\$5,271.50	\$86.07	\$4,303.50
5.10	HDPE (FRIATEC or approved equivalent), 4 inch fusion coupling	Each	20	\$41.75	\$835.00	\$34.36	\$687.20
5.11	HDPE (FRIATEC or approved equivalent), 2 inch fusion coupling	Each	20	\$13.64	\$272.80	\$11.08	\$221.60
5.12	HDPE, DR based or Dimension Rating Based, 18 Inch plpe-20 foot section	Each	50	\$721.25	\$36,062.50	\$1,012.00	\$50,600.00
5.13	HDPE, DR based or Dimension Rating Based, 12 inch pipe-20 foot section	Each	50	\$361.92	\$18,096.00	\$512.60	\$25,630.00
5.14	HDPE, DR based or Dimension Rating Based, 6 inch pipe-20 foot section	Each	50	\$100.36	\$5,018.00	\$137.13	\$6,856.50
5.15	HDPE, DR based or Dimension Rating Based, 2 inch pipe-50 foot section	Each	25	\$66.17	\$1,654.25	\$51.35	\$1,283.75
5.16	HDPE, 6 inch 90 degree elbow	Each	20	\$46.25	\$925.00	\$37.64	\$752.80
5.17	HDPE, 6 inch 45 degree elbow	Each	20	\$46.25	· \$925.00	\$37.64	\$752.80
5.18	HDPE, 6 Inch "T"	Each	20	\$59.76	\$1,195.20	\$47.70	\$954.00
5.19	HDPE, 4 inch to 2 inch reducers	Each	20	\$12.50	\$250.00	\$8.82	\$176.40
	SCHEDULE 80 PVC						
5.20	PVC, 18 inch pipe - 20 foot section	Each	25	\$1,816.72	\$45,418.00	\$943.80	\$23,595.00
5.21	PVC, 12 inch pipe - 20 foot section	Each	25	\$305.28	\$7,632.00	\$333.63	\$8,340.75
5.22	PVC, 6 inch pipe - 20 foot section	Each	25	\$239.04	\$5,976.00	\$164.61	\$4,115.25
5.23	PVC, 6 inch 90 degree elbow	Each	20	\$38.65	\$773.00	\$31.67	\$633.40
5,24	PVC, 6 inch 45 degree elbow	Each	20	\$46.44	\$928.80	\$37.57	\$751.40
5.25	PVC, 6 inch, "T"	Each	20	\$65.00	\$1,300.00	\$44.13	\$882.60
5.26	PVC, *2 inch spiral flex hose, 100 foot section	Each	10	\$597.50	\$5,975.00	\$702.90	\$7,029.00
Subto	ial (liems 5.4 thru 5.26)				\$138,508.05		\$137,565,95



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FINANCE DEPARTMENT/MATERIALS MANAGEMENT IFB NAME: LANDFILL GAS & GROUND WATER SYSTEMS MAINTENANCE, INSTALLATION, PARTS AND SERVICE IFB NO.: 15-12 DUE DATE: August 26, 2014 CONSTRUCTION CONSTRUCTION

CONTRACT ANALYST: Elmer Garcia	;	CONSTRUCTION INC.		SOLUTIONS	
Grand Total (Items 5.1 thru 5.26)			\$183,918.05		\$219,103.95

AWARD DETERMINATION: Award is recommended to: The Offeror is deemed the lowest responsible and responsive bidder.

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EXHIBIT B CONSTRUCTION AGREEMENT

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

Method of payment is provided in Paragraph 4 of the Agreement. Compensation shall be Hourly Rate plus reimbursable expenses for Contractor and all Sub-contractors. Documentation including monthly status report must be included with each Payment Application. The amount of compensation is provided in IFB 15-12 and its supporting documents attached hereto.

NOT-TO-EXCEED AMOUNT

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the entire term of the Project must not exceed \$500,000 per fiscal year, or a maximum of \$2,500,000 if the City exercises all renewal options contemplated in Section 13 (Term) of this agreement.

DETAILED PROJECT COMPENSATION

Landfill gas and ground water systems installation, preventative maintenance services and repairs at the city of Glendale landfills.

11480 W. Glendale Avenue, Glendale, AZ 85307 and 103rd and Olive-Northern

EXHIBIT C CONSTRUCTION AGREEMENT

DISPUTE RESOLUTION

1. Disputes.

- 1.1 <u>Commitment</u>. The parties commit to resolving all disputes promptly, equitably, and in a goodfaith, cost-effective manner.
- 1.2 <u>Application</u>. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.
- 1.3 <u>Initiation</u>. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.
- 1.4 <u>Informal Resolution</u>. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.
 - a. The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;
 - b. The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and
 - c. The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

2. Arbitration.

- 2.1 <u>Rules</u>. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the Dispute will be decided by binding arbitration in accordance with Construction Industry Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
 - a. The parties will exercise best efforts to select an arbitrator within 5 business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.
 - b. The arbitrator selected must be an attorney with at least 15 years experience with commercial construction legal matters in Maricopa County, Arizona, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 <u>Discovery</u>. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.
- 2.3 <u>Hearing</u>. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.
- 2.4 <u>Award</u>. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently

alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.

- 2.5 <u>Final Decision</u>. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.
- 2.6 <u>Costs</u>. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party shall pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.
- 3. Services to Continue Pending Dispute. Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of required services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Contractor in accordance with this Agreement.

4. Exceptions.

- 4.1 <u>Third Party Claims</u>. City and Contractor are not required to arbitrate any third-party claim, crossclaim, counter claim, or other claim or defense of a third party who is not obligated by contract to arbitrate disputes with City and Contractor.
- 4.2 Liens. City or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.
- 4.3 <u>Governmental Actions</u>. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.

EXHIBIT D

SECTION 3 CLAUSE APPLICABILITY

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FINANCE DEPARTMENT/MATERIALS MANAGEMENT IFB NAME: LANDFILL GAS & GROUND WATER SYSTEMS MAINTENANCE,

INSTALLATION, PARTS AND SERVICE

IFB NO.: 15-12 DUE DATE: August 26, 2014 CONTRACT ANALVET: Elmor Correio					RUMMEL CONSTRUCTION INC.		STRATEGIC CONSTRUCTION	
CONTRACT ANALYST: Elmer Garcia					SOLUTIONS			
ITEM NO.	DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY (A)	UNIT PRICE EXTENDED PRICE (B) (A X B)		UNIT PRICE (B)	EXTENDED PRICE (A X B)	
	LABOR PRICING							
	Standard services performed during normal business hours (Monday through Friday, 7:00 AM to 6:00 PM) which includes fabrication, installation, delivery of HDPE/PVC products for the landfill methane gas management and ground water systems as per Specifications. Pricing shall include labor, truck, tools, and consumables (but excludes equipment). For purposes of this solicitation, a typical crew shall consist of	Per Crew		0445 00			2	
5.1	one supervisor and two laborers.	Hour	240	\$115.00	\$27,600.00	\$206.00	\$49,440.00	
5.2	Overtime services performed after normal business hours as per specifications.	Per Crew Hour	10	\$171.00	\$1,710.00	\$267.00	\$2,670.00	
5.3	Travel charges for Contractor on-site trips (Flat fee per call)	Per Crew Hour	20	\$115.00	\$2,300.00	\$665.00	\$13,300.00	
Subto	al (Items 5.1 thru 5.3)			l	\$31,610.00		\$65,410.00	
					,			
	EQUIPMENT PRICING		·	•				
	Backhoe, Approximately 14'							
5.4	Make and Model:	Per Hour	8	\$90.00	\$720.00	\$45.00	\$360.00	
	Tandem Power Scraper, Approximately 24 Cubic yards capacity Make and Model:	Per Hour	8	\$265.00	\$2,120.00	\$285.00	\$2,280.00	
	Track Dozers, Approximately 70-190 hp Make and Model:	Per Hour	8	\$135.00		\$60.00	\$480.00	
	Wheel Loaders, Approximately 2.5 yard	1 01 1104	<u> </u>	φ100.00	ψ1,000.00	φυυ.υυ		
5.7	loader Make and Model:	Per Hour	8	\$110.00	\$880.00	\$76.00	\$608.00	
5.8	Fusion Machine Make and Model:	Per Hour	200	\$45.00	\$9,000.00	\$62.00	\$12,400.00	
Subto	Subtotal (Items 5.4 thru 5.8)			\$13,800.00		\$16,128.00		
	HDPE AND PVC PRICING (MATERIALS ONLY)							



FINANCE DEPARTMENT/MATERIALS MANAGEMENT IFB NAME: LANDFILL GAS & GROUND WATER SYSTEMS MAINTENANCE, INSTALLATION, PARTS AND SERVICE IFB NO.: 15-12

IFB NO.: 15-12 DUE DATE: August 26, 2014				RUMMEL		STRATEGIC CONSTRUCTION	
CONTRACT ANALYST: Elmer Garcia			CONST	RUCTION INC.		LUTIONS	
HDPE (FRIATEC or approved equivalent), 6 inch fusion coupling	Each	50	\$105.43	\$5,271.50	\$86.07	\$4,303.50	
HDPE (FRIATEC or approved equivalent), 4 inch fusion coupling	Each	20	\$41.75	\$835.00	\$34.36	\$687.20	
HDPE (FRIATEC or approved equivalent), 2 inch fusion coupling	Each	20	\$13.64	\$272.80	\$11.08	\$221.60	
HDPE, DR based or Dimension Rating Based, 18 inch pipe-20 foot section	Each	50	\$721.25	\$36,062.50	\$1,012.00	\$50,600.00	
HDPE, DR based or Dimension Rating Based, 12 inch pipe-20 foot section	Each	50	\$361.92	\$18,096.00	\$512.60	\$25,630.00	
HDPE, DR based or Dimension Rating Based, 6 inch pipe-20 foot section	Each	50	\$100.36	\$5,018.00	\$137.13	\$6,856.50	
HDPE, DR based or Dimension Rating Based, 2 inch pipe-50 foot section	Each	25	\$66.17	\$1,654.25	\$51.35	\$1,283.75	
HDPE, 6 inch 90 degree elbow	Each	20	\$46.25	\$925.00	\$37.64	\$752.80	
HDPE, 6 inch 45 degree elbow	Each	20	\$46.25	\$925.00	\$37.64	\$752.80	
HDPE, 6 inch "T"	Each	20	\$59.76	\$1,195.20	\$47.70	\$954.00	
HDPE, 4 inch to 2 inch reducers	Each	20	\$12.50	\$250.00	\$8.82	\$176.40	
SCHEDULE 80 PVC							
PVC, 18 inch pipe - 20 foot section	Each	25	\$1,816.72	\$45,418.00	\$943.80	\$23,595.00	
PVC, 12 inch pipe - 20 foot section	Each	25	\$305.28	\$7,632.00	\$333.63	\$8,340.75	
PVC, 6 inch pipe - 20 foot section	Each	25	\$239.04	\$5,976.00	\$164.61	\$4,115.25	
PVC, 6 inch 90 degree elbow	Each	20	\$38.65	\$773.00	\$31.67	\$633.40	
PVC, 6 inch 45 degree elbow	Each	20	\$46.44	\$928.80	\$37.57	\$751.40	
PVC, 6 inch, "T"	Each	20	\$65.00	\$1,300.00	\$44.13	\$882.60	
PVC, *2 inch spiral flex hose, 100 foot section	Each	10	\$597.50	\$5,975.00	\$702.90	\$7,029.00	
Subtotal (Items 5.4 thru 5.26)						\$137,565.95	
	RACT ANALYST: Elmer Garcia HDPE (FRIATEC or approved equivalent), 6 inch fusion coupling HDPE (FRIATEC or approved equivalent), 2 inch fusion coupling HDPE, (FRIATEC or approved equivalent), 2 inch fusion coupling HDPE, DR based or Dimension Rating Based, 18 inch pipe-20 foot section HDPE, DR based or Dimension Rating Based, 12 inch pipe-20 foot section HDPE, DR based or Dimension Rating Based, 6 inch pipe-20 foot section HDPE, DR based or Dimension Rating Based, 2 inch pipe-50 foot section HDPE, 6 inch 45 degree elbow HDPE, 6 inch 45 degree elbow HDPE, 4 inch to 2 inch reducers SCHEDULE 80 PVC PVC, 18 inch pipe - 20 foot section PVC, 6 inch pipe - 20 foot section PVC, 6 inch pipe - 20 foot section PVC, 6 inch 90 degree elbow PVC, 6 inch pipe - 20 foot section PVC, 6 inch pipe - 20 foot section PVC, 6 inch pipe - 20 foot section PVC, 6 inch 45 degree elbow PVC, 6 inch, "T" PVC, 6 inch, "T"	RACT ANALYST: Elmer Garcia HDPE (FRIATEC or approved equivalent), 6 inch fusion coupling Each HDPE (FRIATEC or approved equivalent), 4 inch fusion coupling Each HDPE (FRIATEC or approved equivalent), 2 inch fusion coupling Each HDPE, CR based or Dimension Rating Based, 18 inch pipe-20 foot section Each HDPE, DR based or Dimension Rating Based, 12 inch pipe-20 foot section Each HDPE, DR based or Dimension Rating Based, 2 inch pipe-20 foot section Each HDPE, B based or Dimension Rating Based, 2 inch pipe-50 foot section Each HDPE, 6 inch 90 degree elbow Each HDPE, 6 inch 45 degree elbow Each HDPE, 4 inch to 2 inch reducers Each PVC, 18 inch pipe - 20 foot section Each PVC, 12 inch pipe - 20 foot section Each PVC, 6 inch 90 degree elbow Each PVC, 6 inch pipe - 20 foot section Each PVC, 6 inch pipe - 20 foot section Each PVC, 6 inch 90 degree elbow Each	RACT ANALYST: Elmer GarciaHDPE (FRIATEC or approved equivalent), 6 inch fusion couplingEach50HDPE (FRIATEC or approved equivalent), 2 inch fusion couplingEach20HDPE (FRIATEC or approved equivalent), 2 inch fusion couplingEach20HDPE, DR based or Dimension Rating Based, 18 inch pipe-20 foot sectionEach50HDPE, DR based or Dimension Rating Based, 12 inch pipe-20 foot sectionEach50HDPE, DR based or Dimension Rating Based, 2 inch pipe-20 foot sectionEach50HDPE, DR based or Dimension Rating Based, 2 inch pipe-50 foot sectionEach20HDPE, 6 inch 90 degree elbowEach20HDPE, 6 inch 45 degree elbowEach20HDPE, 4 inch to 2 inch reducersEach20PVC, 18 inch pipe - 20 foot sectionEach25PVC, 12 inch pipe - 20 foot sectionEach25PVC, 6 inch 90 degree elbowEach25PVC, 6 inch pipe - 20 foot sectionEach20PVC, 12 inch pipe - 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FINANCE DEPARTMENT/MATERIALS MANAGEMENT IFB NAME: LANDFILL GAS & GROUND WATER SYSTEMS MAINTENANCE, INSTALLATION, PARTS AND SERVICE IFB NO.: 15-12 DUE DATE: August 26, 2014

IFB NO.: 15-12 DUE DATE: August 26, 2014 CONTRACT ANALYST: Elmer Garcia	CONS		STRATEGIC CONSTRUCTION SOLUTIONS	
Grand Total (Items 5.1 thru 5.26)		\$183,918.05		\$219,103.95

AWARD DETERMINATION: Award is recommended to: The Offeror is deemed the lowest responsible and responsive bidder.



Legislation Description

File #: 15-125, Version: 1

AUTHORIZATION TO ENTER INTO A CONSTRUCTION AGREEMENT WITH KIMBRELL ELECTRIC, INC. FOR A NEW TRAFFIC SIGNAL AND A HIGH-INTENSITY ACTIVATED CROSSWALK (HAWK)

Staff Contact: Jack Friedline, Director, Public Works

Purpose and Recommended Action

This is a request for City Council to authorize the City Manager to enter into a construction agreement with Kimbrell Electric, Inc. in an amount not to exceed \$287,085.16 for construction of a new traffic signal at 59th and Hayward avenues, and a new mid-block pedestrian High Intensity Activated Crosswalk (HAWK) signal along Bethany Home Road, between 60th and 61st avenues.

Background

As a result of traffic studies and citizen requests, Transportation staff identified two high-priority traffic control improvements:

- Installation of a new traffic signal at 59th and Hayward avenues
- Installation of a new HAWK on Bethany Home Road between 60th and 61st avenues

The Engineering Department received three bids for these projects on January 8, 2015, with Kimbrell Electric, Inc. submitting the lowest responsive, responsible bid.

<u>Analysis</u>

- Traffic Signal at 59th and Hayward avenues: Staff conducted a traffic signal analysis for this intersection, and it meets the requirements identified in the Manual on Uniform Traffic Control Devices (MUTCD) for construction of a new signal. Hayward Avenue experiences a significant amount of traffic from the Northern Crossing Shopping Center located on the southeast corner of 59th and Northern avenues. From 2009 to 2013, there have been 40 crashes at this location.
- HAWK on Bethany Home Road: The MUTCD has identified a HAWK as an approved device for pedestrian crossings at midblock locations. A HAWK is a very effective tool for pedestrians to cross busy arterial roadways with a high compliance rate of motorists stopping. In March 2013, staff conducted a study of this location using closed-circuit television cameras. During a 24-hour period, 453 pedestrians and 73 bicyclists were observed crossing Bethany Home Road at this location. Out of 10 locations studied for installation of a HAWK last year, this location had the highest volume of pedestrian and bicycle activity.

File #: 15-125, Version: 1

Previous Related Council Action

On September 10, 2013, Council approved a Professional Services Agreement with Y. S. Mantri & Associates, LLC for project design and construction administration services.

Community Benefit/Public Involvement

Completion of these improvements will enhance the efficiency of traffic movement at these locations. Additionally, the HAWK on Bethany Home Road will assist pedestrians and bicyclists crossing midblock.

Transportation receives and welcomes questions, comments and suggestions from citizens regarding traffic issues in Glendale. Some of these projects were identified and reported to staff by affected motorists and pedestrians.

Budget and Financial Impacts

Funding for these projects is programmed in the Fiscal Year 2014-15 Traffic Signals operating budget. However, during the most recent bidding process for these projects, staff determined that the traffic signal at 59th and Hayward avenues could be paid for with Development Impact Fee (DIF) funds, which are available in the Fiscal Year 2014-15 Capital Improvement Budget. Utilizing these DIF funds will free up funding for other traffic improvement projects.

Because the projects were combined into one bid, specific costs for each project were not itemized. The costs listed below for each project are staff's best estimate based on quantities included in the design plans. The exact costs may vary slightly from these amounts; however, they will be closely tracked as part of the construction administration process. The combined cost of construction of the signal and HAWK will not exceed the contracted amount of \$287,085.16.

Cost	Fund-Department-Account
\$109,879.30	1340-16810-524400, Traffic Signals - (HAWK)
\$177,205.86	1600-67803-550800, DIF - Roadway Improve pre SB1525 - (59 th & Hayward Signal)

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

CONSTRUCTION AGREEMENT

This Construction Agreement ("Agreement") is entered into and effective between the CITY OF GLENDALE, an Arizona municipal corporation ("City"), and Kimbrell Electric, Inc., an Arizona corporation ("Contractor") as of the _____ day of _____, 2015.

RECITALS

- A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in the Notice to Contractors and the attached Exhibit A ("Project");
- B. City desires to retain the services of Contractor to perform those specific duties and produce the specific work as set forth in the Project, the plans and specifications, the Information for Bidders, and the Maricopa Association of Governments ("MAG") General and Supplemental Conditions and Provisions;
- C. City and Contractor desire to memorialize their agreement with this document.

AGREEMENT

In consideration of the Recitals, which are confirmed as true and correct and incorporated by this reference, the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, City and Contractor agree as follows:

- 1. Project.
 - 1.1 Scope. Contractor will provide all services and material necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors, providers or consultants retained by City.
 - **1.2 Documents.** The following documents are, by this reference, entirely incorporated into this Agreement and attached Exhibits as though fully set forth herein:
 - (A) Notice to Contractors;
 - (B) Information for Bidders;

(C) MAG General Conditions, Supplemental General Conditions, Special and Technical Provisions;

- (D) Proposal;
- (E) Bid Bond;
- (F) Payment Bond;
- (G) Performance Bond;
- (H) Certificate of Insurance;
- (I) Appendix; and
- (J) Plans and Addenda thereto.

Should a conflict exist between this Agreement (and its attachments), and any of the incorporated documents as listed above, the provisions of this Agreement shall govern.

1.3 Project Team.

- (A) <u>Project Manager</u>. Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, to complete the project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement.
- (B) <u>Project Team</u>.
 - (1) The Project manager and all other employees assigned to the project by Contractor will comprise the "Project Team."
 - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the project by Contractor.

(C) <u>Sub-contractors</u>.

- (1) Contractor may engage specific technical contractor (each a "Sub-contractor") to furnish certain service functions.
- (2) Contractor will remain fully responsible for Sub-contractor's services.
- (3) Sub-contractors must be approved by the City, unless the Sub-contractor was previously mentioned in the response to the solicitation.
- (4) Contractor shall certify by letter that contracts with Sub-contractors have been executed incorporating requirements and standards as set forth in this Agreement.
- 2. Schedule. The Project will be undertaken in a manner that ensures it is completed in a timely and efficient manner. If not otherwise stated in Exhibit A, the Project shall be completed by no later than within ninety (90) consecutive calendar days from and including the date of receipt of the Notice to Proceed.

3. Contractor's Work.

- **3.1** Standard. Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services and materials for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.
- **3.2** Licensing. Contractor warrants that:
 - (A) Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and
 - (B) Neither Contractor nor any Sub-contractor has been debarred or otherwise legal1y excluded from contracting with any federal, state, or local governmental entity ("Debarment").
 - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.
 - (2) Contractor must notify City immediately if any Approvals or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default of this Agreement.
- **3.3** Compliance. Services and materials will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, or other standards and criteria designated by City.

3.4 Coordination; Interaction.

- (A) If the City determines that the Project requires the coordination of professional services or other providers, Contractor will work in close consultation with City to proactively interact with any other contractors retained by City on the Project ("Coordinating Entities").
- (B) Subject to any limitations expressly stated in the budget, Contractor will meet to review the Project, schedules, budget, and in-progress work with Coordinating Entities and the City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.
- (C) If the Project does not involve Coordinating Entities, Contractor will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.
- 3.5 Hazardous Substances. Contractor is responsible for the appropriate handling, disposal of, and if necessary, any remediation and all losses and damages to the City, associated with the use or release of hazardous substances by Contractor in connection with completion of the Project.

- 3.6 Warranties. At any time within two years after completion of the Project, Contractor must, at Contractor's sole expense and within 20 days of written notice from the City, uncover, correct and remedy all defects in Contractor's work. City will accept a manufacturer's warranty on approved equipment as satisfaction of the Contractor's warranty under this subsection.
- **3.7. Bonds.** Upon execution of this Agreement, and if applicable, Contractor must furnish Payment and Performance bonds as required under A.R.S. § 34-608.

4. Compensation for the Project.

- 4.1 Compensation. Contractor's compensation for the Project, including those furnished by its Sub-contractors will not exceed <u>\$287,085.16</u>, as specifically detailed in the Contractor's bid and set forth in Exhibit B ("Compensation").
- 4.2 **Change in Scope of Project.** The Compensation may be equitably adjusted if the originally contemplated scope of services as outlined in the Project is significantly modified by the City.
 - (A) Adjustments to the Scope or Compensation require a written amendment to this Agreement and may require City Council approval.
 - (B) Additional services which are outside the scope of the Project and not contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.

5. Billings and Payment.

5.1 Applications.

- (A) The Contractor will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.
- (B) The period covered by each Payment Application will be one calendar month ending on the last day of the month.

5.2 Payment.

- (A) After a full and complete Payment Application is received, City will process and remit payment within 30 days.
- (B) Payment may be subject to or conditioned upon City's receipt of:
 - (1) Completed work generated by Contractor and its Sub-contractors; and
 - (2) Unconditional waivers and releases on final payment from Sub-contractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.
- 5.3 Review and Withholding. City's Project Manager will timely review and certify Payment Applications.
 - (A) If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.
 - (B) City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.
 - (C) Contractor will provide, by separate cover, and concurrent with the execution of this Agreement, all required financial information to the City, including City of Glendale Transaction Privilege License and Federal Taxpayer identification numbers.
 - (D) City will temporarily withhold Compensation amounts as required by A.R.S. 34-221(C).

6. Termination.

- 6.1 For Convenience. City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 15 days following the date of delivery.
 - (A) Contractor will be equitably compensated any services and materials furnished prior to receipt of the termination notice and for reasonable costs incurred.
 - (B) Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with Project closeout and delivery of the required items to the City.
- 6.2 For Cause. City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.
 - (A) Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages.
 - (B) If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand; however, Contractor will not be subject to consequential damages more than \$1,000,000 or the amount of this Agreement, whichever is greater.

7. Insurance.

- 7.1 **Requirements.** Contractor must obtain and maintain the following insurance ("Required Insurance"):
 - (A) <u>Contractor and Sub-contractors</u>. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively, "Contractor's Policies"), until each Parties' obligations under this Agreement are completed.
 - (B) <u>General Liability</u>.
 - (1) Contractor must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
 - (2) Sub-contactors must at all times relevant hereto carry a general commercial liability policy with a combined single limit of at least \$1,000,000 per occurrence.
 - (3) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, products and completed operations, XCU hazards if requested by the City, and a separation of insurance provision.
 - (4) These limits may be met through a combination of primary and excess liability coverage.
 - (C) <u>Auto</u>. A business auto policy providing a liability limit of at least \$1,000,000 per accident for Contractor and 1,000,000 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.
 - (D) <u>Workers' Compensation and Employer's Liability</u>. A workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.
 - (E) <u>Equipment Insurance</u>. Contractor must secure, pay for, and maintain all-risk insurance as necessary to protect the City against loss of owned, non-owned, rented or leased capital equipment and tools, equipment and scaffolding, staging, towers and forms owned or rented by Contractor or its Sub-contractors.

- (F) <u>Notice of Changes</u>. Contractor's Policies must provide for not less than 30 days' advance written notice to City Representative of:
 - (1) Cancellation or termination of Contractor or Sub-contractor's Policies;
 - (2) Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and
 - (3) Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.
- (G) <u>Certificates of Insurance.</u>
 - (1) Within 10 business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which will confirm the existence or issuance of Contractor and Sub-contractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Sub-contractor's Policies in accordance with the provisions of this section.
 - (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.
 - (3) Contractor's failure to secure and maintain Contractor Policies and to assure Sub-contractor policies as required will constitute a material default under this Agreement.
- (H) Other Contractors or Vendors.
 - (1) Other contractors or vendors that may be contracted by Contractor with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular agreement.
 - (2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).
- Policies. Except with respect to workers' compensation and employer's liability coverages, the City must be named and properly endorsed as additional insureds on all liability policies required by this section.
 - (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self-insurance policies or programs maintained by the additional insureds.
 - (2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and acceptable to all parties.

7.2 Sub-contractors.

- (A) Contractor must also cause its Sub-contractors to obtain and maintain the Required Insurance.
- (B) City may consider waiving these insurance requirements for a specific Sub-contractor if City is satisfied the amounts required are not commercially available to the Sub-contractor and the insurance the Sub-contractor does have is appropriate for the Sub-contractor's work under this Agreement.
- (C) Contractor and Sub-contractors must provide to the City proof of Required Insurance whenever requested.

7.3 Indemnification.

(A) To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the

"Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense"; collectively, "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.

- (B) This indemnity and hold harmless policy applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.
- (C) Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.
- 7.4 Waiver of Subrogation. Contractor waives, and will require any Subcontractor to waive, all rights of subrogation against the City to the extent of all losses or damages covered by any policy of insurance.

8. Immigration Law Compliance.

- 8.1 Contractor, and on behalf any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.
- 8.2 Any breach of warranty under subsection 8.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.
- 8.3 City retains the legal right to inspect the papers of any Contractor or subcontractor employee who performs work under this Agreement to ensure that the Contractor or any subcontractor is compliant with the warranty under subsection 8.1 above.
- 8.4 City may conduct random inspections, and upon request of City, Contractor shall provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under subsection 8.1 above. Contractor agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this section 8.
- 8.5 Contractor agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Contractor and expressly accrue those obligations directly to the benefit of the City. Contractor also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.
- 8.6 Contractor's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- 8.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.
- 9. Conflict. Contractor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.
- 10. Non-Discrimination Policies. Contractor must not discriminate against any employee or applicant for employment on the basis of race, religion, color sex or national origin. Contractor must develop, implement and maintain non-discrimination policies and post the policies in conspicuous places visible to employees and applicants for employment. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section.

11. Notices.

- 11.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:
 - (A) The Notice is in writing, and
 - (B) Delivered in person or by private express overnight delivery service (delivery charges prepaid), certified or registered mail (return receipt requested).
 - (C) Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
 - Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier on or before 5:00 p.m.; or
 - (2) As of the next business day after receipt, if received after 5:00 p.m.
 - (D) The burden of proof of the place and time of delivery is upon the Party giving the Notice.
 - (E) Digitalized signatures and copies of signatures will have the same effect as original signatures.

11.2 **Representatives.**

(A) <u>Contractor</u>. Contractor's representative ("Contractor's Representative") authorized to act on Contractor's behalf with respect to the Project, and his or her address for Notice delivery is:

Kimbrell Electric, Inc. Attn: John Kimbrell 7593 North 73rd Drive Glendale, Arizona 85303

(B) <u>City</u>. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale Attn: Mike Johnson 5850 West Glendale Avenue Glendale, Arizona 85301

With required copies to:

City of Glendale City Manager 5850 West Glendale Avenue Glendale, Arizona 85301 City of Glendale City Attorney 5850 West Glendale Avenue Glendale, Arizona 85301

(C) <u>Concurrent Notices</u>.

- (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
- (2) A notice will not be considered to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a

written notice to Contractor identifying the designee(s) and their respective addresses for notices.

- (D) **Changes.** Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.
- 12. Financing Assignment. City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.
- 13. Entire Agreement; Survival; Counterparts; Signatures.
 - **13.1** Integration. This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.
 - (A) Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
 - (B) Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
 - (C) Any solicitation, addendums and responses submitted by the Contractor are incorporated fully into this Agreement as Exhibit A. Any inconsistency between Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

13.2 Interpretation.

- (A) The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- (B) The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- (C) The Agreement will be interpreted in accordance with the laws of the State of Arizona.
- **13.3** Survival. Except as specifically provided otherwise in this Agreement each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.
- **13.4** Amendment. No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval.
- **13.5 Remedies.** All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.
- **13.6** Severability. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform to applicable law.
- 13.7 **Counterparts.** This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.
- 14. **Dispute Resolution.** Each claim, controversy and dispute ("Dispute") between Contractor and City will be resolved in accordance with Exhibit C. The final determination will be made by the City.

15. **Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A	Project
Exhibit B	Compensation
Exhibit C	Dispute Resolution

The parties enter into this Agreement as of the date shown above.

City of Glendale, an Arizona municipal corporation

By: Brenda S. Fischer Its: City Manager

ATTEST:

Pam Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

Michael D. Bailey, City Attorney

Kimbrell Electric, Inc. an Arizona corporation

By: John Kimbrell Its: Vice President

WOMEN-OWNED/MINORITY BUSINESS [] YES [] NO CITY OF GLENDALE TRANSACTION PRIVILEGE TAX NO._____ FEDERAL TAXPAYER IDENTIFICATION NO._____

EXHIBIT A CONSTRUCTION AGREEMENT

PROJECT

Perform construction services as described in design documents for the following task: Provide a new traffic signal at 59th Avenue & Hayward Drive and a new mid-block pedestrian High Intensity Activated Crosswalk (HAWK) signal along Bethany Home Road between 60th & 61st Avenues.

EXHIBIT B CONSTRUCTION AGREEMENT

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

By bid, including all services, materials and costs.

NOT-TO-EXCEED AMOUNT

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the entire term of the Project must not exceed \$287,085.16.

DETAILED PROJECT COMPENSATION

As Shown on Page 10 of the Bid Schedule.

EXHIBIT C CONSTRUCTION AGREEMENT

DISPUTE RESOLUTION

1. Disputes.

- 1.1 <u>Commitment</u>. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, costeffective manner.
- 1.2 <u>Application</u>. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.
- 1.3 <u>Initiation</u>. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.
- 1.4 <u>Informal Resolution</u>. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.
 - (A) The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;
 - (B) The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and
 - (C) The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

2. Arbitration.

- 2.1 <u>Rules</u>. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the Dispute will be decided by binding arbitration in accordance with Construction Industry Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
 - (A) The parties will exercise best efforts to select an arbitrator within 5 business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.
 - (B) The arbitrator selected must be an attorney with at least 15 years experience with commercial construction legal matters in Maricopa County, Arizona, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 <u>Discovery</u>. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten (10) days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.
- 2.3 <u>Hearing</u>. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.
- 2.4 <u>Award</u>. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought

by one of the parties as the final judgment and may not independently alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.

- 2.5 <u>Final Decision</u>. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.
- 2.6 <u>Costs</u>. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party shall pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.
- 3. Services to Continue Pending Dispute. Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of required services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Contractor in accordance with this Agreement.
- 4. Exceptions.
 - 4.1 <u>Third Party Claims</u>. City and Contractor are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third-party who is not obligated by contract to arbitrate disputes with City and Contractor.
 - 4.2 <u>Liens</u>. City or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.
 - 4.3 <u>Governmental Actions</u>. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.

BID TABULATION

PROJECT #131404 - TRAFFIC CONTROL IMPROVEMENTS

OPENED AT THE CITY OF GLENDALE, ENGINEERING DEPARTMENT 5850 W. GLENDALE AVENUE, 3RD FLOOR

DATE: JANUARY 8, 2015- 10:00AM

CONTRACTOR	BID BOND/CHECK	BASE BID
Kimbrell Electric	Bid Bond	\$287,085.16
C S Construction INC.	Bid Bond	\$299,742.00
Contractors West INC.	Bid Bond	\$334,490.80

Engineers Estimate: \$256,000

Legislation Description

File #: 15-127, Version: 1

AUTHORIZATION TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR A SIGN INVENTORY MANAGEMENT SYSTEM AND SIGN UPGRADES Staff Contact: Jack Friedline, Director, Public Works

Purpose and Recommended Action

This is a request for City Council to waive reading beyond the title and adopt a resolution authorizing the City Manager to enter into an intergovernmental agreement (IGA) with the Arizona Department of Transportation (ADOT) for the procurement and installation of signs at various locations in the city.

Background

Glendale utilizes the 2009 Manual on Uniform Traffic Control Devices (MUTCD), which establishes minimum standards and ensures uniformity of traffic control devices across the nation. The MUTCD states that all regulatory, warning and ground-mounted guide signs within the city shall be retroreflective. In order to meet this standard, it is necessary for the city to take inventory of its existing signs, determine their current condition and enhance the current replacement plan.

Two previous Council actions authorized ADOT to solicit vendors to conduct a sign inventory and provide a sign management inventory system for all roadways on behalf of the city. ADOT advertised these projects and awarded the contract to IMS Infrastructure Management Services, who recently began work. Once this effort is complete, the city will have a comprehensive system to manage signs, and a list of locations and signs that need to be upgraded. Approval of this IGA will allow ADOT to solicit vendors to procure and install new signs in the locations identified in the inventory.

<u>Analysis</u>

Through this project, a \$120,000 federal Highway Safety Improvement Program (HSIP) grant will pay for the replacement signs identified through the data collection effort. The project's goal is to ensure that all traffic signs within the city meet minimum retroreflectivity requirements, as identified in the 2009 MUTCD. This federally funded project will help us meet these requirements with minimal use of city resources.

Previous Related Council Action

On May 13, 2014, City Council approved an IGA with ADOT to procure a sign inventory management system for local streets.

On April 23, 2013, Council approved an IGA with ADOT to procure a sign inventory management system for arterial and collector streets.

Community Benefit/Public Involvement

This project will enhance roadway safety at night by upgrading the regulatory, warning and ground-mounted guide signs to meet minimum retroreflectivity requirements to the extent possible with the budget available. Based on Federal Highway Administration (FHWA) statistics, sign upgrades were shown to provide up to a 50 percent reduction in nighttime crashes in locations with previously noncompliant signs.

Budget and Financial Impacts

This project will be completed at no cost to the city. It will be 100 percent funded through a federal HSIP grant in the amount of \$120,000. ADOT will manage the vendor and pay them directly.

The new sign management system will enable staff to continue to monitor the condition of signs throughout the city, and allow staff to prioritize the replacement of signs to meet minimum standards. Once the HSIP funding is exhausted, these signs will once again be replaced using the Signs and Markings operating budget (1340-16820-524400).

RESOLUTION NO. 4921 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY. ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA, DEPARTMENT OF TRANSPORTATION, (IGA/JPA 14-14-0004645-I) RELATING TO THE "SIGN INVENTORY MANAGEMENT SYSTEM AND SIGN UPGRADE" FOR THE SECOND PHASE OF ADOT PROJECT NUMBER SH60803D.

WHEREAS, on May 13, 2014, the City Council approved the entering into of an Intergovernmental Agreement with the Arizona Department of Transportation (IGA/JPA 14-0004056-I) relating to the "Sign Inventory Management System and Sign Upgrade" project (Resolution No. 4795 New Series); and

WHEREAS, the State of Arizona, Department of Transportation, and the City of Glendale wish to enter into a similar Intergovernmental Agreement for the second phase of ADOT Project Number SH60803D.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That it is deemed in the best interest of the City of Glendale and the citizens thereof that the Intergovernmental Agreement between the City of Glendale and the State of Arizona, Department of Transportation, (IGA/JPA 14-14-0004645-I) relating to the "Sign Inventory Management System and Sign Upgrade" for the second phase of ADOT Project Number SH60803D be entered into, which agreement is now on file in the office of the City Clerk of the City of Glendale.

SECTION 2. That the Mayor or City Manager and the City Clerk be authorized and directed to execute and deliver said agreement on behalf of the City of Glendale.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this _____ day of ______, 2015.

ATTEST:

MAYOR

City Clerk (SEAL)

APPROVED AS TO FORM:

City Attorney

REVIEWED BY:

City Manager

iga_adot_sign inventory.doc

ADOT CAR No.: IGA /JPA 14-14-0004645-I AG Contract No.: P001 2014003956 Project: Sign inventory Management System and Sign Upgrade Section: Various Locations Federal-aid No.: GLN--0(245)T ADOT Project No.: SH60801C TIP/STIP No.: GLN 14-105 CFDA No.: 20.205 - Highway Planning and Construction Budget Source Item No.: N/A

INTERGOVERNMENTAL AGREEMENT

BETWEEN THE STATE OF ARIZONA AND THE CITY OF GLENDALE

THIS AGREEMENT is entered into this date _______, 2015, pursuant to the Arizona Revised Statutes §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State" or "ADOT") and the CITY OF GLENDALE, acting by and through its MAYOR and CITY COUNCIL (the "City"). The State and theCity are collectively referred to as "Parties."

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. Congress has established the Highway Safety Improvement Program (HSIP) as a core federalaid for the specific purpose of achieving a significant reduction in traffic fatalities and serious injuries on public roads. The State, the Federal Highway Administration (FHWA) and the City have identified systematic improvements within the City as eligible for this funding.

4. The purpose of this Agreement between the State and the City to allow the State to acquire federal funds for the purchase and installation of signs hereinafter referred to as the "Project". This project is the second phase of ADOT Project Number SH60803D. The City will coordinate with the State during the procurement process as ADOT Procurement contract(s) will be utilized and an authorized supplier will provide and install the equipment and services as outlined in the contract and approved plans to complete this project with the aid and consent of the State and the FHWA.

5. The interest of the State in this Project is the acquisition of federal funds for the use and benefit of the City and to authorize such federal funds for the Project pursuant to federal law and regulations. The State shall be the designated agent for the City for the Project, if the Project is approved by FHWA and funds for the Project are available. The Project will be performed, completed, accepted and paid for in accordance with the requirements of the Project specifications and terms and conditions.

6. The Parties shall perform their responsibilities consistent with this Agreement and any change or modification to the Project will only occur with the mutual written consent of both Parties.

7. The federal funds will be used for construction of the Project, including the construction engineering and administration cost (CE). The estimated Project costs are as follows:

SH608 01C (construction):

Federal-aid funds @ 100%	\$ 120,000.00
Subtotal – Construction**	\$ 120,000.00
TOTAL Estimated Project Cost	\$ 120,000.00
Total Federal Funds	\$ 120,000.00

** (Includes 15% CE and 5% Project contingencies)

The Parties acknowledge that the final Project costs may exceed the initial estimate(s) shown above, and in such case, the City is responsible for, and agrees to pay, any and all eventual, actual costs exceeding the initial estimate. If the final bid amount is less than the initial estimate, the difference between the final bid amount and the initial estimate will be de-obligated or otherwise released from the Project. The City acknowledges it remains responsible for, and agrees to pay according to the terms of this Agreement, any and all eventual, actual costs exceeding the final bid amount.

THEREFORE, in consideration of the mutual Agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will:

a. Upon execution of this Agreement, be the designated agent for the City for the Project, if the Project is approved by FHWA and funds for the Project are available.

b. Submit all documentation required to FHWA containing the above-mentioned Project with the recommendation that funding be approved for procurement and installation of equipment and or services. Request the maximum federal funds programmed for this Project. Should costs exceed the maximum federal funds available it is understood and agreed that the City will be responsible for any overage.

c. Be responsible for ensuring all equipment purchased is installed within one (1) year of receipt of equipment; keep complete records of all equipment installed per this Project in a manner consistent with State and FHWA requirements.

d. Upon execution of this Agreement and FHWA authorization, coordinate with the City regarding the specifics of the equipment to be ordered and installed to best ensure the requirements of the Project are met. Enter into a contract(s) with the authorized supplier(s) to whom the award is made for the purpose of the Project.

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e. Be granted, without cost requirements, the right to enter City right-of-way as required to conduct any and all pre-construction and construction related activities for said Project, including without limitation, temporary construction easements or temporary rights of entry on to and over said rights-of-way of the City.

f. Not be obligated to maintain said Project, should the City fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.

2. The City will:

a. Upon execution of the Agreement, designate the State as authorized agent for the City for the Project.

b. Coordinate with the State during the procurement process of the Project.

c. Certify that all necessary rights-of-way have been or will be acquired prior to advertisement for bid and that all obstructions or unauthorized encroachments of any nature, either above or below the surface of the Project area, shall be removed from the proposed right-of-way, or will be removed prior to the start of construction, in accordance with The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended; 49 CFR 24.102 Basic Acquisition Policies; 49 CFR 24.4 Assurances, Monitoring and Corrective Action, parts (a) & (b) and ADOT ROW Manual: 8.02 Responsibilities, 8.03 Prime Functions, 9.07 Monitoring Process and 9.08 Certification of Compliance. coordinate with the appropriate State's Right-of-Way personnel during any right-of-way process performed by the City, if applicable.

d. Not permit or allow any encroachments upon or private use of the right-of-way, except those authorized by permit. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use.

e. Grant the State, its agents and/or contractors, without cost, the right to enter City rights-ofway, as required, to conduct any and all construction and preconstruction related activities, including without limitation, temporary construction easements or temporary rights of entry to accomplish among other things, soil and foundation investigations.

f. Be obligated to incur any expenditure should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent of scope of the work requested by the City. Such changes require the prior approval of the State and FHWA. Be responsible for any contractor claims for additional compensation caused by Project delays attributable to the City, payment for these costs shall be made within thirty (30) days of receipt of an invoice from the State.

g. Maintain all Project Improvements for the entire life of the equipment.

h. Upon notification of Project completion, agree to accept, maintain and assume full responsibility of the Project in writing

i. Pursuant to 23 USC 102(b), repay all Federal funds reimbursements for preliminary engineering costs on the Project if it does not advance to construction within ten (10) years after Federal funds were first made available.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of said Project and related deposits or reimbursement, except any provisions for maintenance shall be perpetual, unless assumed by another competent entity. Further, this Agreement may be cancelled at any time prior to the award of the Project construction contract, upon thirty (30) days written notice to the other party. It is understood and agreed that, in the event the City terminates this Agreement, the City will be responsible for all costs incurred by the State up to the time of termination. It is further understood and agreed that in the event the City terminates this Agreement, the State shall in no way be obligated to maintain said Project.

2. The State assumes no financial obligation or liability under this Agreement, or for any resulting construction Project. The City, in regard to the City 's relationship with the State only, assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims.* It is understood and agreed that the State's participation is confined solely to securing federal aid on behalf of the City and the fulfillment of any other responsibilities of the State as specifically set forth herein; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof shall be solely the liability of the City and that to the extent permitted by law, the City hereby agrees to save and hold harmless, defend and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all liability, costs and/or damage incurred by any of the above arising or resulting from this Agreement; and from any other liability, damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or non-performance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees, or its independent contractors, the City, any of its agents, officers and employees, or its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

3. The cost of construction and construction engineering work under this Agreement is to be covered by the federal funds set aside for this Project, up to the maximum available. The City acknowledges that the eventual actual costs may exceed the maximum available amount of federal funds, or that certain costs may not be accepted by the federal government as eligible for federal funds. Therefore, the City agrees to furnish and provide the difference between actual Project costs and the federal funds received.

4. Should the federal funding related to this Project be terminated or reduced by the federal government, or Congress rescinds, fails to renew, or otherwise reduces apportionments or obligation authority, the State shall in no way be obligated for funding or liable for any past, current or future expenses under this agreement.

5. The cost of the Project under this Agreement includes indirect costs approved by FHWA, as applicable.

6. The Parties warrant compliance with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 Amendments (the "Act"). Additionally, in a timely manner, the City will provide information that is requested by the State to enable the State to comply with the requirements of the Act, as may be applicable.

7. The City acknowledges compliance with federal laws and regulations and may be subject to the Office of Management and Budget (OMB), Single Audit, Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations). Entities that expend \$500,000.00 or more (prior to 12/26/14) and \$750,000.00 or more (on or after 12/26/14) of federal assistance (federal funds, federal

grants, or federal awards) are required to comply by having an independent audit. Either an electronic or hardcopy of the Single Audit is to be sent to Arizona Department of Transportation Financial Management Services within the required deadline of nine (9) months of the sub recipient fiscal year end.

ADOT – FMS Attn: Cost Accounting Administrator 206 S 17th Ave. Mail Drop 204B Phoenix, AZ 85007 <u>SingleAudit@azdot.gov</u>

8. This Agreement shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

9. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

10. To the extent applicable under law, the provisions set forth in Arizona Revised Statutes §§ 35-214 and 35-215 shall apply to this Agreement.

11. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 2009-09 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

12. Non-Availability of Funds: Every obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the fulfillment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

13. In the event of any controversy, which may arise out of this Agreement, the Parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

14. The Parties shall comply with the applicable requirements of Arizona Revised Statutes § 41-4401.

15. The Parties hereto shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.

16. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation Joint Project Administration

205 S. 17th Avenue, Mail Drop 637E Phoenix, Arizona 85007 (602) 712-7124 (602) 712-3132 Fax City of Glendale Attn: Debbie Albert 5850 West Glendale Avenue Glendale, Arizona 85301 (623) 847-7524 (623) 915-1029 Fax

17. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each Party's legal counsel and that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

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IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

CITY OF GLENDALE

STATE OF ARIZONA Department of Transportation

By.

BRENDA S. FISCHER City Manager By_

DALLAS HAMMIT, P.E. Acting State Engineer, Development

ATTEST:

By_

PAMELA HANNA City Clerk

IGA/JPA 14-0004645-I

ATTORNEY APPROVAL FORM FOR THE CITY OF GLENDALE

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF GLENDALE, an agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 11-951 through 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this ______ day of ______, 2015.

City Attorney

Legislation Description

File #: 15-129, Version: 1

AUTHORIZATION OF A WIRED TELECOMMUNICATIONS LICENSE AND RIGHT -OF-WAY USE AGREEMENT WITH ELECTRIC LIGHTWAVE, LLC

Staff Contact: Jack Friedline, Director, Public Works

Purpose and Recommended Action

This is a request for the City Council to waive reading beyond the title and adopt a resolution authorizing the City Manager to execute a wired telecommunications license and right-of-way use agreement between the City of Glendale and Electric Lightwave, LLC, to operate a telecommunication voice and data network within public right-of-way.

Background

Electric Lightwave contacted the city to request permission to expand its existing telecommunications network in the valley into Glendale. Electric Lightwave's infrastructure investment in the West Valley allows them to meet their current and future clients' connection needs and the growing demand for voice, wireless internet and data telecommunications service for both residential and cellular customers. It is anticipated that the construction phase of this agreement will start in late 2015 and is determined by the customer demand. The initial construction will be along 51st Avenue, between Myrtle and Northern avenues. As Electric Lightwave's customer base grows, so will the need for additional service and construction.

Pursuant to Title 9 of the Arizona Revised Statutes, the city cannot charge a fee for a wired telecommunications license. However, the city can charge any applicable permit, plan review and inspection fees reasonably related to granting and administration of such a license, as well as transaction privilege tax.

<u>Analysis</u>

- There will be additional construction, based on customer needs as a result of this action.
- Through this license agreement, all current and future expansion activities will be required to go through the Engineering divisions' review and permitting process.
- There are no costs incurred as a result of this action.
- The license agreement is for a ten-year term.

Community Benefit/Public Involvement

Electric Lightwave's infrastructure investment in the West Valley allows them to meet their current and future clients' connection needs for voice and data telecommunication related services to City of Glendale residents.

Budget and Financial Impacts

The revenue generated from plan review, permit and inspection fees associated with the project during the first 18-months of this license is projected at \$5,000. Additionally, Electric Lightwave shall pay to the city the Privilege Tax of 6.1% of its gross revenue, generated within the City of Glendale, per year per City Code 21.1-470. All revenue shall be deposited into the General Fund.

RESOLUTION NO. 4922 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO EXECUTE A WIRED TELECOMMUNICATIONS LICENSE AND RIGHT-OF-WAY USE AGREEMENT WITH ELECTRIC LIGHTWAVE LLC TO OPERATE A TELECOMMUNICATIONS VOICE AND DATA NETWORK WITHIN THE RIGHT-OF-WAY BOUNDARIES IN GLENDALE, ARIZONA.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That the City Manager or her designee is hereby authorized to execute and deliver a Wired Telecommunications License and Right-of-Way Use Agreement with Electric Lightwave LLC to operate a telecommunications voice and data network within the right-of-way boundaries in Glendale, Arizona. Said license agreement is on file with the City Clerk.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this _____ day of ______, 2015.

MAYOR

ATTEST:

City Clerk (SEAL)

APPROVED AS TO FORM:

City Attorney

REVIEWED BY:

City Manager

l_eng_electric.doc

WIRED TELECOMMUNICATIONS LICENSE AND RIGHT·OF·WAY USE AGREEMENT BETWEEN THE CITY OF GLENDALE AND ELECTRIC LIGHTWAVE, LCC

Contract No.

This Wired Telecommunications License ("License") and Right-of-Way Use Agreement ("Agreement") is effective as of this ______, by and between the City of Glendale, an Arizona municipal corporation ("City") and Electric Lightwave, LLC, a Delaware limited liability company ("ELI"), a Delaware limited liability company.

RECITALS

WHEREAS, City owns public street and alley right-of-way and public utility easements within the boundaries of the City of Glendale; and

WHEREAS, ELI has obtained from the Arizona Corporation Commission a certificate of convenience and necessity by Decision No. 59982 dated January 16 1997 (the "CC&N"); and

WHEREAS, ELI desires the ability to be able to install future Facilities within the rightof-way and operate, maintain and repair existing Facilities within a portion of the right-ofway, subject to the requirements of this License and Agreement; and

WHEREAS, ELI has applied to City for permission to continue using the right-of-way to maintain its existing Fiber Optic Networks and provide Telecommunication Services; and

WHEREAS, City is authorized to regulate its streets, alley and public utility easements, and to grant, renew, deny, amend and terminate licenses for and otherwise regulate the installation, operation and maintenance of such Facilities within the City's boundaries pursuant to City Charter, Glendale City Code, and by virtue of federal (47 U.S.C. § 253) and state statutes (including, but not limited to A.R.S. §§ 9-581, 9-582, and 9-583), by the City's police powers, its authority over public right-of-way, and its other governmental powers and authority; and

WHEREAS, City wants to reserve rights to construct and use and allow others to construct and use all manner of additional improvements in the right-of-way; and

WHEREAS, ELI agrees to provide and maintain accurate maps showing the location of all Facilities owned by ELI on public property including public utility easements within City, and to comply with such other mapping requirements as City may establish from time to time; and

WHEREAS, ELI will secure the appropriate licenses, encroachment and other permits required by the City Code for the placement of its Facilities placed in the City's boundaries; and

WHEREAS, ELI has agreed to comply with public property use requirements that City has established and may establish from time to time;

NOW THEREFORE, for and in consideration of the foregoing, the amounts hereinafter to be paid by ELI, and the covenants and agreements contained herein to be kept and performed by ELI, and for other good and valuable consideration, the City hereby grants to ELI a telecommunication license ("License") and permission to use the public right-of-way pursuant to the terms and conditions set forth herein.

SECTION 1. Definitions

ACC means the Arizona Corporation Commission.

A.R.S. means Arizona Revised Statutes.

Backbone means a high-speed network that interconnects smaller, independent networks and is the through-portion of a transmission network (not the spurs that branch off).

Cable Services and Cable System shall have the same meaning as defined in Chapter 10 of the Glendale City Code.

Call means the operations required to set up or establish, maintain, and terminate or release a connection through a telephone network in support of a communication between two or more stations. A call comprises a sequence of events that begins when an end user at an originating station initiates a call request to a switch that may work in conjunction with other switches to establish a connection to an end user at a destination station, and concludes when one party (user) terminates the connection.

Claim(s) means and includes losses, claims, damages, suits, actions, payments, judgments, demands, reasonable expenses and costs, including, but not limited to, reasonable attorney's fees incurred through all appeals.

Coarse Wavelength Division Multiplexing ("CWDM") is a variation of WDM that carries four to eight wavelengths per fiber or more that is designed for short to medium-haul networks (regional and metropolitan areas).

Commercial Mobile Radio Services means two-way voice commercial mobile radio service as defined by the FCC in 47 U.S.C. § 157.

Common Carrier means a private company offering interstate or foreign communication by wire or radio or the interstate or foreign transmission of energy to the general public on a non-discriminatory basis.

Conduit means a pipe of either metal, ceramic or plastic that is designed to protect buried cables.

Conduit System means any combination of Ducts, Conduits, manholes and handholes joined to form an integrated whole.

Contractor means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, that performs services or provides goods relating to this Agreement. Contractor shall include any subcontractor hired and/or used by ELI Contractors for the performance of services or provision of goods relating to this Agreement.

Dark Fiber means fiber optic strands that are not connected to transmission equipment.

Dense Wavelength Division Multiplex ("DWDM") is a variation of WDM but with much higher bandwidth and density. Using DWDM, up to 80 or more separate wavelengths or channels of data can be multiplexed on a single optical fiber. Each channel carries a time division multiplexed (TOM) signal. Since each channel can carry up to 2.5 Gbps, up to 200 billion bits per second can be delivered by the optical fiber simultaneously.

Duct means a single enclosed tube, pipe or channel for enclosing and carrying cables, wires, and other facilities.

Equipment means any tangible asset used to install, repair, or maintain Facilities in any ROW.

Facilities means the plant, equipment, and property used in the provision communication and telecommunication services and not owned by the City, including but not limited to poles, wires, pipe, conduits, pedestals, antenna, and other appurtenances placed in, on, or under Public Highways.

FCC means the Federal Communications Commission.

Fiber Optic Network is a communication system consisting of an optical transmitter to convert an electrical signal into an optical signal to send into the optical fiber, a cable containing bundles of multiple optical fibers that is routed through underground conduits and buildings, multiple kinds of amplifiers, and an optical receiver to recover the signal as an electrical signal.

Information Service means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications.

Inner-Duct means a pathway created by subdividing a Duct into smaller channels.

Intrastate Call means a call in a conventional circuit-switched network that originates and terminates in a single state.

Interstate Call means a call in a conventional circuit-switched network that originates in one state and terminates in a different state (or country).

Interstate Telecommunications Services Provider means a Telecommunications Corporation that places underground or above ground Facilities in the Public Highway for interstate telecommunications services.

Interstate Traffic means a communication or transmission that originates in any state, territory, possession of the United States, or the District of Columbia and terminates in another state, territory, possession, or the District of Columbia.

Manhole means an enclosure, usually below ground level and entered through a hole on the surface covered with a cast iron or concrete manhole cover, which personnel may enter and use for the purpose of installing, operating and maintaining cable and fiber in a Conduit.

Multichannel Video System includes:

- (a) A "cable system," as the term is defined in title VI of the Federal Communications Act of 1934, providing service within the City;
- (b) An "Open Video System," as the term is defined in title VI of the Federal Communications Act of 1934, 47 U.S.C. § 573 and implementing regulations (47 CFR § 76.1500), providing service within the City;
- (c) Any other system providing Multichannel Video Programming Services within the City, where the service is transmitted in whole or in part via wires or lines that are in or cross any ROW within the City. The preceding sentence shall apply whether the provider owns, leases or otherwise obtains the right to use the wires or lines, including wires or lines of a telecommunications provider used pursuant to tariff or otherwise for that purpose;
- (d) Any other system providing Multichannel Video Programming Services within the City where a license or similar permission or approval from the City is required under applicable law,

For purposes of this License, "Multichannel Video Programming Services" means multiple channels of video programming where some or all of the video programming is generally considered comparable to programming provided by a television broadcast station or by a direct to home satellite service. Multichannel Video Programming Services specifically includes, but is not limited to, "cable service" as the term is used in Title VI of the Federal Communications Act of 1934.

Parties shall collectively mean the City of Glendale and ELI

Point of Presence (POP) means a telecommunications facility where network equipment is located to be used to connect customers to a network backbone.

Provider means a Telecommunications Corporation that constructs, installs, operates or maintains telecommunications Facilities in the City Public highways.

Public Emergency means any condition which, in the opinion of City officials, poses an immediate threat to the lives or property of the citizens of Glendale or others caused by any natural or man-made disaster, including but not limited to, storms, floods, fire, accidents, explosions, major water main breaks, hazardous material spills, etc.

Public Highway means the roads, streets and alleys and all other dedicated public ROW and public utility easements of the City.

Public Service Corporation means a corporation engaged in furnishing gas, oil, or electricity for light, fuel, or power; or in furnishing water for irrigation, fire protection, or other public purposes; or in furnishing, for profit, hot or cold air or steam for heating or cooling purposes; or engaged in collecting, transporting, treating, purifying and disposing of sewage through a system, for profit; or in transmitting messages or furnishing public telegraph or telephone service, and all corporations other than municipal, operating as common carriers. However, a message transmitting company is only a public service corporation if it is a common carrier.

Right-of-way ("ROW") shall have the same meaning as Public Highway.

Service Lateral means an underground facility that is used to transmit, distribute, or furnish communications from a common source to an end-use customer.

Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received. However, the term does not include commercial mobile radio services, pay phone services, interstate services, cable services, information services, or the leasing of dark fiber for transmission purposes.

Telecommunications Corporation means any Public Service Corporation to the extent that it provides telecommunications services in this state.

Telecommunications Services means the offering of telecommunications for a fee directly to the public, or to such users as to be effectively available directly to the public, regardless of the facilities used.

Wavelength Division Multiplexer ("WDM") means a device that combines optical signals from multiple different single-wavelength end devices onto a single fiber. WDM carries two to four wavelengths per fiber.

SECTION 2. Permission to Use Right-of-Way

2.1 Subject to the provisions of this Agreement, the Glendale City Code, the City Glendale Charter, and Arizona and federal law, City hereby grants to ELI permission to use the designated portions of the right-of-way ("ROW") pursuant to the terms and conditions of this License and Agreement.

2.2 ELI's use and occupation of the ROW shall in all respects conform to all and each of the following provisions:

- 2.2.1 <u>Permitted Uses</u>. ELI shall use the portions of the ROW solely for the uses allowed under this License and Agreement and shall conduct no other activity at or from those designated portions of the ROW as described on Exhibit A. The permitted uses are limited to the following:
 - 2.2.1.1 Constructing, maintaining, repairing and operating the Facilities as described in this Agreement.
 - 2.2.1.2 To the extent that any Fiber Optic Networks carries Telecommunications within the City, the City hereby grants ELI a revocable and nonexclusive Telecommunications License ("License") to run concurrently with the term of this Agreement. The permission granted herein shall be limited to the Fiber Optic Network routes identified in Exhibit A, as amended pursuant to the City's permitting process and this Agreement, which is incorporated and made a part hereto by this reference.
 - 2.2.1.3 Such additional related uses for which City may give or retract consent from time to time. Such additional uses may only be conducted following City's giving to ELI notice of such consent. City may, in accordance with State and Federal law, terminate or impose conditions and limitations on such consent from time to time in City's sole and absolute discretion.

2.3 All other uses of the ROW are prohibited. ELI may not allow third parties to use the Facilities for any use that ELI itself does not have the authority under this License and Agreement to use the Facilities for.

2.3.1 The Telecommunications License granted by this Agreement does not allow ELI to provide one-way transmissions by anyone directly to customers or any other type of video programming or other programming or transmission that may be subject to a cable television license or franchise. This License does not allow a Multichannel Video System and/or the providing of Multichannel Video Programming Services.

2.3.2 If ELI ever obtains or seeks federal, state or local approval to provide a cable system or open video system ("Video Services") over the Fiber Optic Networks, this License and Agreement shall remain in effect according to its terms and ELI shall continue to pay any fee required by this Agreement, regardless of any legal or regulatory

provisions, permits or other processes or rules that might now or hereafter provide otherwise.

2.3.3 Without limiting the other amendment or waiver provisions of this License and Agreement, no change to or waiver of this Agreement's provisions regarding Video Services is effective without a formal amendment to this Agreement executed by City after approval by the City Council. City has not promised any such amendment or waiver. This Agreement does not prohibit the parties from entering into other agreements regarding the Fiber Optic Networks or Conduit Systems, should both parties desire to do so in their sole and absolute discretion.

2.4 The authority to install and construct any Conduit System and/or Fiber Optic Networks on City property granted herein authorizes ELI only to install such Fiber as is necessary to construct and operate the infrastructure described in this Agreement in order to provide the authorized Services and does not authorize ELI to install or construct any Facilities not expressly provided for in this Agreement.

2.5 To the extent that ELI uses the City's ROW to provide services other than the telecommunication services as defined by A.R.S. § 9-581, such use and/or occupation of the ROW is subject to the terms and conditions of this Agreement and any applicable fees, permits and laws.

2.6 ELI shall comply with all applicable laws as amended from time to time, including but not limited to, the Glendale City Code and the City Charter and Arizona and federal law in the exercise and performance of its rights and obligations under this Agreement. If it is necessary for ELI to comply with any law or regulation of the FCC or the ACC to engage in the business activities anticipated by this Agreement, ELI shall comply with such laws or regulations as a condition precedent to exercising any rights granted by this Agreement. Provided, however, no such law or regulation of the FCC or ACC shall enlarge or modify any of the rights or duties granted by this Agreement without a written modification to this Agreement.

SECTION 3. Non-Exclusive Rights/Priority Rights

3.1 This grant is not exclusive and nothing herein contained shall be construed to prevent City from granting other like or similar grants or privileges to any other person, firm or corporation, or to deny to or lessen the powers and privileges granted City under the Constitution and laws of the State of Arizona.

3.2 Any and all rights granted to ELI shall be subject to the prior and continuing right of City to use the ROW exclusively or concurrently, with any other person or persons, and to manage City's own Facilities. Any and all rights granted to ELI shall also be subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims to title which may affect public property. Nothing in this License shall be construed to grant, convey, create or vest a perpetual real property interest in land to ELI, including any fee or leasehold interest, easement, or any franchise rights. 3.3 Any right or privilege claimed pursuant to this Agreement by ELI for any use of any public ROW shall be subordinate to: A) any prior or subsequent lawful occupancy or use thereof by the City or any other governmental entity; B) any prior lawful occupancy or use thereof by any other person; C) and to any prior easements therein, provided however, that nothing herein shall extinguish or otherwise interfere with property rights established independently of this Agreement.

3.4 There is hereby reserved to City every right and power required pursuant to this Agreement to be herein reserved or provided by any lawful ordinance or the Charter of the City, and ELI by its execution of this Agreement agrees to be bound thereby and to comply with any lawful action or lawful requirements of the City in its exercise of such rights or power, heretofore or hereinafter enacted or established. Neither the granting of any Agreement nor any provision hereof shall constitute a waiver or bar to the exercise of any lawful governmental right or power of City.

3.5 By executing this Agreement, City does not waive any rights that it may have against any public utility or other property owner to require that such owners obtain prior approval from the City for such uses of their property or facilities, or that revenues received by any public utility or other property owner from ELI, by virtue of ELI's use of their property or facilities be included in the computation of any use agreement fees owed by such parties to the City.

3.6 Nothing in this Agreement shall be construed to prevent the City from abandoning, altering, improving, repairing, or maintaining its Facilities and/or the ROW, and for that purpose to require ELI, at no expense to the City, to remove, relocate or abandon in place ELI's Facilities in order to accommodate the activities of the City. Such decision to ask ELI to remove, relocate or abandon in place ELI's Facilities of the City shall be thoughtfully considered and the City shall use reasonable efforts to avoid repeated impact on ELI's Facilities. The City shall not be liable for lost revenues sustained by ELI, however caused, because of damage, modification, alteration, or destruction of its Facilities in the ROW, when such costs or lost revenues result from the construction, operation, and/or maintenance of City facilities and/or the ROW, provided that the activities resulting in such costs or lost revenues are conducted in accordance with applicable laws and regulations.

SECTION 4. Notice of Other Users

4.1 ELI may enter into contracts with unrelated third parties ("Users") in the ordinary course of ELI's business for use of the Conduit Systems and/or Fiber Optic Networks within the portions of the ROW subject to this Agreement. Such contracts ("User Contracts") shall be subject to all requirements and provisions of this Agreement and the following:

4.1.1 Such Users shall not perform any construction, maintenance, repair or other work of any kind in the ROW related to the Fiber Optic Networks or Conduit System(s) and the identity of such Users must be disclosed to the City upon request, but such information will be considered Confidential and Proprietary under Section 31.2.3. All User Contracts shall prohibit such Users from performing any construction, maintenance, repair or other work of any description in the ROW related to the Fiber Optic Networks or Conduit System(s), unless such Users have an agreement with the City.

4.1.2 In the event the User Contract provides for the User to construct, install, operate or maintain any portion of the Fiber Optic Networks or Conduit System(s) within the route in the ROW, no such arrangement shall proceed until the User enters into an Agreement with the City for use of the City's ROW.

4.2 ELI shall cause to comply with this Agreement all persons using the ROW through or under ELI or this Agreement. ELI is responsible for any violations of this Agreement by persons using the ROW through or under ELI or this Agreement.

SECTION 5. Description of the Services and Routes

5.1 ELI uses its Fiber Optic Network to offer broadband connections for data, high speed Internet access and voice. ELI provides local and long distance voice services, dedicated Internet Access services, IP VPN services, and Native LAN.

5.2 ELI's CC&N authorizes it to provide competitive local exchange and interexchange telecommunications services in Arizona.

5.3 ELI's current routes for its Conduit Systems and Fiber Optic Networks are shown on Exhibit A. ELI has 24967ft linear feet of owned conduit in the ROW within the City.

SECTION 6. Regulatory Conditions Relating to Right-of-Way Usage

For purposes of this Agreement, whenever work is done in the ROW relating to any of the Facilities, ELI agrees that it is solely responsible for the acts, errors, omissions, and any negligence of any or all of its Contractors and that the obligations of Sections 6 and 7 are imposed on both ELI and any of its Contractors, for whom ELI will be responsible. ELI will ensure that ELI and its Contractors comply with Public ROW use requirements as follows:

6.1 <u>Registration</u>. ELI agrees to register with the City by completing an application or renewal application form and the paying the applicable application fee.

6.2 <u>Notice of Changes</u>. ELI shall file a proposed amendment to the registration before it makes any change that would render the registration information incomplete or inaccurate. A change of ELI's name or address must be filed at least sixty (60) days prior to the date the change becomes effective; a change in the telephone number must be filed ten (10) days before the change becomes effective; and in the case of a change in the Facilities (by addition, subtraction or modification or movement), the change in Facilities must be filed at least sixty (60) days before work commences on the Facilities unless the relocation was ordered by the City or unless otherwise approved by the City through permitting, as set forth in Section 7.1, or otherwise in writing. In the case of a change in the category of services

offered, the change must be noticed thirty (30) days before the earlier of the date the service commences, or ELI begins marketing the service.

6.3 ELI is completely responsible for ensuring that its Facilities are constructed, installed, operated and/or maintained in accordance with the Glendale City Code and established practices with respect to such public ROW and easements such as the proper permits being applied for prior to commencing any work and that the terms and conditions of such permits are strictly followed.

6.4 ELI's use of the public ROW and easements under the control of the City shall be according to plans approved by the City Engineer, provided that such approval shall not be unreasonably withheld or delayed.

6.5 The Facilities to be constructed, installed, operated, maintained, upgraded and removed hereunder, shall be so located or relocated as to interfere as little as possible with traffic or other authorized uses within said public ROW and easements. Any phases of construction and/or installation relating to traffic control, backfilling, compaction and paving, as well as the location or relocation of said Facilities shall be subject to regulation by the City Engineer.

6.6 ELI and its agents shall be subject to the City's exercise of such police, regulatory and other powers as it now has or may later obtain, and ELI may not waive the application of the same. City shall have continuing jurisdiction and supervision over any Facilities located within or on public ROW. Daily administrative, supervisory, and enforcement responsibilities shall be delegated and entrusted to the City Manager or designee to interpret, administer and enforce the provisions of this License and Agreement.

SECTION 7. Plan Approval, Permits, and Inspection

No Facilities shall be changed, installed, constructed, located on, or attached to any 7.1 property within the City ROW, public utility easements and any other easements dedicated to the City until ELI has applied for and received approval for permits from the City Engineer. ELI shall be solely responsible for any and all acts, errors, omissions and negligence of its Contractor(s) who are involved in the installation, construction, maintenance, repair, location, relocation and any other activity involving ELI's Facilities subject to this License and Agreement. Additionally, ELI and its Contractor(s) shall comply with all other provisions of the Glendale City Code, including but not limited to Chapter 28 regarding off-site construction, Chapter 30 regarding streets and sidewalks, and other applicable City and/or Maricopa County regulations. All rights hereunder are granted under the express condition that the City shall have the power at any time to impose lawful restrictions and limitations upon, and to make regulations as to ELI's use of the public ROW as may be deemed best for the public interest, safety, or welfare to the same extent that such restrictions and limitations are applied to all non-governmental users of the public ROW.

7.2 ELI shall submit the applicable Permit Application(s) together with the details, plans and specifications for City review and approval, and pay all applicable application, review and

inspection fees prior to any and all construction work performed pursuant to the rights granted under this Agreement. ELI and/or its Contractor(s) shall abide by all stipulations of all licenses and permits issued. If ELI desires to change the location of any portion of the Conduit System(s) and/or Fiber Optic Network(s), including any related Facilities or equipment, from that set forth in the initial Permit Application, ELI shall apply for and obtain approval for an amendment to the permit prior to installation or construction.

7.3 The City may issue reasonable policy guidelines to all licensees/users to establish procedures for determining how to control issuance of engineering permits to multiple licensees/users for the same one mile segments of their Facilities. ELI agrees to cooperate with the City in establishing such policy and comply with the procedures established by the City Engineer or designee to coordinate the issuance of multiple engineering permits in the same one mile segments.

7.4 City will approve or deny such applications based on the availability of space at the location sought by ELI, safety and other considerations in accordance with the City's Code, applicable ROW construction regulations and other applicable law. ELI and/or its Contractor(s) agree to comply with the terms of any City-issued licenses and permits.

7.5 Any new Conduit or other Facilities placed in the ROW will be constructed using industry standard horizontal directional drilling and trenching construction methods. Other material placed in the ground may include concrete manholes, generally 4x4x4, pull boxes/handholes (#7s and #9s) and **HDPE** couplings and elbows, fiber optic cable, splice cases, tracer wire, grounding material, mule tape, jet string and conduit plugs. ELI and/or its Contractor(s) will install any new Conduit and access points (manholes/pull boxes) using industry standard practices and in full compliance with Uniform Standard Specifications and Details for Public Works Construction sponsored and distributed by the Maricopa Association of Governments as amended (hereinafter referred to as "MAG"), the City's supplements to MAG, and the City of Glendale Utility Permit and Construction Manual.

7.6 The City shall have the right to inspect all construction or installation work performed subject to the provisions of this License and to make such tests as it shall find necessary to meet City standards as set forth in the City of Glendale Utility Permit and Construction Manual and the MAG Uniform Standard Specifications and Details for Public Works Construction and the City of City Supplements thereto and to ensure compliance with the terms of this License and other pertinent provisions of law.

7.7 Any new Conduit system(s) and/or Fiber Optic Network(s) shall be installed in multiple phases as agreed upon by ELI and the City. If portions of this project will take place on the major arterial streets in City, ELI and City will work to minimize the inconvenience to the citizens of City and others who use those major arterial streets impacted by the project by developing segments of the project to be completed in sequence.

7.8 Any Conduit systems and/or Fiber Optic Network(s) to be constructed, installed, operated and maintained under this Agreement shall be located or relocated so as to interfere as little as possible with traffic, existing utilities or other authorized uses over, under or through said streets and public ways. ELI shall not install, operate, or allow the use of equipment, methodology or technology that may or would interfere with the optimum

effective use or operation of City's existing or future fire, emergency or other communications equipment, methodology or technology (i.e., voice or other data carrying receiving or transmitting equipment). If such interference should occur, ELI shall immediately discontinue using the equipment, methodology or technology that causes the interference until ELI takes corrective measures to alter the Fiber Optic Network(s) to eliminate such interference. Any such corrective measures shall be made at no cost to City. ELI shall be responsible to ensure compliance with this Agreement by all persons using the ROW through or under ELI or this Agreement.

7.9 <u>Co-location</u>. ELI's installation of the Facilities shall be reasonably coordinated with other utilities and City to accommodate opportunities for common installation along with ELI's route as set forth in this Agreement. All installations of cable and/or fiber shall be in Conduit or Innerduct as reasonably approved by the City Engineer. Provided, however, nothing herein shall require ELI to incur any material additional expense to accommodate common installations.

7.10 Although the exact placement and location of any additional Facilities shall be determined by City through the permit process, ELI has expressed its intent and City has expressed its desire to have any Facilities installed outside of the paved street areas whenever such location is feasible and reasonable. Further, if it is the intent and desire of ELI for the Conduit System to be placed by horizontal directional drilling under such streets when feasible and reasonable, bore profiles based on vacuum pothole information shall be part of the engineered plans submitted to the City. Arterial streets shall not be bored unless approved by the City Engineer. In the event that a street opening in new pavement or resurfaced pavement cannot be avoided, ELI agrees to pay a surcharge fee to cover damages and early deterioration will be assessed for cutting new or resurfaced pavements less than seven years old.

7.11 ELI shall also provide and identify a representative, such as a project manager, who shall be the contact person for the City during any construction periods.

7.12 Prior to the start of any construction work, ELI shall provide written notice to all adjacent or affected residents or businesses at least forty-eight (48) hours in advance of any street, alley, sidewalk, and driveway closures and make suitable arrangements to have all vehicles moved to a satisfactory location outside the closed area.

7.12.1 If an emergency requires activity without such written notice, ELI shall use reasonable best efforts to provide timely actual notice to the owners or other persons having lawful control of the adjoining property. Upon request, ELI shall promptly furnish to City documentation of such permission from such other affected property owner or tenant.

7.13 Whenever ELI or its Contractors shall cause any opening or alteration to be made for any purpose in any public streets, or public places, the opening or alteration shall be completed and restored with due diligence within seven (7) business days. ELI shall upon the completion of the opening or alteration, restore the property, improvements or landscaping disturbed by ELI or its Contractors to a condition substantially comparable to the condition before the opening or alteration and the restoration shall be performed with due diligence within a reasonably prompt time.

7.14 <u>Traffic Control.</u>

7.14.1 All traffic shall be regulated in accordance with MAG; the City of Phoenix Barricade Manual, latest edition, available through the City of Phoenix Traffic Engineering; the Manual on Uniform Traffic Control Devices (MUTCD); and any Special Provisions included herein.

7.14.2 At the time of the pre-construction conference, ELI shall designate an American Traffic Safety Services Association (ATSSA) certified individual who is well qualified and experienced in construction traffic control and safety, to be responsible for implementing, monitoring, and altering traffic control measures as necessary to require that traffic is carried through the work area in an effective manner and that motorists, pedestrians, bicyclists, and workers are protected from hazard and accidents. At the same time, the City shall designate a representative who will be responsible to see that all traffic control and traffic control alterations are implemented per these traffic control specifications.

7.14.3 ELI shall have the full responsibility and liability for traffic control for work performed by ELI or their Contractors. ELI shall submit a Traffic Control Plan to Traffic Engineering for approval one week prior to beginning work under this Agreement. It shall be noted that Traffic under this Agreement shall include all motor vehicles, bicyclists, and pedestrians. ELI shall not begin construction until the Traffic Control Plan is approved by the City. An approved Traffic Control Plan shall be maintained onsite during all phases of construction, otherwise construction will cease until the Traffic Control Plan is approved.

7.14.4 During construction it may be necessary to alter traffic control as approved by Traffic Engineering. Alterations to traffic control shall be in accordance with the latest edition of Part VI of the Manual on Uniform Traffic Control Devices: "Traffic Control for Streets and Highway Construction and Maintenance Operations"; the latest edition of the City of Phoenix Traffic Control Manual, latest edition. The most restrictive manual shall apply. ELI shall pay any and all applicable barricade fees.

7.14.5 City will make no payment for traffic control. The cost for any fees shall be ELI's responsibility.

7.14.6 In the event ELI or its Contractor(s) damages any traffic signal equipment, traffic signal conduit, loop detectors and/or circuits, it shall have them repaired immediately at its expense by an electrical Contractor that has had traffic signal experience which is pre-approved by the City. Any damage caused

by ELI or its Contractor(s) that is repaired by the City will be billed to ELI at cost.

7.14.7 Pedestrian access shall be maintained along the length of the project at all times per the requirements of the ADA and as approved by Traffic Engineering.

7.14.8 Speed limits shall be strictly enforced.

7.14.9 For more information, please contact the City of Glendale Traffic Engineering.

7.15 <u>Clean Up</u>. ELI and/or its Contractor(s) shall, during construction and upon completion of the work, remove all temporary construction facilities, debris, and unused materials provided for in the work, and put the work site of the work and public ROW in a safe, neat and clean condition.

7.16 <u>Safety</u>. ELI and ELI's Contractor(s) shall be solely and completely responsible for the conditions of any job site where the infrastructure is being placed that are related to the work undertaken by ELI, including safety of all persons (including employees) and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours. Safety provisions shall conform to all applicable federal (including OSHA), state, county, and local laws, ordinances, codes, and regulations. Where any of these are in conflict, the more stringent requirement shall be followed. ELI's failure to thoroughly familiarize itself with the aforementioned safety provisions shall not relieve ELI from compliance with these provisions.

7.17 <u>Blue Stake</u>. ELI and its Contractor(s) shall comply with A.R.S. §§ 40-360.21 through 40-360.32 by participating as a member of the Arizona Blue Stake Center with the necessary records and persons to provide location service of ELI's Facilities upon receipt of a locate call or as promptly as possible, but in no event later than two working days. A copy of the agreement or proof of membership shall be filed with the City Engineer.

SECTION 8. Hazardous Substances

ELI's and its Contractor(s)' activities upon or about the ROW shall be subject to the following regarding any hazardous or toxic substances, waste or materials, or any substance now or hereafter subject to regulation under the Comprehensive Environmental Response Compensation and Liability Act. 42 U.S.C. §§ 9601 et. seq. the Arizona Hazardous Waste Management Act, A.R.S. §§ 49-901, et. seq. the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et. seq. or the Toxic Substances Control Act, 15 U.S.C. § 2601, et. seq. or any other federal, state, county or local law pertaining to hazardous substances, waste or toxic substances and their reporting requirements (collectively "Toxic Substances");

- 1. ELI and/or its Contractor(s) shall not produce, dispose, transport, treat, use or store any Toxic Substances upon or about the ROW. The prohibitions of the preceding sentence only shall not apply to:
 - a. Ordinary gasoline, diesel fuel or other fuels or lubricants necessary for ordinary use in motor vehicles and ordinary construction machinery

permitted upon the ROW. Such materials must be properly and lawfully contained in ordinary quantities in ordinary tanks and receptacles that are permanently installed in such vehicles and machinery, or small portable tanks that are being used for fueling permitted construction machinery.

- b. Electric backup batteries.
- 2. ELI and/or its Contractor(s) shall dispose of any Toxic Substances away from the ROW as required by law and as reasonably required by City.
- 3. ELI and/or its Contractor(s) shall not use the ROW in a manner inconsistent with regulations issued by the Arizona Department of Environmental Quality, or in a manner that would require a permit or approval from the Arizona Department of Environment Quality or any other governmental agency. The preceding sentence does not prohibit ordinary permits for control of dust during construction permitted by this Agreement.
- 4. In addition to and without limitation of any other indemnities or obligations, ELI shall pay, indemnify, defend and hold City harmless against any loss or liability incurred by reason of any Toxic Substance on or affecting the portion of the ROW used that is attributable to or caused by ELI, its Contractor(s) or anyone using the ROW under this Agreement.
- 5. ELI and/or its Contractor(s) shall immediately notify City of any Toxic Substance at any time discovered or existing upon the ROW. ELI is not responsible for Toxic Substances that may exist at the ROW if ELI's Contractors and/or any other persons using the ROW under this Agreement did not do any of the following:
 - a. Knowingly participate in the Toxic Material coming to the ROW
 - b. Knowingly fail to immediately report the Toxic Material to City
 - c. Knowingly participate in spreading or otherwise disturbing the Toxic Material
 - d. Knowingly exacerbate the effects of the Toxic Material or the difficulty or cost of dealing with the Toxic Material
- 6. ELI understands the hazards presented to persons, property and the environment by dealing with Toxic Substances. ELI acknowledges the possibility that the ROW may contain actual or presumed asbestos and other Toxic substances containing materials.
- 7. Within twenty-four (24) hours after any violation by ELI and/or by its Contractor(s) of this Agreement pertaining to Toxic Substances, ELI shall give City notice reporting such violation.

SECTION 9. On-Call Assistance

ELI shall be available to staff employees of any City department having jurisdiction over ELI's activities twenty-four (24) hours a day, seven (7) days a week, regarding problems or complaints resulting from the installation, operation, maintenance, or removal of its Network. City may contact by telephone the network control center operator at the following phone number 1-800-360-4467 regarding such problems or complaints, and may use that number in order to reach ELI at any time for any emergency matter. ELI shall use reasonable efforts to respond to any issues within the time frames specified in its service level agreements. ELI shall make arrangements with a local entity to handle any necessary problems or complaints that require a physical presence.

SECTION 10. Mapping Requirement

10.1 ELI shall maintain As-Built Drawings of its Facilities located within the ROW and furnish a copy both electronically in an ESRI-compatible mapping format (or in a mapping format compatible with the current City electronic mapping format as specified by the City) and in hard copy form. Upon completion of new or relocation construction of underground Facilities in the ROW, ELI shall create and maintain precise, up-to-date maps of any of its Conduit System and/or Fiber Optic Network routes and any above ground equipment located in the ROW and precise and verifiable horizontal and vertical location information and will make this information available to the City upon the Installation of any new Facilities. ELI will also provide surface-location marking of any of ELI's Facilities that are located underground within any public ROW within ten (10) business days of installation.

10.2 If complete updates are not provided in a compatible format, ELI shall pay the actual, reasonable costs the City incurs to update the City's electronic mapping format due to the location or relocation of ELI's Facilities. However, before the City incurs any cost to convert updates provided by ELI, it will notify ELI that it cannot access the updates that had been provided. If within fourteen (14) days, ELI has not either provided compatible updates or provided the City an agreeable date by which such updates will be received by City, City will convert the incompatible updates unilaterally.

10.3 In the event ELI fails to supply records in the City specified format, and there is a cost to the City in converting ELI-provided files, ELI will be responsible for the conversion costs and will pay such costs within thirty (30) days of the date of the bill from the City invoicing the amount due. However, before the City incurs any cost to convert ELI-provided files, it will notify ELI that it cannot access the records that had been provided. If within fourteen (14) days, ELI has not either provided compatible records or provided the City an agreeable date by which such updates will be received by City, City will convert the incompatible updates unilaterally.

SECTION 11. Relocation

11.1 ELI shall relocate at no expense to the City any Facilities or other encroachment installed or maintained in, on or under any public place or ROW, as may be necessary to facilitate any public purpose any City project whenever directed to do so by City. The City will not exercise its right to require ELI Facilities to be relocated in an unreasonable

However, to the extent that the City receives funds from any third or arbitrary manner. parties or government entities for a project that requires the relocation of Facilities owned, operated and/or maintained by the ELI, the City shall allocate such funds to the relocation of ELI's Facilities. If more than one licensee is required to relocate for the same project, and is eligible for reimbursement, any such funds shall be distributed on a pro rata basis based on the total relocation costs of each of the licensees eligible for such reimbursement. ELI shall not hold the City liable for failure to request or file a claim for any funds for the relocation of the ELI's Facilities. Such relocations shall be accomplished in accordance with the directions from City and shall be pursuant to the same terms and conditions as the initial installation allowed pursuant to this Agreement and any applicable issued permits. ELI shall comply with any and all requirements of Chapter 10 of the Glendale City Code. Within ninety (90) days after service of notice by the City, ELI shall remove the designated portions of the Facilities, or in the event that, by the nature of the removal such removal cannot be performed within the ninety-day period, ELI shall take reasonable steps to remove the Facilities and diligently prosecute the removal to completion, and, if requested, restore the sidewalks and other ROW to a condition comparable to the condition before the construction of the public improvement at no cost and expense to the City.

11.2 ELI agrees to obtain a permit as required by this Agreement prior to removing, abandoning, relocating or reconstructing of any portion of its Conduit System(s) or Fiber Optic Network(s) in the public ROW. Notwithstanding the foregoing, City understands and acknowledges there may be instances when ELI is required to make repairs that are of an emergency nature or in connection with an unscheduled disruption of the Facilities. ELI will maintain any annual permits required by the City for such maintenance and emergency repairs. ELI will notify City before the repairs and will apply for and obtain the necessary permits in a reasonable time after notification.

11.3 If the City needs to perform any part of the necessary relocation or removal work that has not been done within the time required by the City, it shall be entitled to seek payment for such relocation costs by drawing upon the letter of credit or security fund required by this Agreement pursuant to Section 25.

SECTION 12. Expansion or Extension of the Current Use Area

12.1 Any further expansion and/or extension of ELI's Fiber Optic Network and or empty Conduit placement outside the current route(s) in the ROW shall require written approval from the City Engineer, who may, refer the matter to the City Council for approval, provided that such consent, by either the City Engineer, or the City Council, shall not be unreasonably withheld or delayed.

12.2 ELI agrees that such further expansions and/or extensions beyond the current route(s) shall be at all times governed by the terms and conditions of this Agreement.

12.3 Requests for expansions and/or extensions should identify the route, number of conduits, size of conduits, and intended use (including whether there will be dark fiber available for sale or leasing to third parties).

SECTION 13. Damage to Public Property.

13.1 In addition to any indemnity obligation under this License and Agreement, whenever the installation, use, maintenance, removal, or relocation of any of ELI's Facilities is required or permitted under this Agreement, and such installation, removal or relocation damages or disturbs the surface or subsurface of any ROW or public property or the public improvement located thereon, therein, or thereunder, however such damage or disturbance was caused. ELI, at its sole cost and expense, shall promptly restore the surface or subsurface of the ROW or public property and/or repair or replace the surface, subsurface and/or public improvement therein, or thereunder, in as good a condition as before in accordance with applicable laws, normal wear and tear expected, reasonably satisfactory to the City Engineer. If ELI does not repair the damage or disturbance as just described, then City shall have the option, upon ten (10) days prior written notice to ELI, to perform or cause to be performed such reasonable and necessary work on behalf of ELI and to charge ELI the actual costs incurred by the City, including all administrative costs related to the work. Should ELI fail to pay the City within ten (10) business days of the invoice for the costs, the City will be entitled to deduct the amount of the invoice from ELI's letter of credit.

13.2 Notwithstanding the notice provision above, in the event of a Public Emergency, the City shall have the right to immediately perform, without prior written notice to ELI, such reasonable and necessary work on behalf of ELI to repair and return public property to a safe and satisfactory condition in accordance with applicable laws, normal wear and tear excepted, reasonably satisfactory to the City Engineer. The City shall provide written notice to ELI of the repairs as soon as practicable after the work has begun. ELI agrees that any severed City-owned Conduit and/or fiber must be completely repaired or replaced to the nearest splice point. If the City needs to perform any part of the necessary repairs, relocation and/or removal work, it shall be entitled to seek payment for such repairs, relocation and/or required by this Agreement in full or partial satisfaction of such costs, if payment is not made by ELI as required by Section 13.3 below.

13.3 Upon the receipt of a demand for payment by City, ELI shall, within thirty (30) days, reimburse City for any undisputed costs.

13.4 For any pavement cuts by ELI, ELI agrees to restore the pavement and to reimburse the City for all costs arising from the reduction in the service life of any public road, in accordance with the provisions of the Glendale City Code and the fees established by the City pursuant thereto. ELI agrees to pay within thirty (30) days from the date of issuance of an invoice from City. Failure to do so shall entitle City to draw upon the letter of credit or security fund and/or performance bond.

SECTION 14. Public Emergency Disruption by City.

City shall have the right, because of a Public Emergency, to sever, disrupt, remove, tear out, dig-up or otherwise damage and/or destroy Facilities of ELI without any prior notice to ELI, if the action is deemed necessary by either the City Manager, Fire Chief, Police Chief, City Engineer, or Public Works Director or designee. In such event, neither the City nor any

agent, Contractor or employee of City shall be liable to ELI, its Contractors or its customers or their parties for any harm so caused to them or the Facilities. When practical and if possible, City will consult with ELI in advance to assess the necessity of such actions and to minimize to the extent practical under the circumstances damage to and disruption of operation of the Fiber Optic Networks. City shall inform ELI of any actions taken. ELI shall be responsible for repair at its sole expense of any of its Facilities damaged pursuant to any such action taken by City.

SECTION 15. Public Safety/Public Emergency.

15.1 If any of ELI's Facilities or activities present any immediate hazard or impediment to the public, to the City, to other improvements or activities within or outside of the route area(s), or to City's ability to safely and conveniently operate the ROW or perform City's utility, public safety and/or other public health, safety and welfare

functions, then ELI shall immediately remedy the hazard, comply with City's request to secure the route area, and otherwise cooperate with City at no expense to City to remove any such hazard or impediment.

15.2 In the event of a Public Emergency, neither the City nor any agent, Contractor or employee of the City shall be liable to ELI or its Contractors or its customers or other third parties for any harm so caused to them by the reasonable actions of the City or its agents, Contractors or employees in responding to such public emergency. When practical and if possible, City will consult with ELI in advance to assess the necessity of such actions and to minimize, to the extent practical under the circumstances,

Damage to and disruption of either the public property involved or the Facilities involved.

SECTION 16. Contractors

16.1 The specific independent Contractors identified and used by ELI for the construction activities to expand and extend ELI's Facilities and Service Area will need to be approved by the City Engineer or designee prior to issuance of each construction permit, such approval shall not be unreasonably withheld, delayed, conditioned or denied. Any Contractors performing construction work within the ROW or public easements shall comply with licensing requirements of the Arizona General Contractors.

16.2 All independent Contractors shall provide their own insurance policies or shall furnish separate certificates and endorsements for each. All coverages for independent Contractors shall be subject to all the requirements stated herein for ELI.

SECTION 17. Legal Worker Compliance

17.1 ELI hereby warrants that it will at all times during the term of this Agreement comply with all federal immigration laws applicable to ELI's employment of its employees, and with the requirements of A.R.S. 23-214(A).

SECTION 18. Effective Date and Validity of Agreement

18.1 This Agreement is effective upon signature by ELI and the execution of it by the Glendale City Council.

18.2 ELI shall acknowledge that as a condition of acceptance of this Agreement, ELI was required to be represented throughout the negotiations of the Agreement by its own attorneys and ELI had the opportunity to consult with its own attorneys about its rights and obligations regarding the Agreement. ELI has reviewed City's authority to execute and enforce this Agreement and has reviewed all applicable law, both federal and state, and, after considering same, ELI acknowledges and accepts the right and authority of City to execute this Agreement and to enforce the terms herein.

SECTION 19. Term of Agreement

19.1 The original term of this License and Agreement shall terminate 11:59 p.m. on the date prior to the date that is the tenth (10^{th}) annual anniversary of this Agreement, which is the date of approval of this Agreement by the City Council, unless sooner terminated as set forth in this Agreement.

SECTION 20. Modification, Renewal, Extension

20.1 If ELI wishes to renew its License and continue using the ROW, then at least one hundred and eighty (180) days prior to the expiration of this License and Agreement, ELI shall apply to the City for a new License and Agreement in accordance with the then existing federal, state, and local laws.

20.2 ELI shall pay to City the applicable fee at the time of the submission of the application.

20.3 Upon renewal or extension of a telecommunications license with the City, City shall have the right to renegotiate any of the terms from a prior agreement. ELI understands that the City may adopt future code amendments and/or fee schedules relating to Facilities located within the ROW, which may replace in its entirety the current fees and other costs imposed upon ELI under this Agreement. ELI acknowledges the right of the City to adopt and implement such lawful code amendments and/or fee schedules.

20.4 If ELI's Facilities remain in the ROW, and ELI continues to use such Facilities beyond the expiration of the license term and pay the annual fees, the License shall be considered to be in a "Holdover Term," subject to the terms and conditions of this Agreement. Such Holdover Term, however, shall not exceed 60 days beyond the expiration of the term, and no permits will be issued to ELI by the City until a new License has been approved by the City Council.

20.5 Failure by ELI to have a valid License and Agreement to use the ROW by the expiration of the Holdover Term may result in immediate withdrawal and revocation of any existing permits issued by the City to ELI. If, however, ELI has timely filed its application and is in active negotiations with the City prior to the expiration of the License and Agreement, the City

may, in its discretion, grant, extend, or take no action on permits issued to ELI prior to the expiration of the Agreement.

SECTION 21. Payments

21.1 By entering into this Agreement, neither party waives any current or future rights reserved under the Telecommunications Act of 1996, including but not limited to, those rights set forth in Sections 253(c), reserving the City's right to manage the public ROW and to require fair, non-discriminatory and reasonable compensation from ELI for use of the public ROW.

21.2 ELI shall be solely responsible for payments to City as follows:

21.2.1 Application Fee- ELI shall pay City an application fee for the administrative costs involved in the issuance of a telecommunications license, which shall be due at the time of the submittal of the application.

21.2.2 Transaction Privilege Tax- If ELI only and exclusively uses the ROW for Intrastate Telecommunication Services as defined by A.R.S. § 9-581 and the Glendale City Code, then no Use Fee as per Section 21.2.4 will be due. However, ELI will owe transaction privilege tax on any qualifying services under Glendale City Code.

21.2.2.1 ELI asserts that under A.R.S. § 9-582, 100% of its route in Glendale is exempt from the fee under Section 21.2.4 below.

21.2.2.2 Should the percentage and/or nature of ELI's use change so that either a linear foot fee under Section 21.2.3 or Section 21.6 or a use fee under Section 21.2.4 is applicable, ELI agrees to pay such fees, subject to any right of offset under Section 22. Any such fees shall be calculated from the effective date of this Agreement and any retroactive amounts from the date of the change in circumstances that cause the fee to be due the City shall be payable within 30 days of written notification by the City to ELI of what amount is due.

21.2.3 ROW Usage Fee for A Provision of Interstate Telecommunication Services Fiber Optic Network in the ROW that carries interstate traffic between and among ELI's interstate points of presence exclusive of the Fiber Optic Network used by the local network and the portion of the interstate network that carries intrastate calls is subject to an annual fee based on the number of linear feet of trench in the ROW. The annual fee is One Dollar and Ninety Six Cents (\$1.96) per linear foot, which shall be adjusted annually as provided in Section 21.2.3.1.

21.2.3.1 Commencing on the anniversary date of this Agreement in 2015 and continuing through the fifth year of the term, the linear foot fee and ROW usage fee shall be escalated annually each July 1 based on the United States

Department of Labor, Bureau of Labor Statistics, Consumer Price Index-All Urban Consumers, West Region for All Items (CPI). If there is no increase in the CPI, the fee shall remain what it was for the prior year.

21.2.3.2 As of the date of this Agreement, ELI does not provide interstate telecommunication services subject to this fee as defined in A.R.S. § 9-583.

21.2.3.3 Should ELI own, install, maintain, operate, or acquire Fiber Optic Networks that do qualify for the annual footage fee, ELI shall immediately notify the City in writing of the number of linear feet and the location, so that the annual fee may be calculated.

21.2.3.4 Any such annual fee shall be due and payable within 30 days of the receipt of an invoice from the City advising ELI of the amount due. Such a fee shall be prorated from the date of the invoice until the anniversary date of this Agreement. Thereafter, upon each anniversary

of this Agreement, the annual fee will be adjusted as provided by Section 21.2.3.1 Above.

21.2.4 Compensation for Use of ROW- In the event that ELI provides any services that are in addition to intrastate services as identified in its CC&N or occupies or uses the ROW for a use other than one that conforms to the definition of Telecommunication Services as defined in this Agreement and A.R.S. § 9-581, ELI agrees to pay fair and reasonable compensation for use of the ROW as authorized by law. Upon each anniversary of this Agreement, the Compensation will be adjusted by the CPI as provided by Section 21.2.3.1 above, and payment made as required by Section 21.3.

21.3 For any annual payment(s) owed, ELI shall make such payment(s) to the City within five (5) business days of the effective date of this Agreement and/or by the anniversary of such effective date thereof for the duration of the term, whichever is applicable.

21.4 <u>Permit Fees</u> – ELI shall pay all applicable construction permit fees to place Facilities in the ROW, which includes charges for encroachment permit applications, issuance, inspection, testing, plan review and any other fees adopted by City and applicable to persons doing work and/or encroaching in the City's ROW pursuant to Glendale Development Fee Schedule. If, at the request of ELI, the needs of ELI's work requires after hours or nighttime work outside of normal business hours, ELI shall reimburse the City according to the fee schedule in place.

21.5 Damage Fees- ELI shall pay any reasonable costs associated with any damage caused to the public ROW as provided by Glendale City Code.

21.6 <u>Pro-rated Fees</u>- Within thirty (30) days after the issuance of a permit for the installation of additional footage of Conduit(s), if such installation subjects ELI to an annual fee pursuant to Section 21.2.3 or Section 21.2.4 above (if applicable), ELI will pay a pro-

rated portion of the annual fee, as adjusted, per linear foot for that section of its expanded route. The prorated annual fee shall be determined by multiplying the annual footage fee, as adjusted, for the year of payment, by a fraction, the numerator of which is the number of full months between the month of issuance of the permit and the next following anniversary date of this Agreement and the denominator of which is twelve (12).

21.7.1 In the event, ELI cancels or returns a permit and does not construct or install Facilities, which had been approved by such a permit, the footage fees previously paid for public ROW used or occupied by ELI shall be applied as a credit toward any annual fee or refunded to ELI by City.

 21.8 Any checks should reference the contract number and be sent to: City of Glendale Attn: Finance Administrator 5850 W Glendale 3rd Floor Glendale, AZ 85031

21.9 ELI agrees that if it fails to pay any amounts owed to the City by the time prescribed for payment, ELI shall pay interest on the amounts owed, at the rate of one percent (1%) per month.

SECTION 22. In-Kind Payment as an Offset to Fees Owed

This agreement does not currently provide for any in kind payments by ELI, however, should fees be owed under Section 21 above, the Parties may agree in writing to an in kind payment of fiber(s) and/or conduit(s) to offset such fees or transaction privilege taxes owed through an addendum to this Agreement.

SECTION 23. Taxes

ELI shall pay any applicable city, county and state transaction privilege and use tax. Such taxes are in addition to any non-tax amounts owed by ELI pursuant to Section 21. ELI consents to the disclosure of any and all information reported on ELI's transaction privilege tax returns by authorizing and allowing the City's tax collector to release such information to the City Manager or designees.

SECTION 24. Performance Bond

24.1 Prior to receiving any permit to construct, install, maintain or perform any work on public property that requires a permit from the City pursuant to applicable City codes, ELI shall cause to be filed and maintain until either completion of the construction or termination of this Agreement as determined by ELI, a faithful performance bond in favor of City in the sum of One Hundred Thousand Dollars (\$100,000.00) or the amount of the construction costs (whichever is greater) to guarantee that ELI shall observe, fulfill and perform each and every term of this Agreement. In case of any breach of any condition of this Agreement, any amount of the sum in the bond, up to the whole thereof, may be forfeited to compensate City for any damages it may suffer by reason of such breach. Said bond shall be acknowledged by ELI, as principal, and shall be issued by a

surety with an AM Best rating of A-VII or better for the last four quarters. City and ELI agree that the process and procedure for drawing upon, curing, and replenishing the performance bond shall be the same as set forth below for the security fund and/or letter of credit.

24.2 If ELI has completed the above construction and wants the bond released, the City will need to inspect and approve the construction prior to such release. However, a performance bond will be required for each subsequent or additional construction project and/or work on public property.

SECTION 25. Security Fund

25.1 Upon application for continued use of the ROW, but no later than five (5) business days before this Agreement is submitted to the City Council for approval, ELI shall provide either a cash deposit or domestic irrevocable standby letter of credit to the City Engineer in the initial amount of Fifty Thousand Dollars (\$ 50,000.00) as a security fund that is in compliance with the standards and form set forth in Exhibit C or its equivalent. Said cash deposit or letter of credit shall be maintained with the City for the term of this Agreement as security for the faithful performance by ELI of all the provisions of this Agreement, and compliance with all lawful orders, permits and directions of any department or office of the City having jurisdiction over its acts or defaults under this Agreement and any permit issued pursuant thereto, and the payments by ELI of any fees, claims, liens and taxes due the City which arise by reason of the construction, operation or maintenance of the Facilities. City shall have the full power of withdrawal of funds from the cash deposit put into the security fund account or letter of credit except that all interest accrued on any cash deposit shall be payable to ELI on demand. No withdrawals shall be made from the security fund account without the prior written approval of the City Manager and prior written notice of intent to withdraw to ELI.

25.2 Within twenty (20) days after notice to ELI that any amount has been withdrawn by City from the security fund account or letter of credit, ELI shall deposit a sum of money sufficient to restore such security fund account to the original amount or present to the City an additional irrevocable letter of credit in said amount so that the total amount of funds available to the City is \$ 50,000.00.

25.3 If ELI fails, within ten (10) business days of a notice of intent to draw on either the security fund account or on the letter of credit, to either dispute the notice in writing; or pay City any taxes or fees due and unpaid; or fails to repay to City, within such ten (10) business days of such notice, any damages, costs or expenses which City shall be compelled to pay by reason of any act or default of ELI in connection with this Agreement; or fails, within thirty (30) days of such notice of failure by City to dispute the notice in writing, or comply with any provision of this Agreement which City reasonably determines can be remedied by an expenditure of funds from the cash deposit in the security fund account or letter of credit, City may immediately withdraw the amount thereof, with interest from the security fund account. Upon such withdrawal, City shall notify ELI of the amounts and date thereof.

25.4 Any funds that City erroneously or wrongfully withdraws shall be returned to ELI, with interest of 1.0% per month, within thirty (30) business days of such a determination.

25.5. The rights reserved to City, with respect to the security fund account and/or letter of credit, are in addition to all other rights of City whether reserved by this Agreement or authorized by law, and no action, proceeding or exercise of a right with respect to such security fund account or letter of credit shall affect any other right City may have.

SECTION 26. Insurance

26.1 <u>Minimum Limits of Insurance</u>. ELI shall at all times during the term of this Agreement, at its own cost and expense, carry and maintain for the mutual benefit of the City and ELI, commercial general liability insurance against claims for bodily injury, death or property damage, products/completed operations and personal and advertising injury, which insurance shall cover claims as may be occasioned by the operations, act, omission or negligence of ELI or its officers, agents, representatives, employees or servants during all times that this License and Agreement is in effect. Insurance limits are inclusive of umbrella coverage. ELI shall maintain limits no less than those stated herein for each type of insurance.

26.2 General Requirements. ELI's insurance of the types and amounts required in this section shall be from companies possessing a current A.M. Best, Inc. rating of A- VII, or better and legally authorized to do business in the State of Arizona.

26.2.1 All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of City, constitute a material breach of this Agreement and may result in termination of this Agreement.

26.2.2 The insurance coverage, except workers' compensation and professional liability, required by this Agreement, shall name City, its agents, representatives, directors, officials, and employees, as additional insureds, and shall specify that insurance afforded ELI shall be primary insurance, and that any self-insured retention and/or insurance coverage carried by City or its employees shall not contribute to the coverages provided by ELI. This provision and the naming of the City as an additional insured shall not be construed as giving rise to responsibility or liability of the City for applicable deductible amounts under such policy(ies).

26.2.3. The insurance policies shall contain a waiver of transfer rights of recovery (subrogation) against City, its agents, representatives, officers, directors, officials and employees.

26.2.4. The insurance policies may provide coverage, which contain deductibles or self-insured retentions. Such deductible and/or self-insured retention shall be assumed

by and be for the account of, and at the sole risk of ELI who shall be solely responsible for the deductible and/or self-insured retention. The amounts of any self-insured retentions shall be noted on the Certificate of Insurance. City, at its option, may require ELI to secure payment of such deductibles or self- insured retentions by a surety bond or an irrevocable letter of credit. Self-insured retentions of up to \$1,000,000 (One Million Dollars) shall be accepted.

26.2.5 All policies shall not be cancelled until at least thirty (30) days prior written notice has been given to City. ELI will ensure its policies will comply with the minimum requirements of Section 26 and notify the City if it cannot meet those requirements.

26.2.6 ELI shall be responsible for ensuring that the City is notified within thirty (30) days of the occurrence of any reduction in the insurance coverage amounts, cancellation or expiration of any of the policies as required by this License and Agreement.

26.2.7 ELI shall include all Contractors as additional insureds under its policies or shall provide separate certificates and endorsements for each Contractor. All coverages for Contractors shall be subject to all the requirements stated herein for ELI. Upon the request of ELI, the City may agree to lower insurance requirements for a Contractor. This change in insurance limits will be subsequent to a review by the City's Project Manager of the potential exposures and risks of the work being performed by the Contractor, and a determination that such a reduction to the insurance limits is warranted.

26.2.8 City reserves the right to periodically review said insurance limits to ensure coverage based on market and risk requirements throughout the effective term of this Agreement.

26.3. Proof of Insurance-Certificates of Insurance.

26.3.1.Prior to or upon execution of this Agreement, ELI shall furnish to City Certificates of Insurance issued by ELI's agent or broker, as evidence that policies providing the required coverages, conditions and limits required by this Agreement are in full force and effect and obtain from the City's Engineering Division approval of such Certificates. Such certificate(s) shall include the endorsement listing the City as an Additional Insured pursuant to Section 26.2.2 and shall be attached as Exhibit B to this Agreement.

26.3.2. If a policy does expire during the life of this Agreement, a renewal certificate must be sent to the City ten (10) business days prior to the expiration date.

26.3.3. All Certificates of Insurance shall identify the policies in effect on behalf of ELI, their policy period(s), and limits of liability. Coverage shown on the Certificate of Insurance must coincide with the requirements in the text of the Agreement documents. Information required to be on the Certificate of Insurance may be typed on the reverse of the Certificate and countersigned by an authorized representative of the insurance carrier or agent. Copies of the initial Certificate of Insurance and any and all subsequent renewals that are required under this Agreement shall be sent to:

City of Glendale Attn: Construction Engineering Manager 5850 W Glendale 3rd Floor Glendale, AZ. 85031

26.3.4. City reserves the right to request and to receive, within ten (10) business days, certified copies of any or all of the herein required insurance policies and/or endorsements. City shall not be obligated, however, to review same or to advise ELI of any deficiencies in such policies and endorsements, and such receipt shall not relieve ELI from, or be deemed a waiver of City's right to insist on, strict fulfillment of ELI's obligations under this Agreement.

26.4 <u>Required Coverage.</u>

26.4.1 Such insurance shall protect ELI from claims set forth below that may arise out of or result from the operations of ELI under this Agreement and for which ELI may be legally liable, whether such operations be by ELI or by a consultant or Contractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts may be legally liable. Coverage under the policy will be at least as broad as Insurance Services Office, Inc., policy form CG 00 01 10 01 and CG 20 37 07 04 or equivalent thereof, including but not limited to severability of interest and waiver of subrogation clauses.

26.4.2 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the ELI's employees;

26.4.3 Claims for damages insured by usual personal and advertising injury liability coverage;

26.4.4 Claims for damages, because of injury to or destruction of tangible property, including loss of use resulting therefrom;

26.4.5 Claims involving contractual liability insurance applicable to ELI's obligations under the Indemnification Agreement.

26.5 <u>Commercial General Liability - Minimum Coverage Limits.</u>

The Commercial General Liability insurance required herein shall be written for not less than \$5,000,000 limits of liability. Any combination between general liability and excess general liability alone amounting to a minimum of \$5,000,000 per occurrence and an aggregate of \$10,000,000 in coverage will be acceptable. The Commercial General Liability additional insured endorsement shall be as broad as the Insurance Services, Inc.'s (ISO) Additional Insured, Form B, CG 20 10 10 01 and CG 20 37 07 04, and shall include coverage for ELI's completed operations and products.

26.6. Worker's Compensation and Employer's Liability.

ELI shall maintain Worker's Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over ELI's employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than \$1 million for each accident, \$1 million disease coverage for each employee, and \$1 million disease policy limit. In case any work is subcontracted, ELI will require the Contractor to provide Worker's Compensation and Employer's Liability to at least the same extent as required of ELI.

26.7. <u>Automobile Liability.</u>

If ELI owns and/or operates vehicles in Arizona, ELI shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$5 million each occurrence with respect to any owned, hired, and non-owned vehicles assigned to or used in performance of the ELI's work. Coverage shall be at least as broad as coverage Symbol 1, "any auto", (Insurance Service Office, Inc. Policy Form CA 0001 0306, or any replacements thereof). Such insurance for ELI's Contractors shall include coverage for pollution for upset/overturn/collision of the automobile(s) and loading and offloading hazards if hazardous substances, materials, wastes are to be transported and a MCS 90 endorsement shall be included with coverage limits of \$5 million per accident for bodily injury and property damage.

SECTION 27. Indemnity.

27.1ELI acknowledges that it has responsibility for any and all of its Facilities installed in the public ROW, its use of the ROW and for its exercise of its rights under this License and Agreement directly or through its Contractor(s), except for the intentional acts or gross negligence on the part of the City. To the fullest extent permitted by law, ELI, shall defend, indemnify and hold harmless the City, or its officials, boards, commissions, agents or employees, individually and collectively, from and against any and all Claims as defined in Section 1 arising out of or alleged to have resulted from or materially caused by the acts, errors, mistakes, and/or omissions of ELI, its employees, agents, or any tier of Contractors acting on behalf of ELI or any other person for whose acts, errors, mistakes, and/or omissions ELI may be legally liable. This defense and indemnification requirement includes any Claims or amounts arising or recovered under workers compensation laws or any other law, bylaw, or ordinance, order or decree caused by any failure on the part of ELI, its agents, employees or representatives to fulfill ELI's obligations under this Agreement, whether resolution of the above Claim(s) proceeds to judgment or not except to the extent such Claims resulted from or were caused by intentional acts or negligence on the part of the City or its agents. The provisions of this section shall survive termination of this Agreement.

This section applies even if the party seeking damages makes a claim against the City or brings a claim against the City based on vicarious liability or non-delegable duty.

27.2 ELI further agrees to indemnify and hold harmless the City, its officers and its employees from and against all reasonable costs, damages, and expenses incurred by the City, its officers and its employees in the defense of any litigation brought by third parties challenging the right of the City to enter into this Agreement with ELI under the City Code or other applicable law.

27.3 In the event that a notice of claim is served on the City or litigation is commenced against the City, the City may, but is not required to, tender the defense of the litigation to ELI, who shall defend the litigation. If the City tenders the defense to ELI, ELI shall have the right to retain counsel of its own choice, to settle all or any part of the litigation on terms acceptable to ELI (and, where such terms directly obligate or affect the City, acceptable to the City). ELI agrees to keep the Glendale City Attorney's Office informed of the status and progress of all litigation involving the City that has been tendered to ELI or its insurance carrier.

27.3.1 The parties shall promptly notify each other in writing of any claims, demands, or lawsuits which may involve the City and provide copies of all accident reports, incident reports, statements or other documents that are relevant to the claims, demands, or lawsuits, or which may lead to the discovery of relevant materials or information in the possession of the other party, its employees, agents, Contractors, and/or others.

27.3.2 Subject to any legal protections for privilege and/or confidentiality, both parties agree to cooperate with the other party to gather any relevant information relating to an incident which results in a claim, demand, or lawsuit.

27.4 It is the purpose of this section to provide maximum indemnification to the City under the terms and conditions expressed herein, and, in the event of a dispute, this section shall be construed (to the greatest extent permitted by law) to provide for the indemnification of the City by ELI against any and all claims, demands or lawsuits. The sole exception shall be an express determination by a court of competent jurisdiction upon full adjudication of the case that the damages either arose from the City's gross negligence or intentional acts or that the City was comparatively at fault for the damages. Only in this event may ELI then commence an action against the City for damages related to that portion judicially determined to be the City's fault.

27.5 The provisions of Section 27 shall not be dependent or conditioned upon the validity of this License, but shall be and remain a binding right and obligation of the City and ELI, even if part or all of this License is declared null and void in a legal or administrative proceeding. It is the intent of ELI and the City upon the effective date of this License, that this Section serves as any such declaration and shall be a binding obligation of and inure to the benefit of ELI and the City and their respective successors and assigns, if any. Any failure by ELI shall be considered a material breach of this License and Agreement.

27.6. The amount and type of insurance coverage requirements set forth in this Agreement will in no way be construed as limiting the scope of the indemnity in this Section.

27.7 As a condition to Licensor's executing this Agreement, ELI specifically agrees that to the extent any provision of this Section is not fully enforceable against ELI for any reason whatsoever, the parties shall meet to negotiate the reformation of this Agreement, to the minimal extent necessary to cause it to be enforceable to the fullest extent permitted by law.

SECTION 28. Limitation of Liability

28.1 The City and its officers, agents, elected or appointed officials, employees, departments, boards and commissions, shall not be liable to ELI or to its affiliates or customers for any interference with or disruption in the operations of ELI's Fiber Optic Networks or the provision of services, or for any Claim for damages arising out of or materially related to ELI's use of the ROW, except to the extent of intentional misconduct or gross negligence on the part of the City, its officers, agents, elected or appointed officials, employees, departments, boards and commissions.

28.2 ELI also agrees that it shall have no recourse whatsoever against the City or its officials, boards, commissions, agents or employees for any loss, costs, expense or damages arising out of or materially related to any provision or requirement of the City because of the enforcement of this License and Agreement or because of defects in this License or Glendale City Code.

28.3 ELI shall assume the risk of, and hereby relinquishes any claim against the City in connection with any final, non-appealable determination by a court of competent jurisdiction that the City lacked the current statutory authority under Arizona law to issue this License.

SECTION 29. Transferability of License and Agreement

29.1 This License is personal to ELI.

29.2 Except as otherwise provided in this Agreement, the rights, privileges and License granted herein shall not be sold, sublet, assigned, conveyed or otherwise transferred, nor shall any of the rights or privileges therein granted or authorized be leased, assigned, sold, conveyed or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, except ELI, either by act of ELI or operation of law, without the express written consent of the City, which consent shall not be unreasonably withheld or delayed. Prior to any proposed transfer of any kind becoming final, ELI shall seek the consent of the City to the proposed transfer. Approval by the City to a transfer does not constitute a wavier or release of any of the rights of the City under the Tempe City Code or this Agreement, whether arising before or after the date of transfer.

29.3 "Transfer" transactions shall mean all of the following transactions, circumstances and conditions and to all persons claiming pursuant to such transactions, circumstances and conditions:

- 1. Any voluntary or involuntary assignment, conveyance or transfer of the ROW or any interest therein or any rights under this Agreement, in whole or in part.
- 2. Any assignment by ELI of any interest in this Agreement for the benefit

of creditors, voluntary or involuntary.

- 3. Any voluntary or involuntary pledge, lien, mortgage, security interest, judgment, claim or demand, whether arising from any contract, any agreement, any work of construction, repair, restoration, maintenance or removal, or otherwise affecting ELI's rights to use the ROW (collectively "Liens").
- 4. ELI's insolvency.
- 5. The occurrence of any of the foregoing with respect to any assignee or other successor to ELI.

29.4 The new Licensee as approved by the City shall be equally subject to all the obligations and privileges of the original License and Agreement, including any amendments, which will remain in full effect, as if the new Licensee were the original Licensee.

29.5 The approval of the change shall include an Assignment Agreement form (if there was an assignment) or Transfer form (if there was a stock acquisition, a merger, or other type of transfer of ELI's assets) to be signed by Assignee, Assignor and the City.

29.6 Any assignment or other transfer of License and Agreement, including any amendments, shall be binding on the assignee or transferee as if the assignee or transferee had originally executed the Agreement for the full term and shall include the following:

29.6.1. The proposed assignee or transferee has read, accepts, and agrees to be bound by the terms of this Agreement; and

29.6.2. The proposed assignee or transferee assumes all obligations, liabilities and responsibility for the acts and omissions of ELI, known and unknown, for all purposes, and agrees that the assignment or transfer shall not permit it to take any position or exercise any right which ELI could not have exercised; and

29.6.3 ELI and the proposed transferee shall submit to City a description of the nature of the transfer.

29.6.4 ELI may execute a pledge or, hypothecation or mortgage or similar instrument transferring conditional ownership of all or part of ELI's assets to a lender or creditor in the ordinary course of business provided that ELI has secured approval from the Arizona Corporation Commission, if required. In the event a lender assumes control of the assets and operation of ELI through a default of ELI in loan obligations, the Lender may assume the rights and obligations of ELI. The Lender may not transfer or change control of the Agreement without submitting the change to the City for approval. If the Lender does continue operation on any basis at any time, the Lender shall be subject to all provisions of the Agreement. No later than 30 days after assumption of

control by the Lender, the Lender shall apply to the City for the right to continue assumption of control or to transfer the Agreement. Application by the Lender for

approval of such assumption of control or transfer shall be subject to all provisions set forth herein on consent by the City Council and shall not be

unreasonably denied or upheld. A "Lender" as discussed herein shall not include a company, person or corporation or other entities that operate cable television systems or fiber optics telecommunications systems as a principal or important business. This paragraph is intended to prohibit the intentional use of lending and/or foreclosure as a method for effecting change of control or transfer of the Agreement without City Council review and approval.

29.6.5 Notwithstanding the foregoing, prior notice, but not prior consent shall be required for a transfer of control of ELI to any company which is owned or controlled or under common control and with the same direct parent as ELI, and which is intended after such transfer to remain under the ownership or control of that parent or an entity under common control or with the same direct parent, provided that no transfer shall be valid unless ELI and the proposed transferee submit a binding agreement and warranty to the City stating that:

1. The proposed transferee has read, accepts and agrees to be bound by the License and Agreement.

2. The proposed transferee assumes all obligations, liabilities and responsibilities under the License and Agreement for the acts and omissions of ELI, known and unknown, for all purposes, and agrees that the transfer shall not permit it to take any position or exercise any right which ELI could not have exercised; and

3. The transfer will not substantially diminish the financial resources available to ELI.

29.6.5.1 However, prior to completing the transfer described above, ELI must give prior notice to the City of the proposed transfer and describe the nature of the transfer and complete information regarding the effect of the transfer on the direct and indirect ownership and control of the License and Agreement.

29.7 Transfer Remedies. Any transfer without City's consent shall be void and shall not result in the transferee obtaining any rights or interests in, under or related to this License and Agreement. City may, in its sole discretion and in addition to all other lawful remedies available to City under this Agreement or otherwise, and in any combination, terminate this Agreement, collect any fees owed from ELI and/or declare the transfer to be void, all without prejudicing any other right or remedy of City under this Agreement. No cure or grace periods shall apply to transfers or assignments prohibited by this Agreement or to enforcement of any provision of this Agreement against an assignee who did not receive City's consent.

29.8 <u>Transfer Fee.</u> ELI shall pay to City in advance the sum of Two Thousand Dollars (\$ 2,000.00) as a nonrefundable fee for legal, administrative and other expenses related to every transfer (other than the sale of publicly traded stock) or to any request for a consent to transfer, whether or not City grants such request.

SECTION 30. No Third Party Beneficiaries

No person or entity shall be a third party beneficiary to this Agreement or shall have any right or cause of action hereunder. City shall have no liability to third parties for any approval of plans, ELI's construction of improvements, ELI's negligence, ELI's failure to comply with the provisions of this Agreement (including any absence or inadequacy of insurance required to be carried by ELI), or otherwise as a result of the existence of this Agreement.

SECTION 31. ELI's Records

31.1 <u>Recordkeeping.</u> During the negotiations preceding and the entire term of this License and Agreement, ELI shall keep records and provide information to City as required regarding the following:

1. The status of the construction, repair, location or relocation of ELI's Facilities.

2. Information relating to any Fiber Optic Networks on portions of the route that are not exempt from a fee imposed for occupation of the ROW.

3. Information relating to this License and Agreement and/or to City's or ELI's rights or obligations under this License and/or Agreement.

31.2 If necessary for the City to determine ELI's compliance with the terms of this License and Agreement or other applicable law, within ten (10) days of written notice by City of a request for disclosure, ELI shall provide relevant documentation as requested by City, respond to questions, and produce relevant books and records for the City's inspection and copying. Such records shall be available to City at ELI's offices in Maricopa County, Arizona. ELI shall also require its employees, agents, and accountants to give their full cooperation and assistance in connection with City's access to such records.

31.2.1 Such documentation can include information on the type of services ELI is offering its customers (but not necessarily information disclosing any particular service being provided to a specific customer) and/or the financial information used in calculating any payments or taxes due to the City under this Agreement. If ELI determines that in order to respond to City's request for documentation, it must reasonably provide Proprietary Information, ELI shall so mark such documentation as "Confidential."

31.2.2. Proprietary Information disclosed by ELI shall mean any document or material clearly identified as "Confidential." Such Proprietary Information shall include, but not be limited to any customer names and lists, financial information,

technical information, other information clearly identified as "Confidential" pertaining to services provided to its customers, maps regarding network placement and equipment, with the exception of any map(s) attached to this Agreement.

31.2.3 Proprietary Information disclosed by ELI to the City or its constituent departments shall be regarded as Proprietary as to third parties. If the City receives a request to disclose such information, the City shall notify ELI of such request and allow ELI a reasonable opportunity to defend its information from disclosure.

31.2.4 Information that is already in the public domain shall not be considered Proprietary Information. If public domain information is included with Proprietary Information on the same document, the City shall only disclose those portions within the public domain.

31.2.5 Notwithstanding any provision in this License, ELI acknowledges and understands that the City is subject to the disclosure requirements of Arizona's Public Records Law (A.R.S. § 39-121 et seq).

31.3 <u>Reports</u>. Upon request and subject to any necessary confidentiality requirements, ELI shall provide to City copies of any communications and reports submitted by ELI to the FCC or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters directly affecting enforcement of this Agreement.

SECTION 32. Penalties for Violation of Terms

32.1 City may pursue any remedy at law, including but not limited to injunctive relief, civil trespass, and withholding other City permits and authorizations until ELI complies with the terms of the License, Agreement or the applicable law. Likewise, ELI may pursue any remedy at law, including but not limited to injunctive relief, at any time should the City fail to comply with local, state or federal law.

32.2 Such remedies are cumulative and may be pursued in the alternative.

SECTION 33. Liquidated Damages for Violations

33.1 ELI's obligation to pay liquidated damages does not in any way detract from ELI's indemnity and insurance obligations under this Agreement, which shall apply according to their terms in addition to ELI's obligation to pay liquidated damages.

33.2 ELI understands and agrees that failure to comply with any time and performance requirements in this Agreement or the requirements of Chapter 10 of the Glendale City Code will result in damage to the City, and that it is and will be impracticable to determine the actual amount of such damage in the event of delay or

Nonperformance; therefore, the parties hereby agree to the liquidated damages specified below pursuant to the authority in Glendale City Code. The following amounts per day or

part thereof may be chargeable to the letter of credit or security fund for the following concerns:

33.2.1 Each failure to properly restore the public ROW or to correct related violations of specifications, code ordinance or standards within fifteen (15) business days of having been notified by the City in writing to correct such defects \$500.00 per day. Such amount is in addition to any cost the City may incur to restore the ROW or correct the violation. Any such liquidated damage payments shall not be chargeable to ELI once the cure is commenced and diligently pursued.

33.2.2 Each failure to make ELI's books and records available as required by this Agreement that is not cured after five (5) business days' written notice \$250.00 per day.

33.2.3 Any unauthorized partial or total transfer of this Agreement- \$4,000.00 per transfer.

33.2.4 Each instance of any action or non-action by ELI contrary to the terms of this Agreement that is not cured after five (5) business days' notice - \$ 500.00 per day. This provision shall not apply if the City has already assessed a charge under Section 33.2.1 through 33.2.3 or 33.2.5.

33.2.5 Failure to provide a valid Certificate of Insurance as required by Section 26.3.1 that is not cured after five (5) business days' notice- \$ 50.00 per day.

33.3 <u>Assessment.</u> If the City Engineer concludes that ELI may be liable for liquidated damages, the City Engineer shall issue to ELI a written Notice of Intention to Assess Liquidated Damages. The Notice shall set forth the nature of the violation and the amount of the proposed assessment. Such Notice must be issued, if at all, within no more than sixty (60) days after the City first notified ELI in writing of the alleged noncompliance. Within ten (10) business days of the receipt of the Notice, ELI shall either pay the amount or file a written appeal with the City Manager, who shall approve or deny or adjust the proposed assessment amount. If liquidated damages are imposed, ELI shall pay the liquidated damage amount within ten (10) business days of the receipt of the receipt of the receipt of the City Manager's decision. The City shall be allowed to deduct any liquidated damage amount from the letter of credit or security fund if ELI does not make payment within the required time period(s) set forth above.

33.3.1 If, however, the liquidated damages exceed Five Thousand Dollars (\$5,000.00), then the following shall apply:

33.3.2 ELI shall have thirty (30) days of receipt of such written notice to pay the liquidated damage amount or give City notice contesting the assertion of noncompliance.

33.3.3 In the event that ELI contests the City's assertion of violation or fails to respond to the City's notice of intent to assess liquidated damages, City shall schedule a public

hearing to determine whether the liquidated damages were properly assessed. City shall provide ELI with at least (30) days' notice of such hearing, which shall specify the time, place and purpose of the hearing. At the hearing, ELI will be given the opportunity to be heard and present evidence. If the result of the hearing is that ELI is responsible for the liquidated damage amount, then the amount determined at the hearing will be due ten (10) days after the hearing decision is announced.

33.3.4 ELI may appeal the outcome of the hearing to an appropriate court, which shall have the power to review City's decision "de novo". Such appeal to the appropriate court must be taken within sixty (60) days after the issuance of City's hearing decision. Otherwise, the outcome of the hearing shall be final and conclusive.

SECTION 34. Revocation / Termination

34.1The License granted hereunder may be revoked and/or the Agreement terminated prior to its date of expiration by the City for the following reasons:

34.1.1 ELI fails to comply with the material terms and conditions of the Agreement or applicable law, including but not limited to failing to maintain any insurance, security fund, letter of credit, and/or a performance bond.

34.1.2 ELI fails to make payments in the amounts and at the time specified in this Agreement after the appropriate notice.

34.1.3 ELI ceases doing business in the City.

34.1.4 ELI fails to provide current, accurate as-built plans and maps showing the location of all Facilities installed or constructed in the City.

34.1.5 ELI is or becomes insolvent or is a party to a voluntary or involuntary bankruptcy, reorganization, or receivership case or proceeding, makes an assignment for the benefit of creditors, is subject to other actions by creditors that, in the reasonable, good faith opinion of the City, threaten the financial viability of ELI as a going concern, or if there is any similar action that affects ELI's capability to perform its obligations under this License and/or Agreement.

34.1.6 ELI fails to obtain or maintain any licenses, permits, or other governmental approvals pertaining to the ROW or timely pay any taxes pertaining to the ROW.

34.1.7 A court has issued an injunction that in any way prevents or restrains ELI's use of any portion of the ROW and remaining in force for a period of at least thirty (30) consecutive days.

34.1.8 ELI is unable to use any substantial portion of the ROW for a period of thirty (30) consecutive days due to the enactment or enforcement of any law or regulation or because of fire, flood, or other natural disaster or similar casualty and ELI seeks termination of the Agreement.

34.2 Before terminating the Agreement under Sections 34.1.1, 34.1.2, 34.1.4, and 34.1.6, the City Manager or a designee, shall give prior written notice to ELI of the defect in performance and give ELI sixty (60) days within which to cure the defect in performance.

34.3 The City need not provide a sixty (60) day cure period prior to termination if the City finds that the defect in performance under the Agreement is due to intentional misconduct, is a violation of criminal law, or is a part of a pattern of repeated and persistent violations where ELI has already had notice and opportunity to cure.

34.4 The City Manager has the authority to terminate, subject to ELI's right to notice and cure where provided, this License and/or Agreement.

34.5 <u>Hearing Prior to Revocation of License.</u> Prior to the revocation or refusal to renew the License, the City will hold a hearing if requested by ELI.

34.6 <u>Termination by Mutual Agreement</u>. This License and/or Agreement may be terminated prior to its date of expiration by ELI by providing the City with ninety (90) days written notice and only upon making arrangements satisfactory with the City Engineer to remove all ELI's Facilities from public property and the ROW, unless the City Engineer agrees in writing to allow ELI to abandon part or all of its Facilities in place. If the City Engineer agrees to allow ELI to abandon its Facilities in place, the ownership of such Facilities, including everything permitted by City to be abandoned in place, shall transfer to City and ELI shall cooperate to execute any documents necessary to accomplish such transfer within thirty (30) days of such allowance of abandonment.

34.7 Notwithstanding anything in Section 34.6 above, upon termination of this Agreement, ELI shall remove all of its optical repeaters, DWDM and CWDM multiplexers, antennae, fiber optic cables, wires, and related equipment within ninety (90) days.

SECTION 35. Non-use/Abandonment of the Facilities.

35.1 An "Abandoned Facility" will mean a Facility no longer in service or physically disconnected from a portion of the operating Facility or from any other Facility that is in use or still carries service. If ELI ceases to provide services or abandons use of any of its Facilities, upon cancellation or termination of the Agreement, ELI shall notify the City and may, subject to the City's approval, permanently abandon the Facilities in place. In such event, the City, at its option, may acquire ownership of the Facilities. In lieu of permanent abandonment, the City may require ELI, to the reasonable satisfaction of the City and without cost or expense to the City, to promptly remove the Facilities and to restore the public ROW to a reasonable condition under the supervision of the City.

35.2 Upon permanent abandonment, if the City does not require removal, ELI shall submit to the City a proposal and instruments for transferring ownership to the City. Any such Facilities, which are not removed as required by the City within ninety (90) days of either such date of termination or cancellation or of the date the City issued a permit authorizing removal, whichever is later, automatically shall become the property of the City. ELI will notify the Arizona Blue Stake Center to record the Facilities that have been abandoned. 35.3 Title to any and all personal property installed by ELI upon the ROW that is not removed during the period set forth in Section 35.2 shall automatically vest in City.

35.4 Nothing in Section 35.1 shall be deemed to require ELI to remove Facilities that the ELI uses for the provision of services other than Telecommunications Services or Interstate Telecommunications Services, so long as such use of Facilities for the provisions of the ongoing other services is authorized by the City pursuant to this Agreement.

SECTION 36. Cancellation for Conflict of Interest.

Pursuant to A.R.S. § 38-511, City may cancel this Agreement within three (3) years after Agreement execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of City is or becomes at any time while the Agreement or an extension of the Agreement is in effect an employee of or a consultant to any other party to this Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when ELI receives written notice of the cancellation, unless the notice specifies a later time.

SECTION 37. Gratuities.

City may, by written notice, terminate this Agreement, in whole or in part, if City determines that employment or a gratuity was offered or made by ELI or a representative of ELI to any officer or employee of City for the purpose of influencing the outcome of the procurement or securing the Agreement, an amendment to the Agreement, or favorable treatment concerning the Agreement, including the making of any determination or decision about Agreement performance. City, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the gratuity offered by ELI.

SECTION 38. Condemnation

The following shall govern any condemnation of any part of or interest in the area used and/or occupied by ELI and any conveyance to City or another condemnor in avoidance or settlement of condemnation or a threat of condemnation:

- 1. <u>Termination for Condemnation</u>. This agreement shall terminate as to the portion taken on the date that is the earlier of the date title vests in the condemnor, or the date upon which the condemnor is let into possession.
- 2. <u>Power to Condemn</u>. ELI acknowledges that City and others from time to time may sue to condemn the area used by ELI or any interest therein or rights thereto.
 - a. City reserves the right of condemnation or eminent domain over the area used and/or occupied by ELI. City does not warrant that it will not condemn the area(s) used and/or occupied by ELI during the term of this

Agreement, but City does not presently have intentions to condemn such area(s).

b. City also reserves the right through its powers of eminent domain to acquire all or any portion of the Facilities owned by ELI in accordance with the applicable conditions set forth in the Arizona Revised Statutes. However, under no circumstances shall any valuation be made for any right or privilege granted by this Agreement should the City acquire the property of ELI.

SECTION 39. Notice

39.1 All notices, which shall or may be given pursuant to this Agreement, shall be in writing and transmitted through the U.S. certified or registered mail, postage prepaid, by means of prepaid private delivery systems, or by facsimile transmission showing a valid delivery receipt if a hard copy of the same is followed by delivery through the U.S. mail or by private delivery systems, addressed as follows:

CITY OF GLENDALE:

City of Glendale – Construction Engineering Manager 5850 w Glendale 3rd Floor Glendale, AZ 85031

WITH COPIES TO:

City Attorney's Office City Clerk's Office

ELI:

Electric Lightwave, LLC

Attn.: Department of Law & Policy 18110 SE 35th St., Building One, Suite 100, Vancouver, WA 98683

39.2 Notices shall be deemed sufficiently given and served upon the other party if delivered personally or by facsimile transmission (provided with respect to facsimile or email that such transmissions are received on a business day during normal business hours), the first business day after deposit if sent by private delivery systems and the fifth business day after deposit in U.S. Mail.

39.3 Either party may from time to time designate any other address for this purpose by written notice to the other party in the manner set forth above.

39.4 ELI shall notify the City within ten (10) business days of any change in mailing address.

SECTION 40. Governing Law

It is mutually understood and agreed that this Agreement shall be governed by the laws of the State of Arizona, both as to interpretation and performance. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted only in the courts located within Maricopa County, Arizona.

SECTION 41.Partial Invalidity

If any section, paragraph, subdivision, clause, phrase or provision of this Agreement shall be adjudged invalid or unenforceable, or is preempted by federal or state laws or regulations, the same shall not affect the validity of this Agreement as a whole or any part of the provisions of this Agreement other than the part adjudged to be invalid, unenforceable or preempted.

SECTION 42.No Warranty

42.1 The issuance of a license, permit or other authorization by the City is not a representation or warranty that such license, permit, or authorization is a legally sufficient substitute for a franchise, and is not a representation of warranty that a franchise is not required.

42.2 ELI ACKNOWLEDGES AND AGREES THAT CITY DOES NOT WARRANT THE CONDITION OR SAFETY OF ITS ROW OR THE PREMISES SURROUNDING THE SAME, AND ELI HEREBY ASSUMES ALL RISKS OF ANY DAMAGE, INJURY OR LOSS OF ANY NATURE WHATSOEVER CAUSED BY OR IN CONNECTION WITH THE USE OF ANY CITY ROW.

SECTION 43. Non-Waiver

ELI shall not be excused from complying with any of the terms and conditions of this Agreement by any failure of City upon any one or more occasions to insist upon or to seek compliance with any such terms or conditions. Notwithstanding any other provision of this Agreement, nothing in this Agreement shall constitute a waiver of either party's right to challenge any portion of this Agreement that is not in accordance with applicable federal, state and local laws.

SECTION 44. Remedies Not Exclusive

The remedies set forth in this License and Agreement are not exclusive. Election of one remedy does not preclude the use of other remedies.

SECTION 45. Force Majeure

With respect to any provision of this Agreement, the violation or non-compliance of which could result in the imposition of a financial penalty, liquidated damages, forfeiture or other sanction upon ELI, such violation or non-compliance shall be excused where such violation or non-compliance is the result of acts of God, war, civil disturbance, strike or other

labor unrest, or other events, the occurrence of which was not reasonably foreseeable by ELI and is beyond its reasonable control.

SECTION 46. Dispute Resolution

In the event of a dispute between the parties to this Agreement regarding a provision of this Agreement, a party's performance of its obligations as stated in this Agreement or any other matter governed by the terms of this Agreement, the parties will meet in good faith to attempt to resolve the dispute. If the parties fail to resolve the dispute, then the parties agree that the dispute may be resolved through mediation. If mediation is agreed to by the disputing parties, the disputing parties shall mutually agree upon the services of one (1) mediator whose fees and expenses shall be borne equally by the disputing Parties. If the dispute is not resolved within a reasonable time, the disputing parties shall be free to use other remedies such as nonbinding arbitration or litigation to resolve the dispute.

SECTION 47. Exhibits

All Exhibits referred to in this Agreement and any addenda, attachments, and schedules which may, from time to time, be referred to in any duly executed amendment to this Agreement are by such reference incorporated in this Agreement and shall be deemed a part of this Agreement.

SECTION 48. Survival of Liability

All obligations of ELI and City hereunder and all warranties and indemnities of ELI Hereunder shall survive termination of this Agreement.

This Agreement executed this _____day of _____2015.

CITY OF GLENDALE,

Electric Lightwave, LLC, a Delaware limited Liability Company

Brenda S. Fischer, City Manager ATTEST:

Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

Michael D. Bailey, City Attorney

Exhibit A-Map of ELI Routes within Glendale (no routes at this time)

Exhibit B -Insurance Certificate

Exhibit C-Letter of Credit form

Legislation Description

File #: 15-134, Version: 1

AUTHORIZATION TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX POLICE DEPARTMENT FOR LAW ENFORCEMENT DATA SHARING THROUGH THE GEOSUITE SOFTWARE PLATFORM

Staff Contact: Debora Black, Police Chief

Purpose and Recommended Action

This is a request for City Council to waive reading beyond the title and adopt a resolution authorizing the City Manager to enter into an intergovernmental agreement (IGA) with the City of Phoenix Police Department (PPD) to share law enforcement data through the GeoSuite software platform (GeoSuite).

Background

The Glendale Police Department has been sharing law enforcement information with PPD and other law enforcement agencies for decades. The sharing of information promotes close cooperation between law enforcement agencies, assists with investigations, and improves officer and public safety. GeoSuite is a web-based, multimedia common operating solution that allows users to collect, report, and share information. PPD currently holds a license for GeoSuite, a commercial product of SWMG Productions, Inc., doing business as nFocus Solutions, Inc.

For the purpose of large scale events or incidents, the use of GeoSuite will allow the calls for service information of all participating agencies (Glendale, Phoenix, Scottsdale and Tempe) to be viewed in one command center, facilitating collaboration and improving situational awareness. PPD allowed GPD to utilize the GeoSuite platform for recent Mega events; however, has requested the IGA be formalized for the remainder of the initial 12-month project period.

<u>Analysis</u>

If approved, this IGA will allow GPD continued access to GeoSuite through December 3, 2015. As part of the IGA, PPD is responsible for funding the initial phase of the project. PPD will continue using GeoSuite on its own even after its initial 12-month period is over, regardless of any decision made by the three additional participating law enforcement agencies. If continued use of GeoSuite is elected by GPD, it will be GPD's responsibility to develop and maintain its own End User License Agreement with nFocus Solutions, Inc. and identify a funding source.

Budget and Financial Impacts

There is no cost to the city to enter into this IGA.

RESOLUTION NO. 4923 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX TO SHARE LAW ENFORCEMENT INFORMATION FOR THE PURPOSE OF ENHANCING PUBLIC SAFETY, HEALTH, AND WELFARE.

WHEREAS, the City of Phoenix and the City of Glendale wish to enter into an intergovernmental agreement to share law enforcement information for the purpose of enhancing public safety, health and welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That it is deemed in the best interest of the City of Glendale and the citizens thereof that the intergovernmental agreement between the City of Glendale and the City of Phoenix for the sharing of law enforcement information be entered into, which agreement is now on file in the office of the City Clerk of the City of Glendale

SECTION 2. That the Mayor or City Manager and the City Clerk be authorized and directed to execute and deliver said agreement on behalf of the City of Glendale.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this _____ day of _____, 2015.

ATTEST:

MAYOR

City Clerk (SEAL)

APPROVED AS TO FORM:

City Attorney

REVIEWED BY:

City Manager

iga_pd_geosuite.doc

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PHOENIX AND THE CITY OF GLENDALE

This Intergovernmental Agreement is entered into this _____ day of ______, 2015 by and between the CITY OF PHOENIX, ARIZONA, an Arizona municipal corporation ("Phoenix"), for and on behalf of the Phoenix Police Department ("PPD"), and the City of Glendale, Arizona, a municipal corporation ("Glendale"), for and on behalf of the Glendale Police Department ("GPD") (sometimes jointly referred to as the "Parties" and individually as a "Party").

I. <u>RECITALS:</u>

A. WHEREAS, the City of Phoenix is empowered, pursuant to A.R.S. §11-952, as amended, and Phoenix City Charter Chapter 2, Section 2 (i), to enter into this intergovernmental agreement and has, by ordinance, authorized the undersigned to execute this Agreement on behalf of Phoenixe;

B. WHEREAS, the City of Glendale is empowered, pursuant to A.R.S. §11-952, as amended, and Glendale City Charter Article 1, Section 3, to enter into this intergovernmental agreement and has, by ordinance, authorized the undersigned to execute this Agreement on behalf of Glendale; and

C. WHEREAS, the parties desire to enter into this Agreement on behalf of their respective law enforcement agencies to share law enforcement information for the purpose of enhancing the public safety, health and welfare.

NOW, THEREFORE, in consideration of the promises and mutual agreements contained and described herein, the parties agree as follows:

II. <u>AGREEMENTS</u>:

1. PURPOSE

1.1 The purpose of this Agreement is to provide the means through which the parties will work together and share law enforcement data through the GeoSuite[™] software platform. GeoSuite[™] is a web-based, multimedia common operating solution that allows users to collect, report, and share information. A commercial product of SWMG Productions, Inc., doing business as nFocus Solutions® (hereinafter referred to as "nFocus"), GeoSuite[™] offers data collection and outcome measurement software to the public sector. It improves situational awareness by faciliting collaboration and information sharing and analysis between users.

1.2 Phoenix currently holds a GeoSuiteTM license from nFocus. In an effort to expand regional collaboration, Phoenix secured a Fiscal Year 2014 ("FY14") reimbursable grant agreement with the Arizona Department of Homeland Security, the administering agency for federal grant funding from the United States Department of Homeland Security. The grant will reimburse Phoenix for procuring and maintaining the GeoSuiteTM system for one year for three additional law enforcement agencies. Using funds from the FY14 grant, nFocus will provide an expansion of the current GeoSuiteTM system to include Glendale.

1.3 At present, data from the Phoenix Police Department and the Phoenix Fire Department are aggregated in the Phoenix GeoSuiteTM platform server and are displayed geographically for users. Glendale will aggregate its key information into its own GeoSuiteTM platform server. Data from both the Phoenix GeoSuiteTM platform and the Glendale GeoSuiteTM platform will then be aggregated into a single Regional Common Operating Picture Aggregate platform server so the parties can then collaborate with each other during large public events or incidents. The first events intended for its use are the 2015 National Football League® (hereinafter "NFL") Pro Bowl and NFL Super Bowl.

1.4 This Agreement will allow Glendale access to the GeoSuiteTM platform through December 3, 2015. After using GeoSuiteTM for that period, Glendale will make an operationally informed decision on whether or not to continue GeoSuiteTM operations under its own funding.

1.5 Phoenix is responsible for funding the initial phase of the project using FY14 grant funds in exchange for access to Glendale data aggregated into the Regional Common Operating Picture Aggregate platform server. Phoenix will continue using GeoSuiteTM on its own even after the initial 12-month period is over, regardless of the decision made by the additional three agencies. There is no guarantee the grant will fund any or all subsequent years unless funding is available and Phoenix applies for, and receives, a grant.

2. GLENDALE'S RESPONSIBILITIES

2.1 Glendale will conduct its operations in good faith with nFocus Solutions, Inc. and establish and maintain its own GeoSuiteTM End User License Agreement with nFocus for the duration of the 12-month project. Maintenance of its own End User License Agreement beyond the initial 12-month period will be at the discretion of the City of Glendale.

2.2 Glendale will provide the necessary support to coordinate and establish the Information Technology (IT) and Computer Aided Dispatch (CAD) system interface for its own agency GeoSuiteTM server. Glendale's data will then be collected and made available to participants in this project through the Regional Common Operating Picture Aggregate platform server. The goal is to have Glendale's GeoSuiteTM server and the Regional Common Operating Picture Aggregate platform server operational in time to support the 2015 NFL Pro Bowl and NFL Super Bowl events. This level of support includes the following:

- Phone consultation
- Network planning meetings

- Phone calls and emails to coordinate CAD interface questions with IT staff and vendors
- On site coordination as needed
- Establishing VPN, firewall and port access to CAD and other related servers
- Access to jurisdiction GIS map sources
- Remote management of the GeoSuiteTM servers
- Expediting of background checks for nFocus support (if AZ DPS background checks are not acceptable)
- Coordination of nFocus visits for testing purposes

2.3 Glendale will provide access to its CAD data, and any other law enforcement data it wishes to include in the Glendale GeoSuiteTM platform in agreement with nFocus, Phoenix, and any other public safety agency involved in the Regional GeoSuiteTM project, for the duration of the initial 12-month period. Access to the CAD data and any other law enforcement data provided beyond the 12-month period will be at the discretion of Glendale.

2.4 Glendale will notify Phoenix and nFocus in a timely manner regarding its decision to continue with the GeoSuiteTM project under its own funding at the end of the initial 12-month period, December 3, 2015.

2.5 Glendale will take all action requested by Phoenix related to the execution of this Agreement, and to indemnify PPD to the extent required by Section 4 of this Agreement.

3. PHOENIX'S RESPONSIBILITIES

3.1 Phoenix will conduct its operations in good faith with nFocus and maintain its own GeoSuiteTM license with nFocus for a minimum of the 12-months or during the life of the project. Maintenance of its own license beyond the initial 12-month period will be at the discretion of Phoenix.

3.2 Phoenix will provide the necessary support to connect its existing Phoenix GeoSuiteTM server to the Regional Common Operating Picture Aggregate server and will develop the Regional Common Operating Picture Aggregate server for the benefit of Glendale. The goal is to have each party's GeoSuiteTMServer and the Regional Common Operating Picture Aggregate server operational in time to support the 2015 NFL Pro Bowl and NFL Super Bowl events. This level of support includes the following:

- Phone consultation
- Network planning meetings
- Phone calls and emails to coordinate interface questions with IT staff and vendors
- On site coordination as needed
- Establishing VPN, firewall and port access to related servers
- Access to jurisdiction GIS map sources
- Remote management of the GeoSuiteTMservers
- Coordination of nFocus visits for testing purposes

3.3 Phoenix will provide access to its CAD data, and any other law enforcement data it may include in the GeoSuiteTM platform, to Glendale for the duration of the 12-month period. Access to the CAD data and any other law enforcement data provided beyond the initial 12-month period will be at the discretion of Phoenix.

3.4 Phoenix will utilize funding from the related FY14 grant to fund the Regional GeoSuiteTM integration project for the initial 12-month period. Use of these funds will be in compliance with the guidelines established by the U.S. Department of Homeland Security Grant Program and the Arizona Department of Homeland Security. Procurements made will be in compliance with City of Phoenix procurement policies.

4. INDEMNIFICATION

4.1 To the extent permitted by law, each party will indemnify and save the other party harmless, including any of the parties' departments, agencies, officers, employees, elected officials or agents, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the performance or non-performance by the indemnifying party of any of the provisions of this Agreement.

4.2 Each party, in all instances, shall be indemnified against all liability, losses and damages of any nature for or on account of any injuries or death of persons or damages to or destruction of property arising out of or in any way connected with the performance or non-performance of this Agreement by the other party, except such injury or damage as shall have been occasioned by the negligence of that other party. The damages incurred by the other party, their department, agencies, officers, employees, elected officers or agents shall include in the event of any action, court costs, expenses for litigation and reasonable attorneys' fees.

5. **DURATION**

5.1 <u>Term</u>. The term of this Agreement shall begin on the date executed and approved by both parties and shall remain in effect until December 3, 2015, unless terminated sooner pursuant to the terms of this Agreement.

6. GENERAL PROVISIONS

6.1 <u>Conflict of Interest</u>. This Agreement is subject to cancellation pursuant to the provisions of A.R.S. § 38-511.

6.2 <u>Legal Worker Requirements.</u> As required by A.R.S. § 41-4401, each party hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Each party further warrants that after hiring an employee, it verifies the employment eligibility of the employee through the E-Verify program. If either party uses any subcontractors in performance of the Agreement, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee,

such subcontractor verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of the Agreement subject to penalties up to and including termination. A party shall not be deemed in material breach if it and/or its subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 23-214(A). Each party retains the legal right to inspect the papers of the other party and/or its subcontractor engaged in performance of this Agreement to ensure that the other party and/or its subcontractor is complying with the warranty. Any inspection will be conducted after reasonable notice and at reasonable times. If state law is amended, the parties may modify this paragraph consistent with state law.

6.3 <u>Notices</u>. All notices, demands and communications given or to be given, by either party to the other, shall be given in writing, by certified mail, and shall be addressed to the parties at the addresses hereinafter set forth, or at such other address as the parties may by written notice hereafter designate. All notices shall be deemed received upon actual receipt or three (3) business days after deposit in the United States mail, whichever date is earlier. Notices shall be addressed as follows:

Phoenix:	Joseph G. Yahner, Acting Police Chief Phoenix Police Department 620 West Washington Street, 4th Floor Phoenix, Arizona 85003-1611 Phone: (602) 262-7000 Fax: (602) 495-0356
Glendale:	Debora Black, Chief of Police Glendale Police Department 6835 North 57 th Drive Glendale, Arizona 85301 Phone: (623) 930-3229 Fax: (623) 931-2103

6.4 <u>Construction</u>. Paragraph headings and captions appearing with this Agreement are for convenient reference only and in no respect define, limit or describe the scope or intent of this Agreement or the provisions of such sections.

6.5 <u>Binding Effect</u>. All terms, provisions and conditions hereof shall be binding upon and inure to the benefit of all parties hereto and their respective heirs, personal representatives, successors and assigns.

6.6 <u>Severability</u>. In the event any term or provision of this Agreement is held to be invalid or unenforceable, the validity of the other provisions shall not be affected, and the Agreement shall be construed and enforced as if it did not contain the particular term or provision that is deemed to be invalid or unenforceable.

6.7 <u>Governing Law</u>. This Agreement will be governed by the laws of the State of Arizona, both as to interpretation and performance.

6.8 <u>Modification</u>. This Agreement may be modified only by mutual written agreement of the parties.

6.9 Independent Contractor; Organization Employment Disclaimer; No Agency.

(a) Each Party is an independent contractor and shall be free to exercise its discretion and independent judgment as to the method and means of performance of its work hereunder. Glendale's employees shall not be considered employees of the Phoenix, and Phoenix's employees shall not be considered employees of Glendale. Neither Glendale or Phoenix personnel will, by virtue of this Agreement, be entitled or eligible, by reason of this Agreement, to participate in any benefits or privileges given or extended by the other Party to its employees.

(b) Each Party shall assume full responsibility for the actions of its personnel while performing services under this Agreement, and shall be solely responsible for their supervision, daily direction and control, payment of salary (including income taxes and social security), wages, bonuses, retirement, withholdings, worker's compensation and occupational disease compensation insurance, unemployment compensation, other benefits and taxes and premiums. Neither Party shall have any authority, express or implied, to act on behalf of the other Party in any capacity whatsoever as an agent. Neither Party shall have any authority, express or implied, pursuant to this Agreement to bind the other Party to any obligation whatsoever.

6.10 <u>Service Marks and Trademarks</u>. Neither party shall use any service marks, trademarks, logos or other identifying marks of the other party without the express written approval of the other party. The use of any marks must comply with the requirements of the party that owns the mark, including using the "®" indication of a registered trademark or "TM" if the mark is not formally registered but claimed by the owner.

6.11 <u>Cancellation for Non-appropriations</u>. The parties recognize that this Agreement may depend upon appropriation of funds. If either party fails to appropriate the necessary funds, or if the appropriation for this Project is reduced during the fiscal year, the affected party may reduce the scope of this Agreement if appropriate or cancel this Agreement without further duty or obligation. The parties agrees to notify each other as soon as reasonably possible after the affected party knows of the loss of funds.

6.12 <u>Non-liability of Officials and Employees</u>. No official, officer or employee of either party shall be personally liable to the other party, or any successor in interest, in the event of any default or breach by either Phoenix or Glendale of any obligation under the terms of this Agreement.

6.13 <u>Disputes</u>. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the breach thereof, the parties hereto shall use reasonable efforts to settle the dispute, claim, question, or disagreement. Provided no notice of termination

of this Agreement has been given by either party to the other, if it is feasible under the terms of this Agreement each party shall continue to perform the obligations not related to the dispute required of it during the resolution of such dispute, unless enjoined or prohibited by a court of competent jurisdiction. In the event of any controversy, which may arise out of this Agreement, the Parties hereto agree pursuant to A.R.S. § 12-1518 and A.R.S. § 12-133 to abide by arbitration as may be required.

6.14 <u>Headings</u>. The headings contained in this Agreement are merely a reference and are not to be used to construe or limit the text.

6.15 <u>Entire Agreement</u>. This Agreement along with its Exhibits constitutes and embodies the full and complete understanding and agreement of the parties hereto and supersedes all prior understandings, agreements, discussions, proposals, bids, negotiations, communications, and correspondence, whether oral or written. No representation, promise, inducement or statement of intention has been made by any Party hereto which is not embodied in this Agreement, and no party hereto shall be bound by or liable for any statement of intention not so set forth.

7. RECORDS, CONFIDENTIALITY AND DATA SECURITY

7.1. <u>Audit/Records</u>. To the extent required by A.R.S. §35-214, the parties agree to retain all books, accounts, reports, files and other records relating to this Agreement and to make such records available at all reasonable times for inspection and audit by the Phoenix or Glendale or any of their authorized representatives, during the term of this Agreement and for five years after the completion of the Agreement.

7.2 <u>Confidentiality and Data Security</u>.

(a) All data, regardless of form, including originals, images and reproductions, prepared by, obtained by, or transmitted to either party in connection with this Agreement is confidential, proprietary information owned by the transmitting party and shall be marked accordingly. Except as specifically provided in this Agreement, the parties shall not disclose data generated in the performance of the Services to any third person without the prior written consent of their respective City Manager, or his/her designee.

(b) All data, including personally identifying information, financial account information, or other restricted information collected, obtained or transmitted to either party in connection with this Agreement shall be protected and secured in accordance with federal, state and local law. The parties shall also comply with any City policy that may be implemented related to protecting or securing such data, provided such policy is communicated in. The parties reserves the right to audit the procedures used to ensure that data collected or obtained in connection with this Agreement is secure.

(c) Personal identifying information, financial account information, or restricted City information, whether electronic format or hard copy, must be secured and protected at all times to avoid unauthorized access. At a minimum, the parties must encrypt and/or password protect

electronic files. This includes data saved to laptop computers, computerized devices or removable storage devices.

(d) When personal identifying information, financial account information, or restricted City information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed or reconstructed, as determined by the parties.

(e) In the event that data collected or obtained by either party in connection with this Agreement is believed to have been compromised, the parties shall notify each other promptly. The parties agree to reimburse for any costs incurred by the injured party to investigate breaches of this data that are determined to have been caused by negligent acts or omissions and, where applicable, the cost of notifying individuals who may be impacted by the breach.

(f) The parties agree that the requirements of this Section 7.2 shall be incorporated into all subcontractor/subconsultant agreements entered into by either party. It is further agreed that a violation of this Section 7.2 shall be deemed to cause irreparable harm that justifies the injured party seeking injunctive relief in court. A violation of this Section 7.2 may result in immediate termination of this Agreement.

(g) The obligations of the parties under this Section 7.2 shall survive the termination of this Agreement.

7.3 <u>Public Records Laws</u>. Notwithstanding any other provision of this Agreement to the contrary, the Parties acknowledge that they are subject to A.R.S. §§ 39-121 through 39-128 regarding public records. Any provision concerning confidentiality is limited to the extent necessary to comply with the provisions of Arizona law.

[signature page follows]

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

FOR GLENDALE:

Its: Chief of Police

BRENDA S. FISCHER, CITY MANAGER

FOR PHOENIX:

ED ZUERCHER, CITY MANAGER

By: Debora Black,

By: Joseph G. Yahner

Date: _____

Its: Acting Police Chief

Date: _____

ATTEST:

City Clerk

ATTORNEY DETERMINATION

In accordance with the requirements of A.R.S. § 11-952(D), each of the undersigned attorneys acknowledge that (1) they have reviewed the above Agreement on behalf of their respective client(s) and (2) as to their respective client(s) only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

City Attorney, City of Glendale

Acting City Attorney, City of Phoenix

Date: _____

Date:

Legislation Description

File #: 15-096, Version: 1

AMENDMENTS TO CITY COUNCIL GUIDELINES - SELECTION OF VICE MAYOR

Staff Contact: Brent Stoddard, Director, Intergovernmental Programs Staff Presenter: Jenna Goad, Intergovernmental Programs Administrator

Purpose and Recommended Action

This is a request for City Council to waive reading beyond the title and adopt a resolution authorizing an amendment to the City Council Guidelines to provide for the identification of an interim Vice Mayor if the previously selected Vice Mayor is unavailable.

Background

At the January 9, 2015 Council Retreat, Council discussed amending the City Council Guidelines to provide for the designation of an interim Vice Mayor should the previously selected Vice Mayor be unavailable. The consensus of the Council was that the remaining councilmember with the most years of service should be identified as the interim Vice Mayor. Section 8 of the City Council Guidelines has been amended to reflect this practice.

Staff recommends that Council consider further amendments to the City Council Guidelines to specify the procedure for identifying a Vice Mayor should the remaining councilmembers have equal years of services. Staff recommends this be examined by the Council Committee that is being appointed to review and make recommendations to the full Council for additional changes to the City Council Guidelines.

Previous Related Council Action

At the September 9, 2008 Council workshop, pursuant to City Council direction, Richard Bowers, R.A. Bowers and Associates, facilitated a dialogue on Council Guidelines.

At the January 6, 2009 Council workshop, Council was presented with a draft document by Richard Bowers, merging all prior Council Guideline documents and continuing dialogue on Council Guidelines.

At the March 3, 2009 Council workshop, a document incorporating the recommended changes from the City Council, as of January 6, 2009, was presented by Richard Bowers.

At the March 10, 2009 Council meeting, a final document to be adopted by resolution was reviewed by the Council and further comments were offered for inclusion.

On May 26, 2009, Council adopted by Resolution 4269, the City Council Guidelines.

File #: 15-096, Version: 1

On January 8, 2013, Council amended section two "Placing Items of Special Interest on a Workshop Agenda" of the City Council Guidelines by Resolution 4635.

On September 10, 2013, Council amended, by Resolution 4722, the City Council Guidelines. The amended sections included: Placing Items of Special Interest on a Workshop Agenda (section 2), Selection and Responsibilities of the Vice Mayor (section 8), and Council Committees (section 9).

On November 24, 2014, Council amended, by Resolution 4895, the Council District Improvement Funds section of the City Council Guidelines.

Community Benefit/Public Involvement

This change will provide for the continuity of city operations by ensuring that an interim Vice Mayor is identified in instances where the previously selected Vice Mayor is unavailable.

RESOLUTION NO. 4924 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AMENDING SECTION 8 OF THE "GLENDALE, AZ CITY COUNCIL GUIDELINES."

WHEREAS, the Mayor and City Council adopted the "Glendale, AZ City Council Guidelines" ("Guidelines") by Resolution No. 4269 New Series on May 26, 2009; and

WHEREAS, the Mayor and City Council amended the Guidelines by Resolution No. 4635 on January 8, 2013; and

WHEREAS, the Mayor and City Council amended the Guidelines by Resolution No. 4722 on September 10, 2013; and

WHEREAS, the Mayor and City Council amended the Guidelines by Resolution No. 4895 on November 24, 2014; and

WHEREAS, the Mayor and the City Council agree that Guidelines as previously adopted and amended are, and continue to be, fundamentally important to the effective conduct of the public's business; and

WHEREAS, the Guidelines represent an agreed upon set of behaviors that will be utilized in the performance of the Mayor's and City Council's duties as policy makers and representatives of their constituencies.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That Section 8 of the document known as the "Glendale, AZ City Council Guidelines," is hereby amended as follows [deletions as strikethrough; additions as ALL CAPS]:

8. SELECTION AND RESPONSIBILITIES OF THE VICE MAYOR

The Vice Mayor is selected by a majority vote of the Council. Effective August 13, 2013, at the first workshop of January in each year, the Council will consider the appointment of a Vice Mayor for the year, with the Vice Mayor serving a calendar year term (January to January). At that workshop, nominations for Vice-Mayor will be discussed by the Council. If nominations are indicated by Councilmembers at the workshop, a formal nomination and selection process will be placed on the agenda for the next regular voting meeting following the workshop.

If the Vice Mayor vacates the position IS UNAVAILABLE for any reason, the REMAINING COUNCILMEMBER WITH THE MOST YEARS OF SERVICE selection for replacement will proceed in a timely fashion following the process above. The selected Councilmember will serve AS THE INTERIM VICE MAYOR DURING THE VICE MAYOR'S ABSENCE OR for the remainder of the one-year term.

City Charter: Sec. 7. Vice Mayor.

The Council shall designate one (1) of its members as Vice Mayor, who shall serve in such capacity at the pleasure of the council. The Vice Mayor shall perform the duties of the Mayor during the Mayor's absence or disability. (3-15-88)

SECTION 2. The document known as the "Glendale, AZ City Council Guidelines, Adopted February 24, 2015" is hereby approved, three copies of which are on file in the office of the City Clerk, and is hereby adopted and said copies are ordered to remain on file with the City Clerk.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this _____ day of _____, 2015.

MAYOR

ATTEST:

City Clerk (SEAL)

APPROVED AS TO FORM:

City Attorney

REVIEWED BY:

City Manager r_council_guidelines.doc City Council Guidelines City of Glendale, AZ Adopted: February 24, 2015

Glendale, AZ City Council Guidelines

City Council Guidelines City of Glendale, AZ

Adopted: February 24, 2015

INTRODUCTION

The Mayor and City Council agree to the following as fundamentally important to the effective and efficient conduct of the public's business. The Guidelines as adopted represent an agreed upon set of behaviors that will be evident in the performance of their duties as policy makers and representatives of their constituencies.

GLOSSARY OF TERMS

To avoid confusion in understanding the intent of this document the following defines important terms being used:

- Council The Council shall consist of a Mayor and six (6) other members to be elected by the qualified electors of the City of Glendale.
- Councilmember Refers to each individual constituting the Council and includes the Mayor, unless specifically excluded or referred to by the title Mayor.
- Mayor The Mayor is the chairman of the Council and presides over its deliberations. When it is necessary to specifically identify the Mayor as separate from the other Councilmembers, the term "Mayor" is used.

1. STAFF ASSISTANCE FOR COUNCILMEMBERS

The City Manager's Office will respond to requests from Councilmembers for information, assistance or research calling for multi-departmental involvement. City Manager will designate staff to assign these requests to appropriate City staff and to track progress on the assignments. Councilmembers must use this process when contacting the City Manager's Office for assistance.

Requests that involve more than eight hours of staff work by non-Council staff, a multi-department approach or expenditure of city monies other than budgeted Council funds, must go through the process for placement of an item on the Workshop Agenda. The staff will be responsible for reporting such requests to the City Manager's office where the designee will notify the Councilmember(s) who made the original request.

2. PLACING ITEMS OF SPECIAL INTEREST ON A WORKSHOP AGENDA

- 1. "City Council Workshop Items of Special Interest" is listed on every Workshop agenda. This item will be a standing item and will be placed last on the Workshop agenda.
- 2. Under that agenda item, Councilmembers may indicate topic(s) they would like to have discussed by the Council at a future Workshop and the reason for their interest. The Council does not discuss the new topics at the Workshop where they are introduced.
- 3. Each item introduced is referred to the City Manager for preparation of a brief initial assessment report including resources required, impact on other projects, relationship to work program priorities and Council strategies, and other related observations.
- 4. Effective 09/10/2013;in 60 days the City Manager, or designated management staff, will report back to the Council on each item during a regularly scheduled Workshop. An update will be provided within 30 days to indicate the progress and status of the item and a final recommendation will be brought forward within 60 days. If for any reason, a Workshop is not scheduled shortly after the 60 day time period, the report will be presented at the next regularly scheduled Workshop. Council will then determine if they want to pursue any item further through more detailed analysis and/or policy action.
- 5. Council gives direction to the City Manager regarding the disposition of items discussed.

(Above section amended January 8, 2013 by Resolution, No. 4635 and September 10, 2013 by Resolution No. 4722 New Series.)

3. COUNCILMEMBER BUDGET/EXPENSES

Each Councilmember elected from a district is provided \$18,000 each budget year for various expenses that will benefit the City of Glendale and meet applicable budget expenditure laws. For example, the monies may be used for postage, attending conferences and seminars, equipment, and newsletters. Items purchased are for the use of the Councilmembers during their tenure, for City business only, and remain the property of the City of Glendale. All bidding requirements and conditions of the City's Purchasing Ordinance must be met. Monies not expended may not be carried over to subsequent years. The Mayor is not included in this appropriation.

4. COUNCIL DISTRICT IMPROVEMENT FUNDS

Each Councilmember elected from a district is provided \$15,000 each budget year for projects related to the placement, replacement or enhancement of facilities or

equipment within the City of Glendale. Monies not expended may not be carried over to subsequent years. The Mayor is not included in this appropriation.

When a Councilmember determines a use for the funds, Council staff requests information from the relevant department. The department obtains cost estimates based on the project scope as outlined by the Councilmember. After cost estimates have been obtained, Council staff completes a District Improvement form and sends to the Councilmember for comment and approval.

Departmental staff is responsible for making sure that all requirements of the City's Purchasing Ordinance have been met. If necessary, the assigned staff will be responsible for preparation, approval of and monitoring of agreements or contracts.

The Intergovernmental Programs Director must approve requests or other financial documents.

The Council staff retains copies of the related paperwork to follow up and ensure that District Improvement funds are properly tracked.

The District Improvement fund accounts are charged for all expenses associated with the project with the exception of departmental charge backs for internal labor expenses.

Ongoing maintenance costs of capital projects enabled through this funding mechanism must be paid from related district funds in future years.

5. CITY TRAVEL POLICY

The Council agrees to conform to the regulations that govern all City employees on this matter. Accordingly, the current City Travel Policy is attached and will be replaced as changes are made in the future. *See attachment A: Travel Policy*, 8^{th} *Revision*, 06/27/2014.

6. OFFICIAL INVITATION EXPENSES

The City will cover expenses for any Councilmember and a guest at local events when the Councilmember and guest are jointly invited and the Councilmember is serving in an official capacity. The City does not otherwise reimburse Councilmembers for expenses incurred by their guests.

7. COUNCIL RETREAT

At a mutually agreed upon date, the Council will hold an annual retreat to discuss Council goals and other important issues.

8. SELECTION AND RESPONSIBILITIES OF THE VICE MAYOR

The Vice Mayor is selected by a majority vote of the Council. Effective August 13, 2013, at the first workshop of January in each year, the Council will consider the appointment of a Vice Mayor for the year, with the Vice Mayor serving a calendar year term (January to January). At that workshop, nominations for Vice-Mayor will be discussed by the Council. If nominations are indicated by Councilmembers at the workshop, a formal nomination and selection process will be placed on the agenda for the next regular voting meeting following the workshop.

If the Vice Mayor vacates the position IS UNAVAILABLE for any reason, the REMAINING COUNCILMEMBER WITH THE MOST YEARS OF SERVICE selection for replacement will proceed in a timely fashion following the process above. The selected Councilmember will serve AS THE INTERIM VICE MAYOR DURING THE VICE MAYOR'S ABSENCE OR for the remainder of the one-year term.

City Charter: Sec. 7. Vice Mayor.

The Council shall designate one (1) of its members as Vice Mayor, who shall serve in such capacity at the pleasure of the council. The Vice Mayor shall perform the duties of the Mayor during the Mayor's absence or disability. (3-15-88)

9. COUNCIL COMMITTEES

At the first Workshop in June of each year, the Council will appoint membership to standing Council committees for the following fiscal year. The Mayor will ask the Councilmembers to indicate which committee they wish to serve on.

Each committee will be comprised of three members. The members of each committee will select their own chairperson at the first committee meeting. Councilmembers may not serve as Chairperson of more than one committee at a time unless the number of committees is greater than the number of Councilmembers. In that case, the limit is two chairmanships.

Effective August 13, 2013, a two-year consecutive term limit with appointment annually for membership of councilmembers on Council subcommittees begins.

If new Councilmembers are seated prior to the annual selection of committee membership, the new Councilmembers will fill vacant committee positions for the remainder of the one-year term.

If any Councilmember wishes to add, delete or adjust any committee, the process indicated in City Council Guidelines, Section 2, "*Placing Items of Special Interest on Workshop Agenda*" is followed.

10. BOARD AND COMMISSION APPOINTMENTS

Board and Commission members will be appointed to serve by the Council in accordance with the Ordinance related to each Board and Commission. When vacancies occur, Councilmembers making recommendations to the Council are required to forward the application and his/her written recommendation to the Government Services Committee. The Government Services Committee will be responsible for reviewing the applications and making recommendations. The Committee will forward recommendations for Board and Commission membership and Chair designation to the full Council for discussion at Executive Session. The Council will approve Board and Commission members and the respective Chairs unless otherwise prescribed by ordinance. The appointment will be made when the majority of the Council agrees with a recommendation and a vote taken at a regular voting council meeting.

An appointment is made when the majority of the Councilmembers agree with a recommendation and a vote is taken at a regular voting council meeting. When consensus cannot be reached, the Councilmember will be responsible for bringing forward another nomination. Councilmembers should recommend appointment of individuals from their geographical district. If the district councilmember believes that an exception should be made, the issue shall be brought to the full Council for consideration.

If a Board or Commission member is not carrying out their assigned duties it is the responsibility of the Councilmember who recommended the appointment of the individual to counsel the member.

If a Board or Commission member has been properly counseled and is still not carrying out their assigned duties, the Code of Ethics addresses the removal of Board or Commission members for cause as follows, "Inappropriate behavior can lead to removal. Inappropriate behavior by a Board or Commission member should be communicated to the Chair of the Government Services Committee who will communicate to the Councilmember who presented the member for appointment. If inappropriate behavior continues, the situation will be brought to the attention of the Council and the individual is subject to removal from the Board or Commission in accordance with any applicable ordinance."

11. CONSTITUENT CONTACTS IN ANOTHER COUNCILMEMBER'S DISTRICT

As a courtesy, Councilmembers agree to keep each other informed of requests, telephone or personal contacts with constituents, businesspersons, etc., which may be of interest to another Councilmember with potential impacts to them.

12. WRITTEN COMMUNICATIONS FROM COUNCILMEMBERS

"City letterhead may be used only when the Councilmember is representing and speaking on behalf of the City and within the Councilmember's official capacity. A copy of official correspondence should be given to the council office and Mayor's office staff to be maintained as a public record." *Sec. 4.c, Code of Conduct*

If the council member is representing the City, that Councilmember must consistently support and advocate the City's official position on an issue and cannot foster or further a personal viewpoint that is inconsistent with the official City position.

13. STATE/FEDERAL LOBBYING

"If a Councilmember appears before another governmental agency or organization to give a statement on an issue, the Councilmember must clearly state 1) whether his or her statement reflects personal opinion or is the official stance of the City; 2) whether this is the majority or minority opinion of the Council." *Sec. 4.a, Code of Conduct*

14. VIOLATIONS AND SANCTIONS

A. Process

(1) The first and most important step in this section is the requirement that the offended Councilmember address the concern with the offending Councilmember including a description of the specific action observed, the relationship of that event to the Council Guidelines and, if applicable, the impact it had on the offended Councilmember. The purpose of this first step is to assure that an attempt has been made to discuss the issue and resolve the conflict without proceeding further. This step requires no formal action and no involvement of other Councilmembers.

(2) Either party may request and both must agree, to seek a third party who will assist in facilitating the discussion toward a mutually satisfactory conclusion. If any expenses are incurred they will be paid for equally from the district funds of each member engaged in the mediation.

(3) If the situation cannot be settled through the process in steps (1) and (2), either Councilmember may choose to refer the concern to the entire Council for their review. The Council will serve as a committee of the whole for purposes of Council Guidelines violation and sanction consideration.

(4) To present the concern to the Council, the offended member must advise the offending Councilmember that the issue will be taken to the Council and subsequently ask the City Manager to post the issue for the earliest upcoming executive session. All laws pertaining to executive session will apply. Included in those rules is the option for the offending Councilmember to exercise their right to request that the discussion be held in an open hearing. The City Attorney's Office will prepare a notice to the Councilmember or Councilmembers that are to be discussed in executive session as required by law.

(5) The Council will discuss the issue in order to:

- a. become fully informed;
- b. determine if there appears to be a violation of the Council Guidelines;
- c. seek resolution without further action or, if necessary schedule the issue for an upcoming public hearing for final determination regarding whether a violation occurred and if necessary;
- d. determine what sanction is most appropriate; customarily, sanctions are limited to a letter of reprimand or censure.

(6) A 2/3 vote of the Council at a regular voting council meeting will be required for a determination that a violation has occurred and likewise, a 2/3 vote for the sanction to be imposed.

(7) If a sanction is imposed, the language will follow a specific format to be established by the Council and used consistently as such situations occur.

B. Effects of Violations

The Council Guidelines document alone does not provide a basis for challenging the validity of any final enactment, resolution, decision, determination, or recommendation of the council, a board or a commission.



Legislation Description

File #: 15-140, Version: 1

STANDARDS FOR CONDUCTING CITY BUSINESS FOR ELECTED OFFICIALS AND BOARDS AND COMMISSIONS

Staff Contact: Brent Stoddard, Director, Intergovernmental Programs Staff Presenter: Jenna Goad, Intergovernmental Programs Administrator

Purpose and Recommended Action

This is a request for City Council to waive reading beyond the title and adopt a resolution adopting the attached Standards For Conducting City Business for Elected Officials and Boards and Commissions which represents a combination of two separate documents that were previously titled the Code of Conduct for Elected Officials and the Code of Ethics for Elected Officials and Boards and Commissions. There have been no changes to the content or provisions of the two documents.

Background

At the January 9, 2015 Council Retreat, there was consensus from the Council to combine the Code of Conduct for Elected Officials and the Code of Ethics for Elected Officials and Boards and Commissions into one document.

At the Council Retreat, Council also indicated the desire to form a Council Committee to consider additional revisions to the Council's governing documents. The creation of this new committee and the appointment of committee members was discussed at the February 17, 2015 City Council workshop.

Previous Related Council Action

At the January 16, 2007 City Council workshop, the Vice Mayor requested that a Code of Ethics for Council be researched as a special interest item. At the May 1, 2007 workshop, Council was presented with a memo regarding local Code of Ethics research and a discussion occurred regarding the possibility of developing and implementing a Code of Ethics for Council.

At the August 21, 2007 City Council workshop, Council discussed the plan for development of a Code of Ethics. This process occurred at the November 26 and 27, 2007 Council retreat after the completion of the goal setting session. Pursuant to Council's discussion during the retreat, it was determined that there was a need for two codes: the Code of Ethics and the Code of Conduct.

On April 14, 2008, the Vice Mayor provided Council with a copy of the draft Code of Conduct for Council and the draft Code of Ethics for Council and Boards and Commissions.

At the August 26, 2008 City Council workshop, pursuant to City Council direction, Richard Bowers, R.A. Bowers and Associates, was present to facilitate a dialogue on the draft Code of Conduct for Elected Officials and the

File #: 15-140, Version: 1

draft Code of Ethics for the Council and for those appointed to City Boards and Commissions. This discussion was continued at the September 9, 2008 workshop.

At the October 21, 2008 workshop, Council reviewed the final draft of the Code of Conduct for Elected Officials and the Code of Ethics for Elected Officials and Boards and Commissions. Guidance was given to proceed with adoption of a formal resolution.

On November 25, 2008, Council formally approved by Resolution 4209 the adoption of the Code of Ethics for Glendale City Council and City of Glendale Boards and Commissions and by Resolution 4210 the adoption of the Council Code of Conduct for Elected Officials.

RESOLUTION NO. 4925 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, ADOPTING THE "STANDARDS FOR CONDUCTING CITY BUSINESS FOR ELECTED OFFICIALS AND BOARDS AND COMMISSIONS."

WHEREAS, the Mayor and City Council adopted the "Code of Conduct for Elected Officials" by Resolution No. 4210 on November 25, 2008; and

WHEREAS, the Mayor and City Council adopted the "Code of Ethics for Elected Officials and City of Glendale Boards and Commissions" by Resolution No. 4209 on November 25, 2008; and

WHEREAS, the Mayor and City Council agree that these previously-adopted documents are, and continue to be, important to the conduct of the public's business and that it would be more effective to consolidate the provisions of these codes into a single document.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That document known as the "Standards for Conducting City Business for Elected Officials and Boards and Commissions" is hereby approved, three copies of which are on file in the office of the City Clerk, and is hereby adopted and said copies are ordered to remain on file with the City Clerk.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this _____ day of ______, 2015.

MAYOR

ATTEST:

City Clerk (SEAL)

APPROVED AS TO FORM:

City Attorney

REVIEWED BY:

City Manager r_council_conduct.doc

CITY OF GLENDALE

STANDARDS FOR CONDUCTING CITY BUSINESS FOR ELECTED OFFICIALS AND BOARDS AND COMMISSIONS

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I. General Background

The City Charter, adopted in 1947, establishes a Council-Manager form of government. Subject to the limitations imposed by the State Constitution and so long as consistent with State law, all powers of the City are vested in the elected City Council. The City Council, which is comprised of six council members and the Mayor, enacts local legislation, adopts budgets, determines policies, and appoints the City Manager, City Clerk, City Attorney, City Treasurer and City Judge.

The council shall consist of a mayor and six (6) other members to be elected by the qualified electors of the City of Glendale as follows:

(a) The mayor shall be elected from the city at large, pursuant to the election procedure (primary and general elections) specified in ordinances which are adopted according to law or as provided for under the City of Glendale Charter.

(b) The six (6) other council members shall be elected from six (6) geographic districts within the City of Glendale. Each district shall contain a substantially equal number of electors. Electors in each district shall vote only for the council candidates nominated from the district in which the electors reside.

(c) Each candidate for one of the six (6) council seats shall at the time of nomination and during his tenure maintain his permanent residence within the district from which he is nominated.

(d) No candidate for the six (6) council seats may run for more than one district in any regular election.

The City Council is committed to ensuring active public participation in their decisionmaking processes:

(a) Through the appointment of citizens to the City's advisory boards and commissions.

(b) Through special assignment of citizens to issue-oriented task forces such as the Bond Committee.

(c) By hosting or attending neighborhood meetings and events.

(d) By sponsoring regional and community forums on such topics as youth, transportation, economic development and parks.

(e) Through the actions of Citizen Participation Plans in accordance with city ordinances section 3.304 and 3.305.

II. Roles and Responsibilities of Elected Officials

NOTE: For the purpose of the Code of Ethics and Code of Conduct, the term council member refers to Mayor and Council; all members of the City Council.

THE MAYOR

The Mayor shall be the chairman of the council and preside over its deliberations. He or she may make and second motions and shall have a voice and vote in all its proceedings. He or she shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law, but shall have no regular administrative duties.

THE VICE-MAYOR

The council shall designate one (1) of its members as Vice Mayor, who shall serve in such capacity at the pleasure of the council. The vice mayor shall perform the duties of the mayor during the mayor's absence or disability.

THE COUNCIL MEMBERS

All powers of the city, not in conflict with the constitution and subject to the limitations of this charter, shall be vested in the council, who shall enact appropriate legislation and do and perform any and all acts and things which may be necessary and proper to carry out these powers or any of the provisions of this charter.

Code of Conduct For Elected Officials

This Code of Conduct is designed to describe the manner in which council members should treat one another, city staff, constituents, and others they come into contact with in representing the City of Glendale.

The constant and consistent theme through all of the conduct guidelines is "respect." Elected officials are called upon to exhibit behavior consistent with the Code of Conduct and Code of Ethics at all times.

Section 1 - Council Conduct with One Another

A. Use formal titles

The council should refer to one another formally during public meetings as Mayor, Vice Mayor or council member followed by the individual's last name.

B. Use civility and decorum in discussions and debate

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of free democracy in action. This does not allow, however, council members to make belligerent, personal, impertinent, slanderous, threatening, abusive, or personally disparaging comments in public meetings or during individual encounters. No shouting or physical actions that could be construed as threatening or demeaning will be acceptable.

If a council member is personally offended by the remarks of another council member, the offended council member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other council member to justify or apologize for the language used.

C. Honor the role of the Chair in maintaining order

It is the responsibility of the Mayor, as Chair of the council under the Charter, to keep the comments of council members on track during public meetings. Council members should honor efforts by the Mayor to focus discussion on current agenda items. If there is disagreement about the agenda or the Mayor's actions, those objections should be voiced politely and with reason, following commonly recognized parliamentary procedure.

D. Demonstrate effective problem-solving approaches

Council members have a public forum to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole. This public forum should be used in the most effective and beneficial manner.

Section 2 - Council Conduct with City Staff

A. Treat all staff as professionals

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable. Council members should refer to staff by their title followed by the individual's last name in public meetings when first introduced.

B. Limit contact to specific City staff

Questions of City staff and/or requests for additional background information shall be directed to the City Manager, City Attorney, Assistant City Manager, Deputy City Managers, or Department Heads.

Requests for follow-up or directions to staff should be made only through the City Manager or the City Attorney when appropriate. When in doubt about what staff contact is appropriate, council members should ask the City Manger for direction. Materials supplied to a council member in response to a request will be made available to all members of the council so that all have equal access to information.

C. Do not disrupt City staff from their jobs

Council members should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met.

D. Never publicly criticize an individual employee

Council should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the City Manager through private correspondence or conversation. Comments about staff in the office of the appointed officials should be made directly to appointed official.

E. Do not get involved in administrative functions

Except as otherwise provided in this charter, neither the council nor any of its members shall interfere with the execution by the city manager of his powers and duties, or order, directly or indirectly, the appointment by the city manager of any person to an office or employment or his removal there from. Except for purposes of inquiry, the council and its members shall deal with the administrative service under the city manager solely through the city manager, and neither the council nor any member thereof shall give orders to any subordinate of the city manager, either publicly or privately.

Nothing in this section shall be construed, however, as prohibiting the council while in open session from fully and freely discussing with or suggesting to the city manager anything pertaining to city affairs or the interests of the city.

F. Do not attend meetings with City staff unless requested by staff.

Even if the council member does not say anything, the council member's presence implies support, shows partiality, intimidates staff, and hampers staff's ability to do their job objectively.

G. Limit requests for staff support

Council members are provided with staff to assist with various administrative activities. These staff members are merit system employees and, while available to assist the council members to which they are assigned, they remain subject to all the rules and directives that are applicable to all City employees. Requests for additional staff support, beyond the currently assigned staff, even in high-priority or emergency situations, should be made only to the City Manager who is responsible for allocating City resources in order to maintain professional, well-run City functions.

H. Do not solicit political support from staff

Council members should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, collection of petition signatures, etc.) from City staff. City staff may, as private citizens within constitutional rights, support political candidates but all such activities must be done away from the workplace and the staff cannot identify themselves in any manner as City employees.

Section 3 - Council Conduct with The Public

In Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual council members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

A. Be welcoming to speakers and treat them with care and gentleness

For many citizens, speaking in front of council is a new and difficult experience. Under such circumstances many are nervous. Council members are expected to treat citizens with care and respect during public hearings. Council members should commit full attention to the speakers or any materials relevant to the topic at hand. Comments and non-verbal expressions should be appropriate, respectful and professional. Questions by council members to speakers should seek to clarify or expand information.

B. Be fair and equitable in allocating public hearing time to individual speakers

The Mayor will determine and announce time limits on speakers at the start of the public hearing process. Generally, each speaker will be allocated five-minutes with applicants and appellants or their designated representatives allowed more time. If many speakers are anticipated, the Mayor may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers. The public hearings and citizen comments time will be conducted in accordance with Resolution 3136.

Each speaker may only speak once during the public hearing unless the council requests additional clarification later in the process. After the close of the public hearing, no more public testimony will be accepted unless the Mayor reopens the public hearing for a limited and specific purpose.

C. Active listening

Council members shall actively listen to and be attentive to speakers.

D. Ask for clarification, but avoid debate and argument with the public

Only the Mayor, not the individual council members, should interrupt a speaker during a presentation. However, a council member can ask the Mayor for a point of order if the speaker is off the topic or exhibiting behavior or language the council member finds

disturbing. Questions by council members to members of the public testifying should seek to clarify or expand information.

E. Follow parliamentary procedure in conducting public meetings

The City Attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. Final rulings on parliamentary procedure are made by the Mayor, subject to the appeal of the full council.

In Unofficial Settings

F. Make no promises on behalf of the Council in unofficial settings.

Council members will frequently be asked to explain a council action or to give their opinion about an issue as they meet and talk with constituents in the community.

It is appropriate to give a brief overview of City policy and to refer to City staff for further information. Overt or implicit promises of specific council action, or to promise City staff will take some specific action are to be avoided.

Section 4 - Council Conduct with Other Public Agencies

A. Be clear about representing the city or personal interests

If a council member appears before another governmental agency or organization to give a statement on an issue, the council member must clearly state 1) whether his or her statement reflects personal opinion or is the official stance of the City; 2) whether this is the majority or minority opinion of the council.

B. Representation of the City on an Outside Board, Commission, or to an Outside Agency

If the council member is representing the City, that council member must consistently support and advocate the City's official position on an issue and cannot foster or further a personal viewpoint that is inconsistent with the official City position.

Council members must inform the council of their involvement in an outside organization if that organization is or may become involved in any issue within the City's jurisdiction. If an individual council member publicly represents or speaks on behalf of another organization whose position differs from the City's official position on any issue, the council member must clearly communicate the organization upon whose behalf they are speaking and must withdraw from voting as a council member upon any action that has bearing upon the conflicting issue.

C. Correspondence also should be equally clear about representation

City letterhead shall be used only when the council member is solely representing and speaking on behalf of the City and with the council member's official capacity. A copy of official correspondence should be given to the council office and mayor's office staff to be maintained as a public record.

D. Representation of the City on Intergovernmental Commissions and Other Outside Entities

Council members serving on committees or boards as the City representative on outside entities or agencies shall properly communicate with other council members on issues pertinent to the city.

Section 5 - Council Conduct With Boards and Commissions*

*Mayor and City Manager ex-officio members.

The Mayor and City Manager shall be ex-officio members, without voting privileges, of all boards and commissions.

A. Limit contact with Board and Commission members to questions of clarification

Council members shall not contact a Board or Commission member to lobby on behalf of an individual, business, or developer. Council members may contact Board or Commission members in order to clarify a position taken by the Board or Commission or a member of that Board or Commission. Council members may respond to inquiries from Board and Commission members. Communications should be for information only.

B. If attending a Board or Commission meeting, be careful to only express personal opinions

Council members may attend any Board or Commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation—especially if it is on behalf of an individual, business or developer—could be viewed as unfairly affecting the process.

Except as allowed by the City charter, public comments by a council member at a Board or Commission meeting should be clearly made as individual opinion and not a representation of the feelings of the council.

C. Remember that Boards and Commissions serve the community, not individual council members

The City Council appoints individuals to serve on Boards and Commissions, and it is the responsibility of Boards and Commissions to follow policy established by the council. However, Board and Commission members do not report to individual council members, nor should council members feel they have the power or right to threaten Board and Commission members with removal if they disagree about an issue. Appointment and reappointment to a Board or Commission will be based on such criteria as recommended by the Government Services Committee.

D. Be respectful of diverse opinions

A primary role of Boards and Commissions is to represent many points of view in the community and to provide the council with advice based on a full spectrum of concerns and perspectives. Council members may have a closer working relationship with some

individuals serving on Boards and Commissions, but must be fair and respectful of all citizens serving on Boards and Commissions.

E. Keep political support away from public forums

Board and Commission members may offer political support to a council member, but not in a public forum while conducting official duties. Conversely, council members may support Board and Commission members who are running for office, but not in an official forum in their capacity as a council member.

Section 6 - Council Conduct with the Media

A. Expression of Positions on Issue

When communicating with the media, council members should clearly differentiate between personal opinions and the official position of the City. All council members represent one vote of seven and until a vote on any issue is taken, council members' positions are merely their own.

B. Discussions Regarding Staff Members

Council members should not discuss personnel issues or other matters regarding individual staff members in the media. Any issues pertaining to staff should only be addressed directly to the City Manager.

Section 7 – Sanctions & Violations

A. Process

- (1) The first and most important step in this section is the requirement that the offended Council member address the concern with the offending Council member including a description of the specific action observed, the relationship of that event to the Code and, if applicable, the impact it had on the offended Council member. The purpose of this first step is to assure that an attempt has been made to discuss the issue and resolve the conflict without proceeding further. This step requires no formal action and no involvement of other Council members.
- (2) Either party may request, and both must agree, to seek a third party who will assist in facilitating the discussion toward a mutually satisfactory conclusion. If any expenses are incurred they will be paid for equally from the district funds of each member engaged in the mediation.
- (3) If the situation cannot be settled through the process in steps (1) and (2), either Council member may choose to refer the concern to the entire Council for their review. The Council will serve as a committee of the whole for purposes of Code violation and sanction consideration.
- (4) To present the concern to the Council, the offended member must advise the offending Council member that the issue will be taken to the Council and subsequently ask the City Manager to post the issue for the earliest upcoming executive session. All laws pertaining to executive session will apply. Included in those rules is the option for the offending Council member to exercise their right to

request that the discussion be held in an open hearing. The City Attorney's Office will prepare notice to the Council member or Council members that are to be discussed in executive session as required by law.

- (5) The Council will discuss the issue in order to:
 - (a) become fully informed;
 - (b) determine if there appears to be a violation of the Code of Conduct;
 - (c) seek resolution without further action or, if necessary schedule the issue for an upcoming public hearing for final determination regarding whether a violation occurred and if necessary;
 - (d) determine what sanction is most appropriate; customarily, sanctions are limited to a letter of reprimand or censure.
- (6) A 2/3 vote of the Council at a regular council meeting will be required for a determination that a violation has occurred and likewise, a 2/3 vote for the sanction to be imposed.
- (7) If a sanction is imposed, the language will follow a specific format to be established by the Council and used consistently as such situations occur.

B. Effects of Violations

The Code of Conduct alone does not provide a basis for challenging the validity of any final enactment, resolution, decision, determination, or recommendation of the council, a board or a commission.

<u>CODE OF ETHICS FOR ELECTED</u> <u>OFFICIALS AND BOARDS AND</u> <u>COMMISSIONS</u>

I. Preamble

The citizens of Glendale are entitled to have fair, ethical and accountable local government which has earned the public's full confidence. In keeping with the City of Glendale commitment to effective functioning of democratic government, public officials, both elected and appointed, shall comply with both the letter and spirit of the laws and policies affecting the operations of government; be independent, impartial and fair in their judgment and actions; use their office for the public good and not for personal gain. All public deliberations and processes shall be conducted openly, unless to be held confidential in accordance with the law, and in an atmosphere of respect and civility.

To this end, the Glendale City Council has adopted a Code of Ethics for members of the City Council and of the City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation.

<u>Section 1 – Keep the Public Interest Paramount</u>

Recognizing that stewardship of the public interest is their primary concern, all members will work for the common good of the people of Glendale and not for any private or personal interest, and they will assure fair and equal treatment of all persons and issues coming before the Glendale City Council, boards and commissions.

Section 2 – Comply with the Law

Members shall comply with the laws of the nation, the State of Arizona and the City of Glendale in the performance of their public duties. These laws include, but are not limited to: the United States and Arizona constitutions; the Glendale City Charter; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

Section 3 – Conduct of Members

The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members, in compliance with the Code of Conduct, shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of council, boards and commissions, the staff or public.

Section 4 – Respect for Process

Members shall perform their duties in accordance with the processes and rules of order established by the City Council and board and commissions.

Section 5 – Conduct of Public Meetings

Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

Section 6 – Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

Section 7 – Communication

Members shall publicly share substantive information that is relevant to a matter under consideration by the council or boards and commissions, which they may have received from sources outside of the public decision making process.

Section 8 – Conflict of Interest

In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest or where they have an organizational responsibility or personal relationship which may give the appearance of a conflict of interest. Furthermore, members shall comply with the law and rules with respect to all actual or potential conflicts of interest.

Section 9 – Gifts and Favors

Members shall not take any special advantage of services or opportunities for personal gain that are not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised. Members shall comply with state laws pertaining to the disclosure of gifts or prohibits against gift in any specific and applicable circumstances.

<u>Section 10 – Confidential Information</u>

Members shall respect the confidentiality of information concerning the property, personnel, or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information for private interests, financial gain, or any other personal purposes.

Section 11 – Use of Public Resources

Members shall not use public resources not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.

Section 12 – Representation of Private Interests

In keeping with their role as stewards of the public interest, members of council shall not appear on behalf of the private interests of third parties before the council or any board, commission or proceeding of the City, nor shall members of boards and commissions appear before their own bodies or before the council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

Section 13 – Advocacy

Members shall represent the official policies or positions of the City Council, board or commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Glendale, nor will they allow the inference that they do.

Section 14 – Policy Role of Members

Members shall respect and adhere to the council-manager form of government as established by the City Charter. Members therefore shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement council policy decisions.

Section 15 – Independence of Boards and Commissions

Because of the value of the independent advice of boards and commissions to the public decision-making process, members of council shall refrain from using their position to unduly influence the deliberations or outcomes of board and commission proceedings.

<u>Section 16 – Positive Work Place Environment</u>

Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

Section 17 – Implementation

As an expression of the standards of conduct for members, the Code of Ethics for Elected Officials and Board and Commission Members is intended to be self-enforcing. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

Section 18 – Compliance and Enforcement Procedures

A. Process for Councilmembers

- (1) The first and most important step in this section is the requirement that the offended Council member address the concern with the offending Council member including a description of the specific action observed, the relationship of that event to the Code and, if applicable, the impact it had on the offended Council member. The purpose of this first step is to assure that an attempt has been made to discuss the issue and resolve the conflict without proceeding further. This step requires no formal action and no involvement of other Council members.
- (2) Either party may request, and both must agree, to seek a third party who will assist in facilitating the discussion toward a mutually satisfactory conclusion. If any expenses are incurred they will be paid for equally from the district funds of each member engaged in the mediation.
- (3) If the situation cannot be settled through the process in steps (1) and (2), either Council member may choose to refer the concern to the entire Council for their review. The Council will serve as a committee of the whole for purposes of Code violation and sanction consideration.
- (4) To present the concern to the Council, the offended member must advise the offending Council member that the issue will be taken to the Council and subsequently ask the City Manager to post the issue for the earliest upcoming executive session. All laws pertaining to executive session will apply. Included in those rules is the option for the offending Council member to exercise their right to request that the discussion be held in an open hearing. The City Attorney's Office will prepare notice to the Council member or Council members that are to be discussed in executive session as required by law.
- (5) The Council will discuss the issue in order to:
 - (a) become fully informed;
 - (b) determine if there appears to be a violation of the Code of Conduct;
 - (c) seek resolution without further action or, if necessary schedule the issue for an upcoming public hearing for final determination regarding whether a violation occurred and if necessary;

- (d) determine what sanction is most appropriate; customarily, sanctions are limited to a letter of reprimand or censure.
- (6) A 2/3 vote of the Council at a regular council meeting will be required for a determination that a violation has occurred and likewise, a 2/3 vote for the sanction to be imposed.
- (7) If a sanction is imposed, the language will follow a specific format to be established by the Council and used consistently as such situations occur.

B. Process for Board and Commission Members

Inappropriate behavior can lead to removal. Inappropriate behavior by a Board or Commission member should be communicated to the Chair of the Government Services Committee who will communicate to the council member who presented the member for appointment. If inappropriate behavior continues, the situation will be brought to the attention of the council and the individual is subject to removal from the Board or Commission in accordance with any applicable ordinance.

C. Effects of Violations

The Code of Ethics alone does not provide a basis for challenging the validity of any final enactment, resolution, decision, determination, or recommendation of the council, a board or a commission.



Legislation Description

File #: 15-153, Version: 1

ADOPT AN ORDINANCE UPDATING THE CITY'S SIGNATURE AUTHORITY FOR BANKING TRANSACTIONS Staff Contact: Tom Duensing, Director, Finance and Technology

Purpose and Recommended Action

This is a request for City Council to waive reading beyond the title and adopt an ordinance updating the city's signature authority for banking transactions. The city signature authorizations are updated periodically due to changes in the organization.

Background

It is recommended that the following individuals be authorized signers, effective immediately:

<u>Name</u>		
Richard A. Bowers		
Julie Frisoni		
Jennifer Campbell		
Thomas Duensing		
Pam Hanna		
Jack Friedline		

Position Acting City Manager Assistant City Manager Assistant City Manager Director City Clerk Director

Previous Related Council Action

The previous ordinance was brought to City Council on March 25, 2014.

ORDINANCE NO. 2932 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING DESIGNATED OFFICERS TO DEPOSIT CITY FUNDS IN DESIGNATED BANK; DIRECTING SAID BANK TO RECOGNIZE THE SIGNATURES OF SAID OFFICERS ON ELECTRONIC FUND TRANSFERS, CHECKS FOR DEPOSIT AND/OR WITHDRAWAL; AND DECLARING AN EMERGENCY.

WHEREAS, it is necessary for the City to establish various bank accounts to be used for day-to-day operations of the City, to receive deposits in these accounts, and pay the necessary expenses as authorized by the City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That Thomas Duensing is the duly appointed City Treasurer.

SECTION 2. That Jack Friedline is the duly appointed Superintendent of Streets.

SECTION 3. That all banks with whom the City maintains accounts are hereby directed to honor the signatures of the officers named below on all electronic fund transfers, or checks depositing and/or withdrawing the funds placed in those accounts until further notice of the City:

Name	Position	Signature Authorization
Richard A. Bowers	Acting City Manager	City Manager
Julie Frisoni	Assistant City Manager	City Manager
Jennifer Campbell	Assistant City Manager	City Manager
Thomas Duensing	Director	Financial Services/City Treasurer
Pamela Hanna	City Clerk	City Clerk
Jack Friedline	Director	Superintendent of Streets

SECTION 4. That all checks drawn on the City of Glendale accounts in the amount of \$50,000 or more shall require two signatures from the authorized signatories listed in Section 2 above.

SECTION 5. Whereas the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, and safety of the City of Glendale, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Mayor and Council of the City of Glendale, and it is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this _____ day of ______, 2015.

ATTEST:

MAYOR

City Clerk (SEAL)

APPROVED AS TO FORM:

City Attorney

REVIEWED BY:

City Manager c_signature authority 2015.doc Legislation Description

File #: 15-137, Version: 1

REAPPOINTMENT OF PRESIDING CITY JUDGE ELIZABETH FINN

Staff Contact: Jim Brown, Director, Human Resources and Risk Management

Purpose and Recommended Action

This is a request for the City Council to reappoint Presiding City Judge Elizabeth Finn to a two-year term. Her current term expires March 25, 2015.

Background

Judge Elizabeth Finn has served as Presiding City Judge in Glendale since 2003 and is eligible for reappointment to a two-year term. The Judicial Selection Advisory Board unanimously recommends Judge Finn's reappointment based on the results of her reappointment interview, letters of recommendation received on her behalf, confidential survey results conducted by a private research firm, and other reappointment materials.

<u>Analysis</u>

The appointment and reappointment of City Judges is outlined in both the City Charter and the Glendale City Code as follows:

City Charter - Article XI - Sec. 4

The presiding officer of the city court shall be a city judge, who shall be appointed by the council and shall hold office during the pleasure of the council.

Glendale City Code - Chapter 13 - Article 1 - Sec. 13-2

The presiding officer of the city court shall be the presiding city judge who shall be appointed by the city council, after recommendation of the judicial selection advisory board.

Glendale City Code - Chapter 13 - Article 1 - Sec. 13-7

- (a) Any city judge or court hearing officer shall be appointed for an initial term of two (2) years. The initial reappointment term shall be for a period of two (2) years and all subsequent re-appointments shall be for a period of four (4) years.
- (b) The presiding city judge shall be appointed for a term of two (2) years.

Previous Related Council Action

File #: 15-137, Version: 1

Judge Elizabeth Finn was previously reappointed to Presiding City Judge on March 25, 2013.

Community Benefit/Public Involvement

The confidential survey and questionnaire on reappointment was distributed to 498 recipients. Public input on reappointment was sought through advertisement in The Arizona Republic, the Glendale Star and Maricopa Lawyer (published by the Maricopa County Bar Association). The survey results and all letters of input have been provided to the Mayor and Council, along with letters of recommendation. Legislation Description

File #: 15-138, Version: 1

REAPPOINTMENT OF CITY JUDGE MANUEL DELGADO

Staff Contact: Jim Brown, Director, Human Resources and Risk Management

Purpose and Recommended Action

This is a request for the City Council to reappoint City Judge Manuel Delgado to a two-year term. His current term expires March 25, 2015.

<u>Background</u>

Judge Manuel Delgado has served as City Judge in Glendale since 2013 and is eligible for reappointment to a two-year term. The Judicial Selection Advisory Board unanimously recommends Judge Delgado's reappointment based on the results of his reappointment interview, letters of recommendation received on his behalf, confidential survey results conducted by a private research firm, and other reappointment materials.

<u>Analysis</u>

The appointment and reappointment of City Judges is outlined in both the City Charter and the Glendale City Code as follows:

City Charter - Article XI - Sec. 4

The presiding officer of the city court shall be a city judge, who shall be appointed by the council and shall hold office during the pleasure of the council.

Glendale City Code - Chapter 13 - Article 1 - Sec. 13-2

The presiding officer of the city court shall be the presiding city judge who shall be appointed by the city council, after recommendation of the judicial selection advisory board.

Glendale City Code - Chapter 13 - Article 1 - Sec. 13-7

- (a) Any city judge or court hearing officer shall be appointed for an initial term of two (2) years. The initial reappointment term shall be for a period of two (2) years and all subsequent re-appointments shall be for a period of four (4) years.
- (b) The presiding city judge shall be appointed for a term of two (2) years.

Previous Related Council Action

File #: 15-138, Version: 1

City Judge Manuel Delgado was appointed as City Judge on March 25, 2013.

Community Benefit/Public Involvement

The confidential survey and questionnaire on reappointment was distributed to 353 recipients. Public input on reappointment was sought through advertisement in the Arizona Republic, The Glendale Star and Maricopa Lawyer (published by the Maricopa County Bar Association). The survey results and all letters of input have been provided to the Mayor and Council, along with letters of recommendation.



Legislation Description

File #: 15-155, Version: 1

ACTING CITY MANAGER CONTRACT

Staff Contact: Jim Brown, Director, Human Resources and Risk Management

Purpose and Recommended Action

This is a request for City Council to approve the contract for appointed Acting City Manager Richard A. Bowers. This at-will contractual relationship shall commence on February 18, 2015 and end on May 15, 2015 with the option to continue month by month, if necessary, upon approval of the City Council.

Background

On February 17, 2015, City Council voted to accept the resignation of Brenda S. Fischer, City Manager. On the same date, the City Council also voted to appoint Richard A. Bowers as Acting City Manager to serve for a period of time in order to allow the City to conduct an executive search for a new City Manager.

<u>Analysis</u>

City Council is appointing an acting City Manager in accordance with City Charter, Article III, Section 5 which states, "in the event the city manager resigns or is removed for any reason, the council shall appoint an acting city manager at the first regular meeting following such vacancy".

Previous Related Council Action

The City Council previously voted to appoint Richard A. Bowers to the Acting City Manager role during the March 26, 2013 voting meeting. This contract provides similar terms and conditions as the previous contract Mr. Bowers entered into with the City in March of 2013.

Budget and Financial Impacts

The compensation provided by this contract is the same compensation that was provided in the Acting City Manager contract between Mr. Bowers and the City in 2013.

Cost	Fund-Department-Account
\$65,766.20	To be determined

Capital Expense? No

Budgeted? No

File #: 15-155, Version: 1

Requesting Budget or Appropriation Transfer? Yes

If yes, where will the transfer be taken from?

TEMPORARY ("AT-WILL") EMPLOYMENT CONTRACT (20 HOURS OR MORE/NO BENEFITS)

This Temporary Employment Contract is made and executed as of the 18th day of February, 2015, by and between the City of Glendale, an Arizona municipal corporation ("Glendale"), and Richard A. Bowers ("Temporary Personnel"). Glendale and Temporary Personnel agree to the following terms and conditions and for the period set forth in this Contract.

- 1. Position. Temporary Personnel will perform the duties of Temporary-Professional (the "Position").
- 2. Duties.
 - 2.1 Temporary Personnel's initial duties shall consist of City Manager duties as directed by the City Council.
 - **2.2** Non-exempt and exempt temporary personnel will be paid in accordance with FLSA guidelines. This position is classified as:
 - **2.3** Glendale may assign Temporary Personnel to different or additional duties as it determines is reasonably necessary.
 - **2.4** Unless otherwise authorized, Temporary Personnel's full business time and energy will be devoted to the Position during the term of this Contract, and all functions will be performed in a professional manner.
 - **2.5** Temporary Personnel agrees that the number of hours worked per week may vary; however, generally Temporary Personnel will not work in excess of 40 hours within any seven calendar-day period without prior approval from the department head.
- **3.** Term. This at-will contractual relationship shall commence on February 18, 2015 and end on May 15, 2015 (thereafter month by month if necessary upon approval of the City Council, unless earlier terminated by Glendale.
- 4. Compensation and Benefits.
 - 4.1 Compensation.
 - (A) Glendale will compensate Temporary Personnel for services rendered by Temporary Personnel under this Contract in the amount of \$3,131.72 per pay period for the first pay period and \$10,439.08 for the remaining pay periods ("Compensation"). Glendale shall periodically review Temporary Personnel's basic Compensation in an effort to assure Temporary Personnel continued reasonable compensation for Temporary Personnel's services. Glendale maintains the right to adjust Temporary Personnel's Compensation as Glendale, in its sole discretion, deems appropriate.
 - (B) This Compensation will be paid in installments every two weeks, in accordance with Glendale's regular pay procedure, net of any withholdings as Temporary Personnel may request and as are required by applicable law, rule, or regulation.
 - **4.2** Benefits. Temporary Personnel shall receive Compensation only for Temporary Personnel's services, and no additional benefits in any form will accrue to this Position during the contractual relationship.
 - (A) With the exception of statutory Worker's Compensation coverage, Temporary Personnel is solely responsible for securing health or other insurance coverages.
 - (B) If Temporary Personnel works more than 19 hours per week for 20 or more weeks, Temporary Personnel shall be enrolled in the Arizona State Retirement System or the Public Safety Personnel Retirement System.
- 5. Conduct.
 - 5.1 Temporary Personnel's activities and conduct will be governed by, and Temporary Personnel will abide by, all applicable policies and procedures of Glendale, including Glendale's Human Resources Policies

and Procedures, City Manager Directives, guidelines pertaining to ethical conduct, or any other manuals issued in the future ("Employee Conduct Documents").

- **5.2** Notwithstanding the following:
 - (A) This Contract is the exclusive embodiment of the terms of the contractual relationship between Glendale and Temporary Personnel (including the at-will nature of this contractual relationship).
 - (B) Any modification or supplementation of the terms of this Contract may only be made effective by further agreement expressed in writing and signed to by the parties.
 - (C) Neither course of conduct nor oral representations of any person, regardless of their position within Glendale, can alter the terms of this Contract.
- 6. Conflicts of Interest. At no time will Temporary Personnel, or any member of Temporary Personnel's family, have any interest, either direct or indirect, in transactions or dealings with Glendale from which Temporary Personnel, or Temporary Personnel's family, directly or indirectly, benefits from the transaction or dealing, unless the transaction or dealing is fair and of direct benefit to Glendale and has been specifically approved by the Department Head.
- 7. Termination.
 - 7.1 Temporary Personnel's employment shall terminate automatically at the end of the specified term or upon the expiration or depletion of funding, unless extended by Glendale.
 - 7.2 "At-Will" Relationship. This Contract is at-will and may be terminated by Glendale for any reason or for no reason and without cause.
 - (A) Temporary Personnel has no expectation of a continued contractual relationship or employment for any term whatsoever and has, therefore, no vested right, property or otherwise, of continued contractual service.
 - (B) Nothing in Glendale's Human Resources policies and procedures, including any disciplinary policies or procedures or any other manuals existing or that may be issued in the future, nor any representations by any Glendale employee, can change the at-will nature of this contractual relationship.
- 8. No Third-Party Beneficiaries. Any benefits accruing from the contractual relationship between Glendale and Temporary Personnel accrue specially and solely to Temporary Personnel.
- 9. Miscellaneous.
 - **9.1** Disabilities. Glendale does not discriminate because of disabilities and will make reasonable attempts to accommodate disabilities recognized by law.
 - **9.2** Severability. If any provision of this Contract is declared void or unenforceable, that provision will be deemed severed from this Contract; the other provisions of the Contract will remain in full force and effect.
 - **9.3** Additional Acts and Documents. Each party agrees to perform their respective obligations and take all actions, and to make, execute and deliver all documents and instruments, as may be reasonably requested to carry out the provisions, intent and purpose of this Contract.
 - **9.4** Waivers. Failure of any party to exercise any right or option arising out of a breach of this Contract will not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach.
 - **9.5** Integration Clause. This Contract represents the entire agreement between the parties with respect to the subject matter and supersedes any prior agreement, understanding, negotiations and/or representations previously or contemporaneously made.
 - 9.6 Oral Modification. This Contract may not be changed, modified or rescinded except in writing, signed

by all parties. Any attempt at oral modification of this Contract shall be null, void and of no effect.

- **9.7** Governing Law.
 - (A) The parties agree that any dispute arising out of this Contract and/or Temporary Personnel's contractual services to Glendale will be resolved under the laws of the State of Arizona.
 - (B) Suit to enforce any provision of this Contract or to obtain any remedy with respect hereto must be brought in Superior Court, Maricopa County, Arizona.
- **9.8** No Assignments. This Contract is personal to each of the parties, and neither party may assign or delegate any of its rights or obligations without the written consent of the other.

TEMPORARY PERSONNEL:

CITY OF GLENDALE:

Richard A. Bowers

By: Jerry Weiers Title: Mayor