



# City of Glendale

5850 West Glendale Avenue  
Glendale, AZ 85301

## Voting Meeting Agenda City Council

*Mayor Jerry Weiers*  
*Vice Mayor Ian Hugh*  
*Councilmember Jamie Aldama*  
*Councilmember Samuel Chavira*  
*Councilmember Ray Malnar*  
*Councilmember Lauren Tolmachoff*  
*Councilmember Bart Turner*

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Tuesday, May 10, 2016

6:00 PM

Council Chambers

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### 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

#### POSTING OF COLORS

#### 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.

#### 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.

#### APPROVAL OF THE MINUTES OF APRIL 26, 2016 VOTING MEETING

- 1. 16-169** APPROVAL OF THE MINUTES OF APRIL 26, 2016 VOTING MEETING  
Staff Contact: Pamela Hanna, City Clerk

**Attachments:** Meeting Minutes of April 26, 2016

## PROCLAMATIONS AND AWARDS

2.     **16-198**           PROCLAIM MAY 15 THROUGH MAY 21, 2016 AS NATIONAL PUBLIC WORKS WEEK IN THE CITY OF GLENDALE  
Staff Contact: Jack Friedline, Director, Public Works  
Presented By: Office of the Mayor  
Accepted By: Jack Friedline, Director, Public Works

## 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.     **16-187**           AUTHORIZATION TO ENTER INTO A CONSTRUCTION MANAGER AT RISK AGREEMENT WITH ACHEN-GARDNER CONSTRUCTION, LLC, FOR DESIGN PHASE SERVICES FOR WATER LINE REPLACEMENT AT VARIOUS LOCATIONS  
Staff Contact: Craig Johnson, P.E., Director, Water Services  
**Attachments:** Construction Manager at Risk Agreement
4.     **16-190**           AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICE AGREEMENT WITH DC FROST ASSOCIATES, INC., FOR PARTS AND SERVICE FOR ULTRAVIOLET DISINFECTION SYSTEMS AT THE CITY'S TWO WATER RECLAMATION FACILITIES  
Staff Contact: Craig Johnson, P.E., Director, Water Services  
**Attachments:** Professional Services Agreement  
Sole source
5.     **16-191**           AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH ARCADIS U.S., INC., TO EVALUATE TREATMENT PROCESSES AND PROPOSE IMPROVEMENTS AT THE WEST AREA WATER RECLAMATION FACILITY  
Staff Contact: Craig Johnson, P.E., Director, Water Services  
**Attachments:** Professional Services Agreement
6.     **16-212**           AUTHORIZATION TO NAME THE MURPHY PARK AMPHITHEATER THE "E. LOWELL ROGERS AMPHITHEATRE"  
Staff Contact: Erik Strunk, Director, Community Services  
**Attachments:** Application
7.     **16-199**           AUTHORIZATION TO RATIFY EXPENDITURES FOR LIBRARY MEDIA SERVICES WITH MIDWEST TAPE, LLC  
Staff Contact: Erik Strunk, Director, Community Services
8.     **16-200**           AUTHORIZATION TO RATIFY EXPENDITURES FOR LIBRARY MEDIA

SERVICES WITH BAKER & TAYLOR, LLC

Staff Contact: Erik Strunk, Director, Community Services

9. 16-207 AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH BIBLIOTHECA, LLC FOR LIBRARY TECHNOLOGY SERVICES

Staff Contact: Erik Strunk, Director, Community Services

**Attachments:** Agreement  
Sole Source

10. 16-201 AUTHORIZATION TO ENTER INTO AMENDMENT NO. 2 TO A PROFESSIONAL SERVICES AGREEMENT WITH ARRINGTON WATKINS ARCHITECTS, L.L.C., FOR THE GLENDALE MUNICIPAL LANDFILL SCALE HOUSE RELOCATION PROJECT

Staff Contact: Jack Friedline, Director, Public Works

**Attachments:** Amendment No. 2

#### CONSENT RESOLUTIONS

11. 16-208 RESOLUTION 5098: AUTHORIZATION TO ENTER INTO AMENDMENT #1 TO AN AIRPORT DEVELOPMENT REIMBURSABLE GRANT AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE CONSTRUCTION OF GLENDALE MUNICIPAL AIRPORT IMPROVEMENTS

Staff Contact: Jack Friedline, Director, Public Works

**Attachments:** Resolution 5098  
Amendment #1 - Airport Development Reimbursable Grant Agreement

12. 16-209 RESOLUTION 5099: AUTHORIZATION TO ENTER INTO CONTRACT CHANGE ORDER NO. 3 TO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX FOR FEDERAL TRANSIT ADMINISTRATION GRANT NUMBER AZ-05-0203

Staff Contact: Jack Friedline, Director, Public Works

**Attachments:** Resolution 5099  
Contract Change Order No. 3

13. 16-210 RESOLUTION 5100: AUTHORIZATION TO ENTER INTO CONTRACT CHANGE ORDER NO. 3 TO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX FOR FEDERAL TRANSIT ADMINISTRATION GRANT NUMBER AZ-95-X006-01

Staff Contact: Jack Friedline, Director, Public Works

**Attachments:** Resolution 5100  
Contract Change Order No. 3

14. 16-189 RESOLUTION 5101: AUTHORIZATION TO ENTER INTO GRANT AGREEMENT DUIAC-I-025 WITH THE ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY OVERSIGHT COUNCIL ON DRIVING OR OPERATING UNDER THE INFLUENCE ABATEMENT

Staff Contact: Debora Black, Police Chief

**Attachments:**

Resolution 5101

Grant Agreement

- 15. 16-194** RESOLUTION 5102: AUTHORIZATION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF ARIZONA STATE UNIVERSITY TO ENHANCE COOPERATION AND UNDERSTANDING AMONG LAW ENFORCEMENT AGENCIES SERVING THE UNIVERSITY COMMUNITY  
Staff Contact: Debora Black, Police Chief

**Attachments:**

Resolution 5102

Memorandum of Understanding

- 16. 16-197** RESOLUTION 5103: AUTHORIZATION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE MARICOPA COUNTY ATTORNEY'S OFFICE FOR THE TESTING OF EVIDENCE COLLECTION KITS  
Staff Contact: Debora Black, Police Chief

**Attachments:**

Resolution 5103

Memorandum of Understanding

## **REQUEST FOR FUTURE WORKSHOP AND EXECUTIVE SESSION**

## **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)).





# City of Glendale

5850 West Glendale Avenue  
Glendale, AZ 85301

## Legislation Description

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**File #: 16-169, Version: 1**

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APPROVAL OF THE MINUTES OF APRIL 26, 2016 VOTING MEETING  
Staff Contact: Pamela Hanna, City Clerk

# City of Glendale

5850 West Glendale Avenue  
Glendale, AZ 85301



## Meeting Minutes - Draft

Tuesday, April 26, 2016

6:00 PM

Voting Meeting

Council Chambers

### City Council

*Mayor Jerry Weiers*

*Vice Mayor Ian Hugh*

*Councilmember Jamie Aldama*

*Councilmember Samuel Chavira*

*Councilmember Ray Malnar*

*Councilmember Lauren Tolmachoff*

*Councilmember Bart Turner*

**CALL TO ORDER**

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

Also present were Kevin Phelps, City Manager; Tom Duensing, Assistant City Manager; Michael Bailey, City Attorney; Pamela Hanna, City Clerk; and Darcie McCracken, Deputy City Clerk.

**PLEDGE OF ALLEGIANCE****PRAYER/INVOCATION**

Chaplain Tim Heath from the Glendale Police Department offered the invocation.

**CITIZEN COMMENTS**

Monica Toby, a Yucca resident, asked that the Stonehaven item be tabled until the lot size issue can be resolved. She said that lot size is not typical for the area and would like more public discussion on this issue.

Bill Demski, a Sahuaro resident, spoke about the travel costs expended by the Councilmembers. He said it was unfair that the Councilmember spent so much money and the roads remained in poor shape for the residents. He said the Councilmember's behavior was illegal and the City Attorney's opinion was wrong. He said it was unfair that the Council spends so much of the taxpayers' money and makes poor decisions, instead of spending money on fixing the city roads.

James Deibler, a Phoenix resident, said the Council needs to help grow the downtown Glendale economy. He wanted to see the Jazz Festival return to the city to bring more traffic to downtown. He also wanted to see Heroes Park and the Western Area Branch Library finished on time. Residents do not want to see a vacant lot anymore. Glendale will be a picture of growth in the West Valley.

Rezan Finley, a Yucca resident, spoke about the lot sizes and zoning requirements for a parcel of land near her home. She said she has been in contact with the City about the size of proposed lots and the zoning issues. She said her family and neighbors do not want houses built on small lots near their homes. She said the neighbors want the SR-17 zoning enforced. She said she wants the Council to be aware of the error made by the city on this zoning issue and said the neighboring homeowners should not have to suffer because of the city's oversight.

**APPROVAL OF THE MINUTES OF APRIL 12, 2016 VOTING MEETING**

1. [16-184](#) APPROVAL OF THE MINUTES OF APRIL 12, 2016 VOTING MEETING  
Staff Contact: Pamela Hanna, City Clerk

**A motion was made by Councilmember Turner, 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 Malnar, Councilmember Tolmachoff, and Councilmember Turner

## **BOARDS, COMMISSIONS AND OTHER BODIES**

### **APPROVE RECOMMENDED APPOINTMENTS TO BOARDS, COMMISSIONS AND OTHER BODIES**

**PRESENTED BY: Councilmember Lauren Tolmachoff**

2. [16-182](#) **BOARDS, COMMISSIONS & OTHER BODIES**  
Staff Contact: Brent Stoddard, Director, Intergovernmental Programs
- Board of Adjustment:  
Tonya Blakely, Barrel District Reappointment, 6/30/16 to 6/30/18  
Lawrence Feiner, Sahuaro Reappointment, 6/30/16 to 6/30/18  
Ernie Zara, Mayoral Reappointment, 6/30/16 to 6/30/18  
Linda Vescio, Chair, Cholla Appointment, 6/30/16 to 6/30/17  
Lawrence Feiner, Vice Chair, Sahuaro Appointment, 6/30/16 to 6/30/17
- Citizens Bicycle Advisory Committee:  
Michael Wilson, Cactus Resignation  
Larry Flatau, Barrel Appointment, 4/26/16 to 7/17/16  
Anthony Pratcher, Vice Chair, Cholla Appointment, 4/26/16 to 7/17/16
- Citizens Transportation Oversight Commission:  
Marie Nesfield, Sahuaro Appointment, 4/26/16 to 3/25/17
- Community Development Advisory Committee:  
Sharyn Nesbitt, Yucca Reappointment, 7/1/16 to 7/1/18  
Dennise Rogers, Neighborhood Rep, Yucca Reappointment, 7/10/16 to 7/10/18
- Industrial Development Authority:  
Michael Mitchum, Cholla Reappointment, 8/23/16 to 8/23/20
- Judicial Selection Advisory Board:  
Michele Tennyson, Cholla Appointment, 4/26/16 to 4/23/17  
Judge Andrew Gould, Appellate Court Judge, Appointment, 4/26/16 to 4/23/19
- Library Advisory Board:  
Timothy Ndavu, Cactus Appointment, 4/26/16 to 4/13/18  
Jessica Koory, Chair, Ocotillo Appointment, 4/26/16 to 4/13/17
- Parks and Recreation Advisory Commission:  
Alicia Rubio, Ocotillo Appointment, 4/26/16 to 4/9/17

**A motion was made by Councilmember Tolmachoff, 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 Malnar, Councilmember Tolmachoff, and Councilmember Turner

### PROCLAMATIONS AND AWARDS

3. [16-135](#) PROCLAIM MAY 1 - MAY 7, 2016 MUNICIPAL CLERKS WEEK  
Staff Contact: Pamela Hanna, City Clerk  
Presented By: Office of the Mayor  
Accepted By: Pamela Hanna, City Clerk
- Mayor Weiers proclaimed May 1 through May 7, 2016 Municipal Clerk's Week. Ms. Hanna, City Clerk, accepted the proclamation.
- Mayor Weiers introduced and welcomed Christopher Ipson, Boy Scout Troop 542, who was working on his merit badge.
- Mayor Weiers introduced MYAC students Christian Katana, Ocotillo District, Michaela Barnes, Cholla District, and McKeeley Barnes, Cholla District, who were in the audience.

### CONSENT AGENDA

Ms. Pamela Hanna, City Clerk, read consent agenda item numbers 4 through 21 and consent resolution item numbers 22 through 26 by number and title.

Councilmember Turner requested that Item 12 be heard separately.

4. [16-167](#) RECOMMEND APPROVAL OF SPECIAL EVENT LIQUOR LICENSE, MAGNIFICAT  
Staff Contact: Vicki Rios, Interim Director, Finance and Technology  
**This agenda item was approved.**
5. [16-154](#) RECOMMEND APPROVAL OF LIQUOR LICENSE NO. 5-19846, PACIFIC SEAFOOD BUFFET  
Staff Contact: Vicki Rios, Interim Director, Finance and Technology  
**This agenda item was approved.**
6. [16-155](#) RECOMMEND APPROVAL OF LIQUOR LICENSE NO. 5-19900, HEROES  
Staff Contact: Vicki Rios, Interim Director, Finance and Technology  
**This agenda item was approved.**
7. [16-156](#) RECOMMEND APPROVAL OF LIQUOR LICENSE NO. 5-19863, SALT TACOS Y TEQUILA  
Staff Contact: Vicki Rios, Interim Director, Finance and Technology  
**This agenda item was approved.**

8. [16-185](#) RECOMMEND APPROVAL OF LIQUOR LICENSE NO. 5-20087, BAR LOUIE  
Staff Contact: Vicki Rios, Interim Director, Finance and Technology  
**This agenda item was approved.**
9. [16-139](#) AUTHORIZATION TO ENTER INTO AMENDMENT NO. 5 OF THE ICAPTURE SOFTWARE LICENSE SUPPORT AGREEMENT WITH IMPRESSION TECHNOLOGY, INC.  
Staff Contact: Vicki Rios, Interim Director, Finance and Technology  
**This agenda item was approved.**
10. [16-152](#) AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH INSIGHT PUBLIC SECTOR, INC., AND APPROVAL OF THE EXPENDITURE OF FUNDS  
Staff Contact: Vicki Rios, Interim Director, Finance and Technology  
**This agenda item was approved.**
11. [16-183](#) POSITION RECLASSIFICATION  
Staff Contact: Jim Brown, Director, Human Resources and Risk Management  
**This agenda item was approved.**
13. [16-142](#) AUTHORIZATION TO ENTER INTO AMENDMENT NO. 1 TO THE SERVICE AGREEMENT WITH ASSIGNMENT STAFFING SERVICES, LLC, DOING BUSINESS AS LAB SUPPORT, AND APPROVE THE EXPENDITURE OF FUNDS TO PROVIDE TEMPORARY LABORATORY TECHNICIAN STAFF  
Staff Contact: Craig Johnson, P.E., Director, Water Services  
**This agenda item was approved.**
14. [16-149](#) AUTHORIZATION TO ENTER INTO AMENDMENT NO. 2 TO THE SOFTWARE MAINTENANCE AGREEMENT WITH TMMI - TECHNICAL MARKETING MFG INC. - GE INTELLIGENT PLATFORMS, FOR THE SUPERVISORY CONTROL AND DATA ACQUISITION SYSTEM  
Staff Contact: Craig Johnson, P.E., Director, Water Services  
**This agenda item was approved.**
15. [16-170](#) AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH EMPIRE SOUTHWEST, LLC, FOR THE COOPERATIVE PURCHASE OF PARTS, SERVICE AND REPAIRS ON HEAVY EQUIPMENT  
Staff Contact: Jack Friedline, Director, Public Works  
**This agenda item was approved.**
16. [16-181](#) AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH

CREATIVE COMMUNICATIONS SALES & RENTALS, INC., FOR THE PURCHASE OF 44 TWO-WAY RADIOS, ACCESSORIES, INSTALLATION AND CREATIVE AIRTIME COMMERCIAL REPEATER SERVICE

Staff Contact: Jack Friedline, Director, Public Works

**This agenda item was approved.**

17. [16-178](#) AWARD OF BID 16-31, AUTHORIZATION TO ENTER INTO AN AGREEMENT AND APPROVE EXPENDITURE OF FUNDS TO PURCHASE FIREFIGHTER TURNOUT GEAR FROM FDC RESCUE PRODUCTS, LLC

Staff Contact: Terry Garrison, Fire Chief

**This agenda item was approved.**

18. [16-179](#) AWARD OF BID 16-31, AUTHORIZATION TO ENTER INTO AN AGREEMENT AND APPROVE EXPENDITURE OF FUNDS TO PURCHASE FIREFIGHTER TURNOUT GEAR FROM L. N. CURTIS & SONS

Staff Contact: Terry Garrison, Fire Chief

**This agenda item was approved.**

19. [16-180](#) AWARD OF BID 16-31, AUTHORIZATION TO ENTER INTO AN AGREEMENT AND APPROVE EXPENDITURE OF FUNDS TO PURCHASE FIREFIGHTER TURNOUT GEAR FROM UNITED FIRE EQUIPMENT COMPANY

Staff Contact: Terry Garrison, Fire Chief

**This agenda item was approved.**

20. [16-173](#) AWARD OF BID 16-40 AND EXPENDITURE AUTHORIZATION FOR THE PURCHASE OF PATROL RIFLES FROM SIONICS WEAPON SYSTEMS

Staff Contact: Debora Black, Police Chief

**This agenda item was approved.**

21. [16-174](#) AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH SAN DIEGO POLICE EQUIPMENT CO. INC. AND APPROVE THE PURCHASE OF AMMUNITION FOR THE GLENDALE POLICE DEPARTMENT UTILIZING A STATE OF ARIZONA PURCHASING COOPERATIVE CONTRACT

Staff Contact: Debora Black, Police Chief

**This agenda item was approved.**

#### CONSENT RESOLUTIONS

22. [16-043](#) RESOLUTION 5088: ADOPT A RESOLUTION TO CALL 2016

## ELECTIONS

Staff Contact: Pamela Hanna, City Clerk

RESOLUTION NO. 5088 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, DESIGNATING THE ELECTION DATES AND PURPOSE OF ELECTIONS (PRIMARY ELECTION: AUGUST 30, 2016; GENERAL ELECTION: NOVEMBER 8, 2016); DESIGNATING THE DEADLINE FOR VOTER REGISTRATION; DESIGNATING THE PLACE AND THE LAST DATE FOR CANDIDATES TO FILE NOMINATING PAPERS; AND ORDERING THAT THE CITY CLERK PUBLISH THIS CALL OF ELECTION.

**This agenda item was approved.**

23. [16-148](#) RESOLUTION 5089: AUTHORIZATION TO ACCEPT REALLOCATED FEDERAL FISCAL YEAR 2014 HOMELAND SECURITY GRANT PROGRAM AWARD FUNDS AND ENTER INTO GRANT AGREEMENT 140803-03 WITH THE STATE OF ARIZONA DEPARTMENT OF HOMELAND SECURITY

Staff Contact: Debora Black, Police Chief

RESOLUTION NO. 5089 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ACCEPTANCE AND EXPENDITURE OF FFY 2014 HOMELAND SECURITY PROGRAM AWARD-REALLOCATION FROM THE STATE OF ARIZONA, ARIZONA DEPARTMENT OF HOMELAND SECURITY, IN THE APPROXIMATE AMOUNT OF \$11,650, FUNDED UNDER THE URBAN AREA SECURITY INITIATIVE FOR THE PROJECT ENTITLED "PHOENIX USAI RAPID RESPONSE TEAM - GLENDALE POLICE DEPARTMENT" ON BEHALF OF THE GLENDALE POLICE DEPARTMENT.

**This agenda item was approved.**

24. [16-163](#) RESOLUTION 5090: AUTHORIZATION TO ACCEPT A GOOD NEIGHBOR CITIZENSHIP COMPANY GRANT FROM STATE FARM

Staff Contact: Debora Black, Police Chief

RESOLUTION NO. 5090 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, ACCEPTING THE 2016 GOOD NEIGHBOR CITIZENSHIP COMPANY GRANT, IN THE APPROXIMATE AMOUNT OF \$13,500, FROM STATE FARM FOR THE PROJECT ENTITLED "IT CAN WAIT" ON BEHALF OF THE GLENDALE POLICE DEPARTMENT.

**This agenda item was approved.**

25. [16-168](#) RESOLUTION 5091: AUTHORIZATION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION MOTOR VEHICLE DIVISION



## FOR A CUSTOMER SERVICE KIOSK AT THE CITY COURT

Staff Contact: Elizabeth R. Finn, Presiding Judge

RESOLUTION NO. 5091 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF A MEMORANDUM OF UNDERSTANDING WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION MOTOR VEHICLE DIVISION FOR A CUSTOMER SERVICE KIOSK AT GLENDALE CITY COURT.

**This agenda item was approved.**

**26.**     [16-172](#)

RESOLUTION 5092: AUTHORIZATION TO ENTER INTO AMENDMENT NO. ONE TO THE INTERGOVERNMENTAL AGREEMENT WITH ARIZONA DEPARTMENT OF TRANSPORTATION TO REVISE THE CONSTRUCTION FUNDING FOR THE 67TH AVENUE FROM GLENDALE AVENUE TO CHOLLA STREET INTELLIGENT TRANSPORTATION SYSTEMS ENHANCEMENTS PROJECT  
Staff Contact: Jack Friedline, Director, Public Works

RESOLUTION NO. 5092 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AMENDMENT NO. 1 TO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA, DEPARTMENT OF TRANSPORTATION, FOR ADDITIONAL FUNDING FOR SYSTEM ENHANCEMENTS ALONG 67TH AVENUE FROM GLENDALE AVENUE TO CHOLLA STREET.

**This agenda item was approved.**

## Approval of the Consent Agenda

**A motion was made by Councilmember Turner, seconded by Councilmember Chavira, to approve the recommended actions on Consent Agenda Item Numbers 4 through 11 and 13 through 21 and Consent Resolutions 22 through 26. The motion carried by the following vote:**

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

**12.**     [16-176](#)

AUTHORIZATION TO ACCEPT AN OUTDOOR SCULPTURE AS GIFT TO THE CITY OF GLENDALE  
Staff Contact: Erik Strunk, Director, Community Services

Mr. Strunk said this item is a request to accept an outdoor sculpture as a private gift to the city from Mr. and Mrs. Richard Whitney. The Whitney family moved to Glendale in 1910, and has had a long history with the city. The artist is Michael Anderson and the sculpture was commissioned in 1976. The sculpture was appraised at \$18,000. Staff would place this sculpture in front of the Main Library in the Xeriscape Garden. This is the second sculpture acquired by the city by Mr. Anderson. The Arts Advisory Commission approved accepting this sculpture. Mr. Strunk thanked Mr. Whitney, who was in the audience, for his family's generosity. He said the cost to install the sculpture

was about \$2,500 and the cost will be paid out of the Arts Fund, not the General Fund.

Councilmember Turner wanted to have this item heard separately to bring attention to the generous donation being made to the city. He said it is a significant piece of art by a known artist. He said he was proud to have this art installed in the Barrel District. He thanked Mr. Whitney for his donation.

Mayor Weiers thanked Mr. Whitney for his donation.

**A motion was made by Councilmember Turner, 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 Malnar, Councilmember Tolmachoff, and Councilmember Turner

## **PUBLIC HEARING - LAND DEVELOPMENT ACTIONS**

27. [16-177](#) RESOLUTION 5093 AND ORDINANCE 2985: GENERAL PLAN AMENDMENT GPA15-02 (RESOLUTION) AND REZONING APPLICATION ZON15-07 (ORDINANCE): ZANJERO APARTMENTS PAD – 9300 WEST GLENDALE AVENUE (PUBLIC HEARING REQUIRED)

Staff Contact: Tabitha Perry, Assistant Planning Director

Ms. Perry said this item was a request for approval by a property company to build a 340 unit apartment complex. She explained the site is located within a 158 acre approved mixed-use development known as Zanjero PAD at 9300 West Glendale Avenue. The proposed site is 18 acres. The proposed development would be a gated community with garages and generous amenities on site. This site is located just north of the Westgate Entertainment District. The request to rezone from PAD to PAD is consistent with the request to amend the General Plan destination from CCC to High Density Residential. The development will provide additional pedestrian activities for the Sports and Entertainment District. Staff's recommends adoption of this item.

Mayor Weiers opened the public hearing on General Plan Amendment GPA15-02 (Resolution) and Rezoning Application ZON15-07 (Ordinance).

James Deibler, a Phoenix resident, spoke on this item. He said the Zanjero Apartments will bring in more workers to the area.

Mayor Weiers closed the public hearing.

RESOLUTION NO. 5093 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 GPA15-02 FOR PROPERTY LOCATED AT 9300 WEST GLENDALE AVENUE.

**A motion was made by Councilmember Malnar, seconded by Vice Mayor Hugh,**

that Resolution 5093 be approved. The motion carried by the following vote:

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

ORDINANCE NO. 2985 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 FROM PAD (PLANNED AREA DEVELOPMENT) TO PAD (PLANNED AREA DEVELOPMENT) FOR A DEVELOPMENT PLAN ENTITLED "ZANJERO APARTMENTS" LOCATED AT 9300 WEST GLENDALE AVENUE, AMENDING THE ZONING MAP; AND PROVIDING FOR AN EFFECTIVE DATE.

**A motion was made by Councilmember Malnar, seconded by Councilmember Chavira, that Ordinance 2985 be approved. The motion carried by the following vote:**

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

**28.**     [16-147](#)

RESOLUTION 5094 AND ORDINANCE 2986: GENERAL PLAN AMENDMENT (GPA) APPLICATION GPA13-06 (RESOLUTION) & REZONING (ZON) APPLICATION ZON13-09 (ORDINANCE): STONEHAVEN – 9050 WEST CAMELBACK ROAD (PUBLIC HEARING REQUIRED)

Staff Contact: Jon M. Froke, AICP, Planning Director

Mr. Froke said this item is a request for approval of a master planned community known as StoneHaven, located at 9050 West Camelback Road. He said this is one of the largest master planned community development in many years. He provided context for the boundaries of this property. He said there are several existing schools as well as a joint use neighborhood park. He said the General Plan amendment allows commercial development on approximately 21 acres of property on Camelback Road and on approximately 10 acres on Bethany Home Road. He said the zoning case would place a PAD on the entire 382.5 acre site and would establish a site plan. Staff recommends approval of both the General Plan amendment and rezoning application. The Planning Commission has unanimously recommended approval of both applications. Mr. Froke explained there have been several revised stipulations in the Resolution for this item. These stipulations are: (1) development shall be in substantial conformance with the PAD document, dated February 2016. Less intensive development may be deemed substantially conforming by the Planning Director, subject to Preliminary Plat and Design Review approval, (2) right-of-way dedications and off-street improvements shall be completed in conjunction with Final Plat and Design Review approval, (3) there shall be a 30 foot landscaped triangle provided on the corner of Camelback Road and 91st Avenue and on the corner of Bethany Home Road and 91st Avenue, (4) sidewalk improvements adjacent to and vehicular access to 91st Avenue along the existing SRP well site shall be provided by the applicant, and (5) construction of Camelback Road roadway improvements adjacent to the planned commercial parcel shall be designed so that the 69kv power poles shall not split the westbound through lanes from the right turn lane, and that the relocated 69kv poles shall be relocated at the ultimate build out location. He explained stipulation 5 was eliminated, so there are now only 5 stipulations total, instead of 6 stipulations.

Mr. Froke provided a layout of the proposed development and explained where the

commercial buildings would be placed on the property. He said a multi-family residential component was deleted from this property development. He said this development will allow the completion of the gap in Bethany Home Road, so Bethany Home Road will be complete from SR51 all the way to the Loop 101.

Mayor Weiers asked what was the total number of apartments proposed.

Mr. Froke said there were originally about 300 units which have since been dropped from consideration.

Mayor Weiers opened the public hearing on General Plan Amendment (GPA) Application GPA13-06 (Resolution) and Rezoning (ZON) Application ZON13-09 (Ordinance).

Stephen Earl, with the law firm of Earl, Curley & Lagarde, attorney for property owner J.F. Long Properties, said his client is proposing a master planned community, the first of its kind in over 8 years. He said this process began over 3 years ago and several public meetings have been held and notices have been sent out. He provided photos showing the development plan and said it is close to the Westgate Entertainment District. He said the zoning density is consistent with the planned development in the area. He spoke about the zoning for the areas surrounding the property. He provided a copy of the original master plan concept and explained the original concept included multi-family housing. He said those multi-family units were eventually removed. He went on to say that the community is suitable for younger families as well as families looking for a much larger home. He said there are over 60 acres of open space and amenities in this plan. He said road improvements will be made to Camelback and Bethany Home Roads. He spoke about the concern of nearby residents concerning smaller lot sizes. Mr. Earl said this is a master planned community which is suitable for families of all sizes and income levels. He provided information about how the impact fees from this project would be used.

Monica Toby, a Yucca resident, spoke about Heroes Park and said she was sad about the length of time it has taken to move forward with developing this park.

Mayor Weiers asked Ms. Toby to stay on track with discussions of StoneHaven.

Ms. Toby said she was called earlier to speak on StoneHaven and spoke about the small lots in that development.

James Deibler, a Phoenix resident, said he supports this residential development in Glendale. He said this project will bring more residential development in the area and will bring more construction workers as well. He said this is an excellent master plan for this area. He discussed the John F. Long development in the Maryvale area and said he was a pioneer in residential development in the west valley.

Rezan Finley, a Yucca resident, said many homes in the area are custom homes and it is not a good idea to have the master planned community with such small lots. She proposed changing the lot sizes to make them bigger to fit in better with the existing neighborhood. She said they did not want another Maryvale to be built in Glendale.

Tom Traw, a Yucca resident, said John F. Long has been around a long time and has been charitable for the community, and thanked the Council for the archery range. He said neighbors want this development to be the best it can be. He said there were \$500,000 to \$1 million homes for sale nearby this development. He is afraid the smaller lots and houses are going to bring down nearby property values. Neighbors are not

agreeable to this project. He suggested changing the lot size to 8,000 square foot lots. He said there are only 3 cul-de-sacs in the planned community. He asked if anyone had thought about the traffic problems the 1,161 homes will cause in this area, and suggested changing the number to about 800 homes. He asked about the \$1.2 million the city was going to have to pay to complete Bethany Home Road. He said buyers want larger lots. He said they have one chance to get this right and suggested tabling this item for further study.

Councilmember Malnar asked if no rezoning is needed, except for a couple of areas on the north and south.

Mr. Froke said there are two land use applications. He said the rezoning on the map would encompass the entire 382 acres. The General Plan amendment is only for two small areas which he designated on the map. He explained the city implements the General Plan by zoning and this action would rezone the entire 382 acres from a collection of C-2 C-O and R1-8 PRD to PAD.

Councilmember Malnar asked what sort of input was received from the public in the last couple of public meetings that were held about this project.

Mr. Earl said there have been continual meetings since the beginning of this project as refinements were completed to the master plan. The first meetings dealt primarily with removal of the apartment complex. He said additional meetings seemed to have consensus about the project. He said they only heard concerns about the lot size in the last couple of weeks. He explained the overall density is consistent with the General Plan and they needed a variety of lot sizes. He said these varying lot sizes and amenities encourage a diverse array of families moving to the community. He said the community is at least over a football field away from some of the larger homes north of the development. Perimeter walls and arterial roads also provide a buffer to the existing larger homes.

Councilmember Tolmachoff said she did research and found many homebuyers wanted smaller lots. She said this development is a good thing for Glendale. She also explained an appraiser is not going to compare larger homes on acre lots to smaller homes of 5,500 square foot lots. Appraisers will choose same size homes to compare home values. She said she did not think homes would be devalued due to this planned community.

Councilmember Aldama asked if the city requested a letter of adequate facilities from nearby schools.

Mr. Froke said the high school district did respond and the elementary school did not respond. He said the high school district indicated that there were adequate facilities.

Councilmember Aldama said he worked in public education and this development will help improve funding for the nearby schools when it is built. He explained he grew up in a very small home and a 5,500 square foot property would have been a dream. He said this is a great opportunity for the southern part of Glendale. He wants this opportunity for families to live in a master planned community. He said he cannot table or deny this project. It's good for the neighborhood and the city.

Mayor Weiers closed the public hearing.

Mayor Weiers said he lived close to this development and understands neighbors' concerns. He said it was his understanding this community will have a large wall around

it and they won't see the homes. He said during game day, traffic is an issue. He said he hasn't heard about parking being addressed, but said he saw opportunities for businesses in the commercial areas.

Mr. Friedline said many discussions have been held about the traffic issues for this community. He said the completion of Bethany Home Road will improve the situation. He said residents will adapt to traffic and will use alternate routes on game days.

Mayor Weiers asked about people trying to park in the neighborhoods on game days so they don't have to pay for parking.

Mr. Friedline said staff would rather react to that if it develops and Transportation staff will work with the Police Department on any parking issues. He said any issues would be addressed once they occur. The parking lots which will be built may also alleviate some of those parking issues.

Councilmember Tolmachoff asked about traffic signals that were going to be installed at several intersections in that development to give residents access during heavy traffic days.

Mr. Friedline said those traffic signals will give residents many more options.

Councilmember Chavira provided a quote from the economic development commissioned report and how it applies to current development. He provided information on how much money the city would receive in residential sales tax, impact fees, and commercial sales tax. He said there will also be an increase in state shared revenue. He spoke about some of the amenities included in this development.

RESOLUTION NO. 5094 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 GPA13-06 FOR PROPERTY LOCATED AT 9050 WEST CAMELBACK ROAD.

**A motion was made by Councilmember Chavira, seconded by Councilmember Aldama, that Resolution 5094 be approved. The motion carried by the following vote:**

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

ORDINANCE NO. 2986 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 9050 WEST CAMELBACK ROAD FROM R1-8 PRD (SINGLE RESIDENCE, PLANNED RESIDENTIAL DEVELOPMENT), C-2 (GENERALCOMMERCIAL), AND C-O (COMMERCIAL OFFICE) TO PAD (PLANNED AREA DEVELOPMENT); AMENDING THE ZONING MAP; AND PROVIDING FOR AN EFFECTIVE DATE.

**A motion was made by Councilmember Chavira, seconded by Vice Mayor Hugh,**

that Ordinance 2986 be approved with the discussed stipulations. The motion carried by the following vote:

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

29. [16-165](#)

RESOLUTION 5095: GENERAL PLAN AMENDMENT (GPA)  
APPLICATION GPA16-01 (RESOLUTION): ENVISION GLENDALE 2040  
– CITY WIDE GENERAL PLAN UPDATE (PUBLIC HEARING  
REQUIRED)

Staff Contact: Jon M. Froke, AICP, Planning Director

Guest Presenter: Celeste Werner, AICP, Vice President, Matrix Design Group

Mr. Froke said GPA16-01 is for an update to the overall citywide General Plan, and will replace the current General Plan. He said two public hearings were held over the weekend and last night on this issue and that the Planning Commission recommended unanimous approval of the General Plan amendment. Mr. Froke thanked the General Plan Steering Committee for bringing together a plan that is community driven and thanked Matrix Design Group, the City's planning consultant.

Ms. Werner said the General Plan is the official planning document for the city. She thanked everyone who assisted in this long process. She said she would provide information on the Steering Committee role, land use plan updates, the public draft General Plan overview and what the next steps in the process will be. She introduced her staff from Matrix Design for their subject matter expertise on this project.

Ms. Werner said the Steering Committee's role was to evaluate existing conditions and the map atlas, provide visioning and act as an ambassador outreach program. She said the Steering Committee is an advisory body appointed by the Council to guide development of the General Plan. The committee held 13 meetings during this process. The committee identified issues and opportunities which led to the development of land use alternatives and assessment. The committee also guided refinement of existing policies and new policy development, as well as coming up with new mixed-use definitions and a draft land use plan.

Ms. Werner said updates were made to existing mixed-use categories, which include Corporate Commerce Center (CCC), which are mixed-use employment centers, including residential, commercial and office categories. Updates were also made to the Entertainment Mixed-Use (EMU) category, which includes regional level sports, entertainment, shopping and employment centers with a wide range of commercial and office space and high density residential units. Two new mixed-use categories were added. The first was Downtown Mixed Use (DMU), which is the area bound by Glenn Drive, Lamar Road, 51st Avenue and 59th Avenue. This area encourages the mix of residential and commercial in the historic downtown area. The second new category was Regional Mixed Use (RMU). This category encourages new multi-modal, mixed-use development in regionally significant areas, intensive use of land with a compact urban form, and this is the best use of the Loop 303 corridor, with minimal residential space.

Ms. Werner provided maps showing new land use diagrams, as well as pinpointing areas of change on the new land use diagram. She also provided maps showing changes to the central Glendale area, the downtown mixed-use area as well as other changes, and west side changes.

Ms. Werner next went over the policy changes that are part of the public draft of Envision Glendale 2040. She explained the public draft of the General Plan was available for review and comment from February 9th to April 9th, 2016 and the draft plan was posted on the Envision Glendale 2040 website. Public draft workshops were held on March 14th, March 24th and March 30th. Approximately 40 public comments were received during the public workshops, via email and in discussions with city staff. Comments were also received from several city departments, most of which were editorial changes, but a few policies were deleted and/or revised.

Ms. Werner said some notable changes included updating the population using the most recent census data and clarification that Glendale is the sixth largest city in Arizona. Clarification was added to the Land Comparison Table and any discussion regarding Floor Area Ratio was removed as it is not used for land use designation categories. In the public draft, Uses allowed in Mixed Use Designations section, changes were made to the residential density for RMU from HDR 20 to be consistent with the Luke Air Force Base graduated density concept. Restrictions were removed on single family detached homes from DMU land use designation category and references were added to the newly adopted Loop 101 Scenic Corridor. There were added dimensions for Luke AFB Accident Potential Zones and added definitions for Airport Obstacle Free Area, Obstacle Free Zone and Runway Safety Area.

Ms. Werner said in connection with the Community Preservation and Revitalization Theme, several new policies were added. Those included, "CRR-1.7. The City shall give high priority to transportation initiatives," "HPD-1.9. The City should preserve, promote and maintain the Glendale Urban Irrigation System with rates that are fair to both customers and the City," and "HPD-1.20. The City should preserve, promote and maintain the Sahuaro Ranch Historical Area and help and assist in the preservation and maintenance of historic Manistee Ranch. The Economic Vitality Theme was revised by Economic Development Department for clarity and conciseness. One goal and associated policies that were deleted was "privatization efforts are encouraged. A new policy was added, "F-2.5. The City shall establish policies and programs that support transparency in the administration of economic development incentives." In the Connectivity Theme, Roadway maps were revised to change classification of some roadways, per the Transportation Department. Additionally, the Bicycle and Pedestrian Network was revised to change some routes identified as "future" to existing" as they have recently been completed.

Ms. Werner explained that in the Public Facilities and Services Theme, new policies were added. Those included, "PS-6.5. The City should work with the school districts to evaluate the ability to expand or renovate school facilities within infill areas to provide adequate facilities; and evaluate alternatives such as smaller school sizes, smaller campus land areas and multi-story buildings," and "PS-6.6. The City should encourage developers to address school district needs based on new development impacts." Additionally, revisions to Water Resource Elements were made to clarify statements and update outdated information. A new policy was added, "WR-6.3. The City shall promote water conservation through outreach programs to community members," and "WR-6.4. The City shall encourage direct and indirect methods of reclaimed water use when cost effective, including applications in parks, golf courses, landscaped areas and groundwater recharge. New policy, WR-6.5 indicated, "The City shall encourage golf course developments to use reclaimed or alternate water resources, whenever available and cost-effective," and policy WR-6.7 indicated, "The City shall encourage the use of drought tolerant plant materials for landscaping applications through ordinances, resolutions, education and incentives.



Ms. Werner said revisions were made to the Environmental Sustainability Theme to clarify statements and update outdated information and to provide additional information on Glendale's Xeriscape Demonstration Garden. New policies added include, "CON-5.3. The City should work with neighboring cities to promote regional wildlife corridors," and "EP-1.7. The City shall continue to educate residents and businesses on the City's fugitive dust ordinances and update the ordinances as needed."

Ms. Werner said next steps include Council approval of this item and voter approval in the Primary Election on August 30, 2016.

Mayor Weiers opened the public hearing on General Plan Amendment (GPA) Application GPA16-01 (Resolution): Envision Glendale 2040, Citywide General Plan Update.

There were no speakers on this issue.

Mayor Weiers closed the public hearing.

RESOLUTION NO. 5095 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 ENVISION GLENDALE 2040, A GENERAL PLAN FOR MUNICIPAL PRESERVATION AND DEVELOPMENT POLICY PURSUANT TO ARIZONA REVISED STATUTES, A.R.S. 9-461 *ET. SEQ.*, ESTABLISHING PLANNING GOALS, OBJECTIVES AND POLICIES AND CONSIDERING EACH OF THE PLAN ELEMENTS REQUIRED BY STATUTE AS WELL AS OTHERS DETERMINED ESSENTIAL BY THE CITY.

**A motion was made by Councilmember Turner, 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 Malnar, Councilmember Tolmachoff, and Councilmember Turner

## ORDINANCES

### 30. [16-171](#)

ORDINANCE 2987: AUTHORIZATION TO ENTER INTO LEASE AGREEMENT WITH KELMAR CONSULTING LTD, DOING BUSINESS AS KELMAR AVIATION, FOR SUITE 203 AT GLENDALE MUNICIPAL AIRPORT

Staff Contact: Jack Friedline, Director, Public Works

Mr. Friedline said this is a request to authorize a lease agreement with Kelmar Aviation for lease of Suite 203 at the Glendale Municipal Airport. The lease will likely lead to additional revenues for the Airport. The Aviation Advisory Commission approved this lease agreement in the amount of \$3,460.44 per year and a prorated share of utilities.

ORDINANCE NO. 2987 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 AND DIRECTING THE CITY MANAGER TO EXECUTE AN AIRPORT TERMINAL LEASE AGREEMENT WITH KELMAR

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CONSULTING LTD DBA KELMAR AVIATION FOR CERTAIN OFFICE SPACE IN THE TERMINAL BUILDING AT THE GLENDALE MUNICIPAL AIRPORT.

**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 Malnar, Councilmember Tolmachoff, and Councilmember Turner

## **PUBLIC HEARING – RESOLUTIONS**

- 31.**     [16-175](#)     **RESOLUTION 5096: ADOPT A RESOLUTION AUTHORIZING THE SUBMISSION OF THE FY 2016-2017 COMMUNITY DEVELOPMENT BLOCK GRANT ANNUAL ACTION PLAN (PUBLIC HEARING REQUIRED)**

**Staff Contact:** Erik Strunk, Director, Community Services

Mr. Strunk said this is a request to authorize the submission of the annual action plan for FY17 to HUD. The annual action plan is developed by the Community Development Advisory Committee and consists of funding recommendations for the CDBG program, HOME Investment Partnerships program, and the ESG program. Over the years, these funds have been used to help keep Glendale residents in their homes through emergency repair programs, housing rehabilitation programs, and assist with basic needs such as food, utilities and shelter. The funds are also used to voluntarily demolish and clear blighted structures to help revitalize neighborhoods. The CDAC reviewed and recommends 27 funding applications for formal approval. Staff expects these funds to assist over 6,000 Glendale residents. He said staff recommends conducting a public hearing and submission of these applications to HUD.

Councilmember Aldama asked if any of the funds can be used for Sonorita residents.

Mr. Strunk said staff determined that due to environmental concerns and federal regulations, those residents are prevented from using the funds.

Councilmember Aldama said the city's zoning also precludes that community from using those funds as well.

Mr. Strunk said that is correct and that neighborhood has been zoned light industrial and not residential.

Councilmember Aldama said it was one of the oldest communities in the city.

Mayor Weiers opened the public hearing.

There were no speakers.

Mayor Weiers closed the public hearing.

RESOLUTION NO. 5096 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, APPROVING AND AUTHORIZING SUBMISSION OF THE ANNUAL ACTION PLAN FOR FISCAL YEAR 2016-2017 TO THE U.S. DEPARTMENT OF

HOUSING AND URBAN DEVELOPMENT AND FOR ACCEPTING: A COMMUNITY DEVELOPMENT BLOCK GRANT IN THE AMOUNT OF \$2,200,786, A HOME INVESTMENT PARTNERSHIPS PROGRAM ALLOCATION IN THE AMOUNT OF \$514,115, AND EMERGENCY SOLUTIONS GRANTS FUNDING IN THE AMOUNT OF \$189,758; AND AUTHORIZING THE ALLOCATION OF THE FUNDS.

**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 Malnar, Councilmember Tolmachoff, and Councilmember Turner

## NEW BUSINESS

### 32. [16-162](#)

RESOLUTION 5097: AUTHORIZATION TO ENTER INTO A DEVELOPMENT AGREEMENT WITH JACOB F. LONG, TRUSTEE OF THE JOHN F. LONG FAMILY REVOCABLE LIVING TRUST, FOR THE PURCHASE OF THE NORTH ROW AND REMNANT PARCEL (STONEHAVEN)

Staff Contact: Sam McAllen, Director, Development Services

Mr. McAllen said this is related to Item 28 and is a request to authorize the city to enter into a development agreement with John F. Long for construction of Bethany Home Road between 83rd Avenue 91st Avenue. Costs associated with the roadway development will be shared. The total purchase price is just over \$1.2 million. The roadway will be completed all at once and the parties can take advantage of lower costs by using the same suppliers and construction company. No city funds are currently allocated for completion of this portion of Bethany Home Road. The city will fund its portion using development impact fees designed for streets. This road extension will be completed by January 1, 2022.

RESOLUTION NO. 5097 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF A DEVELOPMENT AGREEMENT WITH JACOB F. LONG, TRUSTEE OF THE JOHN F. LONG FAMILY REVOCABLE LIVING TRUST; AND DIRECTING THAT THE CITY CLERK RECORD ANY AND ALL NECESSARY DOCUMENTS.

**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 Malnar, Councilmember Tolmachoff, and Councilmember Turner

### 33. [16-213](#)

AWARD OF REQUEST FOR PROPOSAL 16-13 AND APPROVE EXPENDITURE OF FUNDS FOR ARENA MANAGEMENT WITH AEG MANAGEMENT GLENDALE, LLC

Staff Contact and Presenter: Kevin R. Phelps, City Manager

Staff Contact and Presenter: Michael D. Bailey, City Attorney

Staff Contact and Presenter: Tom Duensing, Assistant City Manager

Mr. Phelps provided a brief history of this arena management process. Three proposals were received and AEG Management was chosen. He said there are several things that set AEG apart from the other applicants. Those include AEG understands stadiums and are the single largest owner of stadiums in the world. AEG understands professional hockey and the NHL. They manage more venues with NHL franchises than any other management firm in the country and they also own the Los Angeles Kings. AEG understands the concert business as a presenter and from working with other concert promoters. Additionally, AEG understands the importance of the fan experience. Mr. Phelps said the arena is the key catalyst for Westgate and almost 3,000 jobs have been created in that area. In the next three years, this area will generate almost \$1 billion in transactions. It is important to get the right arena manager.

Mr. Phelps said the management fee is \$5.6 million per year for 5 years. Included in this fee, the arena will provide the general manager, leadership team, front office staff, marketing staff, corporate sales staff, accounting department, event booking staff, concessions management, custodial, mechanical, and maintenance and repair. AEG will also provide for all utilities to run the facilities, supplies, manager vendors and partners and tenant management. AEG will also have responsibility for booking, producing and promoting concerts and events, and will manage the relationship with the tenants who use the facility, which includes the Coyotes. Mr. Phelps said this agreement limits the financial exposure to the City, and the city has an opportunity to share in the net income that is generated by the successful management of the arena.

Mr. Bailey said this agreement is a market-based approach to management of the arena. With a skilled arena manager in place, the city will learn more about the arena to help the tenants who are currently there as well as future tenants. He explained they want to minimize their risk of loss with this agreement and to align with the arena manager so both receive a profit. A lot of city investment has gone into the Westgate area and the city wants to protect its investment.

Mr. Bailey went on to point out several sections of the agreement which he wanted to highlight. He said the arena manager will establish the rates charged, collect revenues and supervise and manage arena personnel, as well as other duties. He explained EBITDA is earnings before interest, taxes, depreciation and amortization. He said it is the gross operating revenue, minus operating expenses and that equals profit. The city will contribute \$5.6 million. Expenses would be subtracted and the parties would be left with a profit. The \$5.6 million payment will be made in three installments. Mr. Bailey went on to explain the disbursement of EBITDA by saying the first \$500,000 goes to the arena manager and the second \$500,000 will go to the city. The parties will have a 50/50 share of the next \$2 million. After that, 75% will go to the arena manager and 25% will go to the city. The city will receive \$1.5 million before the parties go to the 75/25 split. Mr. Bailey also explained that 100% of the city collected taxes will go to the city. He said there is a motivation for AEG to make a profit. Mr. Bailey said if there is a negative EBITDA, the agreement remains the same, with each party receiving money as he previously described, but after the parties receive a total of \$1.5 million, the negative EBITDA from the previous year will be included in the waterfall, and then the arena manager will receive 75% and the city will receive 25%. The negative EBITDA can only be carried over for one year. He said in the case of negative EBITDA, all the city sales tax still comes to the city. With regard to EBITDA, the disbursement of funds will occur 120 days following the end of every fiscal year.

Councilmember Malnar said the wording in the contract was confusing regarding the

receipt of \$500,000 and then the \$1 million by each party, and it read that each party would only receive \$1 million, not \$1.5 million. He suggested the wording be changed to until each has received an "additional" \$1 million.

Mr. Bailey said it is reflected in the agreement, but possibly not reflected in the presentation.

Councilmember Malnar said he was looking at the contract and the language was not clear.

Mr. Bailey said the way Councilmember Malnar said it was the way it would be handled.

Councilmember Malnar asked if that is what it said in the contract.

Mr. Bailey said his understanding was similar to AEG's understanding, and both parties understood the agreement on how the funds would be disbursed was clear.

Councilmember Malnar suggested adding the word "additional" to make it clear. He said he reads the language in the contract to read that each party would receive \$1 million, not \$1.5 million.

Mr. Bailey said he didn't believe there would be a concern and it can be adjusted. Mr. Bailey went over salient terms of the contract. First he went over standards which are defined terms in the contract and said the level of service to be provided by AEG is consistent with comparable arenas in comparable markets in accordance with applicable laws in a manner to preserve the asset and profitability and value of the arena. He said the agreement is for 5 years, with one 5 year renewal. To ensure the booking of non-AEG events, the arena manager will establish an event fund in the amount of \$500,000 that will be utilized for Live Nation events, and that fund will be used to provide incentives to have Live Nation events book at the arena. Capital improvements are the responsibility of the city and the city is obligated to create a \$500,000 fund on an annual basis to pay for capital improvements to ensure amounts are available.

Mr. Bailey said annually, the arena manager is contractually required to provide a budget to the city with regard to the needed capital improvements and the city will have 45 days to review and respond to that capital budget. In the event the parties do not agree to the capital budget, there is a 180 day period to try and resolve the differences. He said there is a clause that provides for that in the event the city does not allow for capital improvements to maintain the arena at the standard that the city wants it to be maintained at for profitability and viability, the arena manager has the opportunity to terminate the agreement. There is also a five year plan CIP that will be prepared by the arena manager to forecast what improvements will be necessary in the next five years. Mr. Bailey said the operations and maintenance of the arena will be the responsibility of the arena manager. The city will receive an operating budget. All maintenance less than \$5,000 will be handled by AEG.

Mr. Bailey said other salient terms of interest include the city will receive monthly, quarterly and annual reports. The city will also have annual audit rights and will be able to select the auditor to do that audit on the city's behalf. There will be monthly meetings between the City Manager and AEG during the first year and then quarterly meetings throughout the remainder of the agreement. The purpose of those meetings and executive negotiations is to ensure that any dispute that arises is resolved in an expeditious manner. Mr. Bailey said the city will maintain the right to review the Coyotes

lease. It is the arena's manager responsibility to ensure tenants are booked, but the city has maintained the right to review that particular agreement. The city is under the obligation to terminate the management aspect of the existing agreement with the Coyotes. Mr. Bailey said in the event the Coyotes no longer play at the arena or the lease is amended, the parties will negotiate in good faith. If no agreement can be reached, the arena manager will have the right to terminate the agreement. Other items of interest are that the contract provides for a city representative and that will be the City Manager. The city has ten days for community and nonprofit events. The parties have agreed to provide all public statements to the other party to ensure they are on the same page with regard to communications. He said the city also has the right with the arena manager to participate in the hiring of the general manager of the arena.

Mayor Weiers asked if the Council had any questions.

Vice Mayor Hugh said he would like to hear from Mr. Steedman and get his input on the arena deal.

Mr. Steedman spoke about the things that attracted AEG to this deal. He said the arena is beautiful and a great host to big events and large sporting events. He said this is also a prominent venue for family and musical events. He said ticket sales are very strong in this market. He said the arena also fits well into the regional venues and has a strong anchor position in Arizona.

Councilmember Turner asked about the turnover of the arena between events and how AEG avoids having down time and blackout dates.

Mr. Steedman said the conversion of the arena is very much like an orchestra and their professionals have the management of all these moving parts down to a science. He explained they can have a basketball game one night to a concert the next afternoon.

Mark Burdick, a Sahuaro resident, said he was more concerned about the process of approving this agreement. This has been a very controversial issue, and he was concerned that this agreement was posted with a very limited amount of time for public input. He would like to create a better window of transparency. He also spoke specifically about the funding operations listed in the contract, and that some of the sentences in the contract that did not make sense. He said the Councilmembers themselves have said they have questions on this, yet 24 hours later, they are voting on the agreement.

Denise Flynn, an Ocotillo resident, said she read the same part of the contract that Councilmember Malnar had a question about and it was not clear to her either.

Gary Sherwood, a Sahuaro resident, said he would like to have seen more time spent on reviewing this agreement. He brought out some points he saw that may be problematic in this contract. He said the city didn't have much chance in holding onto the Coyotes if they could find another place to go. He spoke about the money the city potentially lost with previous contracts. He said there are no incentives in this contract and he was concerned about this. He said this would be a great contract if he knew the hockey team was going to stay. He looked at several other arenas that do not have professional sports teams and provide data on how many events were scheduled at these facilities.

Adam Kariotoglou, a Glendale resident, said he owned 3 restaurants in Westgate and is negotiating a 4th lease. He said he needed to feel confident the Coyotes were going to stay in Glendale. He said there are 9,000 restaurant seats at Westgate and didn't think

many of them were filled this evening. He said is paying about \$100,000 a month in rents at Westgate every month. He asked the Council to take time and patience to make a good deal. He said he has yet to see any of the Councilmembers faces at his restaurants in Westgate. He wants the Councilmember to talk to the business owners to find out what they need.

James Deibler, a Phoenix resident, said this contract is a new beginning for all parties involved and will help the city save millions of taxpayers' money. He said AEG does an excellent job to bring more events to sports arenas. He hoped the Coyotes would stay at the arena for a long time.

Mr. Bailey responded to Councilmember Malnar's point and question about the language in the contract. He explained the preceding paragraph in the contract provided that each item is in a following order as separate monetary aspects. He explained the city is in agreement on this with AEG. He said the scrivener's errors will be addressed and corrected.

Councilmember Tolmachoff said she wanted to make sure their constituents understood the Council received this contract several days ago and have had the opportunity to ask many questions since then. She said she believed this is a great opportunity for the city, the arena and the Coyotes.

Councilmember Malnar thanked Mr. Bailey for his explanation and now understood the intent of the contract language.

Councilmember Turner said this contract is the written expression of the goals and ideals Council expressed to staff. He said it is highly unusual to negotiate this type of a contract in public. He said there is a level of trust and confidentiality that goes into these types of negotiations. He shared Councilmember Tolmachoff's confidence in this contract.

Councilmember Turner explained his vote by saying he was very excited about the financial arrangement and the expertise brought to the table by new partners. He said this will provide value to all residents. He said the possibilities are endless.

Mayor Weiers said he did have questions about this contract 24 hours ago, but all of them have been addressed. He said they are making certain the arena will be used appropriately and will keep the Coyotes in Glendale.

**A motion was made by Councilmember Tolmachoff, 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 Malnar, Councilmember Tolmachoff, and Councilmember Turner

## **REQUEST FOR FUTURE WORKSHOP AND EXECUTIVE SESSION**

**A motion was made by Vice Mayor Hugh, seconded by Councilmember Tolmachoff, to hold a Special Budget Workshop on Tuesday, May 3, 2016 at 9:00 a.m. in the City Council Chambers. It was further moved to hold the next regularly scheduled City Council Workshop on Tuesday, May 3, 2016 at 1:00 p.m. in the City Council Chambers to be followed 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 Malnar, Councilmember Tolmachoff, and Councilmember Turner

### **COUNCIL COMMENTS AND SUGGESTIONS**

Councilmember Aldama asked Ocotillo residents to join him for mobile office hours on May 2, 2016 from 5 to 6:30 p.m. at Desert Garden Elementary School Cafeteria, 7020 W. Ocotillo Road. He asked everyone to bring their ideas, suggestions and complaints.

Councilmember Chavira told Judy Chavira that he loved her very much and said Happy 24th Anniversary, and reminded everyone to be nice.

Councilmember Tolmachoff invited Cholla residents to the spring district meeting to be held on May 18, 2016 at 6:30 p.m. at Legend Springs Elementary School.

Councilmember Turner thanked members of the General Plan Steering Committee for their hard work.

Vice Mayor Hugh said Glendale has the best arena and now has the best management firm operating that arena. He is confident the Coyotes will stay in Glendale and they deserve to play here.

Mayor Weiers said this was a big agenda with many important issues. The Council has taken these issues very seriously. He hoped this will get the City going in the right direction.

### **ADJOURNMENT**

Mayor Weiers adjourned the City Council meeting at 9:30 p.m.





## Legislation Description

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**File #: 16-198, Version: 1**

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**PROCLAIM MAY 15 THROUGH MAY 21, 2016 AS NATIONAL PUBLIC WORKS WEEK IN THE CITY OF GLENDALE**

Staff Contact: Jack Friedline, Director, Public Works

Presented By: Office of the Mayor

Accepted By: Jack Friedline, Director, Public Works

**Purpose and Recommended Action**

This is a request for City Council to proclaim May 15 through May 21, 2016 as National Public Works Week in the City of Glendale.

Jack Friedline, Public Works Director, will receive the proclamation on behalf of all Glendale employees who provide and maintain the infrastructure and services collectively known as Public Works.

**Background**

Instituted as a public education campaign by the American Public Works Association (APWA) in 1960, National Public Works Week (NPWW) calls attention to the importance of public works in community life.

APWA is designating May 15 through May 21, 2016 as National Public Works Week. The theme for this year's celebration is "Public Works Always There" showcasing the dependability of Public Works in that the men and women of the profession are always there and are always ready.

Public Works includes programs and services such as land development and flood control, environmental and facilities engineering, street design and maintenance, equipment and facility maintenance, right-of-way beautification and graffiti removal, transportation and roadway systems, solid waste collection and disposal, and water and wastewater services. In addition, Public Works personnel are among the first responders during emergencies and natural disasters, often going above and beyond the call of duty to quickly maintain and restore needed city services.

**Community Benefit/Public Involvement**

This proclamation seeks to raise the public's awareness of the contributions which public works employees make in the community, and to honor the professional men and women who serve the public every day with quiet dedication.



## Legislation Description

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**File #: 16-187, Version: 1**

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**AUTHORIZATION TO ENTER INTO A CONSTRUCTION MANAGER AT RISK AGREEMENT WITH ACHEN-GARDNER CONSTRUCTION, LLC, FOR DESIGN PHASE SERVICES FOR WATER LINE REPLACEMENT AT VARIOUS LOCATIONS**

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 Construction Manager at Risk (CMAR) agreement with Achen-Gardner Construction LLC (Achen-Gardner Construction) for design phase services for various waterline replacements and approve the expenditure of funds in an amount not to exceed \$99,997.50.

**Background**

The city's water distribution system is a vast network of water mains, service lines, valves and fire hydrants which foster the conveyance of potable water for domestic and fire protection purposes. There are over 994 miles of water lines, including 24,000 valves, 61,000 service lines and 8,400 fire hydrants.

Moving water through the city's distribution system is a key component in ensuring uninterrupted service and reliability. Proactive rehabilitation and replacement efforts minimize maintenance issues, emergency disruptions and assist with maintaining the integrity of the water distribution system. The project is part of an on-going proactive preventive maintenance effort to maintain the operational reliability of the city's water distribution system.

The project is needed to replace aging waterlines that have required excessive maintenance and reached their useful life. Staff identified seven (7) locations where existing waterlines are in need of replacement. The locations are citywide and prioritized based on their condition and age. Additionally, in February 2004 CH2M HILL, Inc. issued its water distribution system evaluation report that recommended a long term waterline replacement program. Several of the line segments included in this project were identified in the report.

**Analysis**

A Request for Qualifications was issued in August 2015 by the Engineering Department to provide design phase assistance and construction services as the Construction Manager at Risk (CMAR) for waterline replacement and new waterline installation at various locations throughout the City. Five (5) firms submitted qualifications and Achen-Gardner Construction was determined to be the most qualified.

**Previous Related Council Action**

On December 18, 2014, Council approved a Professional Services Agreement with Stantec Consulting Services Inc., for design and construction administration services.

**Community Benefit/Public Involvement**

The project will enhance the integrity of the water distribution infrastructure, minimize pipeline breakage, service interruptions, and improve water quality.

**Budget and Financial Impacts**

Funding is available in the Water Services Capital Improvement Plan FY2015-16 budget.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$99,997.50</b>	<b>2400-61013-551200, Water Line Replacement</b>

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?



**CITY OF GLENDALE, ARIZONA  
ENGINEERING DEPARTMENT**

**WATERLINE IMPROVEMENTS (VARIOUS LOCATIONS)**

**CONSTRUCTION MANAGER AT RISK  
DESIGN PHASE SERVICES**

**PROJECT NO. 131424**

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CITY OF GLENDALE  
WATERLINE IMPROVEMENTS (Various locations)  
CONSTRUCTION MANAGER AT RISK  
DESIGN PHASE SERVICES  
PROJECT NO. 131424

**THIS AGREEMENT** made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2016 by and between City of Glendale, an Arizona municipal corporation, hereinafter designated the "CITY" and Achen-Gardner Construction, LLC, an Arizona limited liability company, hereinafter designated "CONSTRUCTION MANAGER AT RISK" or "CM@Risk".

**RECITALS**

- A. The City Manager of Glendale, Arizona, is authorized and empowered by provision of the City charter to execute contracts for professional services and construction services.
- B. The City intends to construct the Waterline Improvements (Various Locations) Project, as described in Exhibit A attached, hereinafter referred to as the "Project".
- C. To undertake the design of said Project the City has entered into a contract with Achen-Gardner Construction, LLC to provide pre-construction management services during the design phase of the project
- D. The CM@Risk may serve as the general contractor during construction of the project, if it is determined to be in the City's best interest. Once the work or services required by this Agreement has been substantially completed, at the City's discretion, the City may enter into a separate construction contract with the CM@Risk for construction phase services.

**AGREEMENT**

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between the City and the CM@Risk as follows:

**ARTICLE 1 – TERMS AND DEFINITIONS**

Addenda – Written or graphic instruments issued prior to the submittal of the GMP Proposal(s), which clarify, correct or change the GMP Proposal(s) requirements.

Agreement ("Contract") – This written document signed by the City and CM@Risk covering the pre-construction management services performed by CMAR for the design phase of the Project, and including other documents itemized and referenced in or attached to and made part of this Agreement.

Alternate Systems Evaluations – Alternatives for design, means and methods or other scope considerations that are evaluated using value engineering principles and have the potential to reduce construction costs while still delivering a quality and functional Project that meets City requirements.

Change Order – A document signed by the CM@Risk and the City that authorizes an addition, deletion or revision in the scope of services or Deliverables, or an adjustment in the Contract Amount or the period of services, or use of Owner Contingency, and is issued on or after the Effective Date of this Agreement.

City ("Owner" or "OWNER") – The City of Glendale, a public body or authority and municipal corporation, with whom CM@Risk has entered into this Contract and for whom the services are to be provided pursuant to said Contract.

CM@Risk ("CONSTRUCTION MANAGER AT RISK" OR "CONTRACTOR") – The person, firm, corporation or other approved legal entity with whom the City has entered into this Agreement. For purposes of this Agreement, the CM@Risk is Achen-Gardner Construction LLC.

Contingency, Contractor's– An agreed upon amount, either lump sum or a percentage of the Cost of the Work, that is included in the GMP and to be used by the CM@Risk in accordance with the General Provisions in the construction contract.

Contingency, Owner's – The Owner may, at its discretion, order changes in the scope of the Project. The Owner's Contingency is an amount to cover changes initiated by the Owner, which may be incorporated into the GMP as an allowance at the Owner's discretion.

Construction Documents – The plans, specifications, and drawings prepared by the design professional after correcting for permit review requirements.

Construction Fee – The CM@Risk's administrative costs, home office overhead, and profit, whether at the CM@Risk's principal or branch offices. This includes the administrative costs and home office costs and any limitations or exclusions that may be included in the General Conditions for the construction phase.

Contract Documents – This Agreement, exhibits, attachments, the Notice to Proceed for design phase services, all Written Amendments and Changer Orders to this Contract and any other documents of designated in this Agreement.

Contract Amount – The final approved not-to-exceed budget for this Contract as identified in paragraph 4.1.

Contract Time(s) – The number of days or the dates related to the construction phase that as stated in Construction Documents applies to achievement of Substantial Completion and/or completion of the construction Work so that it is ready for final payment.

Day – Calendar day(s) unless otherwise specifically noted in the Contract Documents.

Deliverables – The work products prepared by the CM@Risk in performing the scope of work described in this Agreement, including Exhibit A. Some of the major deliverables to be prepared and provided by the CM@Risk during the design phase may include but are limited to: Construction Management Plan, Project Schedule, Schedule of Values, alternative system evaluations, procurement strategies and plans, cost estimates, construction market surveys, cash flow projections, GMP Proposals, Subcontractor procurement plan, Subcontractor agreements, Subcontractor bid packages, Supplier agreements, and others as indicated in this Agreement or required by the Project Team.

Drawings (Plans) – Documents, which visually represent the scope, extent and character of the Work to be furnished and performed by the CM@Risk during the construction phase and which have been prepared or approved by the Design Professional and the City. "Drawings" includes drawings that have reached a sufficient state of completion and released by the Design Professional solely for the purposes of review and/or use in performing constructability and biddability reviews and in preparing cost estimates (e.g. conceptual design Drawings, preliminary design Drawings, detailed design Drawings at 30%, 60%, 90% or 100%) but "*not for construction*". Shop drawings are not Drawings as so defined.

Effective Date of this Agreement – The date specified in this Agreement on which the Agreement becomes effective, but if no such date is so specified, the date on which the last of the two parties to sign this agreement delivers it to the other party.

Design Professional – The qualified, licensed person, firm or corporation who furnishes design services required under the Contract Documents.

General Condition Costs – Includes, but is not limited to the following types of costs for the CM@Risk during the construction phase: payroll costs for project manager or construction manager but not both for Work



conducted at the site, payroll costs for the superintendent and full-time general foremen, payroll costs for management personnel resident and working on the site, workers not included as direct labor costs engaged in support (e.g. loading/unloading, clean-up, etc.), costs of offices and temporary facilities including office materials, office supplies, office equipment, minor expenses, utilities, fuel, sanitary facilities and telephone services at the site, costs of liability insurance premiums not included in labor burdens for direct labor costs, costs of bond premiums, costs of consultants not in direct employ of the CM@Risk or Subcontractors, taxes on the work and for which the CM@Risk is liable, fees for permits and licenses. Certain limitation and exclusions are described in the General Conditions for the construction phase.

GMP Plans and Specification – The three sets of plans and specifications provided pursuant to paragraph 2.7.3 upon which the Guaranteed Maximum Price Proposal is based.

Guaranteed Maximum Price (GMP) Proposal – The offer or proposal of the CM@Risk submitted on the prescribed form setting forth the GMP prices for the entire Work or portions of the Work to be performed during the construction phase. The GMP Proposal(s) are to be developed pursuant to Article 2 of this Agreement.

Laws and Regulations; Laws or Regulations – Any and all applicable laws, rules, regulations, ordinances, codes and orders of any and all governmental bodies, agencies, authorities and courts having jurisdiction.

Notice to Proceed – A written notice given by the City to the CM@Risk fixing the date on which the CM@Risk will start to perform the CM@Risk's obligations under this agreement.

Pre-construction management services – The work to be performed by the CM@Risk under this Agreement. Such work shall include, but is not limited to, those tasks and activities detailed in Exhibit A to this Agreement.

Progress Payment Application – The form that is accepted by the City and used by the CM@Risk in requesting progress payments or final payment on which will include such supporting documentation as is required by the Contract Documents and or the City.

Project – The scope of work as described in the Recital above and Exhibit "A" attached.

Project Team – Design phase services team consisting of the Design Professional, CM@Risk, Glendale Engineering Department Project Manager, City's Client Department's representatives and other stakeholders who are responsible for making decisions regarding the Project.

Samples – Physical examples of materials, equipment, or workmanship representative of a part of the construction phase Work and which establish the standards by which that portion of the construction phase Work will be evaluated.

Shop Drawings – All drawings, diagrams, illustrations, schedules and other data or information specifically prepared or assembled by or for the CM@Risk and submitted by the CM@Risk to illustrate some portion of the Work.

Specifications – The part(s) of the Contract Documents for the construction phase consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

Subcontractor – An individual, firm or corporation having a direct contract with the CM@Risk or any other individual, firm or corporation having a contract with the aforesaid contractors at any tier, who undertakes to perform a part of the design phase services or construction phase Work at the site for which the CM@Risk is responsible. Subcontractors will be selected through the Subcontractor bid process described in paragraph 2.8 of this agreement.

Subconsultant – A person, firm or corporation having a contract with CM@Risk to furnish services required as its independent professional associated or consultant with respect to the Project.

**Substantial Completion** – When the Work, or when an agreed upon portion of the Work, is sufficiently complete so that the City can occupy and use the Project or a portion thereof of its intended purposes. This may include, but is not limited to: (a) approval by City Fire Marshall and local authorities (Certificate of Occupancy); (B) elevator permit; (c) all systems in place, functional, and displayed to the City or its representative; (d) all materials and equipment installed; (e) all systems reviewed and accepted by the City; (f) draft O&M manuals and record documents reviewed and accepted by the City; (g) City operation and maintenance training completed; (h) HVAC test and balance completed [provide minimum 30 days prior to projected substantial completion]; (i) landscaping and site work; and (j) final cleaning.

**Supplier** – A manufacturer, fabricator, supplier, distributor, materialman or vendor having a direct contract with CM@Risk or with any Subcontractor to furnish materials or equipment to be incorporated in the construction phase Work by CM@Risk or any Subcontractor.

**Total Float** – Number of Days by which the design phase services on construction phase Work or any part of the same may be delayed without necessarily extending a pertinent schedule milestone in the Project Schedule.

**Work** – The entire completed construction or the various separately identifiable parts thereof, required to be furnished during the construction phase. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials, resources and equipment into the construction, and performing or furnishing services and documents as required by the Contract Documents for the construction phase.

**Written Amendment** – A written modification to the Contract Documents, signed by the City and CM@Risk on or after the Effective Date of this Agreement and normally dealing with the non-engineering or non-technical rather than strictly construction-related aspects of the Contract Documents.

## ARTICLE 2 – BASIC DESIGN PHASE SERVICES

### 2.1 GENERAL

- 2.1.1** The CM@Risk, to further the interests of the City, will perform the services required by, and in accordance with this Contract, to the Satisfaction of the City Engineer, exercising the degree of care, skill and judgment a professional construction manager performing similar services in Glendale, Arizona would exercise at such time, under similar conditions. The CM@Risk will, at all times, perform the required services consistent with sound and generally accepted construction management and construction contracting practices. The services provided under this Agreement will not alter any real property owned by the City.
- 2.1.2** Program Evaluation: As a participating member of the Project Team, the CM@Risk will provide to the City and Design Professional a written evaluation of the City's Project Program and Project Budget, each in terms of the other, with recommendations as to the appropriateness of each.
- 2.1.3** Project Meetings: The CM@Risk will attend Project Team meetings which may include, but are not limited to, monthly Project management meetings, Project workshops, special Project meetings, Contract Documents rolling reviews and partnering sessions.
- 2.1.4** The CM@Risk will provide pre-construction management services during the design phase of the City's waterline replacement project as described herein, in a proactive manner and consistent with the intent of the most current Drawings and Specifications. The CM@Risk will promptly notify the City in writing whenever the CM@Risk determines that any Drawings or Specifications are inappropriate for the Project and/or cause changes in the Scope of Work requiring an adjustment in the cost estimate, Project Schedule, GMP Proposal and/or in the Contract Time for the Work, to the extent such are established.
- 2.1.5** The CM@Risk, when requested by the City, will attend, make presentations and participate as may be appropriate in public agency and or community meetings, germane to the Project. The CM@Risk will

provide drawings, schedule diagrams, budget charts and other materials describing the Project, when their use is required or apropos in any such public agency meetings.

## **2.2 CONSTRUCTION MANAGEMENT PLAN**

**2.2.1** The CM@Risk will prepare a Construction Management Plan (CMP), which will detail, but not necessarily be limited to, the CM@Risk's determinations concerning: (a) Project milestone dates and the Project Schedule, including the broad sequencing of the design and construction of the Project, (b) investigations, if any, to be undertaken to ascertain subsurface conditions and physical conditions of existing surface and subsurface facilities and underground utilities, (c) alternate strategies for fast tracking and/or phasing the construction, (d) the number of separate sub-agreements to be awarded to Subcontractors and Suppliers for the Project construction, (e) permitting strategy, (f) safety and training programs, (g) construction quality control, (h) a commissioning program, (i) the cost estimate and basis of the model, and (j) a matrix summarizing each Project Team member's responsibilities and roles.

**2.2.2** The CM@Risk will add detail to its previous version of the CMP to keep it current throughout the design phase, so that the CMP is ready for implementation at the start of the construction phase. The update/revisions may take into account: (a) revisions in Drawings and Specifications; (b) the CM@Risk's examination of the results of any additional investigatory reports of subsurface conditions, drawings of physical conditions of existing surface and subsurface facilities and documents depicting underground utilities placement and physical condition, whether obtained by the City, Design Professional or the CM@Risk; (c) unresolved permitting issues, and significant issues, if any, pertaining to the acquisition of land and right of way; (d) the fast-tracking of any of the construction, or other chosen construction delivery methods; (e) a requisite number of separate bidding documents to be advertised; (f) the statues of the procurement of long-lead time equipment (if any) and/or materials; and (g) funding issues identified by the City.

## **2.3 PROJECT SCHEDULE**

**2.3.1** The fundamental purpose of the "Project Schedule" is to identify, coordinate and record the tasks and activities to be performed by all Project Team members and to be utilized as a basis for managing and monitoring each Project Team member's compliance with the schedule requirements of the Project. Each Project Team member is responsible for its compliance with the Project Schedule requirements. The CM@Risk will, however, develop and maintain the "Project Schedule" on behalf of, and to be used by, the Project Team based on input from the other Project Team members. The Project Schedule will be consistent with the most revised/updated CMP. The Project Schedule will use the Critical Path Method technique, unless required otherwise, in writing by the City. The CM@Risk will use scheduling software to develop the Project Schedule that is acceptable by the City. The Project Schedule shall be presented in graphic and tabular reports, as agreed upon by the Project Team. If Project phasing as described below is required, the Project Schedule will indicate milestone dates for phases once determined. The Project Schedule's activities will directly correlate with the Schedule of Values specified in paragraph 2.6.

**2.3.2** The CM@Risk will include and integrate in the Project Schedule the services and activities required of the City, Design Professional and CM@Risk including all construction phase activities. The Project Schedule will detail activities to the extent required to show: (a) the coordination between conceptual design and various design phase documents; (b) separate long-lead procurements, if any; (c) permitting issues; (d) land and right-of-way acquisition, if any; (e) bid packaging strategy and awards to Subcontractors and Suppliers; (f) major stages of construction; (g) start-up and commissioning; and (h) occupancy of the completed Work by the City. The Project Schedule will include, by way of example and not as a limitation, proposed activity sequences and durations for design, Project Team, preparation and procession of shop drawings and samples, delivery of materials or equipment requiring long-lead time procurement (if any), milestone dates for various construction phases, total float for all activities, relationships between activities, City's occupancy requirements showing portions of the Project having occupancy priority, and proposed dates for Substantial Completion and when the Work would be ready for final acceptance.

**2.3.3** The Project Schedule will be updated and maintained by the CM@Risk throughout the design phase so that it will not require major changes at the start of the construction phase to incorporate the CM@Risk's plan for the performance of the construction phase Work. The CM@Risk will provide updates and/or revisions to the Project Schedule for use by the Project Team, whenever required, but not less often than at the monthly Project Team meetings. The CM@Risk will include with such submittals a narrative describing its analysis of the progress achieved to-date vs. the planned progress, any concerns regarding delays or potential delays, and any recommendations regarding mitigating such delays.

**2.3.4** Project Phasing: If phased construction is deemed appropriate and the City and Design Professional approve, the CM@Risk will review the design and make recommendations regarding the phased issuance of Construction Documents to facilitate phased construction of the Work, with the objective of reducing the Project Schedule and/or Cost of the Work. The CM@Risk will take into consideration such factors as natural and practical lines of work severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, labor and materials availability, and any other factors pertinent to saving time and cost.

## **2.4 DESIGN DOCUMENT REVIEWS**

**2.4.1** The CM@Risk will evaluate periodically assess the availability of labor, materials/equipment, building systems, and cost-sensitive aspects of the design and other factors that may impact the cost estimate, GMP Proposals and/or the Project Schedule.

**2.4.2** The CM@Risk will identify, in conjunction with the Project Team, those additional surface and subsurface investigations that are required to provide the necessary information for the CM@Risk to construct the Project. After completion of design phase, the CM@Risk may provide additional investigation to improve the adequacy and completeness of the site condition information and data made available with the Construction Documents. The CM@Risk may be responsible for the time and cost required to obtain such additional investigations, except if otherwise provided by specific Additional Services and agreed to in a written amendment to this contract.

**2.4.3** The CM@Risk will meet with the Project Team as required to review designs during their development. The CM@Risk will thoroughly familiarize itself with the evolving documents through the various design phases. The CM@Risk will proactively advise the Project Team and make recommendations on factors related to construction costs, and concerns pertaining to the feasibility and practicality of any proposed means and methods of construction, selected materials, equipment and building systems, and labor and material availability. The CM@Risk will also advise the Project Team of proposed site improvements, excavation and foundation considerations, as well as, concerns that exist with respect to coordination of the Drawings and Specifications. The CM@Risk will recommend cost effective alternatives.

**2.4.4** The CM@Risk will routinely conduct constructability and biddability reviews of the Drawings and Specifications as necessary to satisfy the needs of the Project Team. The reviews will attempt to identify all discrepancies and inconsistencies in the proposed Construction Documents especially those related to clarity, consistency, and coordination of Work of Subcontractors and Suppliers.

**2.4.4.1** Constructability Reviews: The CM@Risk will evaluate whether: (a) the Drawings and Specifications are configured to enable efficient construction; (b) design elements are standardized; (c) construction efficiency is properly considered in the Drawings and Specifications; (d) module/preassembly design are prepared to facilitate fabrication, transport and installation; (e) the design promotes accessibility of personnel, material and equipment and facilitates construction under adverse weather conditions; (f) sequences of Work required by or can be developed from the Drawings and Specifications are capable of being implemented; and (g) the design has taken into consideration, efficiency issues concerning access and entrance to the site, laydown and storage of materials, staging of site facilities, construction parking, and other similar implementation issues.

- 2.4.4.2 Biddability Reviews:** The CM@Risk will check cross-references and compatibility of Drawings and sections within the Specifications, to evaluate whether: (a) the Drawings and Specifications are sufficiently clear and detailed to minimize ambiguity and to reduce scope interpretation discrepancies; (b) named materials and equipment are commercially available and are performing well or poorly; in similar installations; (c) the design provides as-built data; (d) Specifications included alternatives, in the event a requirement cannot be met in the field; and (e) the Project is likely to be subject to differing site conditions considering the data on subsurface conditions, physical conditions of existing surface and subsurface facilities, and physical conditions of underground utilities .
- 2.4.4.3** The results of the constructability and biddability reviews will be provided to the City in formal, written reports clearly identifying all discovered discrepancies and inconsistencies in the Drawings and Specifications with notations and recommendations made on the Drawings, Specifications and other documents. If requested by the City, the CM@Risk will meet with the City and Design Professional to discuss and review these reports.
- 2.4.4.4** The CM@Risk's reviews will be from a contractor's perspective, and although these reviews will serve to reduce the numbers of Requests for Information (RFIs) and changes during the construction phase, responsibility for the Drawings and Specifications will remain with the Design Professional and not the CM@Risk.
- 2.4.5 Notification of Variance or Deficiency:** It is the CM@Risk responsibility to assist the Design Professional in ascertaining whether the Construction Documents were developed in accordance with applicable laws, statutes, ordinances, building codes, rules and regulations. If the CM@Risk recognizes that portions of the Construction Documents are at variance with applicable laws, statutes, ordinances, building codes, rules and regulations, it will promptly notify the Design Professional and City in writing, describing the apparent variance or deficiency.
- 2.4.6 Alternate Systems Evaluations:** The Project Team will routinely identify and evaluate using value engineering principles, any alternate systems, approaches, and design changes that have the potential to reduce Project costs while still delivering a quality and functional product. If the Project Team agrees, the CM@Risk, in cooperation with the Design Professional, will perform a cost/benefit analysis of the alternative and submit such analysis and any recommended change in writing to the Project Team. The Project Team will decide which alternatives will be incorporated into the Project. The Design Professional will have full responsibility for the incorporation of the alternatives into the Drawings and Specifications. If any alternative system is incorporated into the Drawings and Specification, the CM@Risk will include the cost of that alternative into the cost estimate and any GMP proposals.

## **2.5 COST ESTIMATES**

- 2.5.1** Within 14 days after receipt of the documents for the various phases of design, the CM@Risk will provide a detailed cost estimate and a written review of the documents. If the Design Professional and CM@Risk disagree on the cost to be charged to the City for a phase of design, the CM@Risk and the Design Professional will meet and confer to reconcile any disagreements on the estimate and agree on such cost. If no consensus is reached; the City will make the final determination.
- 2.5.2** If any estimate submitted to the City exceeds previously accepted estimates or the City's Project Budget, the CM@Risk will make appropriate recommendations on methods and materials to the City and Design Professional that it believes are consistent with the requirements and specification of the design and are consistent with the City's Project budget.
- 2.5.3** The CM@Risk will periodically provide a cost estimate tracking report, which identifies the upward or downward movements of costs due to value engineering or scope changes. It shall be the responsibility of the CM@Risk to keep the City and Design Professional informed as to the major trend changes in costs relative to the City's budget.

**2.5.4** If requested by the City, the CM@Risk shall prepare a preliminary “cash flow” projection based upon historical resources of similar type projects to assist the City in the financing process.

**2.6 GUARANTEED MAXIMUM PRICE (GMP) PROPOSAL(S)**

**2.6.1** As part of the pre-construction management services provided by the CM@Risk under this contract, the CM@Risk will develop a proposed GMP for the construction phase of the Project. The proposed GMP may be presented as a single GMP for the entire Project or may be broken into a number of GMPs for portions of the Work. The single or multiple GMPs will be presented in a format acceptable to the City. The City may request a GMP Proposal for all or any portion of the Project and at any time during the design phase. Any GMP Proposal submitted by the CM@Risk will be based on and consistent with the current update/revised cost estimate at the time of the proposal, the associated estimates for construction costs and include any clarifications or assumptions upon which the GMP Proposal(s) are based.

**2.6.2** A single GMP Proposal for the entire Project will be developed by providing the City the sum of the maximum Cost of the Work, including the CM@Risk's Construction Fee, General Conditions Fee, and Contractor's Contingency. Multiple GMP Proposals for portions of the Project will be developed by providing the City the sum of the maximum Cost of the Work for that portion of the Project, including the CM@Risk's Construction Fee, General Conditions Fee, and Contractor's Contingency. Once a GMP is submitted to the City, the CM@Risk guarantees it will complete the Project at or below the final GMP Proposal Amount (i.e. the Contract Amount for the construction phase contract) approved by the City. The CM@Risk will thereafter be solely responsible for any difference between the actual Cost of Work and the City-approved GMP Amount, unless the parties agree to an amendment of the GMP Amount in a writing signed by both parties.

**2.6.3** In preparing any GMP Proposal, the CM@Risk will obtain three sets of signed, sealed, and dated plans and specifications (including all addenda) from the Design Professional. The CM@Risk will prepare its GMP Proposal in accordance with the City's request for GMP Proposal requirements based on the most current completed plans and specifications at that time. The CM@Risk will mark the face of each document of each set upon which its proposed GMP is based. The CM@Risk will send one set of those documents to the City's Project Manager, keep one set and return the third set to the Design Professional.

**2.6.4** An updated/revised Project Schedule will be included with any GMP Proposal(s) that reflects the scope of Work shown in the current set of design documents upon which the GMP Proposal(s) is based. Any such Project Schedule updates/revisions will continue to comply with the requirements of paragraph 2.3.

**2.6.5** In the event the CM@Risk elects, at its sole discretion, to maintain a Contractor's Contingency allowance within the GMP, the criteria for development of that allowance must be acceptable to the City. In addition, the terms and conditions regarding use of that allowance during the construction phase will be established by the City and reflected in the contract for that phase of the Project.

**2.6.6** If the construction contract is negotiated as a not-to-exceed amount, all GMP savings resulting from a lower actual project cost than anticipated by the CM@Risk, will revert to the City.

**2.7 GMP PROPOSAL(S) REVIEW AND APPROVAL**

**2.7.1** The CM@Risk will meet with the City and Design Professional to review any GMP Proposal(s) and the written statement of its basis. In the event the City or Design Professional discovers inconsistencies or inaccuracies in the information in the written statement of basis, the CM@Risk will make adjustments as necessary to the GMP Proposal, its basis or both.

**2.7.2** The City, may submit any GMP and its supporting documentation to an independent third party or to the Design Professional for review and verification. The third party or Design Professional will review the

GMP for accuracy and suitability and may provide the City with a critique or an independent estimate of the Cost of Work and Project Schedule for the GMP Proposal.

**2.7.3** If the CM@Risk GMP Amount proposed the CM@Risk is greater than the estimate generated by the independent third party, the City may require the CM@Risk to reconfirm its GMP Proposal or ask the CM@Risk to adopt the independent third party's estimate as the GMP. If the CM@Risk will not accept the independent third party's estimate as the GMP Amount, the CM@Risk will submit a report to the City within seven days of receiving the third party's estimate identifying, explaining and substantiating the differences in the GMP amounts. The CM@Risk may be requested or at its own discretion submit a revised GMP Proposal for consideration to the City. At that time the City may do one of the following.

- (a) Accept the CM@Risk original or revised GMP Proposal, if within the City's budget, without comment.
- (b) Accept the CM@Risk original or revised GMP Proposal that exceeds the City's budget, and indicate in writing to the CM@Risk that the Project Budget has been increased to fund the differences.
- (c) Reject the CM@Risk's original or revised GMP Proposal because it exceeds the City's budget, or the independent third party's estimate, in which event, the City may terminate this Contract and/or elect not to enter into a subsequent contract with the CM@Risk for the construction phase of the Project.

**2.7.4** If during the review and negotiation of GMP Proposals, the City determines that design changes are required, the City may authorize and cause the Design Professional to revise the Drawings and Specifications to the extent necessary to reflect the agreed-upon changes approved in the final approved GMP Proposal. Such revised documents will be furnished to the CM@Risk. The CM@Risk will promptly notify the Design Professional and City if it believes any such revised Construction Documents are inconsistent with the agreed-upon assumptions and clarifications and the parties will meet and confer to produce a final Construction Management Plan and GMP Proposal in accordance with Sections 2.2 and 2.6 of this Agreement.

## **2.8 SUBCONTRACTOR, SUBCONSULTANTS AND MAJOR SUPPLIER SELECTIONS**

**2.8.1.1** The CM@Risk may use subcontractors, subconsultants and suppliers to perform the pre-construction tasks and activities required by this Agreement, including its Exhibit A.

**2.8.2** There are two ways the CM@Risk may select subcontractors, subconsultants and major suppliers (hereinafter referred to collectively as Subcontractors) prior to submission of a GMP. They are qualifications-based selection and competitive bid.

**2.8.3** Selection by qualifications only – The City may approve the selection of a Subcontractor based only on its qualifications when the City agrees that it is in the best interest of the Project.

**2.8.3.1** Qualification based selection of a Subcontractor should only occur prior to the submittal of the GMP Proposal.

**2.8.3.2** The CM@Risk will prepare a Subcontractor selection plan and submit the plan to the City for approval. The CM@Risk shall use the criteria approved by the City and contained in the plan to evaluate the qualification(s) of a Subcontractor and will provide the City with its review and recommendation for selecting a Subcontractor.

**2.8.3.3** The CM@Risk must receive City approval of the selected Subcontractor.

**2.8.3.4** The CM@Risk will negotiate costs for services/supplies from each Subcontractor selected under this method.

- 2.8.4** Selection by competitive bid and qualifications – All work shall be competitively bid unless a Subcontractor was selected pursuant to Section 2.8.2 above. Competitive bids may occur prior to or after the GMP Proposal(s).
- 2.8.4.1** The CM@Risk will develop Subcontractor interest, the CM@Risk solicit bids from and submit the names of a minimum of three qualified Subcontractors for each trade required for performance of the Project for approval by the City. If there are not three qualified Subcontractors available for a specific trade or there are extenuating circumstances, the CM@Risk may request approval by the City to submit less than three names. Without prior written approval by the City, no change in the City-approved Subcontractors will be allowed.
- 2.8.4.2** The City may object to performance of all or part of the work by a Subcontractor without cause. If the City objects to any nominated Subcontractor or to any self-performed Work, the CM@Risk will nominate a substitute Subcontractor.
- 2.8.4.3** The CM@Risk will distribute Drawings and Specifications, and when appropriate, conduct a pre-bid conference with prospective Subcontractors.
- 2.8.4.4** If the CM@Risk desires to self-perform the certain portions of the Work, it will request to be one of the approved Subcontractor bidders for those specific portions of work or tasks and submit a bid. The CM@Risk's bid will be evaluated in accordance with the process identified below. If the City concurs that in order to insure compliance with the Project Schedule and/or cost, the CM@Risk may self-perform Work without bidding or re-bidding such portion of work or task.
- 2.8.4.5** The CM@Risk shall receive, open, record and evaluate all bids submitted in response to a solicitation. The responsive low bidders will be interviewed to determine the quality of their proposals. In evaluating the responsiveness of bid proposals, the CM@Risk may consider price, past performance on similar projects, qualifications, and experience of personnel assigned, quality management plan, approach or understanding of the work to be performed, and performance schedule to complete the work. The final evaluation of Subcontractor bids will be conducted with the City Representative in attendance to observe and provide input on the process
- 2.8.4.6** Within fifteen days after Subcontractor bid opening, the CM@Risk will prepare a list of recommended Subcontractors for each category of work, for the City's review and approval. The list will detail: (a) for each sub-agreement, the amount of the Subcontractor bid and the corresponding Subcontractor; (b) the sum of Subcontractor bids received for all intended sub-agreements, (c) trade work and its cost that the CM@Risk intends to self-perform, if any.
- 2.8.5** The CM@Risk may make a single or multiple awards to Subcontractors as provided in City Code, and as approved by the City for this Project. Upon City approval of all Subcontractors, the CM@Risk shall submit a summary report to the City of the selection process. The report will indicate the Subcontractors contacted to determine interest, the Subcontractors solicited, the bids received/costs negotiated, and the recommended Subcontractors for each category of work.
- 2.8.6** The approved Subcontractors will provide a schedule of values with their bid proposals, which will be used to create the overall project schedule of values.
- 2.8.7** If after receipt of sub-bids or after award of Subcontractors, the City objects to any nominated Subcontractor or to any self-performed Work to be performed by the CM@Risk, the CM@Risk will nominate a substitute Subcontractor or Supplier, preferably if such option is still available, from those who submitted Subcontractor bids for the Work to be performed. Once such substitute Subcontractors are approved by the City, the CM@Risk's proposed GMP for the work or portion thereof may be correspondingly adjusted, by the City in a signed writing, to reflect any higher or lower costs from any such substitution.
- 2.8.8** Promptly after the CM@Risk issues the Notic(s)e of Intent to Award, the CM@Risk will conduct a pre-award conference with the City and other Project Team members. At the pre-award conference, the



CM@Risk will: (a) review the nominated slate of Subcontractors and discuss any concerns with or objections that the City has to any nominated Subcontractor; (b) discuss any concerns the City may have relating any proposed self-performed Work; (c) review the CM@Risk's proposed GMP Amount that includes the work during the construction phase; (d) discuss the conditions, if any, under which the City will agree to pay or include any portion of the remaining Contractor's Contingency for the construction phase Work; (e) resolve possible delays of the Date of Commencement for the construction phase of the Work; (f) schedule the pre-construction conference; and (g) discuss other matters related to payment for or performance of the work.

- 2.8.9 The CM@Risk will resolve any Subcontractor bid withdrawal, protest or disqualification in connection with the award at no increase in the Cost of the Work, and with no financial or legal assistance by the City.

**ARTICLE 3 – PERIOD OF SERVICES**

- 3.1 The pre-construction management services for the design phase of the Project described in this Contract will be performed by the CM@Risk in accordance with the most current updated/revised Project Schedule. Failure on the part of the CM@Risk to adhere to the Project Schedule requirements for activities for which it is responsible will be sufficient grounds for termination of the Contract by the City.
- 3.2 If the date of performance of any obligation or the last day of any time period provided for herein should fall on a Saturday, Sunday, or holiday for the City, then said obligation will be due and owing, and said time period will expire, on the first day thereafter which is not a Saturday, Sunday or legal City holiday. Except as may otherwise be set forth herein, any performance provided for herein will be timely made if completed no later than 5:00 p.m. (Arizona time) on the day of performance.

**ARTICLE 4 – CONTRACT AMOUNT AND PAYMENTS**

**4.1 CONTRACT AMOUNT**

- 4.1.1 The City will pay the CM@Risk a fixed fee not to exceed \$99,997.50 dollars for the pre-construction management services being provided under this contract as follows:

For the pre-construction management services described in Article 2 and Exhibit A, the CM@Risk shall receive a fee not to exceed: \$89,497.50

Additional Services and allowances:

(PRINTING SERVICES as described in subsection 4.3)	\$500.00
Owner's Contingency:	\$10,000.00
Total Contract Amount, not to exceed	\$99,997.50

**4.2 PAYMENTS**

- 4.2.1 Requests for payments for services rendered may be made by the CM@Risk on a monthly basis and must be submitted on the City's "Progress Payment Request" form. Such requests for payment will be accompanied by a progress report, detailed invoices and receipts, if applicable. Any requests for payment will include, at a minimum, a narrative description of tasks accomplished during the billing period, a listing of any Deliverables submitted, and copies of any Subcontractors' requests for payment, plus similar narrative and listings of Deliverables associated with their Work.

- 4.2.2 The fees for the CM@Risk and any Subcontractors will be based upon the hourly rate schedule included as Exhibit B attached.
- 4.2.3 The CM@Risk will pay all sums due to Subcontractors for services rendered and for reimbursable expenses within 14 calendar days after the CM@Risk has received payment for those services from the City. In no event will the City pay more than 90 percent of the Contract Amount until final acceptance of all the design phase services, and award of the final approved GMP for the entire Project by City Council.
- 4.2.4 The CM@Risk agrees that no charges or claims for costs or damages of any type will be made by it for any delays or hindrances beyond the reasonable control of the City during the progress of any portion of the services specified in this Agreement. Such delays or hindrances, if any, will be solely compensated for by an extension of time for such reasonable period as may be mutually agreed between the parties. It is understood and agreed, however, that permitting the CM@Risk to proceed to complete any services, in whole or in part after the date to which the time of completion may be extended, will in no way act as a waiver on the part of the City of any of its legal rights herein.
- 4.2.5 No compensation to the CM@Risk will be allowed contrary to Article I, Chapter I, Title 34 of the Arizona Revised Statutes.
- 4.2.6 If any service(s) performed by the CM@Risk is abandoned or suspended in whole or in part, for a period of more than 180 days through no fault of the CM@Risk, the CM@Risk is to be paid for the services performed prior to the abandonment or suspension.

**4.3 ADDITIONAL DESIGN PHASE SERVICES**

- 4.3.1 The following Additional Services may be required for the successful completion of the Project. Additional Services and the incurrence of additional costs are not authorized unless approved in advance by the City, with a written amendment executed by both of the parties to this contract. Only the Additional Services are reimbursable as specifically identified below and authorized herein:

Non-overhead printing expenses incurred, including the printing of Construction Documents for bidding, courier services or other Project-related services that may be requested by the City. The cost of such service will not exceed \$500.00 without further approval by the City.

**ARTICLE 5 – CITY’S RESPONSIBILITIES**

- 5.1 The City, at no cost to the CM@Risk, will furnish the following information:
  - 5.1.1 One copy of data the City determines pertinent to the work. However, the CM@Risk will be responsible for searching the records and requesting information it deems reasonably required for the Project.
  - 5.1.2 All available data and information pertaining to relevant policies, standards, criteria, studies, etc.
  - 5.1.3 The name of the City employee or City’s representative who will serve as Project Manager during the term of this Agreement. The Project Manager has the authority to administer this Contract and will monitor the CM@Risk’s compliance with all terms and conditions stated herein. All requests for information from or decisions by the City on any aspect of the work or Deliverables will be directed to the Project Manager.
- 5.2 The City additionally will:
  - 5.2.1 Contract separately with one or more design professionals to provide architectural and/or engineering design services for the Project. The scope of services for the Design Professional will be provided to the CM@Risk for its information. The CM@Risk will have no right to limit or restrict any changes of such services that are otherwise mutually acceptable to the City and Design Professional.

- 5.2.2 Supply, without charge, all necessary copies of programs, reports, drawings, and specifications reasonably required by the CM@Risk, except for those copies whose cost has been reimbursed by the City.
- 5.2.3 Provide the CM@Risk with adequate information in its possession or control regarding the City's requirements for the Project.
- 5.2.4 Give prompt written notice to the CM@Risk when the City becomes aware of any default or defect in the Project or non-conformance with the Drawings and Specifications.
- 5.2.5 Notify the CM@Risk of changes affecting the budget allocations.
- 5.3 The City's Project Manager may have the authority to approve the Project Budget and Project Schedule, and render decisions and furnish information the Project Manager deems appropriate to the CM@Risk, provided such decision-making authority is not barred by the City Charter, the City Code or any internal City policy or procedure.

**ARTICLE 6 – ADDITIONAL CONTRACT PROVISIONS**

**6.1 PROJECTS DOCUMENTS AND COPYRIGHTS**

- 6.1.1 City Ownership of Project Documents: All work products (electronically or manually generated) including but not limited to: cost estimates, studies, design analyses, original mylar drawings, Computer Aided Drafting and Design (CADD) file diskettes, and other related documents which are prepared in the performance of this Agreement (collectively referred to as Project Documents) are to be and remain the property of the City and are to be delivered to the Project Manager before the final payment is made to the CM@Risk. Nonetheless, in the event these Project Documents are altered, modified or adapted without the written consent of the CM@Risk, which consent the CM@Risk will not unreasonably withhold, the City agrees to hold the CM@Risk harmless to the extent permitted by law, from the legal liability arising out of or resulting from the City's alteration, modification or adaptation of the Project Documents.
- 6.1.2 CM@Risk to Retain Copyrights: The copyrights, patents, trade secrets or other intellectual property rights associated with the ideas, concepts, technique's, inventions, processes or works of authorship developed or created by the CM@Risk, its Subcontractor or personnel, during the course of performing this Agreement or arising out of the Project will belong to the CM@Risk.
- 6.1.3 License to City for Reasonable Use: The CM@Risk hereby grants, and will require its Subcontractors to grant, a license to the City, its agents, employees, and representatives for an indefinite period of time to reasonably use, make copies, and distribute as appropriate the Project Documents, Construction Documents, Contract Documents, Specifications, Drawings or Deliverables or any other documents developed or created for the Project unless such documents are privileged, work product or proprietary. This license will also include the making of derivative works.
- 6.1.4 Documents to Bear Seal: When applicable and required by state law, the CM@Risk and its Subcontractors will endorse by an Arizona professional seal all plans, works and Deliverables prepared by them for this Contract.

**6.2 COMPLETENESS AND ACCURACY OF CM@RISK'S WORK**

- 6.2.1 The CM@Risk will be responsible for the completeness and accuracy of its reviews, reports, supporting data, and Construction Documents, Contract Documents, Specifications, Drawings or Deliverables and other documents prepared or compiled pursuant to its obligations under this Contract and will, at its sole and separate expense, correct its work or such deliverable or document. The fact that the City has accepted or approved the CM@Risk's work or such deliverable or document will in no way relieve the CM@Risk of any of its responsibilities under the contract, nor does this requirement to correct the work,

deliverable or document constitute a waiver of any claims or damages otherwise available under any applicable law by the City.

### **6.3 ALTERATION IN CHARACTER OF WORK**

6.3.1 In the event an alteration or modification in the character of work or any Deliverable or document prepared or compiled pursuant to the CM@Risk's obligations under this contract results in a substantial change in this Agreement, and thereby materially increasing or decreasing the scope of services, cost of performance, or Project Schedule, the work or Deliverable will nonetheless be performed as directed by the City. However, before any altered or modified work begins, a Change Order or Amendment must be approved and executed by the City and the CM@Risk. Such Change Order or Amendment will not be effective until executed by the City Manager, and, if necessary, approved by the City Council. Additions to, modifications, or deletions from the Project provided herein may be made, and the compensation to be paid to the CM@Risk may accordingly be adjusted by mutual agreement of the contracting parties. No claim for extra work done or materials furnished by the CM@Risk will be allowed by the City except as provided herein, nor will the CM@Risk do any work or furnish any material(s) not covered by this Contract unless such work or material is first authorized in writing. Work or material(s) furnished by the CM@Risk without such prior written authorization will be undertaken by the CM@Risk's at its sole jeopardy, cost and expense. , The CM@Risk further agrees that without prior written authorization, no claim for compensation for such work or materials furnished will be made against the City.

### **6.4 DATA CONFIDENTIALITY**

- 6.4.1 As used in the Contract, "data" means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by or obtained by the CM@Risk in the performance of this contract.
- 6.4.2 The parties agree that all data, including original, images, and reproductions, prepared by, obtained by, or transmitted to the CM@Risk in connection with the CM@Risk's performance of this Contract is confidential and proprietary information belonging to the City.
- 6.4.3 The CM@Risk will not divulge data to any third party without prior written consent of the City. The CM@Risk will not use the data for any purposes except to perform the services required under this Contract. These prohibitions will not apply to the following data provided the CM@Risk has first given the required notice to the City:
- 6.4.3.1 Data which was known to the CM@Risk prior to its performance under this contract unless such data was acquired in connection with work performed for the City;
- 6.4.3.2 Data which was acquired by the CM@Risk in its performance under this Contract and which was disclosed to the CM@Risk by a third party, who to the best of the CM@Risk's knowledge and belief, had the legal right to make such disclosure and the CM@Risk is not otherwise required to hold such data in confidence; or
- 6.4.3.3 Data, which is required to be disclosed by the CM@Risk by virtue of law, regulation, or court.
- 6.4.4 In the event the CM@Risk is required or requested to disclose data to a third party, or any other information to which the CM@Risk became privy as a result of any other with the City, the CM@Risk will first notify the City as set forth in this article of the request or demand for data. The CM@Risk will timely give the City sufficient facts, such that the City can have a meaningful opportunity to either first give its consent or take such action that the City may deem appropriate to protect such data or other information from disclosure.
- 6.4.5 The CM@Risk, unless prohibited by law, within ten calendar days after completion of services for a third party on real or personal property owned or leased by the City, will promptly deliver, as set forth in

this section, a copy of all data to the City. All data will continue to be subject to the confidentiality agreements of this Contract.

- 6.4.6 The CM@Risk assumes all liability for maintaining the confidentiality of the data in its possession and agrees to compensate the City if any of the provisions of this section are violated by the CM@Risk, its employees, agents or Subconsultants. Solely for the purposes of seeking injunctive relief, it is agreed that a breach of this section will be deemed to cause irreparable harm that justifies injunctive relief in court.

## **6.5 PROJECT STAFFING**

- 6.5.1 Prior to the start of any work or Deliverable under this Contract, the CM@Risk will submit to the City an organization chart identifying the key personnel the CM@Risk and any Subcontractors have assigned to this Project and provide detailed resumes of such personnel. Unless the City notifies the CM@Risk of its objection to the use of any such personnel within 14 days of receiving the organizational chart and resumes, the City is deemed to have accepted and approved the use of such Team members to perform such services under this Contract. In the event the CM@Risk desires to change such key personnel during its performance of this Contract, the CM@Risk will submit the qualification of the proposed substituted personnel to the City for prior approval. Key personnel will include, but are not limited to, principal-in-charge, project manager, superintendent, project director or those persons specifically identified to perform services of cost estimating, scheduling, value engineering, and procurement planning.
- 6.5.2 The CM@Risk will maintain an adequate number of competent and qualified persons, as determined by the City, to ensure acceptable and timely completion of the scope of services described in this Contract throughout the period of those services. If the City objects to any of the CM@Risk's staff, the CM@Risk will take prompt corrective action acceptable to the City and, if required, remove such personnel from the Project and replace him/her with new personnel acceptable to the City.

## **6.6 INDEPENDENT CONTRACTOR**

- 6.6.1 The CM@Risk is and will be an independent contractor to the City, no matter what measure of control the City may exercise over the work or Deliverable or direction the City gives to CM@Risk during the performance of this Contract. No provision in this Contract will give or be construed to give the City the right to direct the CM@Risk as to the details of accomplishing the work or Deliverable. These results will comply with all applicable laws and ordinance.

## **6.7 TERMINATION**

- 6.7.1 The City and the CM@Risk hereby agree to full performance of the covenants contained herein, except the City reserves the right, at its sole discretion and without cause, to terminate or abandon any or all services provided for in this Contract, or abandon any portion of the Project for which services have been or may be performed by the CM@Risk.
- 6.7.2 In the event the City abandons any or all of the services or any part of the services as herein provided, the City will so notify the CM@Risk in writing, and the CM@Risk will immediately after receiving such notice, discontinue advancing the Work specified under this Contract and mitigate the expenditure, if any, of costs resulting from such abandonment of termination.
- 6.7.3 The CM@Risk, upon such termination or abandonment, will promptly deliver to the City all reports, estimates and other work or Deliverable entirely or partially complete, together with all unused materials supplied by the City.
- 6.7.4 The CM@Risk may request payment for the work completed and submit an invoice to the City for evaluation and compensation. The City will have the right to inspect the CM@Risk's work or Deliverable to determine if the work has been performed and properly completed in accordance with the terms and conditions of this contract.

6.7.5 The CM@Risk will receive compensation in full for services satisfactorily performed prior to the date of such termination. Such compensation will be paid in accordance with Article 4 of this Contract, an amount mutually agreed upon by the CM@Risk and the City. If there is no mutual agreement, the final determination will be made in accordance with paragraph 6.8, "Disputes". However, in no event will any amount requested cause the full amount of costs incurred and paid exceed the fixed Contract Amount as set forth in Article 4 or as amended in accordance with paragraph 6.3, "Alteration in Character of Work". The City will make the final payment within sixty days of the latter of the CM@Risk's delivery of any remaining completed work item or the date the parties agree on the amount due as the CM@Risk's final payment.

## **6.8 DISPUTES**

6.8.1 In any unresolved dispute arising out of an interpretation of this Contract or the duties required therein, the final determination at the administrative level will be made by the City Engineer.

## **6.9 WITHHOLDING PAYMENT**

6.9.1 The City reserves the right to withhold funds from the City's progress payments up to the amount equal to the claims the City may have against the CM@Risk, until such time that a settlement on those claims has been reached.

## **6.10 RECORDS/AUDIT**

6.10.1 Records of the CM@Risk's direct personnel payroll, reimbursable expenses pertaining to this Project and records of accounts between the City and CM@Risk will be kept on a generally recognized accounting basis. The City, its authorized representative, and/or the appropriate federal agency, reserve the right to audit the CM@Risk's records to verify the accuracy and appropriateness of all pricing data, including data used to negotiate this Contract and any Change Orders. The City reserves the right to decrease Contract Amount and/or payments made on this Contract if, upon audits of the CM@Risk's records, the audit discloses the CM@Risk has provided false, misleading or inaccurate cost and pricing data.

The CM@Risk will include a provision similar to paragraph 6.11.1 in all of its agreements with Subconsultants, Subcontractors, and Suppliers providing services under this Contract to ensure the City, its authorized representative, and/or the appropriate federal agency, has access to the Subconsultants', Subcontractors' and Suppliers' records to verify the accuracy of cost and pricing data. The City reserves the right to decrease Contract Amount and/or payments made on this Contract if the above provision is not included in Subconsultants, Subcontractor, and Supplier contracts, and one or more of those parties do not allow the City to audit their records to verify the accuracy and appropriateness of pricing data.

## **6.11 INDEMNIFICATION**

6.11.1 The CM@Risk agrees to indemnify and save harmless the City of Glendale, its officers, agents and employees, and any jurisdiction or agency issuing permits for any work included in the Project, their officers, agents and employees, herein after individually and collectively referred to as "indemnitee", from all suits and claims, including attorney's fees and cost of litigation, actions, losses, damage, expenses, costs or claims of any character or any nature arising out of the work or Deliverable done in fulfilling the terms of this Contract, or on account of any act, claim or amount arising out of or recovered under Workmen's Compensation Law, or arising out of the failure of the CM@Risk to conform to any statutes, ordinances, regulation, law or court decree. It is agreed that the CM@Risk will be responsible for primary loss investigation, defense and judgment costs where this Contract of indemnity applies.

**6.12 NOTICES**

6.12.1 Unless otherwise provided herein, demands under this Contract will be in writing and will be deemed to have been duly given and received either (a) on the date of service if personally served on the party to whom notice is to be given, or (b) on the third day after the date of the postmark of deposit by first class United States mail, registered or certified, postage prepaid and properly addressed as follows:

To City:	David Beard, P.E. City Engineer Glendale City Hall 5850 W. Glendale Ave. 3 <sup>rd</sup> Floor – Engineering Department Glendale, Arizona 85301-2599
To CM@Risk	John Walstrom, President Achen-Gardner Construction, LLC 550 S. 79 <sup>th</sup> St. Chandler, Arizona 85226 Address City, State Zip
To Design Professional:	Stantec 8211 South 48 <sup>th</sup> Street Phoenix, AZ 85044-5355
Copy to:	Bill Passmore, Principal Engineer Glendale City Hall 5850 W. Glendale Ave. 3 <sup>rd</sup> Floor – Engineering Department Glendale, Arizona 85301-2599

**6.13 COMPLIANCE WITH FEDERAL LAWS**

6.13.1 The CM@Risk understands and acknowledges the applicability of the Americans With Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989 to it. The CM@Risk agrees to comply with these Acts and all other applicable federal and state laws and City Charter and Code provisions in performing this Contract and to permit the City to verify such compliance.

**6.14 CONFLICT OF INTEREST**

6.14.1 To evaluate and avoid potential conflicts of interest, the CM@Risk will provide written notice to the City, as set forth in this section, of any work or services performed by the CM@Risk for third parties that may involve or be associated with any real property or personal property owned or leased by the City. Such notice will be given seven business days prior to commencement of the Project by the CM@Risk for a third party, or seven business days prior to an adverse action as defined below. Written notice and disclosure will be sent to:

Bill Passmore, P.E.  
City of Glendale  
5850 W. Glendale Ave.  
3<sup>rd</sup> Floor - Engineering Department  
Glendale, Arizona 85301-2599

6.14.2 Actions considered to be adverse to the City under this Contract include but are not limited to:

- (a) Using data as defined in the Contract, acquired in connection with this Contract to assist to third party in pursuing administrative or judicial action against the City;

- (b) Testifying or providing evidence on behalf of any person in connection with administrative or judicial action against the City;
- (c) Using data to produce income for the CM@Risk or its employees independently of performing the services under this Contract, without the prior written consent of the City.

6.14.3 The CM@Risk represents that except for those persons, entities and projects previously identified in writing to the City, the services to be performed by the CM@Risk under this Contract will not create an interest with any person, entity, or third party project that is or may be adverse to the interests of the City.

6.14.4 The CM@Risk's failure to provide a written notice and disclosure of the information as set forth in this section will constitute a material breach of this Contract.

#### **6.15 CONTRACTOR'S LICENSE AND PRIVILEGE LICENSE**

6.15.1 Prior to award of the Contract, the CM@Risk must provide to the City's Engineering Department, its Contractor's License Classification and number, its City of Glendale Privilege License number, and its Federal Tax I.D. number.

#### **6.16 SUCCESSOR AND ASSIGNS**

6.16.1 The City and the CM@Risk will each bind itself, and its partners, successors, assigns, and legal representatives to the other party to this Contract and to the partners, successors, assigns, and legal representatives of such other party in respect to all covenants of this Contract. Neither the City nor the CM@Risk will assign, sublet, or transfer its interest in this Contract without the written consent of the other. In no event will any contractual relation be created or be construed to be created as between any third party and the City.

#### **6.17 FORCE MAJEURE**

6.17.1 If either party is delayed or prevented from the performance of any service, in whole or part, required under this Contract by reason of acts of God or other cause beyond the control and without fault of that party (financial inability excepted), performance of that act will be excused, but only for the period of the delay. The time for performance of the act will be extended for a period equivalent to the period of delay.

#### **6.18 COVENANT AGAINST CONTINGENT FEES**

6.18.1 The CM@Risk warrants that no person has been employed or retained to solicit or secure this Contract 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 of Glendale has any interest, financially, or otherwise, in the firm. The City of Glendale will in the event of the breach or violation of this warranty, have the right to annul this Contract without liability, or at its discretion to deduct from the Contract Amount or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

#### **6.19 NON-WAIVER PROVISION**

6.19.1 The failure of either party to enforce any of the provisions of this Contract or to require performance by the other party of any of the provisions hereof will not be construed to be a waiver of such provisions, nor will it affect the validity of this Contract or any part thereof, or the right of either party to thereafter enforce each and every provision.



## **6.20 JURISDICTION**

6.20.1 This Contract will be deemed to be made under, and will be construed in accordance with and governed by the laws of the State of Arizona, without regard to the conflicts or choice of law provisions thereof. An action to enforce any provision of this Contract or to obtain any remedy with respect hereto will be brought in the Superior Court, Maricopa County, Arizona, and for this purpose, each party hereby expressly and irrevocably consents to the jurisdiction and venue of such Court.

## **6.21 SURVIVAL**

6.21.1 All warranties, representations and indemnifications by the CM@Risk will survive the completion or termination of this Contract.

## **6.22 MODIFICATION**

6.22.1 No supplement, modification, or amendment of any term of this Contract will be deemed binding or effective unless in writing and signed by the parties hereto and in conformation with provision of this Contract, except as expressly provided herein to the contrary.

## **6.23 SEVERABILITY**

6.23.1 If any provision of this Contract or the application thereof to any person or circumstances will be invalid, illegal or unenforceable to any extent, the remainder of this Contract and the application thereof will not be affected and will be enforceable to the fullest extent permitted by law.

## **6.24 INTEGRATION**

6.24.1 This Contract contains the full agreement of the parties hereto. Any prior or contemporaneous written or oral agreement between the parties regarding the subject matter hereof is merged and superseded hereby.

## **6.25 TIME IS OF THE ESSENCE**

6.25.1 Time of each of the terms, covenants, and conditions of this Contract is hereby expressly made of the essence.

## **6.26 THIRD PARTY BENEFICIARY**

6.26.1 This Contract will not be construed to give any rights or benefits in the Contract to anyone other than the City and the CM@Risk. All duties and responsibilities undertaken pursuant to this Contract will be for the sole and exclusive benefit of the City and the CM@Risk and not for the benefit of any other party.

## **6.27 COOPERATION AND FURTHER DOCUMENTATION**

6.27.1 The CM@Risk agrees to provide the City such other duly executed documents as may be reasonably requested by the City to implement the intent of this Contract.

## **6.28 CONFLICT IN LANGUAGE**

6.28.1 All work or Deliverables performed will conform to all applicable City of Glendale codes, ordinances and requirements as outlined in this Contract. If there is a conflict in interpretation between provisions in this Contract and any Exhibits, the provisions in this Contract will prevail.

**6.29 CITY’S RIGHT OF CANCELLATION**

6.29.1 All parties hereto acknowledge that this Contract is subject to cancellation by the City of Glendale pursuant to the provisions of Section 38-511, Arizona Revised Statutes.

**ARTICLE 7 – INSURANCE**

The CM@Risk will procure and maintain for the duration of the Contract, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work or Deliverables hereunder by the CM@Risk, its agents, representatives, employees, Subconsultants, Subcontractors, and/or Suppliers. Insurance requirements related to any construction Work done during the design phase or during the construction phase will be defined in a separate contract associated with the construction phase. The CM@Risk will cause all Subcontracts to contain identical terms and conditions to those included in this Article.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants that might arise out of the performance of the work or Deliverables under this Contract by the CM@Risk, its agents, representatives, employees, Subconsultants, Subcontractors, or Suppliers and CM@Risk is free to purchase such additional insurance as it may determine necessary.

**7.1 MINIMUM SCOPE AND LIMITS OF INSURANCE**

7.1.1 CM@Risk will provide coverage at least as broad and with limits of liability not less than those stated below.

7.1.1.1 Commercial General Liability-Occurrence Form  
(Form CG 0001, ed. 10/93 or any replacements thereof)

General Aggregate/per project	\$1,000,000
Products-Completed Operations Aggregate	\$1,000,000
Personal & Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
Fire Damage	\$100,000

7.1.1.2 Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles  
(Form CA 0001, ed. 12/93 or any replacement thereof)

Combined Single Limit Per Accident for Bodily Injury and Property Damage	\$1,000,000
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7.1.1.3 Workers Compensation and Employers Liability

Workers Compensation	Statutory
Employers Liability:	
Each Accident	\$500,000
Disease-Policy Limit	\$500,000
Disease-Each Employee	\$500,000

7.1.2 Self-Insured Retentions Any self-insured retentions and deductibles greater than \$10,000 must be declared to and approved by the City.

**7.2 OTHER INSURANCE REQUIREMENTS**

7.2.1 The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:

7.2.1.1 The City of Glendale is to be named an additional insured with respect to liability arising out of: activities performed by or on behalf of the CM@Risk, including the City's general supervision of the CM@Risk;

products and completed operations of the CM@Risk; and automobiles owned, leased, hired or borrowed by the CM@Risk.

- 7.2.1.2 The Commercial General Liability Insurance will contained broad form contractual liability coverage and will not exclude liability arising out of the explosion, collapse or underground hazard ("EXU").
- 7.2.1.3 The City will be additional an insured to the full limits of liability purchased by the CM@Risk, even if those limits of liability are in excess of those required by this Contract. The Commercial General Liability additional insured endorsement will be at least as broad as the Insurance Service Office, Inc.'s Additional Insured, Form B CG 20 10 11 85.
- 7.2.2 The CM@Risk's insurance coverage will be primary insurance with respect to the City. Insurance or self-insurance maintained by the City will be in excess of the CM@Risk's insurance and will not contribute to it.
- 7.2.3 The CM@Risk's insurance will apply separately to each insured against whom claim is made or suit is brought that, except with respect to the limits of the insurer's liability. The coverage provided by the CM@Risk and its Subcontractors will not be limited to the liability assumed under the indemnification provisions of this Agreement.
- 7.2.4 The policies will contain a waiver of subrogation against the City for losses arising from Work performed for the City.
- 7.2.5 Workers' Compensation and Employers Liability policies are to contain, or be endorsed to contain, the following: The insurer will agree to waive all rights of subrogation against the City for losses arising from work performed for the City.

### **7.3 SUBCONSULTANT INSURANCE**

- 7.3.1 CM@Risk's certificate(s) shall include all subcontractors as insureds under its policies or the CM@Risk shall furnish to the City separate certificates for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

### **7.4 NOTICE OF CANCELLATION**

- 7.4.1 Each insurance policy required by the insurance provisions of this Contract will provide the required coverage and not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given, by certified mail, return receipt requested to the City's named Project Manager at:

5850 W. Glendale Ave.  
3<sup>rd</sup> Floor – Engineering Department  
Glendale, Arizona 85301-2599

### **7.5 ACCEPTABILITY OF INSURERS**

- 7.5.1 Insurance is to be placed with insurers duly licensed or City approved unlicensed companies in the State of Arizona, and with an A.M. Best's rating of no less than A-:VII. The City in no way warrants that the above required minimum insurer rating is sufficient to protect the CM@Risk from potential insurer insolvency.

### **7.6 VERIFICATION OF COVERAGE**

- 7.6.1 The CM@Risk will furnish the City, Certificates of Insurance (ACORD form or equivalent approved by the City) with original endorsements effecting coverage as required by this Contract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to

bind coverage on its behalf. Any policy endorsements that restrict or limit coverages will be clearly noted on the certificate of insurance.

7.6.2 All certificates and endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to the earlier of commencement of work under this Contract or signing of this Contract, and remain in effect for the duration of the Project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

7.6.3 All Certificates of Insurance required by this Contract will be sent directly to the Services Department Contracts Administration Section contracts officer for this Project. The Project Number and Project description will be included on the Certificates of Insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Contract, at any time.

## **7.7 APPROVAL**

7.7.1 Any modification or variation from the insurance requirements in this Contract must be approved by the Law Department, whose decision will be final. Such action will not require a formal contract amendment, but may be made by administrative action.

This Contract will be in full force and effect only when it has been approved and executed by the duly authorized City officials.

**[Remainder of this page left intentionally blank.]**

IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ATTEST

CITY OF GLENDALE


\_\_\_\_\_  
Pam Hanna  
City Clerk

By: \_\_\_\_\_  
Kevin R. Phelps  
City Manager

REVIEWED BY:

CM @ RISK  
(NAME) **Achen-Gardner Construction, LLC**

\_\_\_\_\_  
Michael D. Bailey  
City Attorney

By:   
[Name] DENNIS TROGGIO  
[Title] PRESIDENT

## EXHIBIT A – PROJECT DESCRIPTION

The City has identified seven different locations where the existing waterlines have deteriorated, causing operational issues. The new waterline improvements include the replacement of aged ACP water lines, with the installation of new ductile iron pipe (DIP), fire hydrants, valves, service lines and other associated accessories. These improvements may be constructed as one GMP package or multiple GMP packages.

The seven locations, including the descriptions, sizes and lengths, are listed below. This list is not all inclusive and the City reserves the right to add to this list or delete selected sections, as necessary.

- QS 20-13, 67th Avenue & Bethany Home Road Intersection: Replace existing 12-inch ACP with new 12-inch ductile iron pipe. Approximately 800 Lineal Feet (L.F.)
- QS 20-13 & 20-14, on Bethany Home from 59th Avenue to 67th Avenue: Replace existing 12-inch ACP pipeline with new 12-inch ductile iron pipe. Approximately 5,200 L.F.
- QS 21-15, on 60th Avenue from Bethany Home Road to Keim Drive: Replace existing 8-inch ACP with new 8-inch ductile iron pipe. Approximately 1,150 L.F.
- QS 26-13, 67th Avenue & Olive Avenue Intersection: Replace existing 8-inch and 12-inch ACP with new ductile iron pipe. Approximately 800 L.F.
- QS 26-14, 59th Avenue & Olive Avenue Intersection: Replace existing 6-inch and 12-inch ACP with new ductile iron pipe. Approximately 1,200 L.F.
- QS 26-15, on 59th Avenue from Olive Avenue to Royal Palm Road: Replace existing 12-inch ACP with new ductile iron pipe. Approximately 3,900 L.F.
- QS 43-13, On Deer Valley Road from 59th Avenue to 67th Avenue: Abandon existing 12-inch ACP and install new 12-inch ductile iron pipe. Approximately 5,500 L.F.

The Construction Manager at Risk (CMAR) will provide pre-construction management services during the design phase of the project and may serve as the general contractor during construction of the project, if it is determined to be in the City's best interest. The CMAR begins with the firm in an agency support role for pre-construction services. At some point prior to construction, the CMAR will assume the risk of delivering the project through a guaranteed maximum price (GMP) contract. The waterline improvements may be contracted under one GMP or multiple GMP's, depending on construction sequencing and available funding.

The CMAR will be responsible for construction means and methods, and will be required to solicit a minimum of three bids from pre-qualified subcontractors to perform the work. If the CMAR wishes to self-perform some of the work, they must demonstrate that their cost proposal is competitive with at least two other contractors. MAG 108.2(E) does not apply to City GMP contracts.

Design phase services by the CMAR include, but may not be limited to:

- Work with the Engineer and City through the design phase;
- Participate in regular scheduled project coordination meetings;
- Perform exploratory excavations in the areas identified by the Engineer, if requested by the City;
- Provide detailed independent cost estimating that reflects knowledge of marketplace conditions;
- Provide project planning and scheduling for construction, and make scheduling recommendations through the design phase;
- Provide value engineering and constructability studies at each stage of design;
- Provide alternate systems evaluations;
- Advise the City of ways to gain efficiencies in project delivery to reduce the overall schedule time;
- Provide long-lead procurement studies and possibly initiate procurement of long-lead items, if requested by the City;

- Assist in the permitting processes;
- Protect the owner's sensitivity to quality, safety, and environmental factors;
- Provide detailed cost estimates and construction phasing plans;
- Provide a sub-contractor selection plan that describes how sub-contractors are selected; qualifications alone or a combination of qualifications and price;
- Concur with Plans and Specifications prior to construction;
- Submit Guaranteed Maximum Price (GMP) for City review and negotiation and;
- Provide the required bonds and insurance.

## EXHIBIT B - HOURLY RATE SCHEDULE

The schedule of hourly labor rates for employees of the CM@Risk and its Subconsultants follow and are based on the approved proposal submitted to the City on February 2, 2016.

### LIST OF CLASSIFICATIONS:

<b>Classification</b>	<b>Direct Labor Rate</b>	<b>Total Labor Rate 2016</b>	<b>Total Labor Rate 2017 &amp; 2018</b>
<b>Project Manager</b>	\$49.60/Hr	\$121.00/Hr	\$124.00/Hr
<b>Project Superintendent</b>	\$44.00/Hr	\$109.00/Hr	\$111.75/Hr
<b>General Superintendent</b>	\$47.50/Hr	\$115.00/Hr	\$117.90/Hr
<b>Senior Estimator</b>	\$51.35/Hr	\$124.00/Hr	\$127.10/Hr
<b>Chief Estimator</b>	\$54.00/Hr	\$133.00/Hr	\$136.30/Hr
<b>Take-off Technician</b>	\$30.65/Hr	\$53.55/Hr	\$54.90/Hr
<b>Project Administrator</b>	\$33.00/Hr	\$69.00/Hr	\$70.75/Hr
<b>Clerical</b>	\$21.00/Hr	\$49.50/Hr	\$50.75/Hr





## Legislation Description

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**File #:** 16-190, **Version:** 1

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**AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICE AGREEMENT WITH DC FROST ASSOCIATES, INC., FOR PARTS AND SERVICE FOR ULTRAVIOLET DISINFECTION SYSTEMS AT THE CITY'S TWO WATER RECLAMATION FACILITIES**

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 professional service agreement with DC Frost Associates, Inc., for parts and service for disinfection systems at the city's two water reclamation facilities and approve the expenditure of funds in an amount not to exceed \$275,000 for the initial term, and to authorize the City Manager, at his discretion, to extend the agreement for four additional one-year terms, in an amount not to exceed \$1,375,000 for the entire term of the agreement.

**Background**

The West Area Water Reclamation Facility (WAWRF) and the Arrowhead Ranch Water Reclamation Facility (ARWRF) use the Trojan UV4000 and UV3000 (UV) disinfecting technology respectively to disinfect reclaimed water. The UV lamps and other related components at both facilities are in constant operation and are serviced on a regular basis. These disinfecting systems and their replacement parts are proprietary in nature with Trojan Technologies as a result of receiving the original award of contract for the installation of the systems. DC Frost Associates, Inc. is the sole source vendor for maintenance, parts, and repair of Trojan UV equipment in Arizona.

**Analysis**

Having contracted providers allows for immediate maintenance and repairs to critical production equipment. Immediate access to parts and services is necessary to minimize down time, meet the wastewater treatment needs of our community, and continue to remain in compliance with state and federal regulatory requirements.

Materials Management has reviewed and approved the sole source procurement request for DC Frost Associates, Inc. The approval is based on conformity to the existing equipment and service.

**Previous Related Council Action**

On February 10, 2015, Council authorized the expenditure of funds for the purchase of parts and supplies in the amount not to exceed \$250,000 from DC Frost Associates, Inc. for parts and ongoing maintenance of the UV disinfection systems.

On February 11, 2014, Council authorized the expenditure of funds in an annual amount not to exceed \$400,000 from DC Frost Associates, Inc. for parts and ongoing maintenance of the UV systems.

**Community Benefit/Public Involvement**

Properly maintained and repaired equipment ensures reliable and safe wastewater treatment for the community.

**Budget and Financial Impacts**

Funding is available in the Water Services FY2015-16 operating budget. Annual budget appropriation thereafter is contingent upon Council approval. Total expenditures are not to exceed \$1,375,000 for the entire term of this agreement. The budget will be encumbered only as the parts and services are needed.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$275,000</b>	<b>2360-17160-523400, Arrowhead Reclamation Facility</b>
	<b>2360-17170-523400, West Area Reclamation Facility</b>

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

**PROFESSIONAL SERVICES AGREEMENT**  
 REPLACEMENT PARTS AND SYSTEM COMPONENTS FOR TROJAN UV4000 AND TROJAN  
 UV3000 DISINFECTION SYSTEMS

This Professional Services Agreement ("Agreement") is entered into and effective between CITY OF GLENDALE, an Arizona municipal corporation ("City") and DC Frost Associates, Inc., a California corporation, authorized to do business in the State of Arizona, ("Consultant") as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ ("Effective Date").

**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**, Project (the "Project");
- B. City desires to retain the professional services of Consultant to perform certain specific duties and produce the specific work as set forth in the attached **Exhibit B**, Project Scope of Work ("Scope");
- C. Consultant desires to provide City with professional services ("Services") consistent with best consulting or architectural practices and the standards set forth in this Agreement, in order to complete the Project; and
- D. City and Consultant desire to memorialize their agreement with this document.

**AGREEMENT**

The parties hereby agree as follows:

**1. Key Personnel; Other Consultants and Subcontractors.**

- 1.1 Professional Services. Consultant will provide all Services necessary to assure the Project is completed timely and efficiently consistent within 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 consultants or contractors, retained by City.
- 1.2 Project Team.
  - a. Project Manager.
    - (1) Consultant will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, complete the project and handle all aspects of the Project such that the work produced by Consultant is consistent with applicable standards as detailed in this Agreement; and
    - (2) The City must approve the designated Project Manager.
  - b. Project Team.
    - (1) The Project Manager and all other employees assigned to the Project by Consultant will comprise the "Project Team."
    - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the Project by Consultant.
  - c. Discharge, Reassign, Replacement.
    - (1) Consultant acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in **Exhibit A**.
    - (2) Consultant will not discharge, reassign, 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 Consultant, in which event the substitute must first be approved in writing by City.

- (3) Consultant 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. Subcontractors.

- (1) Consultant may engage specific technical contractors (each a "Subcontractor") to furnish certain service functions.
- (2) Consultant will remain fully responsible for Subcontractor's services.
- (3) Subcontractors must be approved by the City.
- (4) Consultant will certify by letter that all contracts with Subcontractors 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. **Consultant's Work.**

3.1 **Standard.** Consultant must perform Services in accordance with the standards of due diligence, care, and quality prevailing among consultants 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.** Consultant warrants that:

- a. Consultant and its Subconsultants or Subcontractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of Services ("Approvals"); and
- b. Neither Consultant nor any Subconsultant or Subcontractor 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 Consultant's contracting ability.
  - (2) Consultant must notify City immediately if any Approvals or Debarment changes during the Agreement's duration. The failure of the Consultant to notify City as required will constitute a material default under the Agreement.

3.3 **Compliance.** 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.

Consultant 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. Consultant will require any Sub-contractor to be bound to the same requirements as stated within this section. Consultant, and on behalf of any subcontractors, warrants compliance with this section.

3.4 **Coordination; Interaction.**

- a. For projects that the City believes requires the coordination of various professional services, Consultant will work in close consultation with City to proactively interact with

any other professionals retained by City on the Project ("Coordinating Project Professionals").

- b. Consultant will meet to review the Project, Schedule 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, Consultant 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 Work Product.

- a. Ownership. Upon receipt of payment for Services furnished, Consultant grants to City, and will cause its Subconsultants or Subcontractors 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) Consultant 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. Consultant 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 Consultant, the City agrees to indemnify and hold Consultant harmless from any claim arising out of the Work Product.
  - (3) In such case, City will also remove any seal and title block from the Work Product.

## 4. **Compensation for the Project.**

- 4.1 Compensation. Consultant's compensation for the Project, including those furnished by its Subconsultants or Subcontractors will not exceed \$275,000 annually for a maximum of \$1,375,000 for the term of the agreement, as specifically detailed in **Exhibit D** ("Compensation").
- 4.2 Change in Scope of Project. The Compensation may be equitably adjusted if the originally contemplated Scope as outlined in the Project is significantly modified.
  - a. Adjustments to 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 Consultant 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.
- 4.3 Allowances. An "Allowance" may be identified in **Exhibit D** only for work that is required by the Scope and the value of which cannot reasonably be quantified at the time of this Agreement.

- a. As stated in Sec. 4.1 above, the Compensation must incorporate all Allowance amounts identified in **Exhibit D** and any unused allowance at the completion of the Project will remain with City.
- b. Consultant may not add any mark-up for work identified as an Allowance and which is to be performed by a Subconsultant.
- c. Consultant will not use any portion of an Allowance without prior written authorization from the City.
- d. Examples of Allowance items include, but are not limited to, subsurface pothole investigations, survey, geotechnical investigations, public participation, radio path studies and material testing.

4.4 Expenses. City will reimburse Consultant for certain out-of-pocket expenses necessarily incurred by Consultant in connection with this Agreement, without mark-up (the "Reimbursable Expenses"), including, but not limited to, document reproduction, materials for book preparation, postage, courier and overnight delivery costs incurred with Federal Express or similar carriers, travel and car mileage, subject to the following:

- a. Mileage, airfare, lodging and other travel expenses will be reimbursable only to the extent these would, if incurred, be reimbursed to City of Glendale personnel under its policies and procedures for business travel expense reimbursement made available to Consultant for review prior to the Agreement's execution, and which policies and procedures will be furnished to Consultant;
- b. The Reimbursable Expenses in this section are approved in advance by City in writing; and
- c. The total of all Reimbursable Expenses paid to Consultant in connection with this Agreement will not exceed the "not to exceed" amount identified for Reimbursable Services in the Compensation.

## 5. **Billings and Payment.**

### 5.1 Applications.

- a. Consultant 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 Consultant and its Subconsultants and Subcontractors; and
  - (2) Unconditional waivers and releases on final payment from all Subconsultants and Subcontractors 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.

**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. Consultant will be equitably compensated for Services furnished prior to receipt of the termination notice and for reasonable costs incurred.
- b. Consultant 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 Consultant fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

- a. Consultant 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 Consultant for Services furnished, City will pay the amount due to Consultant, less City's damages, in accordance with the provision of Sec. 5.
- b. If City's direct damages exceed amounts otherwise due to Consultant, Consultant must pay the difference to City immediately upon demand; however, Consultant will not be subject to consequential damages more than \$1,000,000 or the amount of this Agreement, whichever is greater.

7. **Conflict.** Consultant 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.** For the duration of the term of this Agreement, Consultant 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 Consultant, its agent(s), representative(s), employee(s) and any subcontractors.

8.1 **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. **Professional Liability.** Consultant must maintain a Professional Liability insurance covering errors and omissions arising out of the work or services performed by Consultant, or anyone employed by Consultant, or anyone for whose acts, mistakes, errors and omissions Consultant is legally liability, with a liability insurance limit of **\$1,000,000** for each claim and a **\$2,000,000** annual aggregate limit.
- 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.

- 8.2 **Other Insurance Provisions.** The insurance policies required by the Section 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 Consultant or on its behalf and for liability arising from automobiles owned, leased, hired or borrowed on behalf of the Consultant. General liability coverage can be provided in the form of an endorsement to the Consultant's existing insurance policies, provided 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 **Consultant's insurance coverage shall be primary insurance** with respect to 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 Consultant's insurance and shall not contribute with it.
  - c. Each insurance policy required by this Section shall provide that coverage shall not be canceled, except after providing notice to the City.
- 8.3 **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 Consultant has obtained prior approval from the City stating that a non-conforming insurer is acceptable to the City.
- 8.4 **Waiver of Subrogation.** **Consultant hereby agrees to waive its rights of subrogation which any insurer may acquire** from Consultant by virtue of the payment of any loss. Consultant 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 Consultant, its employees, agent(s) and subcontractor(s).
- 8.5 **Verification of Coverage.** Within 15 days of the Effective Date of this Agreement, Consultant shall furnish the City with original certificates and amendatory endorsements, or copies of any applicable insurance language making the coverage required by this Agreement effective. 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 Consultant'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.
- Consultant'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 Consultant to comply with the terms and conditions of the Agreement, including any schedule for performance or completion of the Project.
- 8.6 **Subcontractors.** Consultant shall require and shall verify that all subcontractors maintain insurance meeting all requirements of this Agreement.
- 8.7 **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 Consultant, the Project or the insurer.

9. **Immigration Law Compliance.**

- 9.1 Consultant, and on behalf of any Subconsultant or 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 this section 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 Consultant, Subconsultant, or Subcontractor employee who performs work under this Agreement to ensure that the Consultant, Subconsultant or any Subcontractor is compliant with the warranty under this section.
- 9.4 City may conduct random inspections, and upon request of City, Consultant will provide copies of papers and records of Consultant demonstrating continued compliance with the warranty under this section. Consultant 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 Consultant agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Consultant and expressly accrue those obligations directly to the benefit of the City. Consultant also agrees to require any Subconsultant or 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 Consultant'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).
  - 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 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; 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.
- 10.2 Representatives.
  - a. Consultant. Consultant's representative (the "Consultant's Representative") authorized to act on Consultant's behalf with respect to the Project, and his or her address for Notice delivery is:

DC Frost Associates, Inc.  
c/o Catherine Frost

2855 Mitchell Drive, Suite 215  
Walnut Creek, CA 94598

- 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 Anthony Weathersby  
7070 W. Northern Ave  
Glendale, Arizona 85301

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 the City Manager and the City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Consultant identifying the designee(s) and their respective addresses for notices.

- d. Changes. Consultant 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 Integration. This Agreement contains, except as stated below, the entire agreement between City and Consultant 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. Inconsistencies between the solicitation, any addenda attached to the solicitation, 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 **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.
- 12.4 **Amendment.** No amendment to this Agreement will be binding unless in writing and executed by the parties. Electronic signature blocks do not constitute execution for purposes of this Agreement. Any amendment may be subject to City Council approval.
- 12.5 **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.
- 12.6 **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 with applicable law.
- 12.7 **Counterparts.** 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 one (1)- year initial period. The City may, at its option and with the approval of the Consultant, extend the term of this Agreement an additional four (4) years, renewable on an annual basis. Consultant will be notified in writing by the City of its intent to extend the Agreement period at least thirty (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 and will be a determining factor for any renewal. There are no automatic renewals of this Agreement.
14. **Dispute Resolution.** Each claim, controversy and dispute (each a "Dispute") between Consultant and City will be resolved in accordance with **Exhibit E**. 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 | Scope of Work      |
| Exhibit C | Schedule           |
| Exhibit D | Compensation       |
| Exhibit E | Dispute Resolution |

(Signatures appear on the following page.)

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

City of Glendale,  
an Arizona municipal corporation

---

By: Kevin R. Phelps  
Its: City Manager

ATTEST:

---

Pamela Hanna (SEAL)  
City Clerk

APPROVED AS TO FORM:

---

Michael D. Bailey  
City Attorney

DC Frost Associates, Inc.,  
a California corporation

  
By: CATHERINE M. FROST  
Its: Authorized Representative

**EXHIBIT A**  
**Professional Services Agreement**

**PROJECT**

DC Frost & Associates is the sole source provider of the specialized system compents for UV3000 and UV4000 disinfection systems at West Area Water Reclamation Facility and Arrowhead Water Reclamation Facility. These parts are to be provided on an as needed basis. See attached letters.



January 28, 2016

Louie Gomez  
City of Glendale  
5901 N Glen Harbor Blvd  
Glendale, AZ  
85307

Dear Mr. Gomez

**RE: Trojan System UV3000Plus2007™ Replacement Parts**

In the Engineered Submittal Package for the Trojan System UV3000Plus2007™, Trojan provided an equipment performance guarantee stating that the system will meet the required level of disinfection provided that the system is operated and maintained in accordance with recommendations made by Trojan Technologies.

In order for this equipment guarantee to be maintained, it is imperative that the appropriate components and replacement parts be used in the system. There are key replacement parts and system components that directly influence the performance and reliability of the system. Among these critical replacement parts are the UV lamps, sleeves, electronic ballasts, wiper seals, printed circuitry etc. Without using lamps, ballasts, and other components that are approved and validated by Trojan Technologies, we cannot guarantee that the system will provide the required germicidal output. Subsequently, we cannot guarantee that the required UV dose is being delivered, if lamp output, ballast efficiency and system programming is unknown.

In order to keep the equipment performance guarantee intact, it is recommended that specialized system components be purchased and contracted from DC Frost & Associates, a wholly-owned subsidiary of The Coombs-Hopkins Co., who is the Trojan authorized representative for the state of Arizona. Trojan purchases only validated system components (lamps, ballasts etc.) from our suppliers and only those components meeting our performance standards are passed on the customer.

If you have any questions regarding this matter, or require any additional information please do not hesitate to contact me.

Best regards,  
**TROJAN TECHNOLOGIES**

*Judy Georgijev*

Judy Georgijev  
Municipal Territory Representative

cc: Catherine Frost

December 4, 2015

Louie Gomez  
City of Glendale  
5901 N Glen Harbor Blvd  
Glendale, AZ  
85307

Dear Mr. Gomez

**RE: Trojan System UV4000™ Replacement Parts**

In the Engineered Submittal Package for the Trojan System UV4000™, Trojan provided an equipment performance guarantee stating that the system will meet the required level of disinfection provided that the system is operated and maintained in accordance with recommendations made by Trojan Technologies.

In order for this equipment guarantee to be maintained, it is imperative that the appropriate components and replacement parts be used in the system. There are key replacement parts and system components that directly influence the performance and reliability of the system. Among these critical replacement parts are the UV lamps, sleeves, electronic ballasts, wiper seals, printed circuitry etc. Without using lamps, ballasts, and other components that are approved and validated by Trojan Technologies, we cannot guarantee that the system will provide the required germicidal output. Subsequently, we cannot guarantee that the required UV dose is being delivered, if lamp output, ballast efficiency and system programming is unknown.

In order to keep the equipment performance guarantee intact, it is recommended that specialized system components be purchased and contracted from DC Frost & Associates, a wholly-owned subsidiary of The Coombs-Hopkins Co., who is the Trojan authorized representative for the state of Arizona. Trojan purchases only validated system components (lamps, ballasts etc.) from our suppliers and only those components meeting our performance standards are passed on the customer.

If you have any questions regarding this matter, or require any additional information please do not hesitate to contact me.

Best regards,  
**TROJAN TECHNOLOGIES**

*Judy Georgijev*

Judy Georgijev  
Municipal Territory Representative

cc: Catherine Frost

**EXHIBIT B**  
**Professional Services Agreement**

SCOPE OF WORK

DC Frost Associates, Inc will provide parts for the Trojan UV3000 and UV4000 Disinfection systems currently in operation at the West Area Water Reclamation Facility and Arrowhead Water Reclamation Facility. These parts are to be provided from DC Frost Associates, Inc since they are the authorized representative for Trojan Technologies in Arizona. Purchase of these parts from DC Frost Associates, Inc maintains all service warranty guarantees from Trojan Technologies.



**EXHIBIT C**  
**Professional Services Agreement**

SCHEDULE

Provide parts for UV disinfection systems at West Area Water Reclamation Facility and Arrowhead Water Reclamation Facility on an as needed basis.

**EXHIBIT D**  
**Professional Services Agreement**

**COMPENSATION**

**METHOD AND AMOUNT OF COMPENSATION**

This is a sole source vendor for the replacement parts and components of the TrojanUV3000 and UV4000 disinfection systems operated at the West Area Water Reclamation Facility and Arrowhead Water Reclamation Facility.

**NOT-TO-EXCEED AMOUNT**

The total amount of compensation paid to Consultant for full completion of all work required by the Project during the entire term of the Project must not exceed \$275,000 annually for a maximum of \$1,375,000 for the term of the agreement.

**DETAILED PROJECT COMPENSATION**

City of Glendale would receive a 10% discount on attached parts list with the exception of the UV3000Plus Lamps, part #794447-ORD. Cost for a service visit is \$1,250 per day.

# 2015 AFTERMARKET PARTS PRICE LIST

# TROJAN UV3000PLUS™ 3PK07

Part Number	SubPart Number	Part Description	Notes	US List
<b>Lamps, Sleeves &amp; Ballasts</b>				
794447-ORD		Lamp, GA64T6HE Angle Base	Not backwards compatible w/yellow or salmon lamps; Use with 820887G Lampholder	\$ 341.00
794447-OYW		Lamp, GA64T6HE Flat Base	Use w/ PN 316508; Replaces 794447-OSM PN	\$ 341.00
316508		Lamp Kit, GA64T6HE Flat Base	For use with 794447-OYW only.	\$ 21.00
794447-OGN		Lamp, GA64T6HE Step Base		\$ 341.00
316136-004	316136	Sleeve, Quartz UV3+ 28x25x1950 4Pk	4 Pack	\$ 432.00
		Sleeve, Quartz		\$ 108.00
915378		Ballast Kit, UV3+ G3	With Plastic End Caps; Replaces PN 914384	\$ 792.00
<b>Commonly Used Components</b>				
316148P		Sleeve Cup Nut, UV3+ Mod Ryton	Pkg. of 10	\$ 30.00
302366P		Desiccant, Desi Pak 1/6 Unit	2 Per Module; Pkg. of 10	\$ 11.25
901376P		Spring, Compression SST	Pkg. of 10	\$ 61.25
316144P		O-Ring, Sleeve Seal	Pkg. of 10	\$ 6.15
316145		O-Ring, Sleeve Support UV3+		\$ 0.51
901507		Cleaner, Acticlean Gel WW	This PN is for one case which contains 4 bottles (4x4 Litre Bottles); Amount Required Per Canister: UV3+: 38ml; UV4 & 4+: 115ml; UV3+Signal: 250ml+50/Tube	\$ 171.00
316148P		Sleeve Cup Nut, UV3+ Mod Ryton	Pkg. of 10	\$ 30.00
901174		Desiccant, Desi Pak 2 Units	Used In PDC	\$ 2.85
<b>Module Components</b>				
316506-102		End Cap Kit, UV3+/07 Plain		\$ 54.00
316506-101		End Cap Kit, UV3+/07 Power		\$ 82.00
316506-103		End Cap Kit, UV3+/07 Power&Plain		\$ 130.00
914374-008GF		Plug, UV3+ PDC Module 8' GF	Replaces PN 914374-008	\$ 99.50
914374-010GF		Plug, UV3+ PDC MODULE 10' GF	Replaces PN 914373-010; Power Cord	\$ 103.00
914374-006GF		Plug, UV3+ PDC MODULE 6' GF	Replaces PN 914374-006	\$ 97.00
914374-020GF		Plug, UV3+ PDC Module 20' GF	Replaces PN 914374-020	\$ 135.50
316509		Seal Kit, End Cap UV3+	Includes: 2 Seals, Lubricant & Desiccant	\$ 45.50
<b>Ballast Enclosure Components</b>				
914385		Module Board Kit, UV3+ G2	MFN# 2371G; Includes: 9123556-001	\$ 178.00
328786		Wire Harness, UV3+ MOD PWR LT	Replaces PN 328078	\$ 20.20
328787		Wire Harness, UV3+ MOD PWR RT	Replaces PN 328079	\$ 33.40
<b>Module Leg Components</b>				
316505-060X		Lampholder, AMLG ANG UV3+ 60"X	Replaces PN 316505-060 Used with Red Based Lamps	\$ 47.00



GET GENUINE. \*If it's not a Genuine Trojan part, it shouldn't be part of your Trojan system.\*

# 2015 AFTERMARKET PARTS PRICE LIST



Part Number	SubPart Number	Part Description	Notes	US List
316505-078X		Lampholder, AMLG ANG UV3+ 78"X	Replaces PN 316505-078 Used with Red Based Lamps	\$ 52.25
316505-096X		Lampholder, AMLG ANG UV3+ 96"X	Replaces PN 316505-096 Used with Red Based Lamps	\$ 68.50
316135-060X		Lampholder, UV3+ Amalgam 60"X	6L-all spacing; 8L-3" spacing; Replaces PN 316135-060	\$ 50.00
<b>Wiper System</b>				
		<b>Seal Kit, UV3+ Plastic Canister</b>		\$ 33.60
	327017	Spacer, Wiper Seal UV3+	Qty 2/kit	n/a
	327021	Wiper Seal	Qty 2/kit	\$ 8.10
<b>327122</b>	327029	Spring, UV3+ Seal	Qty 2/kit - Wiper Seal Spring; Part required must purchase 327029P	n/a
	327030	Tube, 1/4 DIA Viton UV3+	Qty 4"/kit - Minimum Purchase - 12"	\$ 1.79
	327118	O-Ring, UV3+ Wiper Canister	Qty 2/kit - Part required must purchase 327118P	n/a
		Seal Kit	For Stainless Steel Canisters	\$ 46.00
<b>327039</b>	327017	Spacer, Wiper Seal UV3+	Qty 2/kit	n/a
	327021	Wiper Seal	Qty 2/kit	\$ 8.10
	327022	Washer, Canister UV3+	Qty 4/kit	n/a
	327029	Spring, UV3+ Seal	Qty 2/kit - Wiper Seal Spring; Part required must purchase 327029P	n/a
	327030	Tube, 1/4 DIA Viton UV3+	Qty 4"/kit - Minimum Purchase - 12"	\$ 1.79
	327043	Snap Ring	Qty 2/kit - Part required must purchase 327043P	n/a
		Cap, 3/8 HYD Flat Coupling Female	Rubber Dust Collector	\$ 4.35
	Cap, 3/8 HYD Flat Coupling Male	Rubber Dust Collector	\$ 4.35	
013199-04F		Coupling, 1/4 HYD FE Flat NB	Replaces PN 013168-04FST	\$ 75.00
013168-04FNB		Coupling, 1/4 HYD MA Flat NB	Replaces PN 013169-04MST	\$ 39.00
013169-04MNB		Valve Press Relief Viton NSF	NSF Certified; Replaces PN 445044P	\$ 47.50
821161P		Valve, Press Relief Viton NSF	Replaces PN 445044; Not compatible with old style adaptor must upgrade with kit 327795	ask Judy
821161		Vent Kit, UV3+07 P.Relief Plug	Includes adaptor	\$ 2.70
327795				\$ 2.70
<b>Power Distribution Center (PDC)</b>				
916458		Board Kit, UV3+ CCB		\$ 1,803.00
931088		Board, UV3+ CCB Daughter	MFR# 34198-03	\$ 414.00
914343		Receptacle, UV3+ PDC	7 Pin	\$ 86.75
914368		Receptacle, UV3+ PDC Cap	MFR# 192900-0683	\$ 16.35
015408		Receptacle, UV3+ Sensor PDC	4 Pin	\$ 135.50
326447		Nipple, UV3+ 1/4NPT x 1/16D NB		\$ 13.30



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# 2015 AFTERMARKET PARTS PRICE LIST



Part Number	SubPart Number	Part Description	Notes	US List
901711-030		Spring Assembly, Gas 30LB	Gas Door Struts	\$ 55.75
901711-040		Spring Assembly, Gas 40LB	Gas Door Struts	\$ 51.00
901711-060		Spring Assembly, Gas 60LB	Gas Door Struts	\$ 51.00
<b>Hydraulic System Center (HSC)</b>				
907323		Filter Assy, Hyd 10Micron ABS		\$ 163.50
907384		Filter Element, 10Micron ABS Synth	Replaces PN 444413; Compact	\$ 41.00
907547		Gauge, 0-600PSI 2 1/2" SST		\$ 33.70
915573		Heater Kit, UV3+07 HSC MB UPGR	Includes: PN 301283 - Manual	\$ 730.00
326085		Hydraulic Fluid, FR WG150-D	Water Glycol - 20L Pail (Pink Color)	\$ 234.50
907666-020P		Hydraulic Fluid, Neptune AW15 ECO 20L	Pure Drive Hydraulic Fluid	\$ 1,032.00
444295		Oil, Hydraulic Low Viscosity	20L Pail	\$ 215.00
913292-124		PLC, TELE TWIDO CMPT 24IO 24V	Must also order 913292-224;Replaces PN 913292-040	\$ 541.00
913292-110		PLC, TELE TWIDO Compact10IO 24V		\$ 219.50
913292-224		PLC, TELE TWIDO MOD 24IO 24V		\$ 508.00
<b>System Control Center (SCC)</b>				
916279		HMI Kit, UV3+ G70-A7 Upgrade		Contact MTR
915338-002		Kit, UV3+ Type-M Upgrade		Contact MTR
<b>Sensors</b>				
015378		Carton, MES Sensor C/W Foam	Sensor Shipping Box	\$ 13.80
015393-S-158NB		Sensor Assy, UV3+ NIST S-158NB	Complete with box.	\$ 2,105.00
015406		Sensor Cable Kit, UV3+ NIST	Complete with cable & grommet.	\$ 130.00
015239		Sleeve, Sensor UV3+ 25x28x1832		\$ 129.00
914369-002		Sensor, Probe Water Level 2'	Comes with PVC Sheath.	\$ 51.00
914369-004		Sensor, Probe Water Level 4'	Comes with PVC Sheath.	\$ 132.00
914369-005		Sensor, Probe Water Level 5'	Comes with PVC Sheath.	\$ 188.00
914369-006		Sensor, Probe Water Level 6'	Comes with PVC Sheath.	\$ 210.50
914369-001		Sensor, Probe Water Level 1'	Comes with PVC Sheath.	\$ 33.70
319015		Enclosure Assy, UV3+ Level Sensor	Replaces PN 914370	\$ 166.50
319014-002		Lvl Snsr Kit, UV3+ Probe 2'	Replaces PN 914499-002	\$ 660.00
914345-002		Sensor, UV3+ Level High		\$ 165.50
914345-001		Sensor, UV3+ Level Low		\$ 196.00
01033083A8C1088P		Screw, HWWSH SL #8-32 UNC x1/2	Low Level Sensor Module 24VDC Sensor Mount Screw; Pkg. of 10;	\$ 4.85
<b>Cleaning Equipment</b>				
309416		Crane, UV3+ Module Thern		\$ 3,200.00
309465		Pedestal, Crane Base Upright		\$ 548.00
309504		Sling Kit, UV3+ 2Leg 5BAL	Use W/ Crane	\$ 1,329.00



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# 2015 AFTERMARKET PARTS PRICE LIST

# TROJAN UV3000PLUS™ 2007

Part Number	SubPart Number	Part Description	Notes	US List
Miscellaneous				
905002		Face Shield, UV Protection		\$ 60.75
906031		Kit, Mercury Spill Cleanup		\$ 711.00



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# 2015 AFTERMARKET PARTS PRICE LIST



Part Number	SubPart Number	Part Description	Notes	US List
<b>Lamps, Sleeves &amp; Ballasts</b>				
441169-024		Lamp Assy, Pkgd 24" UV 4000 G2	Replaces PN 441165-024	\$ 517.00
441143-024		Sleeve, Packaged UV4000 24"		\$ 431.00
441169-028		Lamp Assy, Pkgd 28" UV 4000 G2	Replaces PN 441165-028	\$ 517.00
441143-028		Sleeve, Packaged UV4000 28"		\$ 462.00
490291		Ballast, Replacement Kit UV4 G2	Replaces PN 490280	\$ 1,403.00
<b>Commonly Used Components</b>				
915446		Kit, Fan HF Ballast Replacement UV4	Replaces PN 914122	\$ 44.40
002181-216P		O-Ring, 1.11ID X .14NBR Teflon	Module Sealing O-Ring; Pkg. of 10	\$ 7.65
002181-230P		O-Ring, 2.48ID X .14NBR Teflon	Sleeve Sealing O-Ring; Pkg. of 10	\$ 8.45
910079		Lamp Tester Kit, UV4000	Ballast Tray	\$ 523.00
901206		Desiccant, Humidisorb HXC 4X4		\$ 30.60
442048		Sleeve Nut, Machined UV4000		\$ 77.75
442009		Snap Ring, Sleeve Nut 316SS		\$ 4.85
490083		Tool, Sleeve Nut UV4000		\$ 121.50
901507		Cleaner, Acticlean Gel WW	This PN is for one case which contains 4 bottles (4x4 Litre Bottles); Required Per Canister: UV3+: 38ml; UV4 & 4+: 115ml; UV5igna: 250mlH50/Tube	\$ 171.00
<b>Module Components</b>				
903372		Board, MCB 1-6 Lamps	MFR# 973;	\$ 1,408.00
903373		Board, MCB 8-12 Lamps	MFR# 971	\$ 2,095.00
431048		Grounding Wire Kit, MCB	Install w/ PN 431049 (PDC)	\$ 139.00
010084P		Screw, 1/4-20x1.50 Flat 18-8	Module-New Cover Assy; Pkg. of 10	\$ 8.75
010089P		Set Screw, Hex 1/4-20 X3/8	Used on Original Cover Assy.;Pkg. of 10	\$ 2.55
442171P		Spacer, Snap Fit UV4E	Module Cover; Pkg. of 10	\$ 20.40
442783-201		UV4000, 2 Module Cover Kit		\$ 3,178.00
442783-203		UV4000E Large, 2 Module Cover Kit		\$ 2,924.00
442783-403		UV4000E Large, 4 Module Cover Kit		\$ 5,798.00
442783-202		UV4000E Small, 2 Module Cover Kit		\$ 3,408.00
442783-402		UV4000E Small, 4 Module Cover Kit		\$ 6,767.00
907130		Valve, Hydraulic 2WY SOL NC 24VDC		\$ 165.50
442157		Leg Isolator Assembly, UVM UV4E		\$ 274.00
<b>Ballast Enclosure Components</b>				
441055-001		Lamp Plug Assy, 11' UV4E	Used in Ballast Tray	\$ 102.50
441055-002		Lamp Plug Assy, 14' UV4E	Used in Ballast Tray	\$ 105.50
441055-003		Lamp Plug Assy, 15' UV4E	Used in Ballast Tray	\$ 108.50
441055-004		Lamp Plug Assy, 17' UV4E	Used in Ballast Tray	\$ 111.00



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# 2015 AFTERMARKET PARTS PRICE LIST



Part Number	SubPart Number	Part Description	Notes	US List
442807		Heat Exchanger, Field Replacement Kit	Used in Ballast Tray	\$ 8,568.00
490255		Heat Exchanger, UV4E Replacement Fan	Used in Ballast Tray	\$ 462.00
903345-017		Wire Harness, Ballast-MCB 17"	Replaces PN 903345	\$ 32.70
903345-031		Wire Harness, Ballast-MCB 31"	Replaces PN 903349; Used in Ballast Tray	\$ 36.80
903345-051		Wire Harness, Ballast-MCB 51"	Replaces PN 903347	\$ 47.40
903345-066		Wire Harness, Ballast-MCB 66"		\$ 37.80
903345-072		Wire Harness, Ballast-MCB 72"		\$ 33.70
903345-084		Wire Harness, Ballast-MCB 84"	Replaces PN 903608; Used in Ballast Tray	\$ 33.70
903361		Wire Harness, UV4E PDC-MDL 13.5'		\$ 105.50
903392		Wire Harness, UV4E PDC-MDL 16.75'		\$ 131.00
903540		Wire Harness, UV4E PDC-MDL 18.5'		\$ 154.50
<b>Module Removal Mechanism (MRM)</b>				
411115		Cable & Hook Assembly, 132" SILV End	Electromagnetic System	\$ 713.00
490154		Control Box, UV4E Hoist 110VDC	Control Box & Pendant;	\$ 7,257.00
411084		Drum Assy, UV4E Hoist 110VAC	Motor & Grooved Roller	\$ 14,206.00
411111		Hoist Assembly w/ Pressure Roller	110V - DC Motor Hoist Assy	\$ 32,867.00
442164		Hook Assy, MDL 304 SST UV4E		\$ 1,008.00
442178		Hook Assy, MDL 316 SST UV4E		\$ 1,038.00
417534		Motor, UV4E Hoist 110VDC	Motor Only	\$ 5,965.00
912764		Pendant, Pushbutton 120/240VAC		\$ 366.00
442181		Pin, MDL Hinge 316SST		\$ 140.00
442123		Pin, Module Hook 304SST		\$ 127.50
422051		Rope Assy, MRM UV4LF		\$ 215.50
411240		Rope Assy, W/Stop MRM 190"LG		\$ 3,436.00
422030		Winch, Hand w/Brake 1000lbs		\$ 1,519.00
<b>Wiper System</b>				
907097		Adapter, 1/2 Tube X 1/4 NPT Male		\$ 19.40
445053		Adapter, Pressure Injector		\$ 20.40
		<b>Seal Kit, Wiper W/TFE Bearing</b>		\$ 286.00
	010081	Screw, #10-32X3/8 Hex 316 SST	Qty 1/kit - Part required must purchase 010081P; Fill Screw	n/a
	012013	Washer, #10 Flat Nylon	Qty 2/kit - Part required must purchase 012013P	n/a
<b>445039</b>	445025	Valve Assy, Relief Wiper UV4	Qty 1/kit	\$ 36.40
	445032	Bearing, Wiper Seal	Qty 4/kit - White	\$ 22.00
	445035	Retaining Ring, Wiper	Qty 4/kit	\$ 3.10
	445045	Seal, Wiper Gen 3T UV4	Qty 4/kit - Blue Teflon	\$ 44.00
012013P		Washer, #10 Flat Nylon	Pkg. of 10	\$ 1.02



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# 2015 AFTERMARKET PARTS PRICE LIST



Part Number	SubPart Number	Part Description	Notes	US List
010081P		Screw, #10-32X3/8 Hex 316 SST	Pkg. of 5	\$ 1.22
		<b>Cylinder Replacement Kit, 316SST</b>	<b>Use with 24" lamps/sleeves</b>	<b>\$ 1,645.00</b>
	013037	Clamp, Stepless Ear 1-43/64"	Qty 1/kit	\$ 3.35
	013038	Clamp, Stepless Ear 1-7/8"	Qty 1/kit	\$ 2.05
	442077	Boot, Rubber Cylinder	Qty 1/kit	\$ 9.45
	442644	Cylinder Assy, HYDR UV4E 316SS	Qty 1/kit	n/a
442045		Snap Ring, Cylinder Nut UV4000		\$ 13.30
445011		Collar, Wiper Machined 5.0 SP UV4000		\$ 678.00
445015		Collar, Wiper Machined 5.5 SP		\$ 693.00
907131		Connector, 1/4TBGx1/8NPTF BRS		\$ 4.35
907175		Connector, 5/8" Hose x 1/2" NPT		\$ 6.15
907100		Fitting, 1/2 Tube X 3/8 NPT Male		\$ 23.50
445060		Fitting, Pressure Injector		\$ 6.65
901742		Kit, Wiper Seal Replacement Tool	Includes PN 445024 & Instructions.	\$ 709.00
907096P		Nipple, Hex 1/4 NPT Brass	Pkg. of 10	\$ 43.90
445054		Pressure Injector, Acti-Clean Gel UV4/4+		\$ 136.50
445061		Tube, Pressure Injector		\$ 0.75
907133		Tubing, Nylon 1/4" x 0.18 Red	Min. Purchase - 12"	\$ 3.00
907132		Tubing, Nylon 1/4" x 0.18 BLUE	Min. Purchase - 12"	\$ 2.05
907134		Tubing, PUR 1/4"ODx0.16 Clear	Min. Purchase - 12"	\$ 1.02
445033-050		Wiper Assy, UCUP Seal 5.0"	5.0" Lamp Spacing	\$ 1,057.00
445033-055		Wiper Assy, UCUP Seal 5.5"	5.5" Lamp Spacing	\$ 1,070.00
<b>Power Distribution Center (PDC)</b>				
003005		Adhesive, Rubber & Gasket		\$ 17.35
903817		Board, UV4E CCB 16PT 24VAC	Communication Control Board; MFR# 972	\$ 2,786.00
912070		Board, UV4LF CCB W/Probe	Communication Board with Probe	\$ 6,202.00
431049		Ground Wire Kit, UV4E CCB	Install w/ 431048 (Module)	\$ 72.50
912362		IC, RS485 Transceiver	Transceiver Chip (Comm.)	\$ 20.40
912519		IC, Isolated RS485/422 Maxim		\$ 60.25
903326		Module, Digital In 24V/5V Logic		\$ 42.00
903327		Module, Digital Out 120V/5V Logic		\$ 37.80
002104		Rubber, Sponge 17.5" x 1/4"		\$ 11.25
<b>Hydraulic System Center (HSC)</b>				
907384		Filter Element, 10Micron ABS Synth	Replaces PN 444413; Compact	\$ 41.00
444259		Filter Unit, Monarch Pump UV4E	25 Micron	\$ 1,245.00
907317-004P		Fitting, Tube Insert X"	Pkg. of 10	\$ 3.85
907158		Gauge, Pressure 0-600 PSI	Hydraulic	\$ 56.25



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# 2015 AFTERMARKET PARTS PRICE LIST



Part Number	SubPart Number	Part Description	Notes	US List
431018		Gauge, Pressure 0-60PSI/0-400KPA	Coolant	\$ 60.25
907334		Hose Assy, 3/8 X 06SAE X 80" LG		\$ 68.50
002120		Hose, 1.25 ID SBR Wire Reinf		\$ 23.50
907106		Hose, Assy 1/2NPTM X 3/8NPTM		\$ 42.90
444954		Hydr Kit, UV4E HSC Retrofit	For Pumps shipped after June 2, 2002	\$ 1,219.00
912908-203		Cordset, DIN 43650A SOL 3MPUR	Replaces PN912282; Wiper Solenoid to Comm Brd.	\$ 38.80
444295		Oil, Hydraulic Low Viscosity	20L Pail	\$ 215.00
901253		Propylene Glycol, Coolant	Min Order = 20L Pail	\$ 265.00
444283		Pump, Cool 2HP/460V/3PH 60Hz	2-6 Lamp System; Shipped after June 1997	\$ 1,573.00
444289		Pump, Cool 3HP/460V/3PH 60Hz	8-10 Lamp System; Shipped after June 1997	\$ 2,214.00
444288		Pump, Cool 2HP/415V/50Hz/3PH	2-6 Lamp System	\$ 1,228.00
444290		Pump, Cool 3HP/415V/50Hz/3PH	8-12 Lamp System;	\$ 2,050.00
444881		Pump, Hydraulic 1.5HP/110/230V 60Hz	8-10 Lamp System; shipped after June, 1997	\$ 1,419.00
444883		Pump, Hydraulic 1HP/115/230V 60Hz	2-6 Lamp System; Shipped after June, 1997	\$ 4,329.00
002070		Strain Rlf, Liq Tight 1/2" NY		\$ 4.70
444948-001		Switch, Cal Cool 10-Max	Coolant Switch Assy; Use w/MFR# 442644; Includes Transducer and Pressure switch (not sold separately)	\$ 1,037.00
444948-002		Switch, Cal Hyd 100-420	Hydraulic Switch Assy; Use w/MFR# 442427; Includes Transducer and Pressure switch (not sold separately)	\$ 1,303.00
444948-010		Switch, Cal Hydraulic 100 - 275	Hydraulic Switch Assy; Includes Transducer and Pressure switch (not sold separately)	\$ 1,256.00
907147		Valve, Check 1/2" NPTF PVC		\$ 34.70
907154		Valve, Check 1-1/4" NPT BRZ		\$ 51.00
<b>System Control Center (SCC)</b>				
903511		Board, Mon Lamp ELPD UV4M	MFR# 7010136	\$ 625.00
912162		Board, Type M1 Expansion		\$ 3,812.00
903326		Module, Digital In 24V/5V Logic		\$ 42.00
903327		Module, Digital Out 120V/5V Logic		\$ 37.80
<b>Sensors</b>				
912222		Board, 120VAC High Level Relay	Level Sensors	\$ 316.00
912331		Board, High Level Relay 240VAC		\$ 516.00
912179		Board, Low Level Relay 120VAC	Replaces PN 903237.	\$ 467.00
912330		Board, Low Level Relay 240VAC		\$ 516.00
903383		Electrode Level Sensor Electrode, 1/4"Diax5'		\$ 73.50
903957-010		Electrode Level Sensor w/Sheath 10'		\$ 218.50
903384		Electrode Level Sensor, 1/4"Diax6'		\$ 81.75



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# 2015 AFTERMARKET PARTS PRICE LIST



Part Number	SubPart Number	Part Description	Notes	US List
903382		Electrode, Level Sensor 1/4" Dia x 4"		\$ 64.50
903243		Level Sensor Kit, Low 230V		\$ 3,401.00
903543		Level Sensor, 120V 8' Electrode		\$ 1,502.00
903242		Level Sensor, 240V 6FT Electrode		\$ 1,324.00
415041-001		Probe Assembly, 93" Long		\$ 6,341.00
<b>Miscellaneous</b>				
906002		Face Shield, UV Protection		\$ 60.75
906031		Kit, Mercury Spill Cleanup		\$ 711.00
906015-400		Operator Kit, UV4000		\$ 1,139.00
441064		Package, Lamp/Sleeve Storage for UV4E	For 1 Lamp & 1 Sleeve;	\$ 6.65
002106		Pad, Rubber 3/4" T x 4" W 60DUR		\$ 2.55
901715		Plug, Solid Stem Winter	Winterization Components	\$ 33.70
490199-063		SHIM, TIE-DN BAR 1/16" UV4+		\$ 9.70
210009		Sponge, Black Neoprene 1/2"		\$ 5.40
901196		Strap Wrench	Tools	\$ 87.75
901281		Tool Kit, Lampholder Extraction		\$ 59.25
901216		Tool, Clamp Ear Type Oetiker		\$ 71.50
445024		Tool, Wiper Assyembly		\$ 709.00
912632		XFMR, 250VA 480-24/120VAC 60HZ		\$ 406.00



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**EXHIBIT E**  
**Professional Services Agreement**

DISPUTE RESOLUTION

**1. Disputes.**

- 1.1 Commitment. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.
- 1.2 Application. 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 Initiation. 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 Informal Resolution. 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 Rules. 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 five 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 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within 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 Hearing. 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 Award. 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 Final Decision. 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 Costs. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party will 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, Consultant 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 Consultant in accordance with this Agreement.

4. **Exceptions.**

- 4.1 Third Party Claims. City and Consultant 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 Consultant.
- 4.2 Liens. City or Consultant 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 Governmental Actions. 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.



**Materials Management**  
**Sole Source and Special Procurement Request**

**REQUESTOR INFORMATION:**

Requestor: Louie Gomez	Date: 12/1/2015	Department: Water Services
Phone Number: 623-930-4757	Email Address: lgomez@glendaleaz.com	

**PROPOSED VENDOR INFORMATION:**

Proposed Vendor: DC Frost Associates, Inc.	Proposed Vendor Contact: Judy Georgijev
Proposed Vendor Address: 2855 Mitchell Drive, Suite 215	
City, State and Zip Code: Walnut Creek, CA 94598	
Vendor Phone: (800) 964-9733	Vendor Fax: (925) 939-4457
Procurement method requested:	<input checked="" type="checkbox"/> Sole Source <input type="checkbox"/> Special Procurement

**PURCHASE INFORMATION:**

Total Cost of this Order: \$275,000	One time purchase: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Federal Money: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, explain finding source:
Fund #: 2360 / Department #: 17170 Account #: 523400	
Fund #: 2360 / Department #: 17160 Account #: 523400	
Description of the product or service requested: Replacement Parts and System components for Trojan UV 4000 and Trojan UV3000 Disinfection Systems. These systems are in operation at the West Area Water Reclamation Facility and the Arrowhead Ranch Water Reclamation Facility and they are critical elements necessary to meet regulatory compliances on the wastewater treatment process.	

In accordance with Finance Administrative Policy No. 12, I have conducted a good faith review of available sources and determine that there is only one known and/or one practical source for the required items in accordance with the Guidelines for Justification attached.

**REQUESTOR CERTIFICATION:**

Requestor Louie Gomez Division Water Services Date 12/1/2015

*Done 12/1/15*

**DEPARTMENT DIRECTOR APPROVAL:**

Director [Signature] Division \_\_\_\_\_ Date 12-14-15

*RS 12-14-15*

**MATERIALS MANAGEMENT APPROVAL:**

In accordance with Finance Administrative Policy No. 12, I have conducted a good faith review of this request and agree that there is only one known and/or one practical source for the required items in accordance with the Guidelines for Justification attached.

Materials Manager [Signature] Date 12-15-15

Materials Management requires reevaluation and resubmission of a Sole Source Request for this procurement:

Single Use Only:  Annually:   
 End of first term of Contract:  End of Contract, including any extensions:

*\* COUNCIL APPROVAL OF EXPENDITURE REQUIRED*



## Materials Management Sole Source and Special Procurement Request

Check the reason(s) below to identify why you have determined the purchase is a <b><u>Sole Source or Special Procurement</u></b> and attach supporting documentation. Use only column. A purchase cannot be BOTH a sole source and a special procurement	
<p style="text-align: center;"><b>SOLE SOURCE</b></p> <p><input type="checkbox"/> Compatibility. Indicate system, make, model and function</p> <p><input type="checkbox"/> Unique repair/replacement item. Identify item to be used with previous PO number item purchased, and warranty period</p> <p><input type="checkbox"/> Supplementary or necessary part required from same manufacturer. Identify in-house equipment and use with existing system</p> <p><input type="checkbox"/> Unique Item</p> <p><input type="checkbox"/> Unique Service</p> <p><input checked="" type="checkbox"/> Proprietary Specifications (Copyright, patented, etc.)</p> <p><input type="checkbox"/> Other reasons, if not above. Explain in detail</p>	<p style="text-align: center;"><b>SPECIAL PROCUREMT</b></p> <p><input type="checkbox"/> Presents such limited competition that a competitive bid or proposal process cannot reasonably be used</p> <p><input type="checkbox"/> Discourages the use of a competitive bid or proposal as it will result in a substantially higher cost to the city, or will otherwise impair the city's financial interests</p> <p><input type="checkbox"/> Substantially impede the city's administrative functions or the delivery of services to the public</p> <p><input type="checkbox"/> Does not qualify as a sole source or emergency</p> <p><input type="checkbox"/> Has only one provider with the experience and capability to successfully perform the contract</p> <p><input type="checkbox"/> Presents a significant time constraint as the need was not known in sufficient time to allow for competitive procurement and time is of the essence</p> <p><input type="checkbox"/> Other reasons, if not above. Explain in detail</p>

**JUSTIFICATION:**

Use the Guidelines for Justification of the selected reason(s) above, and provide a full explanation of your reason that the product/service is a sole source or special procurement: In the Engineered Submittal Package for the Trojan System UV 4000/3000, Trojan provided an equipment performance guarantee stating that the system will meet the required level of disinfection provided by the system if operated and maintained in accordance with recommendations made by Trojan Technologies.

In order for this equipment performance guarantee to be maintained, it is imperative that the appropriate components and replacement parts be used in the system. Without using lamps, ballast and other components that are approved and validated by Trojan Technologies, there is no guarantee that the required UV disinfection will be accomplished.

**MANDATORY RESEARCH DOCUMENTATION REQUIREMENT:**

Provide a detailed explanation of efforts made to determine the availability of the product or service from any other vendor, including other distributors: See Sole Source Letter attached.

**PREPARER NOTE:** If this is a vehicle or technology purchase, concurrence of the Equipment Management Superintendent or the IT Director will be required.



## Legislation Description

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**File #: 16-191, Version: 1**

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**AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH ARCADIS U.S., INC., TO EVALUATE TREATMENT PROCESSES AND PROPOSE IMPROVEMENTS AT THE WEST AREA WATER RECLAMATION FACILITY**

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 professional services agreement with Arcadis U.S., Inc., (Arcadis) to perform condition assessments on treatment and lift station equipment and processes, design headworks improvements and recommend improvements at the West Area Water Reclamation Facility and approve expenditure of funds in an amount not to exceed \$1,231,184.

**Background**

The West Area Water Reclamation Facility (WAWRF) commenced operations in 2000. This facility has a capacity to treat 11.5 million gallons per day (MGD) of sewage.

Resilience and reliability of all process equipment are essential for maintaining the rated treatment capacity and assuring compliance with all regulatory limits while supporting growth in the city. The facility process equipment needs periodic condition assessments and improvements to maintain effective operation. The original equipment is reaching the end of its expected life and needs to be assessed to determine what equipment requires rehabilitation and replacement with more efficient, eco-friendly, and reliable technologies.

The project includes the condition assessment of the West Area Water Reclamation plant, the raw sewage pump station, the airport lift station and the aquifer recharge facility. The project also includes assessments of the computer network, Supervisory Control and Data Acquisition (SCADA) equipment, concrete coatings, and electrical systems. Additionally, the design of headworks improvements will be completed under this contract. Completion of this phase of the project is expected to take 6 months. At the completion of this project, recommendations for improvements will be made based on the condition assessments performed and the headworks improvements will be ready to proceed to construction.

**Analysis**

A Request for Proposal (RFP) was issued in April 2015 by the Engineering Department seeking a qualified consulting firm to provide engineering services. Three firms submitted Statement of Qualifications. Arcadis was determined to be the most qualified to perform the work. This action will authorize the City Manager to enter into a professional services agreement with Arcadis and authorize the expenditure of funds.



Staff will seek Council approval for design and construction services at a later time.

**Previous Related Council Action**

On February 23, 2016, Council approved a professional services agreement with CH2M Hill Engineers for design and construction services for clarifier gates improvements.

On June 23, 2015, Council approved a professional services agreement with Wilson Engineers for design and construction administration services for odor control and disinfection system improvements.

**Community Benefit/Public Involvement**

Maintaining safe, reliable, and resilient wastewater treatment facilities ensures compliance with water resources goals and regulatory requirements, enhances public health and safety, and preserves quality of life for Glendale residents.

**Budget and Financial Impacts**

Funding is available in the Water Services Capital Improvement Plan FY2015-16 budget for \$150,000. In addition, this action authorizes the transfer and use of the Water Services Contingency Budget in the amount of \$1,081,184.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$1,231,184</b>	<b>2360-60016-551200, West Area WRF Improvements</b>

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? Yes

If yes, where will the transfer be taken from? Water Services Contingency Fund

**PROFESSIONAL SERVICES AGREEMENT**  
West Area Water Reclamation Facility Improvements  
City Project No. 141525

This Professional Services Agreement ("Agreement") is entered into and effective between CITY OF GLENDALE, an Arizona municipal corporation ("City") and Arcadis U.S., Inc., a Delaware corporation, ("Consultant") as of the \_\_\_\_\_ day of \_\_\_\_\_, 2016 ("Effective Date").

**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**, Project (the "Project");
- B. City desires to retain the professional services of Consultant to perform certain specific duties and produce the specific work as set forth in the attached **Exhibit B**, Project Scope of Work ("Scope");
- C. Consultant desires to provide City with professional services ("Services") consistent with best consulting or architectural practices and the standards set forth in this Agreement, in order to complete the Project; and
- D. City and Consultant desire to memorialize their agreement with this document.

**AGREEMENT**

The parties hereby agree as follows:

**1. Key Personnel; Other Consultants and Subcontractors.**

- 1.1 Professional Services. Consultant will provide all Services necessary to assure the Project is completed timely and efficiently consistent within 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 consultants or contractors, retained by City.
- 1.2 Project Team.
  - a. Project Manager.
    - (1) Consultant will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, complete the project and handle all aspects of the Project such that the work produced by Consultant is consistent with applicable standards as detailed in this Agreement; and
    - (2) The City must approve the designated Project Manager.
  - b. Project Team.
    - (1) The Project Manager and all other employees assigned to the Project by Consultant will comprise the "Project Team."
    - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the Project by Consultant.
  - c. Discharge, Reassign, Replacement.
    - (1) Consultant acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in **Exhibit A**.
    - (2) Consultant will not discharge, reassign, 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 Consultant, in which event the substitute must first be approved in writing by City.

- (3) Consultant 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. Subcontractors.

- (1) Consultant may engage specific technical contractors (each a "Subcontractor") to furnish certain service functions.
- (2) Consultant will remain fully responsible for Subcontractor's services.
- (3) Subcontractors must be approved by the City.
- (4) Consultant will certify by letter that all contracts with Subcontractors 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. **Consultant's Work.**

3.1 **Standard.** Consultant must perform Services in accordance with the standards of due diligence, care, and quality prevailing among consultants 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.** Consultant warrants that:

- a. Consultant and its Subconsultants or Subcontractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of Services ("Approvals"); and
- b. Neither Consultant nor any Subconsultant or Subcontractor 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 Consultant's contracting ability.
  - (2) Consultant must notify City immediately if any Approvals or Debarment changes during the Agreement's duration. The failure of the Consultant to notify City as required will constitute a material default under the Agreement.

3.3 **Compliance.** 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.

Consultant 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. Consultant will require any Sub-contractor to be bound to the same requirements as stated within this section. Consultant, and on behalf of any subcontractors, warrants compliance with this section.

3.4 **Coordination; Interaction.**

- a. For projects that the City believes requires the coordination of various professional services, Consultant will work in close consultation Project with City to proactively interact with any other professionals retained by City on the Project ("Coordinating Project Professionals").

- b. Consultant will meet to review the Project, Schedule 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, Consultant 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 Work Product.

- a. Ownership. Upon receipt of payment for Services furnished, Consultant grants to City, and will cause its Subconsultants or Subcontractors 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) Consultant 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. Consultant 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 Consultant, the City agrees to indemnify and hold Consultant harmless from any claim arising out of the Work Product.
  - (3) In such case, City will also remove any seal and title block from the Work Product.

4. **Compensation for the Project.**

- 4.1 Compensation. Consultant's compensation for the Project, including those furnished by its Subconsultants or Subcontractors will not exceed \$1,231,184.00 as specifically detailed in **Exhibit D** ("Compensation").
- 4.2 Change in Scope of Project. The Compensation may be equitably adjusted if the originally contemplated Scope as outlined in the Project is significantly modified.
  - a. Adjustments to 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 Consultant 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.
- 4.3 Allowances. An "Allowance" may be identified in **Exhibit D** only for work that is required by the Scope and the value of which cannot reasonably be quantified at the time of this Agreement.
  - a. As stated in Sec. 4.1 above, the Compensation must incorporate all Allowance amounts identified in **Exhibit D** and any unused allowance at the completion of the Project will remain with City.

- b. Consultant may not add any mark-up for work identified as an Allowance and which is to be performed by a Subconsultant.
- c. Consultant will not use any portion of an Allowance without prior written authorization from the City.
- d. Examples of Allowance items include, but are not limited to, subsurface pothole investigations, survey, geotechnical investigations, public participation, radio path studies and material testing.

4.4 Expenses. City will reimburse Consultant for certain out-of-pocket expenses necessarily incurred by Consultant in connection with this Agreement, without mark-up (the "Reimbursable Expenses"), including, but not limited to, document reproduction, materials for book preparation, postage, courier and overnight delivery costs incurred with Federal Express or similar carriers, travel and car mileage, subject to the following:

- a. Mileage, airfare, lodging and other travel expenses will be reimbursable only to the extent these would, if incurred, be reimbursed to City of Glendale personnel under its policies and procedures for business travel expense reimbursement made available to Consultant for review prior to the Agreement's execution, and which policies and procedures will be furnished to Consultant;
- b. The Reimbursable Expenses in this section are approved in advance by City in writing; and
- c. The total of all Reimbursable Expenses paid to Consultant in connection with this Agreement will not exceed the "not to exceed" amount identified for Reimbursable Services in the Compensation.

## 5. **Billings and Payment.**

### 5.1 Applications.

- a. Consultant 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 Consultant and its Subconsultants and Subcontractors; and
  - (2) Unconditional waivers and releases on final payment from all Subconsultants and Subcontractors 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.

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. Consultant will be equitably compensated for Services furnished prior to receipt of the termination notice and for reasonable costs incurred.
- b. Consultant 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 Consultant fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

- a. Consultant 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 Consultant for Services furnished, City will pay the amount due to Consultant, less City's damages, in accordance with the provision of Sec. 5.
- b. If City's direct damages exceed amounts otherwise due to Consultant, Consultant must pay the difference to City immediately upon demand; however, Consultant will not be subject to consequential damages more than \$1,000,000 or the amount of this Agreement, whichever is greater.

7. **Conflict.** Consultant 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.** For the duration of the term of this Agreement, Consultant 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 Consultant, its agent(s), representative(s), employee(s) and any subcontractors.

8.1 **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. **Professional Liability.** Consultant must maintain a Professional Liability insurance covering errors and omissions arising out of the work or services performed by Consultant, or anyone employed by Consultant, or anyone for whose acts, mistakes, errors and omissions Consultant is legally liability, with a liability insurance limit of \$1,000,000 for each claim and a \$2,000,000 annual aggregate limit.
- 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.

8.2 **Other Insurance Provisions.** The insurance policies required by the Section 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 Consultant or on its behalf and for liability arising from automobiles owned, leased, hired or borrowed on behalf of the Consultant. General liability coverage can be provided in the form of an endorsement to the Consultant's existing insurance policies, provided 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 **Consultant's insurance coverage shall be primary insurance** with respect to 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 Consultant's insurance and shall not contribute with it.
- c. Each insurance policy required by this Section shall provide that coverage shall not be canceled, except after providing notice to the City.

8.3 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 Consultant has obtained prior approval from the City stating that a non-conforming insurer is acceptable to the City.

8.4 Waiver of Subrogation. **Consultant hereby agrees to waive its rights of subrogation which any insurer may acquire** from Consultant by virtue of the payment of any loss. Consultant 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 Consultant, its employees, agent(s) and subcontractor(s).

8.5 Verification of Coverage. Within 15 days of the Effective Date of this Agreement, Consultant shall furnish the City with original certificates and amendatory endorsements, or copies of any applicable insurance language making the coverage required by this Agreement effective. 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 Consultant'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.

Consultant'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 Consultant to comply with the terms and conditions of the Agreement, including any schedule for performance or completion of the Project.

8.6 Subcontractors. Consultant shall require and shall verify that all subcontractors maintain insurance meeting all requirements of this Agreement.

8.7 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 Consultant, the Project or the insurer.

## 9. Immigration Law Compliance.

9.1 Consultant, and on behalf of any Subconsultant or 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 this section 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 Consultant, Subconsultant, or Subcontractor employee who performs work under this Agreement to ensure that the Consultant, Subconsultant or any Subcontractor is compliant with the warranty under this section.
- 9.4 City may conduct random inspections, and upon request of City, Consultant will provide copies of papers and records of Consultant demonstrating continued compliance with the warranty under this section. Consultant 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 Consultant agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Consultant and expressly accrue those obligations directly to the benefit of the City. Consultant also agrees to require any Subconsultant or 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 Consultant'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).
  - 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 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; 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.

10.2 Representatives.

- a. Consultant. Consultant's representative (the "Consultant's Representative") authorized to act on Consultant's behalf with respect to the Project, and his or her address for Notice delivery is:

George P. Maseeh, P.E.  
Arcadis U.S., Inc.  
One South Church Avenue, Suite 1120  
Tucson, Arizona 85701



- 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 Tom Kaczmarowski, P.E.  
Senior Civil Engineer  
Engineering Department  
5850 W. Glendale Avenue  
Glendale, Arizona 85301

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 the City Manager and the City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Consultant identifying the designee(s) and their respective addresses for notices.

- d. Changes. Consultant 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 Integration. This Agreement contains, except as stated below, the entire agreement between City and Consultant 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. Inconsistencies between the solicitation, any addenda attached to the solicitation, 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 **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.
- 12.4 **Amendment.** No amendment to this Agreement will be binding unless in writing and executed by the parties. Electronic signature blocks do not constitute execution for purposes of this Agreement. Any amendment may be subject to City Council approval.
- 12.5 **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.
- 12.6 **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 with applicable law.
- 12.7 **Counterparts.** 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 three years initial period. The City may, at its option and with the approval of the Consultant, extend the term of this Agreement an additional two years, renewable on an annual basis. Consultant will be notified in writing by the City of its intent to extend the Agreement period at least thirty (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 and will be a determining factor for any renewal. There are no automatic renewals of this Agreement.

**14. Dispute Resolution.** Each claim, controversy and dispute (each a "Dispute") between Consultant and City will be resolved in accordance with Exhibit E. 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	Scope of Work
Exhibit C	Schedule
Exhibit D	Compensation
Exhibit E	Dispute Resolution

(Signatures appear on the following page.)

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

City of Glendale,  
an Arizona municipal corporation

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By: Kevin R. Phelps  
Its: City Manager

ATTEST:

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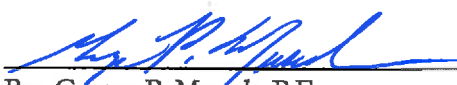
Pamela Hanna (SEAL)  
City Clerk

APPROVED AS TO FORM:

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Michael D. Bailey  
City Attorney

Arcadis U.S., Inc.,  
a Delaware corporation



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By: George P. Maseeh, P.E.  
Its: Senior Vice President

**EXHIBIT A**  
**Professional Services Agreement**

PROJECT

(Cover Page)

**EXHIBIT A**  
**Professional Services Agreement**

**WEST AREA WATER RECLAMATION FACILITY IMPROVEMENTS**  
**Phase I – Facility Evaluation and Headworks Improvements Design**  
**Project No. 141525**

**PROJECT**

**DESCRIPTION OF PROJECT:**

The City of Glendale (City) West Area Water Reclamation Facility (WAWRF) provides Class A+ effluent with a rated capacity of 11.5 million gallons per day (MGD) for reuse and aquifer recharge. The effluent is used at various lakes within the City and for recharge at the West Area Aquifer Recharge Facility (ARF) and the New River Agua Fria Underground Storage Project (NAUSP).

The City has experienced challenges with high solids loading, operational issues associated with the fine screens at the headworks, and equipment deterioration. In addition, the City is concerned with limitations of existing equipment at the facility and its ability to treat flows and loads into the WAWRF that are outside of original design conditions.

Phase I of the project includes evaluation of the plant's treatment processes and critical treatment components. The Consultant will evaluate the plant process and treatment systems and recommend improvements. The improvements will be prioritized based on criteria developed between the City and Consultant. Phase I will also include design services for WAWRF headworks improvements, which are anticipated to be implemented in advance of the remainder of the recommended improvements.

Initial award of this contract will initially include Phase I services only. Phase II includes design services for recommended improvements beyond the WAWRF headworks improvements. Phase III includes construction administration services for all recommended improvements, including the WAWRF headworks improvements. The Scope of Services for Phase II and Phase III will be finalized with the City at a later date.

The Consultant may assist City staff with materials to be presented to Council or other public involvement activities. The City will decide a project delivery mechanism at a later date. In some instances, this Exhibit and associated Attachments assume that Consultant will interface and coordinate with the City and possibly a City-selected CMAR (if applicable). The City may or may not use the services of a Construction Manager at Risk (CMAR). The services identified for interface with a CMAR (if applicable), will be reviewed accordingly with the City once a project delivery mechanism is selected by the City.

**EXHIBIT B**  
**Professional Services Agreement**

SCOPE OF WORK

(Cover Page)

**EXHIBIT B**  
**Professional Services Agreement**

**WEST AREA WATER RECLAMATION FACILITY IMPROVEMENTS**  
**Phase I – Facility Evaluation and Headworks Improvements Design**  
**Project No. 141525**

**SCOPE OF WORK**

**INTRODUCTION**

This scope of work describes the engineering services required for the City of Glendale (City) West Area Water Reclamation Facility (WAWRF) Improvements Project. The following tasks comprise the design services to be performed by Arcadis U.S., Inc. (Consultant) for the WAWRF Facility Phase I. The scope of work for each task is described below.

**Task 1: Perform Project Management**

The Consultant will perform overall project management for Phase I. The scope of services for project management relating to the Facility Evaluation are included herein (Task 1). Note: additional scope of services for project management relating to detailed design for WAWRF Headworks Improvements are included separately, under Task 5 and Attachment 1 to Exhibit B.

**1.1 Conduct Project Kickoff/Strategy Development Meeting**

An initial kickoff/strategy development meeting will be held with City staff. The goal of this meeting will be to discuss the background information, issues affecting the plant's operations and to develop a common understanding of these issues between Consultant, and City Water Services and Engineering staff. The Consultant shall perform the following services under this Task:

- a. Prepare and distribute an agenda and review material one day prior to the scheduled workshop date.
- b. Conduct a kickoff meeting (up to 4 hours) at the WAWRF site or another City facility. The workshop will be attended by City staff and Consultant project team members and will focus on the following subjects:
  - Confirmation of existing data and information
  - Confirmation of project components
  - Process modification/optimization needs
  - Short and long term equipment needs
  - Budget and schedule constraints

## 1.2 Conduct Project Progress Meetings

- a. Conduct meetings (up to 2 hours) with the City's Project Manager and other members of the City and Consultant project teams to report project progress and planned project activities. These meetings will be scheduled on a monthly basis throughout Phase I. Review sessions for each of the following will be held concurrent with the appropriate scheduled monthly progress meeting:
  - Draft facility assessments and alternatives analysis prepared in Task 2.
  - Draft Engineer's construction cost opinions prepared in Task 3.
  - Draft evaluation report(s) prepared in Task 4.
- b. Prepare agenda and brief summary minutes for each progress meeting, including action items, and distribute by electronic mail to the team members and City staff, as directed by the City's Project Manager.

## 1.3 Track Project Progress and Schedule

- a. Monitor and report the progress of the project from a budget and schedule perspective. Submit a monthly budget status report indicating expenditures versus planned budgets to the City's Project Manager in a table accompanying monthly invoices. Maintain an updated project schedule and distribute to the City project team at project progress meetings, as required.
- b. Prepare quarterly engineering cash flow projections for the project to assist the City in managing cash flow requirements for the Capital Improvements Program. The City's spreadsheet format will be utilized and submitted to the designated City contact during the first month of each quarter throughout the project.

## 1.4 Manage Subconsultants

- a. The Consultant will select and secure services of those firms providing specific or specialized design services for the Project. The Consultant will prepare the scope of services performed by each sub-consultant and monitor the sub-consultant's work for timeliness and that it meets Project requirements.
- b. The Consultant will coordinate and incorporate the Work that is prepared by the sub-consultant(s) into the Project deliverables.
- c. The Consultant will review sub-consultant's progress payments for accuracy and completeness and make payments as provided in the sub-consultant's agreement.



## 1.5 Coordinate with Other City Consultants

- a. The City may hire other consultants during this scope of services to perform work or services associated with this Project or other projects affecting the site. The Consultant will meet at appropriate times with representatives of the City and other consultants, whose work has some effect on the Project, to coordinate design efforts. Coordination with the following projects is anticipated:
  - WAWRF Odor Control Improvements Project (Wilson Engineers)
  - West Area Aquifer Recharge Facility (ARF) Recharge Capacity Evaluation Project (Clear Creek/HDR)

## **Task 2: Conduct Facility Assessments & Develop and Evaluate Alternatives**

The Consultant will review the plant's current treatment processes, identify any deficiencies and recommend improvements that will enhance and optimize the treatment processes, ensuring operational resiliency and redundancy. The Consultant will make recommendations for improvements for consideration by the City.

### 2.1 Perform Background Information and Data Review

- a. The Consultant will review existing information, which could include various reports, effluent water production data, record drawings, geotechnical reports and other relevant documents available from the City.
- b. The Consultant will review reports for background information in conducting WAWRF-related facility evaluations. Consideration of requirements for future projected flows and loads will be based on recent reports by the following (City will provide):
  - 1) Primatech
  - 2) CH2M
  - 3) DSWA
  - 4) Greeley and Hansen

### 2.2 Conduct Raw Sewage Pump Station (RSPS) Assessment

- a. The Consultant will perform a condition/performance assessment of the existing odor control system and perform an alternatives analysis for potential improvements.
- b. The Consultant will review the RSPS Evaluation prepared previously by Arcadis (August 2012), and validate recommendations prior to implementation.
- c. The Consultant will perform a condition assessment of the concrete coatings at the RSPS wet well, and provide recommendations for improvement, if necessary.
- d. The Consultant will perform a condition assessment of the Electrical equipment at the RSPS, and provide recommendations for improvement, if necessary.

- e. The Consultant will perform a condition assessment of the instrumentation and controls (I&C) and SCADA equipment (including communications redundancy), and provide recommendations for improvement, if necessary.
- f. The Consultant will perform a condition assessment of the existing pumps at the RSPS and provide recommendations for improvement, if necessary.

### 2.3 Conduct West Area Water Reclamation Facility (WAWRF) Headworks Assessment

- a. The Consultant will perform a raw sewage water quality analysis, based on existing data recorder installed at the RSPS. The Consultant will compare with the original design basis for the WAWRF, and identify any parameters of concern.
- b. The Consultant will perform a screenings and grit removal analysis. The Consultant will coordinate with the Plant staff to review documentation of solids quantities that are hauled offsite to the landfill. The Consultant will compare solids removal quantities with industry standards, and use data to perform a mass balance at the Plant. The Consultant will identify any parameters of concern.
- c. The Consultant will perform an alternatives analysis (including life cycle costs) of screenings and grit removal equipment technologies. The Consultant will review the proposed headworks equipment at Arrowhead Ranch WRF as a preferred consistency alternative in the evaluation, and validate that the equipment is suitable for the WAWRF. The Consultant will make technical recommendation for alternative headworks equipment, if the City's preferred consistency alternative is not suitable for the WAWRF. The City will provide the evaluation from the Arrowhead Ranch WRF project (Carollo Engineers) and identify specified equipment in the current design, as soon as available.

### 2.4 Conduct WAWRF Secondary Treatment Process Evaluation

- a. The Consultant will review the existing secondary treatment process at the WAWRF, and provide recommendations for process improvements.
- b. The Consultant will perform GPS-X wastewater process modeling to simulate control strategies to reduce effluent loading and address high COD, turbidity, and ammonia.
- c. The Consultant will evaluate the existing aeration system for potential upgrades and assess equipment condition (mixers, diffusers, internal mixed liquor recycle (IMLR), etc.). Fine bubble diffusers in Aeration Basins No. 1 and 2 were replaced in 2012, and will be excluded from the assessment.
- d. The Consultant will include recommendations for real-time monitoring and automation analysis [dissolved oxygen (DO), oxidation-reduction potential (ORP), air flowmeters, waste activated sludge/solids retention time (WAS/SRT), ammonia control, nitrate control] as part of the evaluation.
- e. The Consultant will evaluate the existing secondary sedimentation basins for potential process upgrades, and assess equipment condition (sludge removal equipment, drives, etc.).

## 2.5 Conduct WAWRF Filter Assessment

- a. The Consultant will perform a condition assessment of the existing filters, including anthracite mono-media and, to the extent possible, filter underdrains for uniform distribution, and provide recommendations for improvement, if necessary.
- b. The Consultant will perform sampling of the media to determine effective size and overall depth, and to determine if any wear, solids accumulation, or irregularities are observed. The consultant will provide a recommendation for improvements, if necessary.

## 2.6 Conduct WAWRF Disinfection Facilities Assessment

- a. The Consultant will perform a condition assessment of the existing UV disinfection system and provide recommendations for improvement, if necessary.
- b. The Consultant will estimate the cost to replace the existing UV disinfection system with a new low-pressure, high-output ultraviolet light (LPHO UV) disinfection system. The Consultant will compare this cost opinion for retrofit or complete replacement of the UV system to continued use of the existing UV disinfection system and post-UV sodium hypochlorite “trim.”
- c. The City will provide information to the Consultant from prior evaluations to assist in the assessment.

## 2.7 Conduct WAWRF Dewatering Assessment

- a. The Consultant will perform an alternatives analysis for conveying dewatered solids and backwash waste solids to the sewer via the Airport Lift Station (ALS).

## 2.8 Conduct Electrical Wellness Check Assessment (RSPS, WAWRF, and ARF)

- a. The Consultant will coordinate with Plant staff to identify known areas of concern with electrical equipment/systems at the RSPS, WAWRF, and ARF.
- b. The Consultant will review maintenance records, and identify equipment and systems requiring further evaluation.
- c. The Consultant will perform a condition assessment, field inspection and inventory of major electrical equipment.
- d. The Consultant will review the Emergency generator system condition and determine the adequacy/reliability of that equipment.
- e. The Consultant will perform a Switchgear assessment, and provide recommendations for improvements including previous recommendation from Keller Electric.
- f. The Consultant will confirm that variable frequency drives (VFDs) have already been replaced (except 2 in RAS bldg.) with newer Toshiba units and Ethernet connections for control. The Consultant will identify any VFDs requiring upgrades.
- g. The Consultant will review the status of power system studies and ARC Flash studies at the WAWRF-related facilities.

- h. The Consultant will review APS energy efficiency rebates program applicability for any improvements in the plant-wide evaluations.

#### 2.9 Conduct Instrumentation and Control (I&C) and Supervisory Control and Data Acquisition (SCADA) Assessment

- a. The Consultant will evaluate opportunities for additional automation and reliability, including aeration control with DO probes feedback.
- b. The Consultant will inventory and perform a condition assessment of field instruments, provide recommendations for improvements and upgrades.
- c. The Consultant will evaluate additional instrumentation including: chemical oxygen demand (COD), ammonia, nitrate/nitrite, S::CAN incorporation into Plant SCADA. The Consultant will coordinate integration with secondary treatment process control, as well as coordinate the installation of a S::CAN unit at RSPS. The Consultant will evaluate plant shutdown functionality upon alarm at the RSPS.
- d. The Consultant will make recommendations for improving SCADA trending and reporting functionality.
- e. The Consultant will develop SCADA Standards for technology components of the WAWRF, including network, hardware, software and instrumentation. The SCADA Standards will provide a framework for future implementation of standards across the City's Water Services facilities. The Consultant will also coordinate with the City's selected SCADA implementation team members (both internal City and any external Consultants).

#### 2.10 Conduct Communications Network Assessment

- a. The Consultant will evaluate the existing communications network at WAWRF-related facilities, and provide recommendations for improvement, if necessary. The Consultant will coordinate and confirm with City whether Ethernet conversion from Modbus is complete throughout WAWRF-related facilities.

#### 2.11 Conduct Physical Security Assessment

- a. The Consultant will evaluate the existing physical security at WAWRF-related facilities, and provide recommendations for improvement, if necessary.

#### 2.12 Conduct Concrete & Coatings Condition Assessment

- a. The Consultant will evaluate the existing concrete and associated coatings, where applicable, at WAWRF-related facilities and provide recommendations for improvement, if necessary.

#### 2.13 Facility Condition Assessment - Aquifer Recharge Facility (ARF)

- a. The ARF influent splitter box is limited to a hydraulic capacity of 9 MGD. The Consultant will coordinate with the findings from the HDR/Clear Creek Recharge

Capacity Evaluation Project at the ARF, to determine whether this limitation will need to be addressed in the Evaluation Report for the WAWRF Improvements Project.

#### 2.14 Conduct Painting Assessment

- a. The Consultant will review previous structural/architectural painting recommendations for improvement at the WAWRF with the City, and incorporate applicable improvements from previous design (Arcadis On-Call Assignment, Miscellaneous Improvements Project).

#### 2.15 Airport Lift Station (ALS) & Forcemain Evaluation

- a. The Consultant will perform a condition assessment of the ALS facilities, including the forcemain, and associated equipment. The Consultant will provide recommended improvements, if necessary.

#### 2.16 Arc Flash Hazard Analyses (OSHA required, with updates every 5 years)

- a. The Consultant will perform an Arc Flash Hazard analysis at the RSPS
- b. The Consultant will perform an Arc Flash Hazard analysis at the WAWRF and ARF
- c. The Consultant will perform an Arc Flash Hazard analysis at the ALS.

#### 2.17 LED Light Analysis

The Consultant will conduct a site visit with Plant staff, and perform a lighting performance/potential efficiency improvements evaluation (lumen efficiency). The Consultant will include a payback analysis (5-yr preferred) and maintain/update green plant status (update from circa 1999).

### **Task 3: Estimate Construction Costs**

#### 3.1 Prepare Conceptual Construction Cost Opinions

- a. The Consultant will prepare a conceptual construction cost opinion for potentially feasible improvements alternatives to assist in the determination of improvements for implementation. The cost opinions will include an appropriate amount of contingency that can be revised during the design process as more information becomes known.
- b. Where applicable for alternatives analysis, the Consultant will provide life cycle cost analysis based on assumptions agreed with the City.
- c. The Consultant will prepare and summarize the estimated life cycle and construction cost opinions in the evaluation reports under Task 4.

#### **Task 4: Prepare Headworks and Facility Evaluation Reports**

The proposed design recommendations will be prioritized with City input and will be cost-effective, technically feasible, reflect the capabilities and desires of the City, and take into account the City's needs with respect to regulatory compliance, schedule, funding, and safety.

The Consultant will prepare two separate evaluation reports, as follows:

- a. WAWRF Headworks Improvements Evaluation Report
- b. WAWRF and Related Facilities Improvements Evaluation Report

The separate report for the headworks will allow design in advance of the remainder of the project. The results of the remaining technical evaluations and alternatives analyses will be combined into the second evaluation report.

The Consultant will include a conceptual construction cost opinion for recommended improvements with each report. The Consultant will coordinate with the City to rank and prioritize plant improvements evaluated in the second report for design and construction and provide a summary in the report.

##### **4.1 Conduct Workshops**

The Consultant will conduct Workshops with the City to coordinate and discuss prioritization, compliance, schedule, funding and safety topics. One workshop will be dedicated to review of WAWRF headworks improvements evaluation and selection of the recommended alternative for design. One additional workshop will be dedicated to the remaining improvements.

##### **4.2 Prepare Draft WAWRF Headworks Evaluation Report**

Document the results of the development and evaluation of alternatives in Task 2.3 and cost opinions in Task 3 in a Draft Headworks Evaluation Report. Submit up to five bound copies and one pdf file of the draft report to the City for review.

##### **4.3 Prepare Final WAWRF Headworks Evaluation Report**

Revise the Draft WAWRF Headworks Evaluation Report, facility assessment, and construction cost estimate based on comments received from City staff, and append the final facility assessment and cost opinion to the Final WAWRF Headworks Evaluation Report. Submit up to 10 bound copies and one pdf file of the Final WAWRF Headworks Evaluation Report to the City.

#### 4.4 Prepare Draft WAWRF and Related Facilities Improvements Evaluation Report

Document the results of the development and evaluation of alternatives in Task 2 and cost opinions in Task 3 in a draft report. Submit up to five bound copies and one pdf file of the draft report to the City for review.

The draft report will include likelihood of failure weighting and consequence of failure weighting for asset condition assessment performed. The draft report will also include the recommended improvements with estimated costs and timelines for the assets assessed: assets with immediate attention, moderate attention and minimal attention.

#### 4.5 Prepare Final WAWRF and Related Facilities Improvements Evaluation Report

Revise the draft report, facility assessments, and construction cost opinion based on comments received from City staff, and append the final facility assessments and cost opinions to the final report. Submit up to 10 bound copies and one pdf file of the final report.

### **Task 5: Design WAWRF Headworks Improvements**

#### 5.1 Design WAWRF Headworks Improvements

- a. The Consultant will conduct an assessment for this element (under Subtask 2.3 above) and proceed directly to design.
- b. The detailed scope of work for design is included as Attachment 1 to Exhibit B.
- c. The scope of work and associated budget estimate are based on the following assumptions:
  - 1) Design scope includes all associated engineering disciplines required for replacement of the existing fine screens and screw conveyor with new fine screens and compatible washer compactor/conveyor.
  - 2) Design scope does not include replacement of grit removal equipment.
  - 3) Design scope does not include major structural work and/or channel modifications.

**ATTACHMENT 1 TO EXHIBIT B**  
**Professional Services Agreement**

**WEST AREA WATER RECLAMATION FACILITY IMPROVEMENTS**  
**Phase I – Facility Evaluation and Headworks Improvements Design**  
**Project No. 141525**

**Task 5: Design WAWRF Headworks Improvements**

**DETAILED SCOPE OF WORK**

**INTRODUCTION**

This Scope of Work describes the engineering services required for design of the City of Glendale (City) West Area Water Reclamation Facility (WAWRF) Headworks Improvements. The primary goal is to improve screenings removal facilities at the 11.5 MGD WAWRF. Improved screenings removal will allow the City to reduce operations and maintenance activities associated with nuisance solids and debris collection at the Aeration Tanks and Return Activated Sludge (RAS) Pump Station.

The following subtasks comprise the design services to be performed by Arcadis (Consultant) for the headworks improvements only. It is anticipated that additional improvements will be recommended as a result of Phase I evaluations, and that additional WAWRF Improvements design services will be included in a subsequent Phase II Scope of Work.

Task 5 services shall be provided in accordance with the assumed schedule listed below. Subtasks will run concurrently, as completion times are all shown in weeks after Task 5 Notice-to-Proceed. Task 5 Notice-to-Proceed is assumed to be given during the Phase I completion schedule (listed in Exhibit C), after the assessment and evaluation reports for the Headworks component are completed.

<b>Subtasks</b>	<b>General Description</b>	<b>Assumed Completion (in weeks after Task 5 Notice-to- Proceed)</b>
1. Additional Project Management	Conduct progress meetings, tracking progress/schedule, manage subconsultants	26
2. Preparation of Contract Documents	Plans and specifications (60%, 90%, Final), surveying, geotechnical, opinion of probable construction costs and bid assistance	26
3. Regulatory Compliance	Coordinate with MCESD, coordinate with Development Services Dept., update Storm Water Pollution Prevention Plan (if applicable)	26

The Scope of Work for each subtask is described below.



### **Subtask 1: Additional Project Management**

#### 1.1 Conduct Project Progress Meetings

Conduct additional project progress meetings (4 assumed) during the headworks improvements design process, consistent with Task 1.2 of the overall Phase I Scope.

#### 1.2 Track Project Progress and Schedule

Provide extended project progress and schedule tracking and reporting during the headworks improvements design process, consistent with Task 1.3 of the overall Phase I Scope.

#### 1.3 Manage Subconsultants

Provide additional subconsultant management during the headworks improvements design process, consistent with Task 1.4 of the overall Phase I Scope.

### **Subtask 2: Preparation of Contract Documents**

#### 2.1 Surveying and Mapping

Upon confirmation that field control points from previous WAWRF projects have been preserved, the Consultant will use existing horizontal/vertical control points and site survey information.

#### 2.2 Geotechnical Investigations

The Consultant will use existing geotechnical investigations and reports to provide data required for use as basis of structural foundation designs, selection of fill materials, and for estimating soil corrosivity in areas of proposed buried metallic pipelines.

#### 2.3 Plans and Specifications

- a. Prepare plans and specifications for all recommended facilities in accordance with design criteria and facility layouts set forth in the Final WAWRF Headworks Evaluation Report to be prepared by the Consultant under Task 4.3 of the overall Phase I Scope. The scope and budget for this subtask is also based upon the following assumptions:

1. All of the work will be constructed under one general contract.
2. The total number of final design drawings will not exceed 29 drawings.

- b. Comply with the following in preparing design documents (standard specifications and details will be incorporated into the bidding documents by reference – they will not be reproduced within the bidding documents):
  1. MAG Uniform Standard Specifications and Details for Public Works Construction (current version).
  2. City of Glendale Building Codes and ordinances.
- c. Provide plans and specifications to the City for review at the following estimated progress milestones:
  1. 60% design (6 review copies)
  2. 90% design (6 review copies)
  3. Final approved design (2 sets of specifications, two sets of drawings printed on bond, and one set of original unbound Mylar drawings). The City and/or CMAR (if applicable) will be responsible for reproduction and distribution of additional copies of the bidding documents.

The City will conduct necessary Development Services Department reviews at each design milestone as part of the general review process and will be responsible for obtaining all required City building permits.

Plans will include the following disciplines:

- General: Title sheet/location map, list of drawings and general notes, symbols and abbreviations.
- Demolition: Plans, sections, for the following civil/sanitary demolitions:
  - Headworks facility (specifics to be determined based upon the evaluation phase results).
- Civil/Sanitary: Plans, sections, isometrics, and details for the following civil/sanitary modifications:
  - Headworks facility (specifics to be determined based upon the evaluation phase results).
- Instrumentation & Control (I&C): Process and instrumentation diagrams, PLC architecture diagram, equipment control panel elevations and internal layouts, control schematics, and I&C details.

*Note: This scope of work does not include preparation of instructions at the level of detail to enable the Contractor (or CMAR if applicable) or its subcontractor to perform the programming for the plant control system. It is*

*assumed that the Consultant will provide control system configuration services under a subsequent (construction-related services) Scope of Work.*

- Electrical: One-line diagrams, electrical site plan, power plans, cable and conduit schedules, panel and fixture schedules, electrical control schematics, and standard electrical details.
- Specifications: Technical specifications will be prepared in accordance with Construction Specifications Institute (CSI) 48-Division organization (MasterFormat 2014 Update). In addition, City front-end contract documents will be prepared.
- Drawings: Contract Drawings will be prepared using the City's standard title block and cover sheet. Two dimensional Drawings will be provided to the City using AutoCAD version 2014.

#### 2.4 Opinion of Probable Construction Costs and Bid Assistance:

- a. The Consultant will update the Conceptual Construction Cost Opinion provided during conceptual design. The Consultant will provide the opinion of probable construction costs to the City at the 60 and 90 percent design submittal stages. The following assumptions apply:
  1. The Consultant will provide its cost opinion with background information to the City at each design deliverable submittal and be available to explain the cost opinion to the City. Detailed information will be provided in Excel spreadsheet format.
- b. Coordinate with the City regarding its preparation of the Bid Documents for the project. Coordination items shall include:
  1. Develop bid form and final opinion of probable construction cost.
  2. Review bids and equipment price quotations.
  3. Review material quantities and unit prices developed.
  4. Field questions from bidders delivered through the City and prepare addenda as required by the City. Addenda will be submitted to the City for reproduction and distribution.

### **Subtask 3: Regulatory Compliance**

- 3.1 Coordination with Maricopa County Environmental Services Department (MCESD)
  - a. The Consultant will attend one meeting with the City and MCESD to brief MCESD staff on the WAWRF Headworks Improvements Project, present results of the design report, and advise MCESD of the City's intent to complete detailed design and submit an application to MCESD for a Certificate of Approval to Construct Water or Wastewater Treatment, Reclaimed Water or Reuse Facilities.
  - b. The Consultant will prepare application materials for obtaining a Certificate of Approval to Construct. Responses to agency review comments will be provided.
  - c. The Consultant will be responsible for submittal/review fees required by Maricopa County within the budgeted allowance. An allowance of **\$5,000.00** is assumed to pay all submittal/review fees.
- 3.2 Coordination with City of Glendale Development Services Department
  - a. The City will have lead responsibility for obtaining the Development Services Department's review and approval of the final design. The Consultant will coordinate with the City and CMAR (if applicable) by providing technical assistance to aid in obtaining approval of the final design by the Development Services Department. A copy of the 90 percent design submittal will be provided to the City for review by the Development Services Department. Review comments received from the Development Services Department will be incorporated in the Final Design Submittal.
  - b. The Consultant will meet with the City's Fire Department at the 60% and 90% design phase to review the project and discuss potential issues. Prior to submitting final design documents, the Consultant will conduct a formal review meeting with the Fire Department and submit the pre-final plans for its review and approval. The Consultant will respond to any comments and revise the drawings to incorporate Fire Department comments into the final plans and specifications.
- 3.3 Storm Water Pollution Prevention Plan (SPPP) Update (if applicable)
  - a. If applicable, the City will update the SPPP and any applicable storm water permit for the WAWRF to reflect permanent changed conditions resulting from construction of the WAWRF Headworks Improvements. The Consultant will assist the City by providing technical information from the facility design to City staff, as required, to support the City's update/revision of the SPPP.

**EXHIBIT C**  
**Professional Services Agreement**

**SCHEDULE**

(Cover Page)

**EXHIBIT C**  
**Professional Services Agreement**

**WEST AREA WATER RECLAMATION FACILITY IMPROVEMENTS**  
**Phase I – Facility Evaluation and Headworks Improvements Design**  
**Project No. 141525**

**SCHEDULE**

Engineering services under Phase I shall be provided in five major tasks in accordance with the approximate schedule listed below. Tasks will run concurrently, as completion times are all shown in weeks after Phase I Notice-to-Proceed. Subtasks for conducting WAWRF Headworks assessment and preparing WAWRF Headworks Evaluation Reports are shown with earlier completion times on the schedule.

Phase I Tasks	Approximate Completion <i>(in weeks after Phase I Notice-to-Proceed)</i>
1. Perform Project Management (schedule includes PM during design )	26
2. Conduct Facility Assessments & Develop and Evaluate Alternatives	20
2.3 Conduct West Area Water Reclamation Facility (WAWRF) Headworks Assessment	8
3. Estimate Construction Costs	22
4. Prepare Headworks and Facility Evaluation Reports	26
4.2 Prepare Draft WAWRF Headworks Evaluation Report	11
4.3 Prepare Final WAWRF Headworks Evaluation Report	14
5. Design WAWRF Headworks Improvements	26

**EXHIBIT D**  
**Professional Services Agreement**

**COMPENSATION**

**METHOD AND AMOUNT OF COMPENSATION**

Compensation shall be hourly rates plus allowable reimbursable expenses as set forth in Section 4 of the Agreement.

**NOT-TO-EXCEED AMOUNT**

The total amount of compensation paid to Consultant for full completion of all work required by the Project during the entire term of the Project must not exceed \$1,231,184.

**DETAILED PROJECT COMPENSATION**

See attached.

**EXHIBIT D**  
**Professional Services Agreement**

**WEST AREA WATER RECLAMATION FACILITY IMPROVEMENTS**  
**Phase I – Facility Evaluation and Headworks Improvements Design**  
**Project No. 141525**

**COMPENSATION**

**METHOD AND AMOUNT OF COMPENSATION**

Compensation shall be hourly rates plus allowable reimbursable expenses as set forth in Section 4 of the Agreement.

**NOT-TO-EXCEED AMOUNT**

The total amount of compensation paid to Arcadis U.S., Inc., for full completion of all Work during the entire term of Phase I of the Project must not exceed \$1,231,184.

**DETAILED PROJECT COMPENSATION**

<b>West Area Water Reclamation Facility Improvements Phase I – Facility Evaluation and Headworks Improvements Design Fee Schedule</b>	
TASK	COST
Task 1 - Perform Project Management	\$ 67,156
Task 2 - Conduct Facility Assessments & Develop and Evaluate Alternatives	\$ 548,069
Task 3 - Estimate Construction Costs	\$ 24,846
Task 4 - Prepare Headworks and Facility Evaluation Reports	\$ 109,254
Task 5 - Design WAWRF Headworks Improvements	\$ 281,859
<b>Subtotal Tasks 1 through 5</b>	<b>\$ 1,031,184</b>
<b>Owner's Contingency Allowance (per PSA Paragraph 4.3)</b>	<b>\$ 200,000</b>
<b>TOTAL PROJECT COST:</b>	<b>\$ 1,231,184</b>



**EXHIBIT E**  
**Professional Services Agreement**

DISPUTE RESOLUTION

**1. Disputes.**

- 1.1 Commitment. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.
- 1.2 Application. 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 Initiation. 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 Informal Resolution. 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 Rules. 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 five 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 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within 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 Hearing. 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 Award. 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 Final Decision. 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 Costs. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party will 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, Consultant 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 Consultant in accordance with this Agreement.

4. **Exceptions.**

- 4.1 Third Party Claims. City and Consultant 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 Consultant.
- 4.2 Liens. City or Consultant 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 Governmental Actions. 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

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**File #: 16-212, Version: 1**

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**AUTHORIZATION TO NAME THE MURPHY PARK AMPHITHEATER THE “E. LOWELL ROGERS AMPHITHEATRE”**

Staff Contact: Erik Strunk, Director, Community Services

**Purpose and Recommended Action**

This is a request for the City Council to authorize the naming of the amphitheater located at Glendale City Hall in honor of long-time resident and the first community band director E. Lowell Rogers, as per the Parks, Recreation and Neighborhood Services Division “Plaque and Amenity Naming Guidelines” (“Guidelines”).

**Background**

The placement of plaques or naming of a park amenity after a person of community prominence is an appropriate method by which to honor individuals who have contributed to the betterment of Glendale and/or are of historical significance to the City. As such, in September 2013, the Glendale Parks and Recreation Advisory Commission adopted the Guidelines and an application process to assist should requests of this nature be received.

As defined, an “amenity” is an improvement located in a City park or facility. For illustrative purposes, an amenity may include the following: plazas that constitute a portion of a larger city park or facility; ramadas; paths, athletic facilities that are not enclosed structures or stand-alone City buildings; picnic areas; tot lots; play structures; hard courts; and trail segments. The recent naming of the Enrique Banda, Sr. Field at Rose Lane Park in April 2016 is an example of this.

In April 2016, an application to rename the city hall amphitheater in honor of E. Lowell Rogers, was received and reviewed by the Parks and Recreation Advisory Commission. At its April 11, 2016 regular meeting, the Commission unanimously voted to recommend the request to City Council for formal consideration. This is therefore a request for City Council to take formal action to rename the city hall amphitheater the “E. Lowell Rogers Amphitheatre”.

**Analysis**

E. Lowell Rogers was a music teacher for over 30 years in the Glendale Elementary School District. He authored two books on music education, “Are You Open on Saturday and Sunday”, and “It’s In the Box”, which were used for teaching music in Glendale. In 1974, he was named as an “Outstanding Educator in America” by Who’s Who in American Education and was a recipient of the Glendale’s “Pied Piper” Award for contributing to the enrichment of children. E. Lowell Rogers also conducted the Summer Band for 22 years. E. Lowell Rogers passed away August 23, 2004 at the age of 75.

The Rogers Family has been involved in the process from the beginning and approve of the method in which E. Lowell Rogers will be recognized. In naming the amphitheater, the author of the nomination purposes to spell out "E. Lowell Rogers Amphitheatre" in two rows above the amphitheater. It is the intent of the applicant to have the new signage installed as a part of the celebration of the 50<sup>th</sup> Anniversary of the Glendale Summer Band later this summer. This request is now being forwarded to the City Council for final review and consideration.

### **Community Benefit/Public Involvement**

The approval of this request provides the opportunity to recognize a Glendale citizen and educator who was not only instrumental in establishing the summer band program at the Murphy Park Amphitheater, but also influential in developing young musical minds in Glendale and the West Valley. His dedication to developing musical minds resulted in several accolades, including "Outstanding Educator in America" and Glendale's "Pied Piper" Award. The item was discussed at the Parks and Recreation Commission on April 11, 2016, and was approved unanimously.

### **Budget and Financial Impacts**

There is no new budget or financial impact with this request. Based on the Guidelines, an agreement will be entered into at the departmental level to include applicant responsibilities related to the request, including but not limited to installation costs, ongoing maintenance, repair/replacement, and regular volunteer service days at the facility. The applicant has been informed of these requirements and agreed to enter into an agreement with the department to meet these obligations.



City of Glendale  
 Parks, Recreation and Library Services Department  
 5970 W. Brown Street  
 Glendale, AZ 85301  
 623-930-2820

**Application for Parks Recognition Plaque Installation and Amenity Naming**

(Only type-written applications will be processed)

Thank you for your interest in the possible placement of a plaque or naming of a park amenity after a person of community prominence at a Glendale City park or facility. Please complete this application and your request will be reviewed as appropriate. Incomplete applications will not be accepted.

**General Information:**

Name of individual/group requesting: Members of the City of Glendale Summer Band

Contact person's first name: [REDACTED] Last name: [REDACTED]

Address: [REDACTED] City: [REDACTED] State: AZ

Email: [REDACTED] Phone Number: [REDACTED]

**Nominee for Recognition**

Please describe, in detail, how your nominee either: a) enhanced the quality of life and well-being of city residents; b) made significant contributions to the City's history or culture; c) made exemplary or meritorious contributions to the City or its residents; or d) contributed to the acquisition, development, or conveyance of park or recreational land, buildings, structures, or other such amenities to the City or community. Please feel free to add additional pages (not to exceed two-type written pages) and be sure to describe how this nomination complies with the parks amenity and recognition plaque guidelines.

Nominee's Name: E. Lowell Rogers Glendale Residency Period: 50yrs

*Narrative:*  
 E. Lowell Rogers  
 Musician, Educator and Founder of the City of Glendale Summer Band  
 Born in Dayton, Ohio, June 29, 1929  
 Died in Glendale, Arizona, August 23, 2004

E. Lowell Rogers spent nearly 50 years of his life in Glendale. He was a percussionist, musician, teacher, conductor, composer, author and leading figure in children's music education for Glendale and the state. Born in Dayton, Ohio, Lowell received a bachelor of science degree in education from Bowling Green State University and master's degree in music education from the University of Arizona. He taught music education in Ohio and Colorado before finding a home in Glendale in 1956. Lowell was a music educator for over thirty years with the Glendale Elementary School District, finishing his career as the district's music supervisor. The list of bands he played in, concerts he

*Narrative – cont'd:*

conducted, plays he directed, ceremonies he hosted, awards he received, stories and jokes he told, began in his childhood and grew throughout his life. He authored two books on music education, "Are You Open on Saturday and Sunday," and "It's In the Box," used as the method for teaching elementary music in Glendale. He also composed several elementary band and vocal selections and wrote and conducted several children's musicals. In 1974, he was named as an "Outstanding Educator in America" by Who's Who in American Education, was a recipient of Glendale's "Pied Piper" Award for contributing to the enrichment of children and voted the "Funniest Person in the Northwest Valley."

His love of Glendale and his involvement in community was tireless; from past President of Rotary Club and a Paul Harris Fellow to the Glendale Arts Commission. But probably his most lasting contribution to Glendale will be the City of Glendale Summer Band. In partnership with Lee Stanley, the band was started in 1966. First plying in a grocery store parking lot, the band then moved to a portable stage, then a shuffle board court, and then to a basketball court at O'Neil Park. When the new city municipal complex was constructed, architect Bob Sexon (a member of the band) "connected" the two parts of the complex with a stage and amphitheater, the new "home" of the band. Lowell directed the band for twenty-two years and, as a tribute to his vision, it continues to this day. His spirit, love of music, and humor, made an indelible impact on music education, music educators, music appreciation, and all things music for many generations in Glendale.

I have read the "Parks Amenity and Recognition Policy" and agree to all of its specified terms. I further have the authority to enter into an agreement with the City of Glendale Parks, Recreation and Library Services department on behalf of the group/organization making the application. If so, please check here and sign.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Narrative – cont'd:

I have read the "Parks Amenity and Recognition Policy" and agree to all of its specified terms. I further have the authority to enter into an agreement with the City of Glendale Parks, Recreation and Library Services department on behalf of the group/organization making the application. If so, please check here and sign.

[Redacted Signature]

Signature

4/7/16  
Date

# CITY OF GLENDALE

<b>Parks Recreation and Library Services Department</b>	<b>No. 9.4</b>
	<b>Date Issued: 09/13/13</b>
<b>PARKS AMENITY AND RECOGNITION PLAQUES</b>	<b>Revised:</b>

## **I. PURPOSE**

The placement of plaques or naming of a park amenity after a person of community prominence is an appropriate method by which to honor individuals who have contributed to the betterment of Glendale and/or are of historical significance to the City.

The purpose of this is to provide the Parks, Recreation and Library Services Department with formal guidelines to evaluate and make recommendations to the appropriate board or commission, when requests to name a park amenity and/or install a plaque of recognition are received for consideration.

As defined, an “amenity” is an improvement located in a City park or facility. For illustrative purposes, an amenity may include the following: plazas that constitute a portion of a larger city park or facility; ramadas; paths, athletic facilities that are not enclosed structures or stand-alone City buildings; picnic areas; tot lots; play structures; hard courts; and trail segments.

A fully enclosed structure such as a City building with walls and roof (examples being community center, stand-alone gym, a warehouse, or stand-alone building housing a restroom and locker room) is more substantial than an “amenity” and would not be eligible.

## **II. GUIDELINES**

Outside of the department’s “Dedicate a Tree” program, areas within a City park or recreation facility may be named in honor of a deserving or outstanding individual, group, or organization. In selecting such individuals, groups, or organizations, the following guidelines shall be followed:

1. Memorials, plaques or tributes should benefit the general public as a first priority with the benefit to the donor or honoree as a secondary goal.
2. The memorial, plaque or tribute shall not detract from the visitor’s experience or expectation, nor shall it impair the visual qualities of the site or be perceived as creating a proprietary interest.
3. An agreement will be consummated at the department-level to include responsibilities related to the memorial or plaque including but not limited to:
  - a. Installation costs including on-going upkeep. Installation costs will be non-refundable.
  - b. Replacement or repair costs. These shall be borne by the applicant.
  - c. The applicant shall enroll and be an active member of the Partners N’ Parks program. Under this program, the applicant will coordinate quarterly volunteer service days at the appropriate facility.




4. All memorial and plaque requests must be in writing and shall be referred to the Director of Parks, Recreation and Library Services and/or his/her designee. An application will be made available to the applicant.
5. The Director or his/her designee is responsible for evaluation of requests and the provision of a recommendation to the Commission as to whether the proposal should be accepted or rejected.
6. The Department reserves the right to terminate any contractual relationship should conditions arise during the life of the agreement that results in a conflict with this policy or if the agreement is no longer in the best interests of the Department. Decisions to terminate an agreement shall be made by the Director. Circumstances include, but may not be limited to the following:
  - a. The sponsor seeks to impose conditions that are inconsistent with the Department's mission, values, policies, and/or planning documents.
  - b. A conflict of interest or policy arises during the agreement period.
  - c. The potential sponsor is in litigation with the City of Glendale.
7. Nothing in these guidelines shall prevent the ability of the City to deny and/or relocate any installed memorial(s) in the event of park redevelopment and/or other policy decisions of the City. Should this occur, every effort will be made to work with the impacted memorial sponsor to identify an appropriate alternate site. If no such suitable site can be identified, the director shall have the discretion to permanently remove the memorial.

### III. EVALUTION CRITERIA

A formal application for the placement of plaques or naming of a park amenity after a person of community prominence shall be established by the department. The criteria that will be used to evaluate the approval/denial of such requests will be as follows:

1. General Criteria. Names of persons, groups, or organizations having a longstanding affiliation with the City of not less than ten (10) or more years of significant community service, involvement, or contributions beyond the ordinary interest level whose efforts have:
  - a. Enhanced the quality of life and well-being of City residents;
  - b. Made significant contributions to the City's history or culture;
  - c. Made exemplary or meritorious contributions to the City or its residents;
  - d. Contributed to the acquisition, development, or conveyance of park or recreational land, buildings, structures, or other such amenities to the City or community.
2. Deceased Persons. To be considered for a placement of plaques or naming of a park amenity, an individual must have been deceased for at least five (5) years. Such individuals may include:
  - a. Historic persons.
  - b. National and/or local heroes. Those who have given outstanding service to mankind or who have worked over and above any ordinary interest level. A resident of Glendale, who has attained local, state, or national recognition for parks and recreation work or work in the areas of public safety or public health, as appropriate to the facility, would be highly acceptable.

Authorized by: \_\_\_\_\_



Parks, Recreation and Library Services Director

Date: 09/13/13

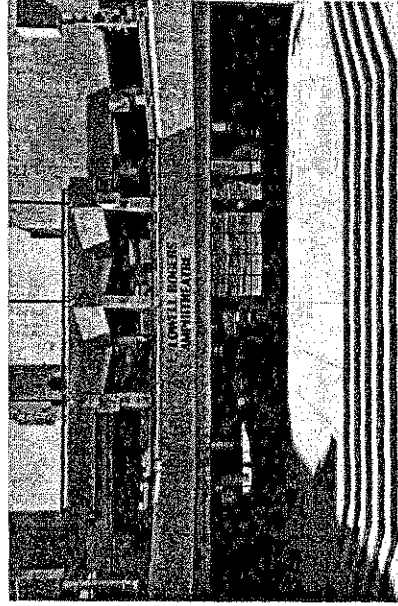
15'-10" (190")

# E. LOWELL ROGERS AMPHITHEATRE

3'-0" (36")  
1'-3" (15")  
1'-3" (15")

Manufacture and Install One(1) Set of Flat Cutout Letters  
47.50 Sq. Ft.  
Scale: 3/4" = 1'-0"

- Sign Type:
- Material: 1/4" Aluminum Routed Letters Painted Duranodic Bronze
- Installation: with Studs Flush to the Building Fascia



Scale: 1/16" = 1'-0"

All Signs Shall Be Installed in Accordance With N.E.C. Article 600  
Electrical Specifications  
All Signs Fabricated as per  
A.S.E. Specifications & 7012 I.A.C.

**BOOTZ & DUKE Signs**  
4028 W. WHITTON AVE. - PHOENIX, AZ - 85019  
P: (602) 272-9356 F: (602) 272-4608  
www.bootzandduke.com

Customer: Glendale Murphy Park Amphitheater  
Address: 6850 West Glendale Avenue - Glendale, AZ  
Salesman: James Rogers  
Designer: Kenney Visser

Order # 160722-01  
Date: April 4, 2016  
Revision: 10 - Date  
Page: 1 of 1

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NOTE: ALL SIGNS FABRICATED BY BOOTZ AND DUKE SIGNS ARE ISO 9001 CERTIFIED. ALL OTHER REQUIREMENTS MUST BE IN WRITING.



## Legislation Description

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**File #:** 16-199, **Version:** 1

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### **AUTHORIZATION TO RATIFY EXPENDITURES FOR LIBRARY MEDIA SERVICES WITH MIDWEST TAPE, LLC**

Staff Contact: Erik Strunk, Director, Community Services

#### **Purpose and Recommended Action**

This is a request for City Council to ratify expenditures with Midwest Tape, LLC, for the time period between April 23, 2015 and June 30, 2015 in the amount of \$26,020.50.

#### **Background**

In December 2014, the Glendale Public Library released a Request for Proposals ("RFP") to provide non-print, media and digital resources for library patrons and to garner the highest possible discounts to the City. Annually, the library purchases approximately 60,000 items for its patrons and is constant need of reliable vendors to provide the necessary resources for its patrons. For example, the library's video streaming service, Hoopla, is one of the services that provides library to download up to ten video, audiobook and music titles per month. The award of this contract (C-10072) was reviewed and approved City Council at the June 23, 2015 regular Council meeting.

In April 2015, and while waiting for the conclusion of a 2014 RFP process to enter in to a new contract with Midwest Tape, the original contract (C-8862) expired prior to the commencement of the new contract (C-10072), which started on July 1, 2015. As such, it is necessary for City Council to ratify expenditures in the amount of \$26,020.50 for services rendered to the City that occurred between April 23, 2015 and June 30, 2015.

#### **Analysis**

The new contract (C-10072) for Midwest Tape, LLC, was to have been in place prior to the termination of the prior contract for non-print, media and digital resources, however, it lapsed in April 2015. Even so, staff continued its purchase of materials to ensure continued customer service until such time the new contract took effect on July 1, 2015. Approval of this item will ratify the previous purchase of material from Midwest Tape during the two month time-frame (April 23 - June 30, 2015) under the terms of the "old" contract (C-8862).

#### **Community Benefit/Public Involvement**

By continuing the provision of services and materials, Library patrons continued to have resources in physical media and electronic formats, in any genre. They were provided with the latest documentaries and popular movies in the quickest time possible. The purchase of materials through Midwest Tape enabled the library to effectively and efficiently extend its General Fund materials budget buying power. At the April 13, 2016

Library Advisory Board meeting, this item was reviewed and approved in concept.

**Budget and Financial Impacts**

FY 14-15 budgeted funds in the amount of \$26,020.50 were expended from the "Books" line item budget. There is no additional cost to the General Fund for this. This is a request to ratify previous expenditures under the same terms and conditions as previously contracted.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$26,020.50</b>	<b>1000-15220-527400, Books</b>

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?



## Legislation Description

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**File #:** 16-200, **Version:** 1

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### **AUTHORIZATION TO RATIFY EXPENDITURES FOR LIBRARY MEDIA SERVICES WITH BAKER & TAYLOR, LLC**

Staff Contact: Erik Strunk, Director, Community Services

#### **Purpose and Recommended Action**

This is a request for City Council to ratify expenditures with Baker & Taylor, LLC, for the time period between April 23, 2015 and June 30, 2015, in the amount of \$71,732.23.

#### **Background**

In December 2014, the Glendale Public Library released a Request for Proposals ("RFP") to provide non-print, media and digital resources for library patrons and to garner the highest possible discounts to the City. Annually, the library purchases approximately 60,000 items for its patrons and the contract with Baker & Taylor is one of several that it uses. For example, the library's video streaming service, Hoopla, is one of the services that provides library to download up to ten video, audiobook and music titles per month. The award of this contract (C-10070) was reviewed and approved City Council at the June 23, 2015 regular Council meeting.

In April 2015 and while waiting for the conclusion of a 2014 RFP process to enter in to a new contract with Baker & Taylor, the original contract (C-8863) expired prior to the commencement of the new contract (C-10070), which started on July 1, 2015. As such, it is necessary for City Council to ratify expenditures in the amount of \$71,732.23 for services rendered to the City that occurred between April 23, 2015 and June 30, 2015.

#### **Analysis**

The new contract (C-10070) for Baker & Taylor, was to have been in place prior to the termination of the prior contract for non-print, media and digital resources, however, it lapsed in April 2015. Even so, staff continued its purchase of materials to ensure continued customer service until such time the new contract took effect on July 1, 2015. Approval of this item will ratify the previous purchase of material from Baker & Taylor during the two month time-frame (April 23 - June 30, 2015) under the terms of the "old" contract (C-8863).

#### **Community Benefit/Public Involvement**

By continuing the provision of services and materials, Library patrons continued to have resources in physical media and electronic formats, in any genre. The purchase of materials through Midwest Tape enabled the library to effectively and efficiently extend its General Fund materials budget buying power. At the April 13, 2016 Library Advisory Board meeting, this item was reviewed and approved in concept.

**Budget and Financial Impacts**

FY 14-15 budgeted funds in the amount of \$71,732.23 were expended from the "Books" line item budget. There is no additional cost to the General Fund for this. This is a request to ratify previous expenditures under the same terms and conditions as previously contracted.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$71,732.23</b>	<b>1000-15220-527400, Books</b>

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?



## Legislation Description

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**File #:** 16-207, **Version:** 1

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### **AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH BIBLIOTHECA, LLC FOR LIBRARY TECHNOLOGY SERVICES**

Staff Contact: Erik Strunk, Director, Community Services

#### **Purpose and Recommended Action**

This is a request for City Council to authorize the City Manager to enter into a five-year sole-source agreement that includes four one-year renewals, at the discretion of the City Manager, for a series of needed equipment purchases to further modernize the Glendale Public Library system. The contract amount is not to exceed \$140,000 the first year, \$100,000 in year two, and a total five-year amount not to exceed \$380,000.

#### **Background**

The Glendale Public Library currently utilizes many products procured from Bibliotheca (formerly 3M) such as the RFID and self-check systems. These systems have greatly improved customer service, lessened the amount of time needed to manage the circulation system, and have reduced operating costs. Approval of this agreement will allow the City to continue its efforts to update and modernize these “e-commerce technologies” for enhanced electronic and physical circulation services.

Each year, library patrons annually check-out approximately 1.6 million physical items, including 130,000 electronic items. These same patrons utilize the library’s current 10 self-check stations and account for over 53% of the library’s system-wide financial transactions (compared with 19% through the traditionally-staffed public service desks). Library patrons also currently conduct 10% of all library circulation via digital download. This agreement will allow for continued investment in self-check equipment, automated customer service bill-pay systems, electronic data-bases, and will continue to minimize the need for additional staff and still meet patron service demands.

A recent example of using e-commerce technology to further modernize the library would be a series of recommendations to review its cash handling procedures identified during a 2015 audit. Although the Library is in full compliance with existing cash-handling procedures, it has done so by utilizing existing staff, as the cost estimate to hire cashiers is considered cost-prohibitive. This has led to the inefficient use of staff.

In response, the library investigated the feasibility of migrating to an “all-in-one bill pay” electronic machine. Under this concept, library patrons would pay their cash fines and fees through Bibliotheca’s SmartServ1000 machine, eliminating the need to have staff work as dedicated “cashiers.” Major retailers such as Wal-Mart, Fry’s, Safeway and many more have self-check all-in-one bill pay machines already. Westgate’s AMC Theater ticket purchasing has gone 100% automated. Library patrons will continue to have the ability to pay fines with debit and credit cards.

**Analysis**

It is estimated the purchase and implementation of the new SmartServe1000 equipment will alleviate staff time and allow them to focus on providing reference, increase library programming and community engagement activities. Approval of this agreement will allow the library to re-purpose staff currently required to operate the existing cashier machines, which will result in an instant elevation of customer service and better ability to focus on the core library service of promoting literacy. There will also be potential ancillary savings such as \$2,200 in reduced armored car service and the elimination of cash register maintenance fees.

As a part of this long-term agreement, the library analyzed its five-year circulation and self-equipment needs and has identified the following additional equipment purchases that will be needed to ensure enhanced customer service technology and ongoing operation and maintenance expenses:

<b>Equipment &amp; Services</b>	<b>FY 15-16</b>	<b>FY 16-17</b>	<b>FY 17-18</b>	<b>FY 18-19</b>	<b>FY 19-20</b>
SmartServ 1000 All-in-One Bill Pay	\$110,000				
Western Area Branch (self-check, gates, etc)		90,000			
Replace existing self-checks (7)			\$50,000	\$50,000	
Software upgrade for pin & chip tech	\$25,000				
Service Agreements	\$5,000		\$6,000		
Security gate replacements		10,000	10,000	10,000	
Book drop check-in chutes					\$4,000
Miscellaneous equipment needs					10,000
<b>Annual Expenditure Estimates</b>	<b>\$140,000</b>	<b>\$100,000</b>	<b>\$66,000</b>	<b>\$60,000</b>	<b>\$14,000</b>
<b>Five Year Total Expenditures of Contract</b>					<b>\$380,000</b>

Funds for the purchase of the new electronic library bill-pay machine are available in the current year, while funding for future e-commerce enhancements will be available through the annual City budget process.

**Community Benefit/Public Involvement**

With the purchase of the new SmartServ 1000 and its all-in-one bill pay kiosk, all payment methods can occur via cash, coins, cards, and e-commerce and will no longer require library staff to handle cash. This will result in staff time that can be re-directed to providing additional programming services to library patrons and reduce patron wait times at the public service desks. This item was reviewed the April 13, 2016 Library Advisory Board meeting and approved in concept during the Chief Librarian’s update.

**Budget and Financial Impacts**

Funds for this purchase are in the Library’s operating budget, as well as the use of available salary savings within the department. Additional funding is being made available through the Community Services Self Sustaining Fund balance. Subsequent e-commerce enhancements over the life of this agreement will be funded through the City budget process.



<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$140,000</b>	<b>1000-15220-527650, Library Electronic Patron Resources</b>

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

**AGREEMENT FOR  
LIBRARY TECHNOLOGY PROCUREMENT & SERVICES**

This Agreement for Library Technology Procurement & Services ("Agreement") is effective and entered into between CITY OF GLENDALE, an Arizona municipal corporation ("City"), and Bibliotheca, LLC, a Georgia limited liability company, authorized to do business in Arizona, (the "Contractor"), as of the \_\_\_\_ day of \_\_\_\_\_, 20 .

**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** (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 Services. 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 Project.
    - (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. 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.
- (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 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 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 Compliance. 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.

Contractor must not discriminate against any employee or applicant for employment on the basis of 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.

3.4 Coordination; Interaction.

- 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 Work Product.

- 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 Compensation. Contractor's compensation for the Project, including those furnished by its Sub-contractors will not exceed \$380,00 over the life of the contract, as specifically detailed in **Exhibit B** (the "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.
  - 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.
  - 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 Applications.

- 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.

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.

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 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.

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, 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 Requirements. 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-contractors 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 Sub-contractor 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 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 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:
    - (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 Representatives.

- 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:

Bibliotheca, LLC  
c/o Joseph Al Coalla  
3169 Holcomb Bridge Rd. NW #200  
Norcross, GA 30071

- 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 Michael Beck  
5959 W. Brown St.  
Glendale, Arizona 85301  
623-930-3546

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 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 addendums and the response submitted by the Contractor are incorporated into this Agreement as if attached hereto. Inconsistencies between the 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 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.

12.4 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. Electronic signature blocks do not constitute execution.

12.5 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.

12.6 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 deemed reformed to conform to applicable law.

12.7 Counterparts. 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 one (1)-year initial period. 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. Contractor will be notified in writing by the City of its intent to extend the Agreement period at least thirty (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 and any such price adjustment will be a determining factor for any renewal. 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

(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: Kevin Phelps  
Its: City Manager

ATTEST:

\_\_\_\_\_  
City Clerk (SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

Bibliotheca, LLC  
a Georgia limited liability company

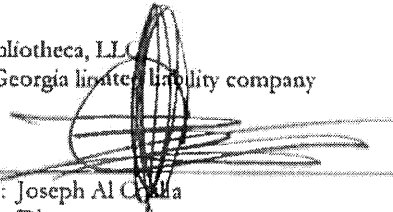
  
\_\_\_\_\_  
By: Joseph Al Cella  
Its: Director

EXHIBIT A  
LIBRARY TECHNOLOGY PROCUREMENT & SERVICES  
PROJECT

*[See attached]*

# Project

1. **Contractor shall provide library technology.**
  - 1.1. Contractor will provide technology.
    - 1.1.1. The Contractor shall provide any applicable technology for use in a public library setting. This includes, but is not limited to, self-checks, RFID systems, security systems, circulation technology and the like.
  - 1.2. Delivery of hardware
    - 1.2.1. Delivery of hardware shall be delivered to Glendale Public Library, 5959 W. Brown St. Glendale, AZ 85302-1248, unless other arrangements have been previously been made.
    - 1.2.2. Contractor will ship all items to the inside of the library free of any pallets.
2. **Contractor shall provide library technological services.**
  - 2.1. Contractor shall provide library technological services
    - 2.1.1. Contractor shall provide library technological services as related to purchased hardware.
    - 2.1.2. Contractor shall provide training and support on any software and/or hardware purchased.
3. **Contractor shall provide support.**
  - 3.1. Technical support available M–F 8:00 a.m. to 5:00 p.m. MST by phone (toll-free number), website and/or email.
  - 3.2. A guaranteed response time of 24 hours for all correspondence to tech support.
  - 3.3. Contractor shall provide timely notification of any upgrades or new releases to their technology and/or software and provide assistance in their implementation if purchased.
  - 3.4. Library shall have a designated staff member assigned to us.
  - 3.5. Product(s) will have an administrator module.
4. **Contractor shall ensure ADA accessibility.**
  - 5.3 Contractor complies with ADA standards for accessibility.

**EXHIBIT B**  
**LIBRARY TECHNOLOGY PROCUREMENT & SERVICES**  
**COMPENSATION**

**METHOD AND AMOUNT OF COMPENSATION**

The City will pay to Contractor for goods and services provided as and when invoiced by the Contractor in accordance with the pricing and fee schedules in the attached written quotes.

**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 \$380,000.

**DETAILED PROJECT COMPENSATION**

9 existing self-check software upgrades to Windows 7 from Windows XP in the amount of \$1,299 each for a total of \$11,691.

9 existing self-check monitor upgrades to a 19" monitor in the amount of \$800 each for a total of \$7,200.

Installation charge for items listed above in the amount of \$3,495.

5 new self-check for the Glendale Library System (that allows cash payments), including: license, installation, shipping, and software, in the amount of \$107,750.

Upgrades to 2 existing automated check in systems from Windows XP to Windows 7, including: license, installation and shipping, in the amount of \$4,326.

Yearly estimates and do not exceed amounts are listed below.

Equipment & Services	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20
SmartServ 1000 All-in-One Bill Pay	\$110,000				
Western Area Branch (self-check, gates, etc.)		\$90,000			
Replace existing self-checks (7)			\$50,000	\$50,000	
Software upgrade for pin & chip tech	\$25,000				
Service Agreements	\$5,000		\$6,000		
Security gate replacements		\$10,000	\$10,000	\$10,000	
Book drop check-in chutes					\$4,000
Miscellaneous equipment needs					\$10,000
Annual Do Not Exceed Amounts	\$140,000	\$100,000	\$66,000	\$60,000	\$14,000

**EXHIBIT C**  
**LIBRARY TECHNOLOGY PROCUREMENT & SERVICES**  
**DISPUTE RESOLUTION**

**1. Disputes.**

- 1.1 Commitment. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.
- 1.2 Application. 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 Initiation. 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 Informal Resolution. 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 Rules. 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 Discovery. 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 Hearing. 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 Award. 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 Final Decision. 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 Costs. 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 Third Party Claims. 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 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 Governmental Actions. 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.





**Materials Management**  
**Sole Source and Special Procurement Request**

**REQUESTOR INFORMATION:**

Requestor: Tami Miller	Date: 1/8/16	Department: 15220-Library
Phone Number: (623) 930-3587	Email Address: tmiller2@glendaleaz.com	

**PROPOSED VENDOR INFORMATION:**

Proposed Vendor: <b>Bibliotheca (Parent company is 3M)</b>	Proposed Vendor Contact: Shawn Brumley, but changing to Mason Humphrey
Proposed Vendor Address: 3M Center, 235-3A-09	
City, State and Zip Code: St. Paul, MN 55144-1000	
Vendor Phone: (940) 367-9738	Vendor Fax: (651) 732-7563
Procurement method requested:	<input type="checkbox"/> Sole Source <input checked="" type="checkbox"/> <b>Special Procurement</b>

**PURCHASE INFORMATION:**

Total Cost of this Order: <b>\$22,386</b>	One time purchase: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Federal Money: Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, explain funding source:
Fund #: 1000 / Department #: 15220 / Account #: 527800	
Description of the product or service requested: The current purchase includes <b>necessary software and hardware to upgrade existing self-check machines to Windows 7</b> which is a requirement for the new credit card readers. Future purchases include items that were listed as part of IT's budget allocation for next fiscal year and a possible West branch in the next 3 to 4 years. I will obtain updated quotes at that time if/when we move forward with the project(s) and amend the contract if necessary.	

In accordance with Finance Administrative Policy No. 12, I have conducted a good faith review of available sources and determine that there is only one known and/or one practical source for the required items in accordance with the Guidelines for Justification attached.

**REQUESTOR CERTIFICATION:**

Requestor Tami Miller                      Division Library-15520                      Date 1/15/16

**DEPARTMENT DIRECTOR APPROVAL:**

Director *[Signature]*                      Division *Community Relations*                      Date *1.26.16*

**MATERIALS MANAGEMENT APPROVAL:**

In accordance with Finance Administrative Policy No. 12, I have conducted a good faith review of this request and agree that there is only one known and/or one practical source for the required items in accordance with the Guidelines for Justification attached.

Materials Manager *Vita T. Pico*                      Date *2/3/16*  
 Materials Management requires reevaluation and resubmission of a Sole Source Request for this procurement:

Single Use Only:                                            Annually:                        
 End of first term of Contract:                                            End of Contract, including any extensions:

*CONTRACT WILL BE REQUIRED*



**Materials Management**  
**Sole Source and Special Procurement Request**

Check the reason(s) below to identify why you have determined the purchase is a Sole Source or Special Procurement and attach supporting documentation. Use only column. A purchase cannot be BOTH a sole source and a special procurement

SOLE SOURCE	SPECIAL PROCURMENT
<input type="checkbox"/> Compatibility. Indicate system, make, model and function <input type="checkbox"/> Unique repair/replacement item. Identify item to be used with previous PO number item purchased, and warranty period <input type="checkbox"/> Supplementary or necessary part required from same manufacturer. Identify in-house equipment and use with existing system <input type="checkbox"/> Unique Item <input type="checkbox"/> Unique Service <input type="checkbox"/> Proprietary Specifications (Copyright, patented, etc.) <input type="checkbox"/> Other reasons, if not above. Explain in detail	<input checked="" type="checkbox"/> Presents such limited competition that a competitive bid or proposal process cannot reasonably be used <input type="checkbox"/> Discourages the use of a competitive bid or proposal as it will result in a substantially higher cost to the city, or will otherwise impair the city's financial interests <input checked="" type="checkbox"/> Substantially impede the city's administrative functions or the delivery of services to the public <input checked="" type="checkbox"/> Does not qualify as a sole source or emergency <input type="checkbox"/> Has only one provider with the experience and capability to successfully perform the contract <input checked="" type="checkbox"/> Presents a significant time constraint as the need was not known in sufficient time to allow for competitive procurement and time is of the essence <input type="checkbox"/> Other reasons, if not above. Explain in detail

**JUSTIFICATION:**

Use the Guidelines for Justification of the selected reason(s) above, and provide a full explanation of your reason that the product/service is a sole source or special procurement:

Our self-checks were purchased under contract #C-8052 in 2012. This contract is no longer valid and our machines must have a necessary upgrade to Windows 7 in order to install new credit card readers in order to be compliant with the EMV chip compliance. If we do not update the machines and add these credit card readers, the readers reach end of life in June 2016 and will no longer be supported. What this means for our users is that they will no longer be able to pay fines and/or fees on our self-checks and will have to wait in long lines to see a staff member. This will increase wait times for service and user frustration immensely. This also means we would not be in compliance with the EMV chip regulations.

We also would like to have a multi-year contract in place as we foresee the necessity of purchasing future products in the next 5 years as we have items that have been pre-approved through the IT steering committee and are waiting for Council approval for next fiscal year and a possibility of a west branch in the next 3 to 4 years. As all technology must integrate not only with our ILS and PC management system, but also with its own technology. We would want to buy additional products from this company as the technology would have to work with the hardware/software we already have in place.

**MANDATORY RESEARCH DOCUMENTATION REQUIREMENT:**



*Materials Management*  
*Sole Source and Special Procurement Request*

Provide a detailed explanation of efforts made to determine the availability of the product or service from any other vendor, including other distributors: We have 3M equipment already in place and this upgrade must be performed by their technicians since they are under a service agreement. However, the purchase of the upgraded software/hardware is not covered under the agreement.

**PREPARER NOTE:** If this is a vehicle or technology purchase, concurrence of the Equipment Management Superintendent or the IT Director will be required.

We've combined

# THE BEST

of both worlds.

Bibliotheca Today's Date: 11/23/15

3M Center, 238-3A-09 Expiration Date: 02/21/16

St. Paul, MN 55144-1000

Offices: 800-328-0067 ext. 2

Fax: 800-223-5563

Quotations are good for 90 days. All dates are based on ship dates. Order must ship within the 90 day window. After 90 days, quotation expires. Contact Bibliotheca for a New Quotation.

Ship to: (Destination of Goods)	Bill to: (Agency to Invoice)
<b>Library Name</b> Glendale Public Library	<b>Name</b>
<b>Address</b> 7010 N. 58th Avenue	<b>Address</b>
<b>City, State, Zip</b> Glendale, AZ 85331	<b>City, State, Zip</b>
<b>Contact Name</b> Tami Miller	<b>Accounts Payable Contact Name</b>
<b>Email Address</b> tmiller@glendaleaz.com	<b>Email Address</b>
<b>Phone #</b> 623-829-3937	<b>Phone #</b>
<b>Fax #</b>	<b>Fax #</b>
<b>P.O. # and Signature</b> (signature required if customer is using this form as an order)	<b>Requested Delivery and Install Dates</b>

Quantity	Stock Number	Description	Unit Price	Extended Price
0	75-4700-3630-9	3M™ SelfCheck™ System (Classic V/R, RCE) Windows 7 PC Upgrade Kit	\$1,299.00	\$11,891.00
9	75-4700-3612-2	3M™ SelfCheck™ System 19" Widescreen Monitor Upgrade Kit	\$800.00	\$7,200.00
1		Installation	\$3,495.00	\$3,495.00
			\$0.00	\$0.00
		<u>Upgrades for the following Serial Numbers and Locations</u>	\$0.00	\$0.00
		Mein Library - s/n's 7410392, 74100419, 74100420, 74100421	\$0.00	\$0.00
		Coohills Branch - s/n's 7410114, 7410115, 7410116	\$0.00	\$0.00
		Velma Teague Branch - s/n's 6410130, 74100422	\$0.00	\$0.00
			\$0.00	\$0.00
			\$0.00	\$0.00
			\$0.00	\$0.00
			\$0.00	\$0.00
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			\$0.00	\$0.00
			\$0.00	\$0.00
			\$0.00	\$0.00
			\$0.00	\$0.00
			Subtotal	\$22,386.00

Shipping and Handling billed as actual at time of shipment	Shipping & Handling Fee
	TBD
<b>Total *</b>	
<b>(\$ VALUE)</b>	

<b>Sales Consultant</b> Shawn C. Bruney	<b>Sales Consultant Phone # and email</b> 940-367-9733 s.bruney@bibliotheca.com	<b>* Applicable Sales Tax will be applied</b>
<b>Customer Service Representative</b> Maureen Wald	<b>Customer Service Representative Phone #</b> 651-575-5652	<b>Customer Service email</b> 3mlibraryorders@mmm.com
<b>Mail or Fax purchase order to the address above.</b>		
<b>Terms are NET 30 Days from Date of Invoice.</b>		
<b>Invoice is generated at the time of Shipment.</b>		
<b>Comments:</b>		

A copy of Tax Exemption Certificate is required with purchase order for all tax exempt customers.



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## 3M Library Systems

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# 3M™ SelfCheck™ System V-Series - Parts only (Model 6420)

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The 3M SelfCheck System V-Series - Parts Only w/Software and V Scanner Center Mount allows you to have this reliable self-service checkout system installed in your own cabinets.

- **Intuitive User Interface:** Easy-to-use touch screen interface, scanner handles almost any barcode location and orientation, distinctive V design makes the proper placement of items more intuitive contemporary Design, system comes in a variety of finishes to fit the look of any library, and easyload fast receipt printer
- **Reliable Checkout:** Less than 1 in 10,000 false alarms, fast checkout of many items simultaneously, ensures items are checked out correctly with Tattle-Tape™ Security Strips, and patron selectable e-mail, printed, or no receipt
- **Flexible Options:** Fines and fees payments: credit/debit, cash or both, video checkout, store and forward, customer/Staff selectable check out/in, and multiple languages
- Option available to move to ISO Tag Data Standard in the future
- Web-Based Remote Monitoring and Diagnostics

**Need Help?**

Questions? We can help  
[Contact Us](#)

Talk to a sales rep today!  
**1-800-328-0067**

[Request a Sales Rep](#)

### Documents

#### Brochure

- [V-Series Sell Sheet](#) (PDF, 4.8MB)
- [V-Series Table Top Sell Sheet](#) (PDF, 176.8KB)

### Products

- [View All Products](#)
- [Automated Check-in Systems](#)
- [Self Service Check-out Systems](#)
- [Security & Detection Systems](#)
- [Library Operations Management Solutions](#)

### Resources

- [Brochures & Guides](#)
- [Software & Apps](#)
- [Video Library](#)
- [Case Studies](#)
- [Event Calendar](#)
- [Press Releases](#)
- [3M Library Systems Newsletter](#)

### Support

- [Customer Service](#)  
1-800-328-0067
- [Request a Sales Representative](#)  
1-800-328-0067
- [Contact Us](#)
- [Service Request](#)

### 3M Library Systems Division

3M Center, Bldg 225-4N-14 St. Paul, MN 55144

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- 3M Cloud Library
- The Cloud Unbound



# Materials Management Special Procurement Purchase Request

Revised 04-04-11

*This form is not used for emergency or sole source requests.*

**REQUESTOR INFORMATION:**

Requestor: Tami Miller	Date: 8/24/15	Department: Library-15220
Phone Number: (623) 930-3587	Fax Number: (623) 842-4209	

**VENDOR INFORMATION:**

Vendor Name: 3M	Vendor Contact: Shawn Brumley
Vendor Address: 3M Center, Bldg. 0025-04-N-14	
City, State and Zip Code: St. Paul, MN 55144-1000	
Vendor Phone: (940) 367-9738	Vendor Fax: (651) 732-7563

**SPECIAL PROCUREMENT INFORMATION:**

Total Cost of this Order: \$20,990	One time purchase: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Fund #:2591 / Department #: 18401 / Account # 521000	
Description of the product or service requested: <u>Credit card readers</u> to accommodate the required EMV upgrade for compliance.	

**JUSTIFICATION:**

<p>A Special Procurement Purchase is that the nature of the materials or service:</p> <ol style="list-style-type: none"> <li>(1) Presents such limited competition that a competitive bid or proposal process cannot reasonably be used, or</li> <li>(2) Discourages the use of a competitive bid or proposal as it will result in a substantially higher cost to the city, or will otherwise impair the city's financial interests, or</li> <li>(3) Substantially impede the city's administrative functions or the delivery of services to the public, or</li> <li>(4) Does not qualify as a sole source or emergency, or</li> <li>(5) Has only one provider with the experience and capability to successfully perform the contract; or</li> <li>(6) Presents a significant time constraint as the need was not known in sufficient time to allow for competitive procurement and time is of the essence.</li> </ol>	
---	--

RECEIVED  
8/24/15

APPROVED  
TCS  
9/11/15

Approved  
VR 9-14-15





# Materials Management Special Procurement Purchase Request

Revised 04-04-11

## JUSTIFICATION:

Provide sufficient detail to justify the use of the special procurement process instead of competitive offers. Lack of detail may result in delays while additional information is obtained. Materials Management will determine the appropriateness of waiving the competitive process on a case by case basis.

Justification:

The credit card readers are a necessary upgrade to all 10 of our self-check machines within the library. These readers are not under the current maintenance contract with 3M as they were manufactured by another company and will be an additional expense to change. The readers are not in compliance with new EMV chip regulations and must be changed by the deadline of October 1, 2015. The hardware will reach end of life June 30, 2016 and will no longer be functional causing us to lose the ability to take payments through our self-check machines. This would cause exceptional delays in service as customers would be required to pay any fines or fees via staff members and check out items at our service desks. We are asking that we be allowed to purchase these new readers as not having this upgrade would cause huge disruptions to our service and community.

*SEE ALSO ATTACHED EMAIL STRING*

## REQUESTOR CERTIFICATION:

I hereby certify that I have conducted a good faith effort for determining the validity of the special procurement purchase.

*via email*  
Requestor Tami Miller

Division Library-15220

Date 8/24/15

### Vehicle Purchase

If this is a request for a vehicle or motorized equipment, a completed and approved Field Operations, New Vehicle & Motorized Equipment Request form must also be attached to the purchase requisition. The form is available on the Materials Management Intranet site.

### Technology Purchase

If this is a request for a technology purchase such as software or hardware, a completed and approved Information Technology, Pre-Purchase Technology Review form must also be attached to the purchase requisition. The form is available on the Information Technology Intranet site.

**Submittal Instructions**— Please complete this document and email the request to the Materials Manager, requesting approval. Attach additional documents, if needed, to support your request.

The subject line of the email is to read:

“Request for approval of a special purchase”

The text of the email is to read:

“Your authorization to proceed with a special purchase is requested. The completed form is attached for your review.”



# Materials Management Special Procurement Purchase Request

Revised 04-04-11

**PREPARER NOTE:** When submitting the purchase requisition attach:

- this completed form and
- the email from the Materials Manager approving the purchase and
- the form required if it's a vehicle or technology purchase



## Burkeen, Tim

---

**From:** Smith, Elizabeth  
**Sent:** Friday, September 11, 2015 4:10 PM  
**To:** Burkeen, Tim  
**Subject:** FW: Special Procurement Request for Self-Check Hardware

The self-check out machines are not a merchant credit card machine. They are like a Kiosk.

---

**From:** Miller, Tami  
**Sent:** Wednesday, September 02, 2015 9:17 AM  
**To:** Burkeen, Tim  
**Cc:** Beck, Michael; Smith, Claire; Rios, Vicki; Smith, Elizabeth; Camacho, Lisette  
**Subject:** RE: Special Procurement Request for Self-Check Hardware

Thank you, I'm not sure if she would handle this though as they don't go through BofA like the others. This is hardware that goes in our self checks, they aren't the same. They aren't true credit card readers like we would use to swipe a card to pay manually.

*Tami Miller*

*Bibliographic Services Supervisor  
Glendale Public Library  
City of Glendale Community Services Dept.  
5959 W. Brown St.  
Glendale, Az. 85302-1248  
(623) 930-3587 office  
(623) 842-4209 fax  
[tmiller2@glendaleaz.com](mailto:tmiller2@glendaleaz.com)*

---

**From:** Burkeen, Tim  
**Sent:** Wednesday, September 02, 2015 9:15 AM  
**To:** Miller, Tami  
**Cc:** Beck, Michael; Smith, Claire; Rios, Vicki; Smith, Elizabeth; Camacho, Lisette  
**Subject:** RE: Special Procurement Request for Self-Check Hardware

Hi,

In checking into this, I've been made aware that you really should be working with Elizabeth Smith in Finance, who is responsible for all the credit card readers in the City. She manages the purchase and/or rental of these machines. I've spoken with her and told her that I will be directing you to her so she can help you get these machines replaced. I've also copied her on this email.

Thanks  
Tim

*Tim Burkeen*  
Purchasing and Materials Manager  
City of Glendale  
5850 W Glendale Ave, Suite 302

Glendale, AZ 85301  
Ph. 623-930-2867

**"CAN DO!"**

**From:** Miller, Tami  
**Sent:** Tuesday, September 01, 2015 8:45 AM  
**To:** Burkeen, Tim  
**Cc:** Beck, Michael; Smith, Claire  
**Subject:** RE: Special Procurement Request for Self-Check Hardware

Hi Tim,

Are you able to update on this request? IT would like to know if they should move forward with 3M. I will be on vacation starting Thursday, after that you can contact Claire and Mike with updates.

Thank you,

*Tami Miller*  
*Bibliographic Services Supervisor*  
*Glendale Public Library*  
*City of Glendale Community Services Dept.*  
*5959 W. Brown St.*  
*Glendale, Az. 85302-1238*  
*(623) 930-3587 office*  
*(623) 842-4309 fax*  
[tmiller2@glendaleaz.com](mailto:tmiller2@glendaleaz.com)

**From:** Burkeen, Tim  
**Sent:** Monday, August 24, 2015 4:45 PM  
**To:** Miller, Tami  
**Cc:** Beck, Michael; Smith, Claire  
**Subject:** RE: Special Procurement Request for Self-Check Hardware

Are you not able to get three quotes for these card readers? Is the comprise smart terminal is the only card reader you can use with your system?

Thanks  
Tim

*Tim Burkeen*  
**Purchasing and Materials Manager**  
**City of Glendale**  
**5850 W Glendale Ave, Suite 302**  
**Glendale, AZ 85301**  
**Ph. 623-930-2867**

**From:** Miller, Tami  
**Sent:** Monday, August 24, 2015 3:45 PM  
**To:** Burkeen, Tim

**Cc:** Beck, Michael; Smith, Claire  
**Subject:** Special Procurement Request for Self-Check Hardware  
**Importance:** High

Hi Tim,

We just found out last week that we would have to purchase new credit card reader hardware to cover all 10 of our self-checks. They are not covered by our current 3M maintenance contract as they were purchased through another company at the time. 3M will be providing the new readers. Time is of the essence, as explained in the justification, due to the forthcoming deadline for the new EMV chip regulations and end of life to our current readers. Claire Smith from IT wanted me to write the special procurement for you as we are able to provide the information you need. If you have any questions, please feel free to contact me.

Thank you,

*Tami Miller*

*Bibliographic Services Supervisor  
Glendale Public Library  
City of Glendale Community Services Dept.  
3959 W. Brown St.  
Glendale, Az. 85302-1248  
(623) 930-3587 office  
(623) 842-4209 fax  
[tmiller2@glendaleaz.com](mailto:tmiller2@glendaleaz.com)*



# Library Systems Quotation Direct

**3M Center, 235-3A-09**  
 St. Paul, MN 55144-1000  
 Office: 800-328-0067 ext. 2  
 Fax: 800-223-5563

**Today's Date:** 08/24/15  
**Expiration Date:** 11/22/15

Quotations are good for 90 days. All dates are based on ship dates. Order must ship within the 90 day window. After 90 days, quotation expires. Contact 3M for a New Quotation.

<b>Ship to: (Destination of Goods)</b>		<b>Bill to: (Agency to Invoice)</b>	
Library Name Glendale Public Library		Name	
Address 7010 N. 58th Avenue		Address	
City, State, Zip Glendale, AZ 85301		City, State, Zip	
Contact Name Tami Miller		Accounts Payable Contact Name	
Email Address tmiller2@glendaleaz.com		Email Address	
Phone # 623-930-3687		Phone #	
Fax #		Fax #	
P.O. # and Signature (signature required if customer is using this form as an order)		Requested Delivery and Install Dates	

Quantity	Description	Unit Price Good Through:	Extended Price 11/22/15
		\$0.00	\$0.00
		\$0.00	\$0.00
10	Comprise Smart Terminal 75-4700-3779-9	\$2,089.00	\$20,890.00
		\$0.00	\$0.00
		\$0.00	\$0.00
		\$0.00	\$0.00
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		\$0.00	\$0.00
		\$0.00	\$0.00
		\$0.00	\$0.00
		\$0.00	\$0.00
Shipping and Handling billed on actual at time of shipment		<b>Subtotal</b>	<b>\$20,890.00</b>
		<b>Shipping &amp; Handling Fee TBD</b>	
		<b>Total *</b>	<b>\$20,980.00</b>

\* Applicable Sales Tax will be applied

3M Sales Consultant Shawn Brunley	3M Sales Consultant Phone # 940-387-8738	3M Customer Service Representative Maureen Weld	3M Customer Service Representative Phone # 800-328-0067 x2
Mail or Fax purchase order to the address above. Terms are NET 30 Days from Date of Invoice. Invoice is generated at the time of Shipment. A copy of Tax Exemption Certificate is required with purchase order for all tax exempt customers.			Comments:

# Smart **TERMINAL**™ PCI Compliant Payments for Self-Service & Over-The-Counter!

A Smart Terminal at your self-service kiosk, self-check, or circulation desk lets patrons make secure card payments for fines/fees or other purchases. Smart Terminals are patron-facing Mag-stripe devices that already support the Chip & PIN, and Tap & Go card entry methods as they come online in the US! Smart Terminals meet the October, 2015 for EMV specification.

Smart Terminals transmit cardholder data directly to SmartPAY, our Internet Gateway, so the transaction is processed entirely outside of your network. That means your kiosk, self-check, or circulation desk computers are exempt from the rigors of PCI compliance. With Smart Terminals you can meet the PCI Security Standard without involving your entire network!

The Smart Terminal Payment System uses fully automates ILS recordkeeping when used with our Smart Kiosk™, Smart Money Manager™ Point of Sale or any of the compatible self-check systems listed below.



Model shown is used in the United States

**NOTE: Important Compliance Milestone:**

Effective October 2015, Visa, MasterCard, Discover and American Express, will shift card-present fraud liability to the merchant if an EMV card terminal is not used in a fraudulent transaction.

**Get the Smart Terminal Payment System:**

- Patron handles credit/debit card
- Automates real-time ILS recordkeeping
- Reconciles with financial reports

**Smart Terminals link with leading ILS products:**

SirsiDynix Horizon and Symphony  
Innovative Millennium, Sierra, and Polaris  
CarlX, Library.Solution, Koha, Evergreen

Smart Terminals are available for 3M™ SelfCheck™ QuickConnect Interface.

**Smart Terminals connect with leading Processors:**

TSYS, Chase Paymentech, Elavon, First Data, Heartland, & Vantiv

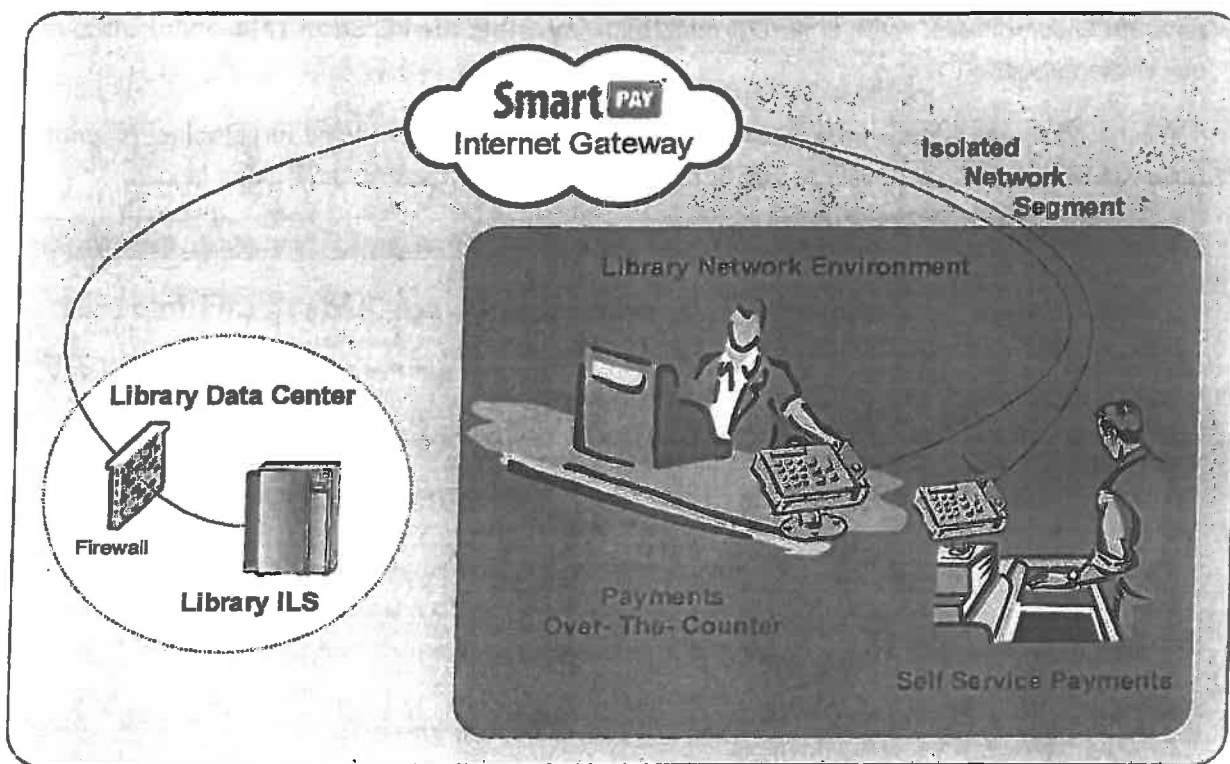
Smart Terminals can settle to multiple merchant accounts (additional setup and maintenance charges may apply).



# Smart **TERMINAL**™

## The Payment System for PCI Compliance!

Smart Terminals accept payment cards Over-The-Counter, at Kiosks, and at compatible Self-Checkout Stations. The Smart Terminal Gateway processes card charges and posts payments in real time. Patron cardholder data is secure since there is no network connection between the Library Data Center and the Smart Terminal. Depending upon your situation, Smart Terminals are eligible for self-assessment using SAQ B-IP or SAQ C.



### *Smart Terminals work like the credit/debit card station at your local retailer!*

1. When patron chooses to pay by bank card, your POS or Self-check System sends transaction data to the SmartPAY Gateway and patron is directed to the Smart Terminal.
2. Patron swipes their card on the Smart Terminal which queries the SmartPAY Gateway for transaction data. Smart Terminal prompts for confirmation of the payment.
3. Point of Sale or Self-Check System completes the transaction, clearing any fines from ILS.

# Smart **TERMINAL**™

PCI Compliant Payments at  
Self-Check & Over-The-Counter!

A Smart Terminal at your self-check or circulation desk lets patrons make secure card payments for fines/fees or other purchases. Smart Terminals are patron-facing so patrons swipe their own card!

Smart Terminals transmit card data directly to our Internet Gateway, where the transaction is processed entirely outside of your network. That means your self-check or circulation desk computers are exempt from the rigors of PCI compliance. With Smart Terminals you can meet the PCI Security Standard without involving your entire network!

The Smart Terminal Payment System fully automates ILS recordkeeping when used in combination with our Smart Money Manager™ Point of Sale or any of the compatible self-check systems listed below.



### Get the Smart Terminal Payment System:

- Patrons enter credit/debit card info
- Connects to our hosted Internet Gateway
- Automates real-time ILS recordkeeping
- Reconciles with financial reports

Smart Terminals link with leading ILS products:  
SirsiDynix Horizon, Unicorn, and Symphony  
Innovative Millenium and Sierra  
Polaris  
TLC, Koha, Evergreen

Smart Terminals is available for 3M SelfCheck  
QuickConnect Interface.

### NOTE: Important Compliance Deadline:

The PCI Data Security Council has set December 31, 2014 as the retirement deadline for all non-compliant PIN Entry Devices – don't miss out!

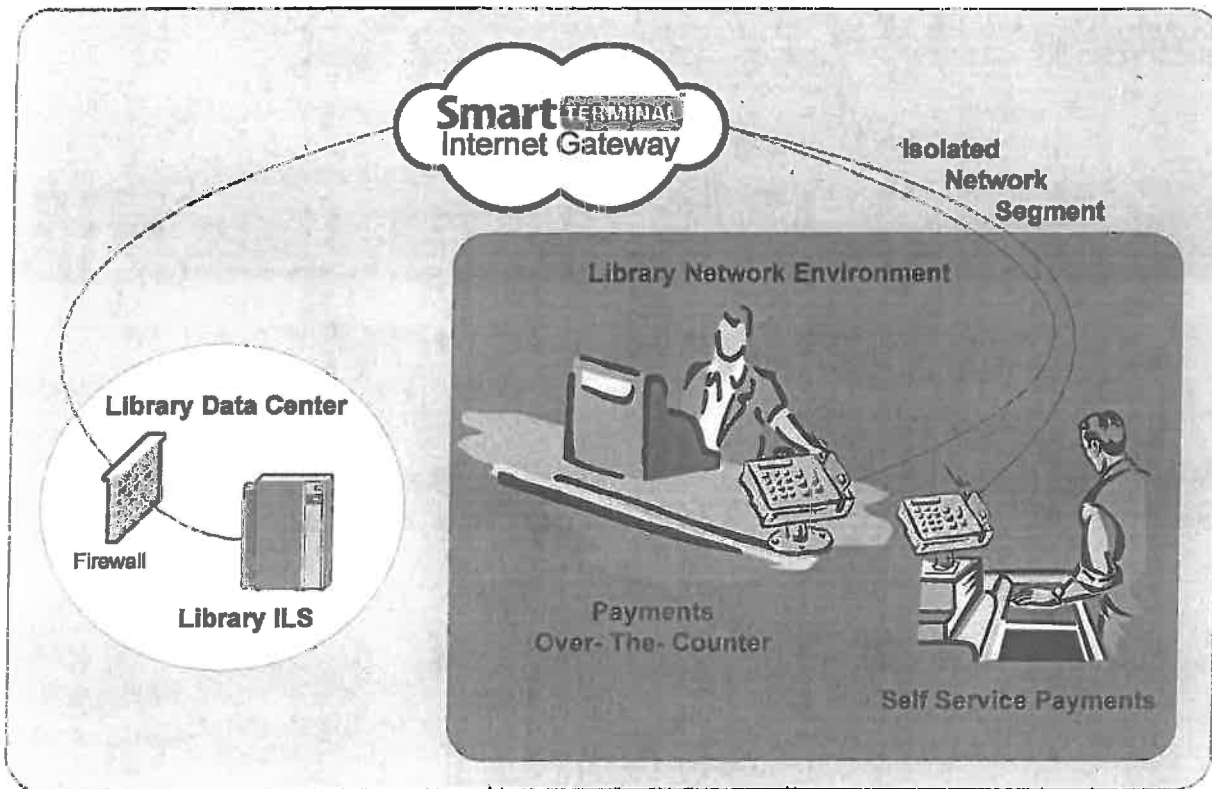
### And all major credit/debit cards:



# Smart **TERMINAL**<sup>™</sup>

## The Payment System For PCI Compliance!

Smart Terminals accept payment cards Over-The-Counter and at compatible Self Check Stations. The Smart Terminal Gateway processes card charges and posts payments in real time. Your patron's card holder data is secure since there is no network connection between the Library Data Center and the Smart Terminal.



### *Smart Terminals work like the credit/debit card station at your local retailer!*

1. When patron chooses to pay by bank card, your POS or Self-check System sends transaction data to the SmartPay Gateway and patron is directed to the Smart Terminal.
2. Patron swipes their card on the Smart Terminal which queries the Smart Terminal Gateway for transaction data. Smart Terminal prompts for confirmation of the payment.
3. Point of Sale or Self-Check System completes the transaction, clearing any fines from ILS.





## Legislation Description

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**File #:** 16-201, **Version:** 1

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**AUTHORIZATION TO ENTER INTO AMENDMENT NO. 2 TO A PROFESSIONAL SERVICES AGREEMENT WITH ARRINGTON WATKINS ARCHITECTS, L.L.C., FOR THE GLENDALE MUNICIPAL LANDFILL SCALE HOUSE RELOCATION PROJECT**

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 Amendment No. 2 to a Professional Services Agreement, C-8594, with Arrington Watkins Architects, L.L.C., for the Glendale Municipal Landfill Scale House Relocation project in an amount not to exceed \$62,920.

### **Background**

The Glendale Municipal Landfill, located at 11480 West Glendale Avenue, is comprised of two main sections, the north and south areas. The south area is approaching capacity and the current scale house, administration building, and heavy equipment maintenance facility are all located in a portion of the south area that is planned to be filled with solid waste prior to closure. These facilities have to be removed and replaced in order to allow completion of the south area of the landfill and for the operation of the north area.

The Professional Services Agreement, C-8594, with Arrington Watkins, L.L.C., was for design and construction administration services for a new entrance road, scale house, and administration building for the first phase of the Glendale Municipal Landfill Scale House Relocation Project. Amendment No. 1, C-8594-1, added design and construction administration services of a new maintenance building, fourth scale at the new scale house, and relocation of utilities, for the second phase of the project. The total of the original Agreement and Amendment No. 1 was for a not to exceed amount of \$485,068.

### **Analysis**

Amendment No. 2, for additional design, project coordination, and construction administration services, will be in the amount of \$62,920 for a total contract amount of \$547,988. The additional services are for design changes to the new maintenance building and scale house, and for related additional project and construction administration services.

### **Previous Related Council Action**

On August 25, 2015, City Council authorized a Construction Manager At Risk Agreement with FCI Constructors, Inc., GMP No. 2, in an amount not to exceed \$1,569,641, for the construction of the second phase of the new facilities, including a new equipment maintenance building, the addition of a fourth scale at the new scale house, and the relocation of utilities.

On January 27, 2015, City Council authorized Amendment No. 1 to a Professional Services Agreement with Arrington Watkins Architects, L.L.C., C-8594-1, in an amount not to exceed \$159,630, for design and construction administration services for a new equipment maintenance building, the addition of a fourth scale at the new scale house and the relocation of utilities.

On December 18, 2014, City Council Authorized a Construction Manager At Risk Agreement with FCI Constructors, Inc., GMP No. 1, for the first phase of the Glendale Municipal Landfill Scale House Relocation Project in an amount not to exceed \$2,859,107, for the construction of the new landfill entrance road, administration building, and scale house.

On September 10, 2013, City Council authorized a Professional Services Agreement with Arrington Watkins Architects, LLC, C-8594, in an amount not to exceed \$325,438, for design and construction administration services for the Glendale Municipal Landfill Scale House Relocation Project.

**Community Benefit/Public Involvement**

Managing the solid waste generated in our community is a core service of Public Works. The Glendale Municipal Landfill is an environmentally sound, long-term solution to solid waste management, and is a valued resource that contributes to the health, welfare, and prosperity of Glendale residents.

**Budget and Financial Impacts**

Funding is available in the Fiscal Year 2015-16 Landfill Capital Improvement Plan budget. Expenditures with Arrington Watkins Architects, L.L.C. are not to exceed \$62,920.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$62,920</b>	<b>2440-78523-550800, Scale House and Road Relocation</b>

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

Amendment No. 2 to the  
Agreement for Professional Services

Glendale Landfill Scale-House Relocation

City Project No. 111219

This Amendment No.    to the Agreement for Professional Services for the Glendale Landfill Scale-House Relocation project (“Amendment No. 2”) is made this        day of           , 2016, by and between the City of Glendale, an Arizona municipal corporation (“City”) and Arrington Watkins Architects, L.L.C., an Arizona Limited Liability Company authorized to do business in Arizona (“Consultant”).

RECITALS

- A. Consultant is currently under contract with the City on the above-referenced project;
- B. Since the inception of the work, the scope and requirements have changed substantially and cannot be expanded or corrected through change orders or change directives;
- C. The changes in the Scope of Work will benefit the City; and
- D. Expanding the Scope of Work (attached Amended Exhibit B) under the original Agreement will allow the work to be completed under the appropriate professional standards and represents a cost savings to the City.

AGREEMENT

The original Agreement for Professional Services for Project No. “111219” is amended as follows:

Section 4. Additional compensation for the change in the Scope of Work will not exceed \$62,920.00 as specifically detailed in the attached Amended Exhibit D (time and materials).

Section 15. The following Amended Exhibits are incorporated by reference as though fully set forth in this Amendment:

Amended Exhibit B  
Amended Exhibit D

Scope of Work  
Compensation

All other terms and conditions not amended by this writing remain unchanged and enforceable as found in the original Agreement C-8594 currently on file in the Office of the City Clerk, City of Glendale.

"City":

CITY OF GLENDALE, an Arizona  
municipal corporation

---

Kevin R. Phelps, City Manager

ATTEST:

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Farela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

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Michael D. Bailey, City Attorney

"Consultant"

Arrington Watkins Architects, L.L.C.  
authorized to do business in Arizona



---

David Watkins, Principal

MIKE QUINN, ARCHITECT

**PROFESSIONAL SERVICES AGREEMENT – AMENDED EXHIBIT B  
SCOPE OF WORK**

**I. Additional Project Management Services**

- A. Extended General Project Administrative Services through the end of June 2016.
  - 1. Project coordination with owner and CMAR
  - 2. Design changes to Maintenance Building plans
    - a. Relocation of cooling units from interior to outside
    - b. Additional exterior lighting
    - c. Interior changes to storage area
    - d. Addition permit coordination

**II. Additional Architectural Construction Administration Services**

- A. Additional construction activities through the end of June 2016
  - 1. Construction coordination with owner and CMAR
  - 2. Construction meetings
  - 3. On-site observations
  - 4. Observation reports
  - 5. Punch-lists

**III. Additional Consultant Services**

- A. Provide submittal review of items not specified, or substitute after approval
- B. Review Field Changes beyond scope of work
- C. Provide additional design for Owner requested revision to Break Room and Kitchen
- D. Provide Design for Owner requested modification to copy room
- E. Respond to RFIs for Owner requested revision including additional hose bibs and miscellaneous items.
- F. Extend service to June of 2016

G. PROFESSIONAL SERVICES AGREEMENT – AMENDED EXHIBIT D

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

<b>Landfill Scale House Relocation Maintenance Building CD, CA, and Additional Services Fee Schedule</b>	
<b>TASK</b>	<b>COST</b>
Task 1 – General Project Administration Services Extension	\$ 7,068.00
Task 2 – Extension of CA Services - Architectural	\$ 30,852.00
Task 3 – MP&E Extended Design and CA Services	\$ 10,000.00
Consultant's Reimbursable Expenses	\$ 00.00
Owner's Contingency	\$ 15,000.00
<b>TOTAL PROJECT COST:</b>	<b>\$ 62,920.00</b>

DETAILED PROJECT COMPENSATION

Basic Consultant Fee	<u>\$ 253,688.00</u>
Construction Administration Fee	<u>\$ 71,750.00</u>
Amendment No. <u>1</u> (Additional design work)	<u>\$ 159,630.00</u>
Amendment No. <u>2</u> (Additional design work)	<u>\$ 62,920.00</u>
Total Professional Services Fee	<u>\$ 547,988.00</u>



## Legislation Description

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**File #:** 16-208, **Version:** 1

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**RESOLUTION 5098: AUTHORIZATION TO ENTER INTO AMENDMENT #1 TO AN AIRPORT DEVELOPMENT REIMBURSABLE GRANT AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE CONSTRUCTION OF GLENDALE MUNICIPAL AIRPORT IMPROVEMENTS**

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 Amendment #1 to an Airport Development Reimbursable Grant Agreement, Grant No. E5F3M, with the Arizona Department of Transportation (ADOT), to the maximum amount of \$120,885, for the construction of the center apron asphalt rehabilitation and lighting modification improvements at the Glendale Municipal Airport.

### **Background**

The center apron is comprised of aircraft parking and service areas. Pavement management reports indicated that this area was in poor condition and a project was completed in June of 2015 to rehabilitate the pavement. Due to the removal and treatment of substandard soils, the project incurred additional unforeseen costs. This amendment will cover the additional costs for the soil work and final quantities.

### **Analysis**

City Council authorized Grant No. E5F3M with ADOT on August 11, 2015 in the amount of \$110,604. This Amendment No. 1 increases the grant amount by \$10,281, to \$120,885.

The full amount of the project is \$2,704,363. The City of Glendale's share is \$120,885.

### **Previous Related Council Action**

On August 11, 2015, City Council authorized entering into an Airport Development Reimbursable Grant Agreement, Grant No. E5F3M, with ADOT to fund the state match.

On August 12, 2014, City Council authorized entering into a Grant Agreement with FAA for asphalt apron and lighting improvements.

### **Community Benefit/Public Involvement**

The Airport plays an important role in meeting the demand for aviation services in the West Valley and serves as a general aviation reliever airport for Phoenix Sky Harbor International Airport. The center apron

rehabilitation project provides a suitable pavement structure and surface for aircraft to traverse and park safely.

The Airport Administrator provides updates on this and other projects to the Aviation Advisory Commission during their monthly meetings. At the April 14, 2016 meeting, the Aviation Advisory Commission approved a recommendation to the City Council to approve and enter into Grant Amendment No. 1 to ADOT Grant E5F3M. The Airport Master Plan and other information about the airport can be found on the airport website.

**Budget and Financial Impacts**

There are no financial impacts resulting from this Council action.



RESOLUTION NO. 5098 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO AMENDMENT NO. 1 TO THE AIRPORT DEVELOPMENT REIMBURSABLE GRANT AGREEMENT, GRANT NO. E5F3M, WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION, MULTIMODAL PLANNING DIVISION, FOR THE AIRPORT APRON AND LIGHTING PROJECT AT THE GLENDALE MUNICIPAL AIRPORT.

WHEREAS, on August 11, 2015, the City Council of the City of Glendale authorized the entering into the Airport Development Reimbursable Grant Agreement, Grant No. E5F3M, with the Arizona Department of Transportation, Multimodal Planning Division, for the Airport Apron and Lighting Project at the Glendale Municipal Airport; and

WHEREAS, the City of Glendale on behalf of the Glendale Municipal Airport wish to enter into Amendment No. 1 to the Airport Development Reimbursable Grant, Grant No. E5F3M, with the Arizona Department of Transportation, Multimodal Planning Division to amend the maximum reimbursement amount to approximately \$120,885.

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 Amendment No. 1 to the Airport Development Reimbursable Grant, Grant No. E5F3M, with the Arizona Department of Transportation, Multimodal Planning Division be entered into, which agreement is on file in the office of the City Clerk of the City of Glendale.

SECTION 2. That the City Manager or designee and the City Clerk be authorized and directed to execute and deliver any and all documents necessary to effectuate said amendment 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            , 2016.

\_\_\_\_\_  
M A Y O R

ATTEST:

\_\_\_\_\_  
City Clerk            (SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

REVIEWED BY:

\_\_\_\_\_  
City Manager

g\_airport\_amend 1.doc

**Arizona Department of Transportation  
Multimodal Planning Division  
Aeronautics Group**

**Airport Development Reimbursable Grant Agreement**

**Amendment Number #1**

AMENDMENT to the Airport Development Reimbursable Grant Agreement E5F3M dated August 25, 2015 between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, through its Multimodal Planning Division (the "State") and the City of Glendale, a political subdivision of the State of Arizona ("the Sponsor").

**AGREEMENT**

The Airport Development Agreement dated August 25, 2015, is amended as follows:

1. Paragraph 2 of the Obligations is replaced by the following:

The maximum reimbursement available from the State to the Sponsor shall be **One hundred twenty thousand eight hundred eighty-five dollars (\$120,885)**.

2. All other provisions of the Airport Development Agreement remain applicable and unchanged except as herein modified.
3. This Airport Development Agreement Amendment is effective upon the signature of the representative of the State.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized respective officers.

STATE:

State of Arizona  
Department of Transportation  
Multimodal Planning Division

SPONSOR:

City of Glendale  
Glendale Municipal Airport

By: \_\_\_\_\_

Title: Michael Kies, Assistant Director

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

WITNESSED BY:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

WITNESSED BY:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_



## Legislation Description

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**File #:** 16-209, **Version:** 1

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**RESOLUTION 5099: AUTHORIZATION TO ENTER INTO CONTRACT CHANGE ORDER NO. 3 TO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX FOR FEDERAL TRANSIT ADMINISTRATION GRANT NUMBER AZ-05-0203**

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 Contract Change Order No. 3 to an Intergovernmental Agreement (IGA) with the City of Phoenix to extend the expiration of the agreement from June 30, 2016 to June 30, 2017.

### **Background**

In 2011, the City of Glendale secured Federal Transit Administration (FTA) Grant AZ-05-0203 totaling \$840,366 in federal funds for the predesign and design of a park-and-ride and transit center facility in north Glendale. The grant required a local match of \$210,092, which will come from regional funds generated from Proposition 400, the Regional Sales Tax initiative. This grant is utilized through an IGA with the City of Phoenix, the designated recipient for all FTA funds in the region.

The transit center project is complete, however, work is ongoing with the park-and-ride project. The City had identified a parcel for the proposed park-and-ride and had been in negotiations with the land owner to acquire the parcel for over a year. Those negotiations have stalled because the City and owner could not agree on a purchase price. Staff has identified an alternate parcel and contacted the owner to discuss selling of the property. Once the final location of the facility has been determined, these grant funds will be used to design the park-and-ride. To date, the city has spent \$150,548 of the federal portion of the grant and \$37,637 of regional funds on the predesign and design of both facilities.

### **Analysis**

Progress has been made in expending these funds for this capital project. However, the IGA needs to be extended to allow for completion of the design phase of the park-and-ride facility, as well as processing the final closeout and reimbursement of funds from the City of Phoenix. Should this grant not be renewed, the City would lose the remaining balance of \$862,273 in grant funding and regional matching funds. This change order extends the contract expiration date of this grant agreement to June 30, 2017.

### **Previous Related Council Action**

On September 22, 2015, Council approved Change Order No. 2 to this IGA, extending the expiration of this agreement to June 30, 2016.

On February 25, 2014, Council approved Change Order No. 1 to this IGA, extending the expiration of this agreement to June 30, 2015.

On June 14, 2011, Council approved an IGA with the City of Phoenix to accept this pass-through FTA grant.

**Community Benefit/Public Involvement**

Having a dedicated park-and-ride facility in north Glendale will encourage transit use by the public. All parking spaces will be covered and the facility will be monitored through the use of security cameras. To accommodate express bus users, the City is currently using two temporary locations for park-and-ride services -one at Arrowhead Towne Center and the other at the Foothills Recreation and Aquatics Center on Union Hills Drive. Once the new park-and-ride facility is completed, all express operations will be consolidated and moved to the new location.

**Budget and Financial Impacts**

There are no budget impacts as a result of this change order.

RESOLUTION NO. 5099 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND ENTERING INTO CHANGE ORDER NO. 3 TO AN INTERGOVERNMENTAL AGREEMENT (GRANT PASS-THROUGH AGREEMENT) WITH THE CITY OF PHOENIX FOR GRANT NO. AZ-05-0203 RELATING TO TRANSIT SERVICES.

WHEREAS, the City of Glendale entered into an Intergovernmental Agreement with the City of Phoenix for a Grant Pass-through Agreement (AZ-05-0203) relating to transit services on June 14, 2011 (C-7713); and

WHEREAS, the City of Glendale entered into Change Order No. 1 to the Intergovernmental Agreement on February 25, 2014, extending the term of the Agreement (C-7713-1); and

WHEREAS, the City of Glendale further entered into Change Order No. 2 to the Intergovernmental Agreement on September 22, 2015, extending the term of the Agreement (C-7713-2); and

WHEREAS, the City of Glendale and the City of Phoenix wish to further extend the expiration date of the Intergovernmental Agreement to June 30, 2017.

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 its citizens that Change Order No. 3 to the Intergovernmental Agreement (Grant Pass-through Agreement) with the City of Phoenix relating to Grant No. AZ-05-0203 for transit services 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 City Manager or designee and the City Clerk be authorized and directed to execute and deliver the change order on behalf of the City of Glendale.

[Signatures on the following page.]

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of  
Glendale, Maricopa County, Arizona, this            day of            , 2016.

\_\_\_\_\_  
M A Y O R

ATTEST:

\_\_\_\_\_  
City Clerk            (SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

REVIEWED BY:

\_\_\_\_\_  
City Manager

iga\_transit\_change order az-05-0203.doc



CITY OF PHOENIX  
PUBLIC TRANSIT DEPARTMENT  
**CONTRACT CHANGE ORDER**

Change Order No.  
**3**

Contract No.  
**131485**

Issued To: (Name of Contractor or Consultant)  
**CITY OF GLENDALE**

Date  
**3/3/2016**

Project Description: **GRANT PASS-THROUGH AGREEMENT (AZ-05-0203)**

**YOU ARE HEREBY requested to make the following changes to the contract, or to do the work described below which is not included in the contract. (Give brief description of work, estimate of quantities, fees or prices to be paid, etc.)**

At the request of City of Glendale this change order extends the Grant Pass-Through Agreement # AZ-05-0203 expiration period date to June 30, 2017.

All other terms and conditions of this agreement remain the same.

**ACCEPTANCE**

We, the undersigned, have given careful consideration to the change proposed, and hereby agree; if this proposal is approved that we will provide all equipment, furnish all materials, except as may otherwise be noted above, and perform all services necessary for the work specified, and will accept as full payment therefore the fees or prices shown above.

**FIRM: CITY OF GLENDALE**

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE SENT BY CITY OF PHOENIX: \_\_\_\_\_

**ENDORSEMENTS**

REQUESTED BY:

*Stephanie Child*

Stephanie Child – Budget Analyst II

DATE

3/16/16

RECOMMENDED BY:

*Kim Hayden*

Kim Hayden – Contract Specialist II Ld.

DATE

3/15/16

PTD FISCAL SECTION REVIEW:

*Ken Kessler*

Ken Kessler – Deputy Public Transit Director

DATE

3/16/16

CHECKED AS TO AVAILABILITY OF FUNDS BY:

N/A

DATE

Budget and Research Department

APPROVED FOR THE CITY MANAGER BY:

Maria Hyatt – Public Transit Director / Ted Mariscal

DATE



## Legislation Description

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**File #:** 16-210, **Version:** 1

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**RESOLUTION 5100: AUTHORIZATION TO ENTER INTO CONTRACT CHANGE ORDER NO. 3 TO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX FOR FEDERAL TRANSIT ADMINISTRATION GRANT NUMBER AZ-95-X006-01**

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 Contract Change Order No. 3 to an Intergovernmental Agreement (IGA) with the City of Phoenix to extend the expiration of the agreement from June 30, 2016 to June 30, 2017.

### **Background**

In 2011, the City of Glendale secured Federal Transit Administration (FTA) Grant AZ-95-X006-01 totaling \$635,896 in federal funds for the predesign and design of a park-and-ride and transit center facility in north Glendale. There is no local match required with this grant. This grant is utilized through an IGA with the City of Phoenix, the designated recipient for all FTA funds in the region.

The transit center project is complete, however, work is ongoing with the park-and-ride project. The City had identified a parcel for the proposed park-and-ride and had been in negotiations with the land owner to acquire the parcel for over a year. Those negotiations have stalled because the City and owner could not agree on a purchase price. Staff has identified an alternate parcel and contacted the owner to discuss selling of the property. Once the final location of the facility has been determined, these grant funds will be used to design the park-and-ride. To date, the City has spent \$498,449 of the awarded amount on the predesign and design of both facilities.

### **Analysis**

Progress has been made in expending these funds for this capital project. However, the IGA needs to be extended to allow for completion of the design phase of the park-and-ride facility, as well as processing the final closeout and reimbursement of funds from the City of Phoenix. Should this grant not be renewed, the City would lose the remaining balance of \$137,447 in federal funding. This change order extends the contract expiration date of this grant agreement to June 30, 2017.

### **Previous Related Council Action**

On September 22, 2015, Council approved Change Order No. 2 to this IGA, extending the expiration of this agreement to June 30, 2016.

On February 25, 2014, Council approved Change Order No. 1 to this IGA, extending the expiration of this agreement to June 30, 2015.

On June 14, 2011, Council approved an IGA with the City of Phoenix to accept this pass-through FTA grant.

**Community Benefit/Public Involvement**

Having a dedicated park-and-ride facility in north Glendale will encourage transit use by the public. All parking spaces will be covered and the facility will be monitored through the use of security cameras. To accommodate express bus users, the City is currently using two temporary locations for park-and-ride services -one at Arrowhead Towne Center and the other at the Foothills Recreation and Aquatics Center on Union Hills Drive. Once the new park-and-ride facility is completed, all express operations will be consolidated and moved to the new location.

**Budget and Financial Impacts**

There are no budget impacts as a result of this change order.

RESOLUTION NO. 5100 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND ENTERING INTO CHANGE ORDER NO. 3 TO AN INTERGOVERNMENTAL AGREEMENT (GRANT PASS-THROUGH AGREEMENT) WITH THE CITY OF PHOENIX FOR GRANT NO. AZ-95-X006-01 RELATING TO TRANSIT SERVICES.

WHEREAS, the City of Glendale entered into an Intergovernmental Agreement with the City of Phoenix for a Grant Pass-through Agreement (AZ-95-X006-01) relating to transit services on June 14, 2011 (C-7712); and

WHEREAS, the City of Glendale entered into Change Order No. 1 to the Intergovernmental Agreement on February 25, 2014, extending the term of the Agreement (C-7712-1); and

WHEREAS, the City of Glendale further entered into Change Order No. 2 to the Intergovernmental Agreement on September 22, 2015, extending the term of the Agreement (C-7712-2); and

WHEREAS, the City of Glendale and the City of Phoenix wish to further extend the expiration date of the Intergovernmental Agreement to June 30, 2017.

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 its citizens that Change Order No. 3 to the Intergovernmental Agreement (Grant Pass-through Agreement) with the City of Phoenix relating to Grant No. AZ-95-X006-01 for transit services 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 change order on behalf of the City of Glendale.

[Signatures on following page.]

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of  
Glendale, Maricopa County, Arizona, this            day of            , 2016.

\_\_\_\_\_  
M A Y O R

ATTEST:

\_\_\_\_\_  
City Clerk            (SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

REVIEWED BY:

\_\_\_\_\_  
City Manager

CITY OF PHOENIX  
PUBLIC TRANSIT DEPARTMENT  
**CONTRACT CHANGE ORDER**

Change Order No.  
**3**

Contract No.  
**131483**

Issued To: (Name of Contractor or Consultant)  
**CITY OF GLENDALE**

Date  
**3/4/2016**

Project Description: **GRANT PASS-THROUGH AGREEMENT AZ-95-X006-01**

**YOU ARE HEREBY requested to make the following changes to the contract, or to do the work described below which is not included in the contract. (Give brief description of work, estimate of quantities, fees or prices to be paid, etc.)**

At the request of City of Glendale this change order extends the Grant Pass-Through Agreement # AZ-95-X006-01 expiration period date to June 30, 2017.

All other terms and conditions of this agreement remain the same.

**ACCEPTANCE**

We, the undersigned, have given careful consideration to the change proposed, and hereby agree; if this proposal is approved that we will provide all equipment, furnish all materials, except as may otherwise be noted above, and perform all services necessary for the work specified, and will accept as full payment therefore the fees or prices shown above.

FIRM: **CITY OF GLENDALE**

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**ENDORSEMENTS**

REQUESTED BY:

*Stephanie Child*  
Stephanie Child, Budget Analyst II

DATE

3/16/16

RECOMMENDED BY:

*Kim Hayden*  
Kim Hayden, Contract Specialist II Ld.

DATE

3/15/16

PTD FISCAL SECTION REVIEW:

*K Kessler*  
Kenneth Kessler, Deputy Public Transit Director

DATE

3/16/16

CHECKED AS TO AVAILABILITY OF FUNDS BY:

N/A  
Budget and Research Department

DATE

APPROVED FOR THE CITY MANAGER BY:

Maria Hyatt, Public Transit Director / Ted Mariscal

DATE



## Legislation Description

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**File #: 16-189, Version: 1**

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**RESOLUTION 5101: AUTHORIZATION TO ENTER INTO GRANT AGREEMENT DUIAC-I-025 WITH THE ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY OVERSIGHT COUNCIL ON DRIVING OR OPERATING UNDER THE INFLUENCE ABATEMENT**

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 grant agreement DUIAC-I-025 with the Arizona Governor's Office of Highway Safety (GOHS) Oversight Council on Driving or Operating Under the Influence Abatement, and accept a grant award on behalf of the Glendale Police Department (GPD) in the approximate amount of \$50,000 for employee overtime and related expenses to enhance Driving Under the Influence (DUI) "Know Your Limit" innovative program and education throughout the City of Glendale.

### **Background**

Since 1995, the GPD has been receiving Arizona GOHS grant funds for use in the enforcement of traffic, seatbelt, and DUI violations, along with the purchase of equipment and training. Past grant funding has allowed GPD to increase the number of hours officers dedicate specifically to DUI enforcement and education. The GPD seeks to reduce impaired driving violations not only through enforcement, but also by promoting public awareness to the dangers of drinking and driving. The City of Glendale is the fifth largest city in Arizona with an ever-growing population and expanding entertainment district. To combat DUI violations and alcohol impaired drivers, the GPD implemented a full-time DUI enforcement squad, resulting in increased DUI arrests. With the addition of a mobile DUI van to aid in faster processing of impaired drivers, the officers are also able to return to the field in a timelier manner.

GPD is vigilant in the battle against driving under the influence and is dedicated to increasing its efforts in order to maintain safety on the roadways in Glendale. The DUI enforcement squad contributes to the Arizona/West Valley DUI Task Force and promotes roadway safety by continuing to plan, host, and participate in focused efforts to identify impaired drivers and remove them from roadways before they hurt themselves or others. The DUI enforcement squad will continue to conduct pro-active patrols during hours outside of normal shift hours, and on weekends and holidays when DUI violations are more prevalent.

### **Analysis**

If approved, the grant funds will be used for the overtime expenses incurred as a result of the GPD DUI squad conducting twelve (12) to twenty-four (24) "Know Your Limit" programs during days/nights of peak activity through January 30, 2017. The GPD DUI squad will deploy into entertainment district areas armed with portable breath tests devices and information on the consequences of a DUI conviction, based on breath

alcohol content. Without these grant funds, the city would be responsible for the overtime expenses, or the overtime opportunity would be eliminated. Staff is requesting Council adopt the proposed resolution authorizing the City Manager to enter into a grant agreement with the Arizona GOHS Oversight Council on Driving or Operating Under the Influence Abatement, and accept a grant award in the approximate amount of \$50,000.

**Previous Related Council Action**

On June 23, 2015, Council adopted a resolution authorizing the City Manager to enter into grant agreement DUIAC-E-055 with the Arizona GOHS Oversight Council on Driving or Operating Under the Influence Abatement, and accept a grant award on behalf of the GPD in the approximate amount of \$50,000 for employee related overtime expenses to enhance DUI enforcement throughout the City of Glendale.

**Community Benefit/Public Involvement**

If the requested action is approved, the grant award will benefit the citizens and community by allowing the Police Department to use more resources and officers to detect impaired drivers on our roadways.

**Budget and Financial Impacts**

There is no financial match required for this grant. A specific project account will be established in the city's grant fund, 1840, once the grant is fully executed.



RESOLUTION NO. 5101 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY TO ENTER INTO A GRANT AGREEMENT WITH THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY AND THE OVERSIGHT COUNCIL ON DRIVING OR OPERATING UNDER THE INFLUENCE ABATEMENT ON BEHALF OF THE GLENDALE POLICE DEPARTMENT.

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

SECTION 1. That the City of Glendale is authorized to enter into the following grant agreement:

Grantor:	Oversight Council on Driving or Operating Under the Influence Abatement
Agreement No.:	DUIAC-I-025
Project Title:	Know Your Limit
Purpose:	Overtime expenses
Approximate Amount:	\$50,000

SECTION 2. That the City Manager or designee and the City Clerk be authorized and directed to execute and deliver any and all documents necessary for the acceptance of 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            , 2016.

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M A Y O R

ATTEST:

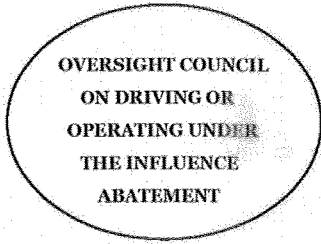
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City Clerk            (SEAL)

APPROVED AS TO FORM:

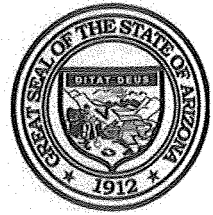
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City Attorney

REVIEWED BY:

\_\_\_\_\_  
City Manager  
g\_pd\_duiac.doc



# DUI ABATEMENT GRANT PROGRAM GRANT AGREEMENT



Douglas A. Ducey  
Governor

The Oversight Council on Driving or Operating Under the Influence Abatement is hereafter referred to as the DUI Abatement Council, DUIAC or Council in this agreement. This page and the DUIAC Project Director's Manual incorporated herein by reference constitute the entire agreement between the parties hereto unless deviation is authorized in writing by the DUI Abatement Council.

**APPLICANT AGENCY**

Glendale Police Department

**ADDRESS**

6835 North 57th Drive, Glendale, AZ 85301

**GOVERNMENTAL UNIT**

City of Glendale

**ADDRESS**

5850 West Glendale Avenue, Glendale, AZ 85301

**AGREEMENT NUMBER**

DUIAC-I-025

**PROGRAM AREA**

Innovative

**AGENCY CONTACT**

Richard Stringer

**PROJECT TITLE**

Know Your Limit

**BRIEFLY STATE PURPOSE OF PROJECT:**

State DUI Abatement (I) funds will support Personnel Services (Overtime) and Employee Related Expenses to enhance DUI Innovative Program and Education throughout the City of Glendale.

**BUDGET**

**COST CATEGORY**

**Project Period**  
**SFY 2016-2017**

<b>I. Personnel Services</b>	\$37,736.00
<b>II. Employee Related Expenses</b>	\$12,264.00
<b>III. Professional and Outside Services</b>	\$0.00
<b>IV. Travel In-State</b>	\$0.00
<b>V. Travel Out-of-State</b>	\$0.00
<b>VI. Materials and Supplies</b>	\$0.00
<b>VII. Capital Outlay</b>	\$0.00
<b>TOTAL ESTIMATED COSTS</b>	<b>\$50,000.00</b>

**PROJECT PERIOD** FROM: Effective Date (*Date of DUIAC Chairman Signature*) TO: 03-31-2017

**CURRENT GRANT PERIOD** FROM: 03-21-2016 TO: 03-31-2017

**TOTAL DUI ABATEMENT FUNDS OBLIGATED FOR THIS AGREEMENT PERIOD: \$50,000.00**

A political subdivision or state agency that is mandated to provide a certified resolution or ordinance authorizing entry into this agreement must do so prior to incurring any expenditures. Failure to do so may result in termination of the awarded agreement.

**PROBLEM IDENTIFICATION AND RESOLUTION:****Agency Background:**

Glendale, Arizona's fourth largest city is the commercial, industrial, and educational hub of the northwest Phoenix metropolitan area. Currently, Glendale has an ever-growing estimated population of 230,000 people; with over 95,000 households. The City of Glendale is the home of the Phoenix Coyotes and Arizona Cardinals professional sports teams, as well as the new Camelback Ranch Major League Baseball Training Facility, home of the Los Angeles Dodgers, and Chicago White Sox. The City of Glendale has approximately 70 square miles of roadway that consist of residential streets, main arterial roadways, and several miles of freeway. Glendale has a 14 mile stretch of the Loop 101 Agua Fria Freeway that borders our north and west portion of the city and the entertainment districts.

**Agency Problem:**

The Glendale Police Department implemented a full-time DUI enforcement squad in March, 2004. They have since increased the squad from the initial 3 officers to a full squad of 7 with a dedicated sergeant to oversee the operations. They have increased their DUI arrests by over 100% in the seven years since. With the addition of a mobile DUI processing van in 2006 to aid in faster processing of impaired drivers, the officers are back out for enforcement in a timely manner. In addition to DUI detection and enforcement, the squad is also tasked with youth alcohol enforcement and education, DRE evaluations, phlebotomy callouts, and liquor inspections. With the expansion of the unit, they have increased their areas of involvement. The squad participates as a member of the Arizona/West Valley DUI task force as well. The city continues to grow in size as does the population. This has a direct impact on their efforts.

This innovative program allows them to approach the problem of impaired driving from a different angle. By having contact with potentially impaired drivers prior to their actual driving, they will deter the potentially life-threatening behavior before it happens. The program affords them the opportunity to have consensual contact with potentially impaired drivers, have them voluntarily submit to a portable breath test, and provide them with the results indicating their level of impairment. In addition, they are provided with the potential fines and subsequent jail time should they choose to operate a vehicle in their current state and be stopped by law enforcement.

Even with the strict DUI enforcement conducted by the Glendale Police Department's DUI Motor Squad, they are not able to contact every impaired driver on the roadway. Their goal with the "Know Your Limit" program is to reduce the number of impaired drivers on the roadways of Glendale by 50% on the nights they conduct "Know Your Limit" Education. Ultimately, they hope that with each educational contact, they are able to change a behavior pattern in potentially impaired drivers forever.

**Agency Attempts to Solve Problem:**

The Glendale Police Department has been an active member of the West Valley DUI Task Force, a branch of the Arizona DUI Task Force, since the DUI Squad's inception in 2004. Glendale has been considered the "hub" of the west valley due to the size of the city and the number of officers focused on DUI enforcement. There are ten agencies involved in the West Valley DUI task force which include Glendale, Peoria, Goodyear, Surprise, Tolleson, El Mirage, Avondale, AZDPS, Phoenix, and Buckeye. The Traffic/DUI squad supervisors meet once per year to map out the events for the year. Each agency will choose dates throughout the year and agree to host a Task Force event (saturation patrol), and officers and supervisors from the other west valley agencies meet in the host agency's jurisdiction to assist. This, in turn, becomes a collaborative effort amongst all of the west valley police agencies as well as the Governor's Office of Highway Safety. Statistics from each event are reported to GOHS. A database is available online

to any and all of the involved agencies to report statistics, and also to refer to for individual city statistics. This funding allows the Glendale Police Department to continue their involvement in the West Valley DUI Task Force, attend all of the scheduled events, and continue the high level of DUI detection and enforcement within the City of Glendale and the West Valley.

This will be the second year the Glendale Police Department will attack the growing problem of impaired driving through a proactive approach aimed at educating potentially impaired drivers as the leave entertainment areas, prior to taking control of a vehicle. This program was highly effective this past year, and received both state and national attention.

**Agency Funding:**

State DUI Abatement (I) funds will support Personnel Services (Overtime) and Employee Related Expenses to enhance DUI Innovative Program and Education throughout the City of Glendale.

**How Agency Will Solve Problem With Funding:**

The Glendale Police Department DUI Enforcement Unit will continue its role as the hub of the West Valley DUI Task Force. Pro-active enforcement efforts will be increased and the police department will continue to be vigilant in the fight against driving under the influence. Officers will continue to conduct pro-active patrols during hours outside of normal shift hours, and on weekends and holidays when DUI violations are more prevalent. The Glendale Police Department will continue to plan, host, and participate in focused efforts to identify impaired drivers and remove them from our roadways before they hurt themselves or others.

The Glendale Police Department's DUI Motor squad will conduct twelve to twenty four (12-24) "Know Your Limit" Program nights during days/nights of peak activity through January 30, 2017.

On nights in which the "Know Your Limit" Program is deployed, Glendale PD expects to see a 50% decrease in the number of impaired drivers leaving the entertainment districts of Glendale.

**GOALS/OBJECTIVES:**

State DUI Abatement (I) funds will support Personnel Services (Overtime) and Employee Related Expenses to enhance DUI Innovative Program and Education throughout the City of Glendale.

**Impaired Driving or Operating - Innovative Program**

Expenditures of funding pertaining to Impaired Driving or Operating Enforcement or Innovative Programs including Personnel Services and ERE, Materials & Supplies, Capital Equipment and/or Travel In and Out of State shall comply with the Impaired Driving or Operating Program Goals of the DUI Abatement Council in conjunction with those provided by the Arizona Governor's Office of Highway Safety. The Impaired Driving or Operating Program Goal is to reduce the incidence of alcohol and drug related driving or operating, fatalities and injuries through enforcement, education and public awareness and through innovative programs throughout the State of Arizona. Law Enforcement personnel participating in Impaired Driving or Operating Enforcement/DUI activities including DUI Task Force details under this program shall be HGN/SFST certified. This is not a requirement for those participating in DUI Innovative programs.

**MEDIA RELEASE**

To prepare complete press release information for media (television, radio, print and on-line) during each campaign period including a main press release, schedule of events, departmental plans and relevant data.

**The material will emphasize the campaign's purpose, aggressive enforcement and the high cost of DUI / Alcohol in terms of money, criminal and human consequences.**

The Glendale Police Department will maintain responsibility for **reporting sustained DUI enforcement** activity in a timely manner. Additionally, it is the responsibility of the Glendale Police Department to report all task force enforcement statistics in which they participate to GOHS on-line at the GOHS website **no later than 10:00a.m. the morning following each day of the event.**

**PLEASE NOTE: Failure to submit Statistics, Quarterly Reports and/or Report of Costs Incurred (RCIs) on time and correctly may delay reimbursement for expenditures to your agency, or a cancellation and return of unexpended advanced funding.**

**METHOD OF PROCEDURE:**

The Glendale Police Department will make expenditures as follows to meet the outlined Program Goals/Objectives:

Personnel Services – To support Overtime for Innovative and Education Programs

Employee Related Expenses – To support Employee Related Expenses for Agency Overtime

**PRESS RELEASE:**

Agencies are required to develop and distribute a press release announcing this grant award upon receipt of the executed agreement. A copy of this press release shall be sent to the DUI Abatement Council at the same time it is sent to the media. This press release shall include the objective and specify that the funding is from the Oversight Council on Driving or Operating Under the Influence Abatement.

**BAC TESTING AND REPORTING REQUIREMENTS:**

Alcohol impairment is a major contributing factor in fatality and serious injury motor vehicle collisions. Accurate data on alcohol involvement is essential to understanding the full extent of the role of alcohol and to assess progress toward reducing impaired driving.

Arizona is presently and consistently below the documented average among the states in the Blood Alcohol (BAC) testing of drivers involved in fatal motor vehicle collisions.

**Each law enforcement agency that receives an enforcement-related grant is required to ensure that this accurate data on all drivers involved are reported.** Failure to comply may result in withholding funds and cancellation of the enforcement contract until this requirement is met.

**PURSUIT POLICY:**

All law enforcement agencies receiving state funds are encouraged to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police (IACP) that are currently in effect.

**SPECIFIC REQUIREMENTS:****BREATH TESTING DEVICES –****Requirements for Portable Breath Test Devices (PBTs):**

The Glendale Police Department will be responsible for providing all personnel the appropriate training for using the Portable Breath Test Devices (PBTs) purchased under this contract.

PBTs will be calibrated per the specifications outlined by the respective manufacturer. Written documentation will be maintained by the agency and will be available upon request for review by GOHS.

**Requirements for Intoxilyzers (Evidentiary Breath Testing Instruments):**

The successful vendor must certify that the devices purchased are on the National Highway Traffic Safety Administration (NHTSA) Conforming Products List and must meet, or exceed, NHTSA model specifications. In addition, the devices must be certified and approved by the Arizona Department of Public Safety per Arizona Administrative Code R9-14-403.

The Glendale Police Department will be responsible for providing all personnel the appropriate training for using the Intoxilyzers purchased under this contract implementing a NHTSA approved training course.

The Glendale Police Department will maintain written documentation (copy of the training certificates) which will be available upon request for review by GOHS.

Intoxilyzers will be operated, calibrated under the standard quality assurance procedures per the appropriate outlined procedures listed in the Arizona Administrative Code.

**PROFESSIONAL AND OUTSIDE SERVICES/PUBLIC INFORMATION/MEDIA-****Requirements for Public Information and Education Materials:**

Prior to the printing and distribution of public information and education materials, a sample will be provided to the GOHS Director for review and written approval.

**Requirements for Paid Media:**

All paid media must be pre-approved by the GOHS Director to ensure that consistent messages are sent statewide. Requests for paid media must include, *at a minimum*, scripts, description of target audience (to include methodology for identifying target audience), type of media to be utilized (electronic, print), campaign schedule, and budget. Additional information may be requested on a case by case basis.

**METHOD OF PROCUREMENT:**

Procurement procedures shall be in accordance with the DUIAC Project Director's Manual. Additionally, the Glendale Police Department shall follow State Procurement Code.

A clear audit trail must be established to determine costs charged against this agreement. Substantiation of costs shall, where possible, be made utilizing the Glendale Police Department documentation consisting of, but not limited to, copies of time sheets, purchase orders, copies of invoices, and proof of payment.

The Project Director shall retain copies of all documentation in the project file.

**State Contract:**

Procurement may be made using an open state contract award. Documents submitted to substantiate purchase using an open state contract must bear the contract number.

**PROJECT EVALUATION:**

This project shall be administratively evaluated to ensure that the objectives have been met.

**Quarterly Report**

The purpose of the Quarterly Report is to provide information on agreement grant activities conducted at the conclusion of each respective quarter. The information provided is used to review progress of the funded project and the successfulness in meeting outlined goals and objectives. The information, photos, highlights, obstacles, and mandatory statistical data provided in this report are analyzed by the assigned project coordinator. It is critical that the on-line report contains the following information:

- **Original signatures on all Quarterly Reports and RCIs**
- **Signatures must include Project Director unless prior authorization for another is on file with GOHS.**

**Report Schedule**

Reporting Period	Due Date
<b>2016-1 Quarterly Report</b> (March 21 to June 30)	July 31, 2016
<b>2016-2 Quarterly Report</b> (July 1 to September 30)	October 31, 2016
<b>2016-3 Quarterly Report</b> (October 1 to December 31)	January 31, 2017
<b>2016-4 Quarterly Report</b> (January 1 to March 31)	April 30, 2017
<b>Final Statement of Accomplishment</b>	Within 30 days after Agreement end date

The Quarterly Report **shall be completed on the form available on-line and submitted by mail** to the DUI Abatement Council at the Governor’s Office of Highway Safety. The Quarterly Report title is based on the 3 month calendar period (Year-Calendar Quarter). **Note:** All law enforcement agencies must enter enforcement activity into the on-line GOHS DUI Reporting System.

**Final Statement of Accomplishments**

The Project Director shall submit a Final Statement of Accomplishments Report to the DUI Abatement Council **no later than 30 days following the agreement end date**. All agencies receiving funding are required to submit a Final Statement of Accomplishments Report.

**Note:** Failure to comply with the outlined DUI Abatement Council reporting requirements may result in withholding of state funds or termination of the agreement and return of any unexpended advanced funds.

**PROFESSIONAL AND TECHNICAL PERSONNEL:**

**Debora Black, Chief of Police, Glendale PD, shall serve as Project Director.**

**Richard Stringer, DUI Motors Sergeant, Glendale PD, shall serve as Project Administrator.**

**Shane Radford, Governor's Office of Highway Safety, shall serve as Project Coordinator.**

**REPORT OF COSTS INCURRED (RCI):**

The Project Director shall submit a Report of Costs Incurred (RCI) with supporting documentation attached, to the Governor's Office of Highway Safety at a minimum on a quarterly basis in correlation with the required report. Agencies may submit additional RCI forms for expenditures when funds have been expended for which reimbursement is being requested.

RCIs shall be typed and delivered via mail or hand with appropriate supporting documentation, delivered to the Governor's Office of Highway Safety. **Electronically submitted RCIs will not be accepted.** Final RCIs will not be accepted after thirty (30) days after the conclusion of the Agreement end date. **Expenditures submitted after the expiration date will not be reimbursed and the agency will accept fiscal responsibility.**

**The RCI template and instructions are available on the Governor's Office of Highway Safety website at <http://www.azgohs.gov/grant-opportunities/>. Failure to meet the reporting requirements may be cause to terminate the project.**

**PROJECT MONITORING:**

DUI Abatement Council grant project monitoring is used by GOHS project coordinators to track the progress of project objectives, performance measures and compliance with applicable procedures, laws, and regulations.

The process is used throughout the duration of the agreement project and serves as a continuous management tool. Project monitoring also presents a good opportunity for developing partnerships, sharing information and providing assistance to contracted agencies. Additionally, project monitoring outlines a set of procedures for project review and documentation.

Project monitoring also serves as a management tool for:

- Detecting and preventing problems
- Helping to identify needed changes
- Identifying training or assistance needed
- Obtaining data necessary for planning, and evaluation



- Identifying exemplary projects

**Types of Monitoring**

Monitoring is formal and informal, financial and operational. The most common types of monitoring are:

- Ongoing contact with the contracted grantee through phone calls, e-mails, correspondence, and meetings
- On-Site and/or In-House monitoring reviews of project operations, management, and financial records and systems
- Review of project Quarterly Reports
- Review and approval of Requests for Cost Incurred (RCIs)
- Desk review of other documents in the project-grant files for timely submission and completeness

<b>Monitoring Schedule</b>	
<b>Total Awarded Amount</b>	<b>Type of Monitoring</b>
Under \$50,000	Desk Review/Phone Conference.
\$50,000 and over	May have an In-House GOHS Review
\$100,000+	May have an On-Site Review
Capital Outlay Greater than \$25,000.00 (combined)	May have an On-Site Review
Desk Review and Phone Conference	Internal Review of all written documentation related to agreement project including but not limited to agreement, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. A phone conference call conducted during the course of the project which includes the date and time of the call, the person/s contacted and the results. Serves as an informational review to determine progress of programmatic/financial activities. Both the designated project administrator and fiscal contact should be present, if possible, during the phone conference. If identified financial or operational problems are present, GOHS reserves the right to bring the grantee in for an in-house meeting at GOHS. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
In-House Review	Documents performance review results including project activities, reimbursement claims review, equipment purchases, approvals, and other information. Reviews applicable information related to the project(s) including but not limited to agreement, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Completed at GOHS in a meeting with appropriate operational and financial personnel. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
On-Site Monitoring	Documents performance review results including project activities, reimbursement claims review, equipment purchases, and other information. Reviews applicable information related to the project(s) including but not limited to agreement, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Conducted on-site at the

	grantee's agency with monitoring form completed on-site by Project Coordinator. Any findings or areas of improvement, concern, or recognition, will be provided to the grantee.
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On-site and/or In-house monitoring for grantees of designated projects with large capital outlay purchases, personnel services, and complex projects must be completed within the second or third quarter of the Agreement period. Contracted projects displaying any problems might need on-site monitoring more than once during the fiscal year.

On-site and/or In-house monitoring includes a review and discussion of all issues related to assure the effective and administration of the contracted project. The following are the most important items to review:

- Progress toward meeting goals/objectives and performance measures
- Adherence to the contract specifications, timely submission of complete and correct reports, including required documentation
- Quarterly reports
- Status of expenditures related to the outlined budget
- Accounting records
- Supporting documentation (training documentation, inventory sheets, photographs, press releases etc)

In addition, the designated project administrator will assure that any equipment purchased will be available for inspection and is being used for the purpose for which it was bought under the outlined contractual agreement.

**Documentation**

All findings will be documented on the GOHS Monitoring Form and placed in the grantee's respective state file. Findings will be discussed with the grantee designated agreement representative (project administrator, fiscal specialist) by phone and/or e-mail. All noted deficiencies will be provided to the grantee with guidance for improvement and solutions to problems. Grantees that exhibit significantly poor performance with be placed on a performance plan as outlined by the project coordinator. Grantee monitoring information will additionally provide documentation for potential funding in subsequent fiscal year grant proposal review.

**PROJECT PERIOD:**

The Project Period shall commence on the date the DUI Abatement Council Chairman or GOHS Director in the Chairman's stead, signs the DUI Abatement Grant Agreement and terminates at the end of one year on the date as indicated on the DUI Abatement Council Grant Agreement.

**DURATION:**

Agreements shall be effective on the date the DUI Abatement Council Chairman or GOHS Director in the Chairman's stead, signs the agreement and expire at the end of the project period.

If the Agency is unable to expend the funds in the time period specified and needs an extension, a typed extension request shall be signed by the Project Director on the Agency's letterhead and submitted via mail or hand delivered to the Chairman of the DUI Abatement Council at the Governor's Office of Highway Safety within ninety (90) days before the end of the project period.

The Agency shall address all requests to modify the contract to the Chairman of the DUI Abatement Council on Agency letterhead and either hand deliver or submit the request via regular mail to the GOHS office. All requests for modification must bear the signature of the Project Director.

Failure to comply may result in cancellation of the agreement. Any unexpended funds remaining at the termination of the agreement shall be released back to the DUI Abatement Fund.

**ESTIMATED COSTS:**

I.	Personnel Services (overtime)	\$37,736.00
II.	Employee Related Expenses	\$12,264.00
III.	Professional and Outside Services	\$0.00
IV.	Travel In-State	\$0.00
V.	Travel Out-of-State	\$0.00
VI.	Materials and Supplies	\$0.00
VII.	Capital Outlay	\$0.00
	<b>TOTAL ESTIMATED COSTS</b>	<b>*\$50,000.00</b>

\*Includes all applicable training, tax, freight, and advertising costs. The DUIAC reserves the right to limit reimbursement of Employee Related Expenses from zero (0) to a maximum rate of 40 percent. This is the maximum ERE amount to be reimbursed. It is agreed and understood that the Glendale Police Department shall absorb any and all expenditures in excess of **\$50,000.00**

CERTIFICATIONS AND AGREEMENTS

This AGREEMENT, is made and entered into by and between the STATE OF ARIZONA, by and through the Oversight Council On Driving Or Operating Under The Influence Abatement (DUIAC) hereinafter referred to as "STATE", and the Agency named in this Agreement, hereinafter referred to as "AGENCY".

WHEREAS, the Arizona Revised Statutes (§§1303-1304), provides State funds to STATE for approved DUI Enforcement and DUI Innovative projects; and

WHEREAS, STATE may make said funds available to various state, county, tribal, or municipal agencies, governments, or political subdivisions upon application and approval by STATE; and

WHEREAS, AGENCY must comply with the requirements listed herein to be eligible for State funds for approved DUI Enforcement and DUI Innovative projects; and

WHEREAS, AGENCY has submitted an application for State funds for DUI Enforcement and DUI Innovative projects;

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOODS AND VALUABLE CONSIDERATION, it is mutually agreed that AGENCY will strictly comply with the following terms and conditions and the following Federal and State Statutes, Rules, and Regulations:

**I. Project Monitoring, Reports, and Inspections**

- A. AGENCY agrees to fully cooperate with representatives of STATE monitoring the project, either on-site or by telephone, during the life of the Agreement.
- B. AGENCY will submit Quarterly Reports (one for each three-month period of the project year) to STATE in the form and manner prescribed by STATE. Notice of the specific requirements for each report will be given in this Agreement or at any time thereafter by giving thirty (30) days written notice to AGENCY by ordinary mail at the address listed on the Agreement. Failure to comply with Quarterly Report requirements may result in withholding of State funds or termination of this Agreement.
- C. AGENCY will submit a Final Report/Statement of Accomplishment at completion of the Agreement to include all financial, performance, and other reports required as a condition of the grant to STATE within thirty (30) days of the completion of the Agreement.
- D. Representatives authorized by STATE will have the right to visit the site and inspect the work under this Agreement whenever such representatives may determine such inspection is necessary.

**II. Reimbursement of Eligible Expenses**

- A. AGENCY'S Project Director, or Finance Personnel, will submit a Report of Costs Incurred Form (RCI) to STATE each time there have been funds expended for which reimbursement is being requested. Failure to meet this requirement may be cause to terminate the project under section XIX herein, "Termination and Abandonment".

- B. AGENCY will reimburse STATE for any ineligible or unauthorized expenses for which State funds have been claimed and reimbursement received, as may have been determined by a State audit.
- C. STATE will have the right to withhold any installments equal to the reimbursement received by AGENCY for prior installments which have been subsequently determined to be ineligible or unauthorized.

### **III. Property Agreement**

- A. AGENCY will immediately notify STATE if any equipment purchased under this Agreement ceases to be used in the manner as set forth by this Agreement. In such event, AGENCY further agrees to either give credit to the project cost or to another active DUI Abatement project for the residual value of such equipment in an amount to be determined by STATE or to transfer or otherwise dispose of such equipment as directed by STATE.
- B. No equipment will be conveyed, sold, salvaged, transferred, etc., without the express written approval of STATE, or unless otherwise provided elsewhere in this Agreement.
- C. AGENCY will maintain or cause to be maintained for its useful life, any equipment purchased under this Agreement.
- D. AGENCY will incorporate any equipment purchased under this Agreement into its inventory records.
- E. AGENCY will insure any equipment purchased under this Agreement for the duration of its useful life. Self-insurance meets the requirements of this section.

### **IV. Travel**

#### In-State and Out-of-State Travel

In-state and out-of-state travel claims will be reimbursed at rates provided by AGENCY'S regulations, provided that such regulations are as restrictive as those of STATE. Where they are less restrictive, ARS §38-624 will apply.

All out-of-state travel must be approved in writing in advance by STATE.

### **V. Standard of Performance**

AGENCY hereby agrees to perform all work and services herein required or set forth, and to furnish all labor, materials, and equipment, except that labor, material, and equipment as STATE agrees to furnish pursuant to this Agreement.

**VI. Hold Harmless Agreement**

Neither party to this agreement agrees to indemnify the other party or hold harmless the other party from liability hereunder. However, if the common law or a statute provides for either a right to indemnify and/or a right to contribution to any party to this agreement then the right to pursue one or both of these remedies is preserved.

**VII. Non-Assignment and Sub-Contracts**

This Agreement is not assignable nor may any portion of the work to be performed be sub-contracted unless specifically agreed to in writing by STATE. No equipment purchased hereunder may be assigned or operated by other than AGENCY unless agreed to in writing by STATE.

**VIII. Work Products and Title to Commodities and Equipment**

A. The work product and results of the project are the property of STATE, unless otherwise specified elsewhere in this Agreement. All property, instruments, non-consumable materials, supplies, and the like, which are furnished or paid for by STATE under the terms of this Agreement, unless otherwise provided for elsewhere in this Agreement, are and remain the property of STATE and will be returned at the completion of this project upon request of STATE. The work product and results of the project will be furnished to STATE upon request, if no provision is otherwise made by this Agreement.

B. The provisions of subparagraph A apply whether or not the project agreed to herein is completed.

**IX. Copyrights and Patents**

Any copyrightable materials, patentable discovery, or invention produced in the course of this project may be claimed by STATE and a copyright or patent obtained by it at its expense. In the event STATE does not wish to obtain such copyright or patent, AGENCY may do so, but in any event, provision will be made by AGENCY for royalty-free, nonexclusive, nontransferable, and irrevocable licenses to be given the United States Government and STATE and its political subdivisions to use such copyrightable material, patented discoveries, or inventions in any manner they see fit. The STATE reserves the right to impose such other terms and conditions upon the use of such copyrights or patents as may be deemed in the best interest of STATE in the event AGENCY is allowed to obtain a copyright or patent.

**X. Arizona Procurement Code (ARS, §41-2501, et. seq.)**

AGENCY and sub-grantees will use their own procurement procedures, which reflect applicable State and local laws and regulations. The most stringent purchasing requirement at each level must be met.

The Arizona Procurement Code (ARS, §41-2501, et. seq.) and promulgated rules (A.A.C. Title 2, Chapter 7) are a part of this Agreement as if fully set forth herein and AGENCY agrees to fully comply with these requirements for any procurement using grant monies from this Agreement.

**XI. Equal Opportunity**

- A. Pursuant to the requirements of the Federal-Aid Highway Act of 1968 (U.S.C. §103 et. seq.), AGENCY, as a condition to receiving approval of this Agreement, hereby gives its assurance that employment in connection with the subject DUI Abatement Council Grant Project will be provided without regard to race, color, creed, sex, or national origin, and that any contract it enters into with any private agency pursuant hereto will include provisions in compliance with this paragraph (XI).

As a condition of receiving approval of this Agreement, AGENCY will be subject to and will comply with Title VI of the Civil Rights Act of 1964, providing that no person in the United States shall on the ground of race, color, creed, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the subject DUI Abatement Council Grant Project.

- B. If AGENCY fails or refuses to comply with its undertaking as set forth in these provisions, STATE may take any or all of the following actions.
1. Cancel, terminate, or suspend, in whole or in part, the agreement, contract, or other arrangement with respect to which the failure or refusal occurred; and
  2. Refrain from extending any further State financial assistance to AGENCY under the DUI Abatement Council Grant Program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from AGENCY.
- C. Pursuant to the requirement of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), AGENCY must operate this DUI Abatement Council Grant Project so that it is accessible and otherwise non-discriminatory to handicapped persons.

## **XII. Executive Order 2009-09**

It is mutually agreed that AGENCY will comply with the terms and conditions of Executive Order 2009-09, *Non-Discrimination in Employment by Government Contractors and Subcontractors*. Executive Order 2009-09 is located in Part II of the Project Director's Manual.

## **XIII. Arbitration Clause, ARS §12-1518**

Pursuant to ARS §12-1518, the parties agree to use arbitration, after exhausting applicable administrative reviews, to resolve disputes arising out of this Agreement where the provisions of mandatory arbitration apply.

## **XIV. Inspection and Audit, ARS §35-214**

Pursuant to ARS §35-214, all books, accounts, reports, files, and other records relating to this Agreement will be subject at all reasonable times to inspection and audit by STATE for five (5) years after completion of this Agreement. The records will be produced at the Governor's Office of Highway Safety.

## **XV. Appropriation of Funds by the Arizona Legislature**

It is agreed that in no event will this Agreement be binding on any party hereto unless and until such time as funds are appropriated and authorized by the Arizona Legislature and specifically allocated to the project submitted herein by the DUI Abatement Council and then only for the fiscal year for which such allocation is made. In the event no funds are appropriated by the Arizona Legislature or no funds are allocated for the project proposed herein by the DUI Abatement Council for subsequent fiscal years, this Agreement will be null and void, except as to that portion for which funds have then been appropriated or allocated to this project, and no right of action or damages will accrue to the benefit of the parties hereto as to that portion of the Agreement or project that may so become null and void.

#### **XVI. Continuation of DUI Abatement Program**

It is the intention of AGENCY to continue the DUI Abatement Program identified in this Agreement once DUI Abatement Council funding is completed. This intended continuation will be based upon cost effectiveness and an evaluation by AGENCY of the program's impact on highway safety.

#### **XVII. E-Verify**

Both Parties acknowledge that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. Both Parties warrant that they have registered with and participate with E-Verify. If either Party later determines that the other non-compliant Party has not complied with E-Verify, it will notify the non-compliant Party by certified mail of the determination and of the right to appeal the determination.

#### **XVIII. Termination and Abandonment**

- A. The STATE and AGENCY hereby agree to the full performance of the covenants contained herein, except that STATE reserves the right, at its discretion, to terminate or abandon any portion of the project for which services have not been already performed by AGENCY.
- B. In the event STATE abandons the services or any part of the services as herein provided, STATE will notify AGENCY in writing and within twenty-four (24) hours after receiving such notice, AGENCY will discontinue advancing the work under this Agreement and proceed to close said operations under the Agreement.
- C. The appraisal value of work performed by AGENCY to the date of such termination or abandonment shall be made by STATE on a basis equitable to STATE and AGENCY and a final reimbursement made to AGENCY on the basis of costs incurred. Upon termination or abandonment, AGENCY will deliver to STATE all documents, completely or partially completed, together with all unused materials supplied by STATE.
- D. AGENCY may terminate or abandon this Agreement upon thirty (30) days written notice to STATE, provided there is subsequent concurrence by STATE. Termination or abandonment



by AGENCY will provide that costs can be incurred against the project up to and including sixty (60) days after notice is given to STATE.

- E. Any equipment or commodities which have been purchased as a part of this Agreement and which have not been consumed or reached the end of its useful life will be returned to STATE upon its written request.

#### **XIX. Cancellation Statute**

All parties are hereby put on notice that this Agreement is subject to cancellation pursuant to ARS §38-511, the provisions of which are stated below.

In accordance with ARS §38-511, this Agreement may be cancelled without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of the STATE, its political subdivisions or any department or agency of either, 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 consultant to any other party of the Agreement with respect to the subject matter or the Agreement.

The cancellation shall be effective when written notice from the Governor or chief executive officer or governing body of the political subdivision is received by all other parties to the Agreement unless the notice specifies a later time.

**AGREEMENT OF UNDERSTANDING AND CERTIFICATION OF COMPLIANCE****Acceptance of Condition**

It is understood and agreed by the undersigned that a grant received as a result of this Agreement is subject to ARS §28-602, and all administrative regulations governing grants established by the STATE. It is expressly agreed that this DUI Abatement Grant Project constitutes an official part of the STATE's DUI Abatement Council Program and that AGENCY will meet the requirements as set forth in the accompanying DUIAC Project Director's Manual, which are incorporated herein and made a part of this Agreement. All State Statutes, Rules, Regulations, and Circulars referenced in this Agreement are a part of this document as if fully set forth herein. It is also agreed that no work will be performed nor any obligation incurred until AGENCY is notified in writing that this project has been approved by the DUI Abatement Council Representative.

**Certificate of Compliance**

This is to certify that AGENCY will comply with all of the State Statutes, Rules and Regulations identified in this Agreement.

**Certification of Non-Duplication of Grant Funds Expenditure**

This is to certify that AGENCY has no ongoing nor completed projects under agreement with other Federal or State fund sources which duplicate or overlap any work contemplated or described in this Agreement. It is further certified that any pending or proposed request for other Federal or State grant funds which would duplicate or overlap work described in the Agreement will be revised to exclude any such duplication of grant fund expenditures. It is understood that any such duplication of Federal or State funds expenditures subsequently determined by audit will be subject to recovery by STATE.

**Single Audit Act**

If your political subdivision has had an independent audit meeting the requirements of the Single Audit Act of 1984, (31 U.S.C.A. §7501 et. seq.), please forward a copy to GOHS, Attention: Fiscal Services Officer, within thirty (30) days of the effective date of this Agreement. If such audit has not been performed, please advise when it is being scheduled.

**Buy America Act**

In accordance with the Buy America Act (49 U.S.C. 5323(j)):  
Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

REIMBURSEMENT INSTRUCTIONS

1. Agency Official preparing the Report of Costs Incurred:

Name: Deborah Black  
Title: Police Chief  
Telephone Number: 623-930-3285 Fax Number: 623-931-2103  
E-mail Address: dblack@glendaleAZ.com

2. Agency's Fiscal Contact:

Name: David Rice  
Title: Management Assistant  
Telephone Number: 623-930-3296 Fax Number: 623-931-2103  
E-mail Address: drice@glendaleAZ.com  
Federal Identification Number: 86-6800247

3. REIMBURSEMENT INFORMATION:

Warrant/Check to be made payable to: ACH  
CITY OF GLENDALE

Warrant/Check to be mailed to:  
Glendale Police Department  
(Agency)  
1835 N. 57th Drive  
(Address)  
Glendale AZ 85301  
(City, State, Zip Code)

**Lobbying Restrictions**

**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No State appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of the Arizona Legislature, an officer or employee of the Arizona Legislature, or an employee of a Member of the Arizona Legislature in connection with the awarding of any State contract, the making of any State grant, the making of any State loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any State contract, grant, loan, or cooperative agreement.
- B. If any funds other than State appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of the Arizona Legislature, an officer or employee of the Arizona Legislature, or an employee of a Member of the Arizona Legislature in connection with this State contract, grant, loan, or cooperative agreement, the undersigned will complete and submit Standard Form, "Disclosure Form to Report Lobbying," in accordance with the Arizona Secretary of State instructions.
- C. The undersigned will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients will certify and disclose accordingly.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction.

*Signature of Project Director:*

Debora Black, Chief of Police  
Glendale Police Department



April 8, 2016      623-930-3285  
Date                      Telephone

*Signature of Authorized Official of  
Governmental Unit:*

Kevin Phelps, City Manager  
City of Glendale

\_\_\_\_\_

\_\_\_\_\_                      \_\_\_\_\_  
Date                                      Telephone

**AUTHORITY & FUNDS**

1. This Project is authorized by ARS §28-1303, and the funds authorized for this Project have been provided for by ARS §28-1304. The expenses are **reimbursable** under DUI Abatement Council's **Innovative** program area, as approved for by the DUI Abatement Council.

2. A. **EFFECTIVE DATE:**

Authorization to Proceed Date

B. **STATE FUNDS:**

\$50,000.00

3. **AGREEMENT AND AUTHORIZATION TO PROCEED**

by State Official responsible to the Governor for the administration of the Oversight Council on Driving or Operating Under the Influence Abatement

\_\_\_\_\_  
Alberto Gutier, Director  
Governor's Highway Safety Representative

\_\_\_\_\_  
Date



## Legislation Description

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**File #:** 16-194, **Version:** 1

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**RESOLUTION 5102: AUTHORIZATION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF ARIZONA STATE UNIVERSITY TO ENHANCE COOPERATION AND UNDERSTANDING AMONG LAW ENFORCEMENT AGENCIES SERVING THE UNIVERSITY COMMUNITY**

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 of Glendale Police Chief to enter into a memorandum of understanding (MOU) with the Arizona Board of Regents for and on behalf of Arizona State University (ASU) to enhance cooperation and understanding among law enforcement agencies serving the university community.

### **Background**

The White House Task Force to Protect Students from Sexual Assault was formed on January 22, 2014. The Task Force is part of a wider federal movement to bring awareness to sexual violence on American campuses, and works to assist institutions of higher education and law enforcement agencies as they develop strategies and tools to continue to address this serious issue. The Task Force encourages partnerships between local law enforcement agencies and colleges and universities, including those with campus police departments, to strengthen and help sustain their efforts to prevent and effectively respond to sexual assault using a fair, victim-centered, and trauma-informed approach.

ASU and the ASU Police Department agree that coordinating sexual assault prevention and response works best as part of an integrated public safety and crime prevention strategy, and where there is a concerted effort to develop close working relationships and trust with law enforcement partners. ASU has requested the City of Glendale Police Department (GPD) consider entering into the proposed MOU to demonstrate GPDs continued commitment to prevention, while maintaining response procedures already in place, which includes ensuring investigations are comprehensive, facilitating the prosecution of offenders, respecting the legal rights of those accused, and providing appropriate support to victims.

### **Analysis**

The proposed MOU is a non-binding agreement of cooperation and collaboration between GPD and ASU. The intent of the MOU is to enhance cooperation and understanding among law enforcement agencies serving the university community, while enhancing safety for students, employees, and visitors. The MOU addresses communication and coordination, sexual violence prevention, response to reported sexual assault, and education; allowing agencies to better serve the residents and students in this community. If approved, the MOU will be effective upon signature of each party and will remain in effect unless terminated upon request

by either party. Staff is requesting Council adopt the proposed resolution authorizing the City of Glendale Police Chief to enter into the MOU with ASU.

**Community Benefit/Public Involvement**

With enhanced cooperation and understanding among law enforcement agencies serving the university community, the Glendale Police Department demonstrates their continued commitment to residents and students.

**Budget and Financial Impacts**

There is no cost to the City to enter into the proposed MOU.

RESOLUTION NO. 5102 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF A MEMORANDUM OF UNDERSTANDING WITH THE ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF ARIZONA STATE UNIVERSITY, TO ENHANCE COOPERATION AND UNDERSTANDING AMONG LAW ENFORCEMENT AGENCIES SERVING THE UNIVERSITY COMMUNITY.

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 a Memorandum of Understanding (MOU) with the Arizona Board of Regents for and on behalf of Arizona State University, to enhance cooperation and understanding among law enforcement agencies serving the university community be entered into on behalf of the Glendale Police Department, which agreement is now on file in the office of the City Clerk of the City of Glendale.

SECTION 2. That the City Council hereby authorizes and directs the Glendale Police Chief, Debora Black, to execute and deliver any and all necessary documents on behalf of the City of Glendale to effectuate this MOU.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this            day of            , 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk            (SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

REVIEWED BY:

\_\_\_\_\_  
City Manager



# Building Partnerships among Law Enforcement Agencies, Colleges and Universities

## Memorandum of Understanding to Prevent and Respond Effectively to Sexual Assaults at Colleges and Universities

The White House Task Force to Protect Students from Sexual Assault (the Task Force) is working to assist institutions of higher education (IHE) and law enforcement agencies as they develop strategies and tools to address the serious issue of sexual violence in higher education. Partnerships between local law enforcement agencies and IHEs, including those with campus police departments, can strengthen, and help sustain, their efforts to prevent and effectively respond to sexual assault using a fair, victim-centered, and trauma-informed approach. IHEs and local law enforcement agencies may have various tools to support communication and collaborative efforts to prevent and respond effectively to sexual violence, including memoranda of understanding (MOUs) and other relationship-enhancing documents. For more guidance on applicable federal laws and relevant policies, see the following resources:

- Violence Against Women Reauthorization Act of 2013 amendments to the Clery Act, Department of Education Final Rule (2014), <http://www.gpo.gov/fdsys/pkg/FR-2014-10-20/pdf/2014-24284.pdf>
- Handbook for Campus Safety and Security Reporting (2011), <http://www.ed.gov/admins/lead/safety/handbook.pdf>
- Clery Act Training, <http://www.ed.gov/admins/lead/safety/campus.html>
- Clery Act Regulations, <http://www.ecfr.gov/cgi-bin/text-idx?rgn=div8&node=34:3.1.3.1.34.4.39.6>
- Questions and Answers on Title IX and Sexual Violence (2014), <http://www.ed.gov/ocr/docs/qa-201404-title-ix.pdf>
- Family Policy Compliance Office (FPCO), <http://www.ed.gov/fpco>
- Guidance - Addressing Emergencies on Campus (2011), <http://www2.ed.gov/policy/gen/guid/fpco/pdf/emergency-guidance.pdf>
- Title IV of the 1964 Civil Rights Act, <http://www.justice.gov/crt/about/edu/types.php>
- Section 14141 and the Safe Streets Act, <http://www.justice.gov/crt/about/spl/police.php>
- The First Report of the White House Task Force to Protect Students from Sexual Assault (2014), <https://www.notalone.gov/assets/report.pdf>
- Sample Language for Reporting and Confidentially Disclosing Sexual Violence (2014), <https://www.notalone.gov/assets/reporting-confidentiality-policy.pdf>
- Title IX/Clery Act Intersection Chart (2014), <https://www.notalone.gov/assets/ferpa-clerychart.pdf>
- Substance Abuse and Mental Health Administration (SAMHSA)- SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach (2014), <http://store.samhsa.gov/shin/content/SMA14-4884/SMA14-4884.pdf>

Arizona State University agrees that coordinating sexual assault prevention and response works best as part of an integrated public safety and crime prevention strategy and where there is a concerted effort to develop close working relationships and trust with law enforcement partners and community groups. In that endeavor, we hope you will strongly consider the attached MOU.

## MEMORANDUM OF UNDERSTANDING RE: SEXUAL VIOLENCE

This Memorandum of Understanding ("MOU") is entered into between the Arizona Board of Regents for and on behalf of Arizona State University ("ASU" or "University") and its police department, and the City of Glendale Police Department. Glendale Police Department ("Glendale PD") and Arizona State University Police Department ("ASU PD") shall collectively be referred to herein as the "Parties."

This MOU is nonbinding and will not give rise to any legally binding obligation on the part of any party. The intent of this MOU is to enhance cooperation and understanding among law enforcement agencies serving the University community. This MOU is authorized under A.R.S. §§ 11-952 and 13-3872.

### PURPOSE

The purpose of this MOU is to enhance safety for students, employees and visitors and better serve the residents and students in this community, ensure that investigations are comprehensive, aid in disciplinary proceedings, facilitate the prosecution of offenders, respect the legal rights of those accused of sexual assault, and provide appropriate support to victims of sexual assault. Accordingly, this MOU sets forth the respective roles and responsibilities of the Parties related to the prevention of and response to sexual assault. The Parties acknowledge that the unique circumstances of individual cases may give rise to issues not addressed by this MOU, which may necessitate further discussion and agreement.

### COMMUNICATION AND COORDINATION

- 1) The Parties will keep each other informed about current trends and patterns in sexual assaults both on and off campus by sharing data and analysis. The Parties will meet regularly to share this information.
- 2) The Parties agree to coordinate the sharing of information about crimes that may pose a serious threat to the health or safety of the campus and near-campus communities to facilitate the issuance of Clery Act-required timely warnings and emergency notifications. The Parties acknowledge that University need not obtain the approval of an outside law enforcement agency to issue any warnings/notifications, nor is the University required to seek preclearance of the content of any warning/notification. However, the Parties will collaboratively establish protocols to inform each other about such warnings.

- 3) The Parties agree to implement communication strategies to promote, among other things, collaboration and information sharing and coordinate investigative efforts to the extent permitted by law. As part of these strategies, the Parties are committed to providing a timely response to calls for service for sexual assault, dating/domestic violence and stalking within the jurisdictions covered by this MOU. These strategies will identify when information related to a report of sexual assault can be shared between the ASU Police Department and the Glendale Police Department, including when aggregate reporting data must be shared under the Clery Act. The victim's interest in maintaining the confidentiality of personally identifying information will be respected. The Parties will identify the rare and exigent circumstances when personally identifying information will be shared without the victim's consent.
  
- 4) The Glendale Police Department will, after seeking and receiving consent from the victim, promptly notify the ASU Police Department and/or ASU Office of Student Rights and Responsibilities when students are identified as the victims or suspects of sexual assault that occur off campus, so as to coordinate resources to minimize/prevent further victimization, trigger appropriate institutional investigative action and disciplinary proceedings against alleged offenders, and to adequately inform the greater campus community of serious ongoing threats to student and employee health and safety<sup>1</sup>. All such notifications to campus authorities should be documented in police incident reports. ASU Police Department, ASU Office of Student Rights and Responsibilities, and ASU Office of Equity and Inclusion will insure that appropriate institutional investigative actions will not interfere with the investigating agency's in-progress criminal investigation.
  
- 5) The Parties agree, at the appropriate time and as allowable by federal and state law, to share relevant documentation and other information created and/or maintained during local law enforcement investigations (such as records of interviews) in all cases where a victim of sexual assault consents to this information-sharing, and a victim of sexual assault and/or an alleged suspect are students or employees of ASU. The purpose of this information-sharing is to ensure the delivery of appropriate services, facilitate full and fair disciplinary investigations, prevent acts of retaliation against the victim or witnesses, and to assess special threats posed by offenders within the respective jurisdictions as part of an overall effort to prevent the occurrence of similar crimes.<sup>2</sup>

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<sup>1</sup> When obtaining consent from the victim, the investigating agency should inform victims of sexual assault that notification to the ASU Police Department likely will also result in notice to the ASU Title IX coordinator.

<sup>2</sup> The local law enforcement agency and ASU Police Department will have protocols regarding the jurisdiction of each agency over sexual assault, including but not limited to geographic locations and types of crimes. Such plans also may involve information-sharing to ensure both agencies can promptly and effectively respond to crimes within their jurisdiction and appropriately refer any that fall outside their jurisdiction.

## SEXUAL VIOLENCE PREVENTION

- 1) The Parties will cooperate in the development and implementation of sexual assault, dating/domestic violence, gender based harassment and stalking prevention strategies for students and will share relevant crime data in furtherance of crime prevention goals.
- 2) The Parties agree to cooperate in the development and implementation of research-informed strategies to prevent sexual assault, including those directed at reducing the use, possession and distribution of drugs and alcohol to facilitate sexual assault.
- 3) The Parties agree to collaborate on educational/awareness programs for students and University personnel (e.g., the sexual assault prevention and awareness programs required by the Clery Act and bystander intervention training) and to work with community-based resources and experts, including victim advocates, to provide these programs.
- 4) The Parties agree to engage in outreach and collaborate with the campus community to promote positive working relationships between law enforcement and students, faculty, staff, and other stakeholders. Outreach may include: information made available online through the University website and/or social media; discussions of campus safety and crime prevention during student orientations and new employee orientations; the distribution of materials to inform students, staff and parents about public safety resources on campus and in collaboration with the community; and information about how sexual assault victims can get help in both emergency and nonemergency situations. The Parties agree to conduct such outreach in a manner that is accessible to students and parents with disabilities or limited English proficiency.
- 5) The Parties agree to facilitate the creation of new or the promotion of existing neighborhood watch programs, after-hours student safety escort programs, blue light emergency notification systems, text-a-tip hotlines, electronic notification systems, and similar community safety initiatives, keeping in mind that the majority of sexual assaults are committed by intimate partners and acquaintances.

## RESPONSE TO REPORTED SEXUAL ASSAULT

- 1) The Parties agree that the Glendale Police Department and the ASU Police Department may request assistance from, and render assistance to, the other to respond to or investigate reports of sexual assault. The Parties, if not already created, will establish procedures that set out the jurisdiction of the local law enforcement agency and provide for cross- or multi-jurisdictional response and/or

investigation as appropriate. These policies and procedures will provide for coordination of the response to reports of sexual assault by clarifying roles and responsibilities based on criteria such as location and type of incident (e.g., apparent misdemeanor or felony).

- 2) ASU will work to ensure victims know of the right to report the sexual assault to law enforcement and will assist victims who wish to report to do so promptly, in order to facilitate preservation of evidence and an effective response by trained criminal investigators. Under no circumstances will ASU either dissuade or require the victim to make a criminal complaint.
- 3) The Parties recognize that regardless of which agency ultimately takes the lead investigative role in responding to a sexual assault, the other Party may be the first responder to the report of the sexual assault. Thus each of the Parties has a responsibility to respond in a manner that facilitates an effective law enforcement and institutional response, as well as appropriate treatment of the individual reporting the sexual assault. This includes ensuring the appropriate preservation of evidence.
- 4) The Parties agree to use the expertise and resources of the cooperating agencies to ensure timely and proper evidence collection, maintenance and preservation. The Parties agree to preserve evidence, regardless of whether the investigation is carried out by local law enforcement or is handled by the ASU Police Department.
- 5) The Parties agree that law enforcement agencies subject to this MOU will ensure the proper administration of sexual assault forensic evidence (SAFE) exams and proper custody and control of all collected evidence, with particular attention paid to collecting evidence regarding drug-facilitated assaults. The Parties agree to determine which agency will be responsible for transporting victims for medical services including SAFE exams.
- 6) The Parties agree that any law enforcement officer or responding individual will not make statements or act in any manner that directly or indirectly discourages the victim from pursuing criminal charges at the time that the officer responds to an incident or during the initial interview, such as by stating that it is likely that the prosecutor would not seek an indictment or that a jury would not convict.
- 7) The Parties agree that in the immediate aftermath of a sexual assault, a victim should be directed to, and receive assistance (including transportation where appropriate) to access, services, including SAFE examinations, and encouraged to provide whatever time-sensitive, case-related information the victim is able to provide. Victims should be advised of how the investigation and charging process will proceed generally and informed of their options with respect to their participation

in that process. However, consistent with trauma-informed interview and investigatory practices, victims should not be encouraged to make any immediate decisions with respect to future participation in that process. A victim who decides not to participate in the investigation or prosecution should not be required to sign a waiver form, as this decision can be documented in police reports and case files. The Parties will not use waivers regardless of whether they are permanent, as victims may interpret them as such, and may feel pressured into signing them. Victims who decide not to participate will be informed that their case can be reopened at their request, and will be given appropriate information about the timing and process for doing so.

## EDUCATION

- 1) The Parties agree that any individual who may be required to conduct an investigation in response to a reported sexual assault will be given specialized, trauma-informed training, and periodic follow-up instruction, in responding to and investigating sexual assault in an effective and bias-free manner, including forensic interviewing and evidence gathering techniques, as well as trauma-informed and bias-free investigative skills that emphasize avoiding questions and behaviors that may contribute to the re-victimization of a victim or witness. Such training must also address how to identify an individual who may require immediate assistance or other services such as suicide counseling, protective custody placement or emergency medical/mental health treatment.
- 2) ASU provides education for its personnel on the federal and state requirements regarding sexual assault prevention and response with which they must comply, including the Clery Act, Title IX, Title IV, the Safe Streets Act, Section 14141, FERPA, and other confidentiality and privacy statutes and policies. This information will highlight campus-based resources, reporting options for victims, the investigation process used in sexual assault cases, and the accommodations that schools can provide to sexual assault victims. Education sessions are available to the partner agency identified in this MOU upon request.
- 3) The Parties agree to provide job-specific, trauma-informed training for 911 dispatchers and first responders from their respective agencies on how to handle reported incidents of sexual assault and other crimes of violence.

## MISCELLANEOUS

- 1) Each Party agrees to act in good faith to observe the terms of this MOU; however, nothing in this MOU is intended to require any unlawful or unauthorized act by any Party.

- 2) No provision of this MOU shall form the basis of a cause of action at law or equity by any Party against any other Party, nor shall any provision of this MOU form the basis of a cause of action at law or equity by any third party.
- 3) This MOU is effective upon signature by each Party.
- 4) This MOU may be terminated upon 30 days' notice by any Party. This MOU may be amended or terminated by mutual agreement of the Parties. An amendment or termination should be done in writing.

THE ARIZONA BOARD OF REGENTS FOR  
AND ON BEHALF OF ARIZONA STATE  
UNIVERSITY AND ITS POLICE DEPARTMENT

By: \_\_\_\_\_  
Michael L. Thompson  
Chief of Police

Date: \_\_\_\_\_

CITY OF GLENDALE POLICE DEPARTMENT

By: Debra Black  
Debra Black  
Chief of Police

Date: April 18, 2016



## Legislation Description

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**File #:** 16-197, **Version:** 1

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**RESOLUTION 5103: AUTHORIZATION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE MARICOPA COUNTY ATTORNEY'S OFFICE FOR THE TESTING OF EVIDENCE COLLECTION KITS**

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 of Glendale Police Chief to enter into a memorandum of understanding (MOU) with the Maricopa County Attorney's Office (MCAO) for the testing of evidence collection kits.

### **Background**

Sexual assault evidence kits are used to collect physical evidence useful in the investigation of instances of sexual assaults and abuse. The MCAO has been awarded a grant from the District Attorney of New York County, State of New York (DANY) under the DANY Sexual Assault Kit Backlog Reduction Grant Program to assist in the reduction of the number of untested sexual assault kits in Maricopa County. The MCAO desires to collaborate with the Glendale Police Department (GPD) to have untested sexual assault kits tested and to report the results of such testing.

Currently, the GPD submits all sexual assault kits for testing unless the victim of the sexual assault knows who the suspect is but does not desire prosecution or refuses to cooperate with law enforcement. Though the kit is not sent for testing, it remains logged in as evidence until authorized for destruction by the court after adjudication. Under the new protocol and direction of the MCAO, all kits will now be submitted. This MOU will allow GPD to submit the untested kits currently held in evidence to be analyzed by a forensic lab, with the cost for testing covered through grant funding received by MCAO. Untested kits are defined in the MOU as a kit that has not been analyzed by a forensic lab within 365 days of being booked into law enforcement evidence. GPD is currently in the process of identifying kits that meet the criteria today, and anticipates more kits will fall into this classification in the future.

### **Analysis**

The proposed MOU creates joint cooperation between law enforcement and MCAO. By testing the evidence contained in the kits, and review of the DNA profile, a potential suspect could be identified and charges submitted. MCAO will review charges submitted by law enforcement for appropriate action and potential prosecution. If approved, the MOU will be effective upon signature of each party. This MOU may be extended for up to three (3) years in one-year increments with the written agreement of the parties. Staff is requesting Council adopt the proposed resolution authorizing the City of Glendale Police Chief to enter into the MOU with the MCAO.



**Budget and Financial Impacts**

The grant received by the MCAO will cover the cost for the testing of the sexual assault kits which totals \$725.00 per kit; however, MCAO requires the agency to pay the cost of shipping the kits to the lab. The approximate cost for shipping is \$17.00 per kit. GPD does not anticipate the shipping costs for untested kits to exceed \$5000.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$5000</b>	<b>1000-12150-524400, General Fund - Line Supplies</b>

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

RESOLUTION NO. 5103 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF A MEMORANDUM OF UNDERSTANDING WITH THE MARICOPA COUNTY ATTORNEY'S OFFICE FOR THE TESTING OF EVIDENCE COLLECTION KITS.

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 a Memorandum of Understanding (MOU) with the Maricopa County Attorney's Office for the testing of evidence collection kits be entered into on behalf of the Glendale Police Department, which agreement is now on file in the office of the City Clerk of the City of Glendale.

SECTION 2. That the City Council hereby authorizes and directs the Glendale Police Chief, Debora Black, to execute and deliver any and all necessary documents on behalf of the City of Glendale to effectuate this MOU.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this            day of            , 2016.

\_\_\_\_\_  
M A Y O R

ATTEST:

\_\_\_\_\_  
City Clerk            (SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

REVIEWED BY:

\_\_\_\_\_  
City Manager

**MEMORANDUM OF UNDERSTANDING**  
**BY AND BETWEEN**  
**THE CITY OF GLENDALE**  
**AND**  
**MARICOPA COUNTY ATTORNEY'S OFFICE**

This Memorandum of Understanding (MOU) is made between the City of Glendale, Arizona, acting through the Glendale Police Department (collectively referred to herein as the "Agency"), and Maricopa County, by and through the Maricopa County Attorney's Office ("MCAO").

WHEREAS, sexual assault and abuse have substantial and detrimental effects on the health and general welfare of the people of Maricopa County;

WHEREAS, sexual assault evidence collection kits ("SAKs") are used to collect physical evidence useful in the investigation of instances of sexual assaults and abuse;

WHEREAS, Agency has "Untested SAKs", which are defined for purposes of this MOU as a SAK that has not been analyzed by a forensic lab within 365 days of being booked into law enforcement evidence. SAKs for cases in which the identity of the offender is not an issue, the statute of limitations has expired, or the offender was convicted without DNA evidence still fall under this definition and are not excluded from this MOU. SAKs that have been tested, but have not been tested for the presence of DNA evidence, also fall under the definition of "Untested SAK" and are not excluded. Untested SAKs do not include SAKs in cases where a victim chooses not to report a crime. Such non-reported, unreported, anonymous or "Jane Doe" SAKs should not be tested under the terms of this MOU unless a victim has decided to make a police report at a later time. In addition, the term "Untested SAK" does not include cases where evidence exists that no crime was committed (e.g., the victim recants or video footage exists demonstrating there was no crime).

WHEREAS, MCAO desires to collaborate with the Agency to have Untested SAKs tested and to report the results of such testing as set out in this MOU;

WHEREAS, MCAO has applied for and been awarded a grant ("Grant") from the District Attorney of New York County, State of New York, ("DANY") under the DANY Sexual Assault Kit Backlog Reduction grant program to assist in the reduction of the number of Untested SAKs in Maricopa County;

WHEREAS, pursuant to the program described in the Grant and the grant agreement executed by MCAO and DANY ("Grant Agreement"), the Agency and MCAO desire to cooperate to submit Untested SAKs to an appropriate and accredited commercial laboratory ("Laboratory") so that evidence contained in Untested SAKs can be tested for

the presence of certain biological substances containing Deoxyribonucleic Acid (“DNA”);

WHEREAS, MCAO and the Agency intend that DNA profiles identified by the Laboratory will be submitted to the State of Arizona Department of Public Safety (the “DPS Lab”) for review and potential submission to the Federal Bureau of Investigation’s combined DNA Index System (“CODIS”), to enable the Agency to develop potential investigative leads that could result in the identification of a suspect or suspects of alleged sexual assault, abuse, or other crimes;

WHEREAS, the Agency intends to cooperate with MCAO in prosecution of the suspect or suspects identified as a result of DNA testing by the Laboratory and the further analysis by the DPS Lab of evidence contained in the Untested SAKs;

WHEREAS, pursuant to its statutory mission, MCAO intends to review charges submitted by law enforcement for potential prosecution and take appropriate action;

NOW, THEREFORE, the parties hereto agree to enter into this MOU according to the terms and conditions set forth below.

## **1. DUTIES OF THE AGENCY**

### **1.1. INVENTORY, SELECTION, AND SHIPPING OF UNTESTED SAKs.**

1.1.1. INVENTORY OF UNTESTED SAKs. The Agency will create an inventory listing, by a mutually agreed upon tracking system of reference numbers or names, the Untested SAKs that the Agency intends to submit to the Laboratory pursuant to this MOU.

1.1.2. SELECTION. Upon receipt of the inventory described above, MCAO will advise the Agency of the number of Untested SAKs that the Agency is authorized to deliver to the Laboratory for testing as set out in this MOU. MCAO’s duty to pay the Laboratory for testing applies only with respect to (i) the testing functions contemplated by this MOU, and (ii) the Untested SAKs approved by MCAO, in a written communication to the Agency, for shipment to the Laboratory.

1.1.3. FORKLIFT APPROACH. The Agency shall use a “Forklift Approach” in identifying the Untested SAK for testing under this MOU. “Forklift Approach” means the testing of all Untested SAKs irrespective of the type of kit. Under a "Forklift Approach" Untested SAKs should not be excluded from the sample of

kits to be tested for reasons including: expired statute of limitations, perceived weaknesses in the case, the nature of the victim/defendant relationship, victim cooperation at the time the crime was reported, previous adjudication of the case, or prior forensic testing.

1.1.4. RANDOM SAMPLING OF UNTESTED SAKs. If MCAO authorization for testing pursuant to this MOU applies to fewer than all the Untested SAKs listed in the inventory submitted by the Agency, the Agency will use a random method of selecting the Untested SAKs authorized by MCAO. Only Untested SAKs selected through use of such a Random Sample selection process will be eligible for testing and reporting as set out in this MOU. "Random Sample" means a process of selecting a subset of SAKs in which each kit in the subset has an equal probability of being selected for testing. For example, if the Agency is authorized by MCAO to test one-fourth of its total backlog of Untested SAKs pursuant to this MOU, the Random Sample should include every fourth Untested SAK, and the Agency is not permitted to select intentionally a specific kit for testing. However, notwithstanding the foregoing, specific Untested SAKs may be selected for testing if a statute of limitations will expire within two years; the Agency will notify MCAO of the Untested SAKs selected based on this statute of limitations provision.

1.1.5. SHIPPING. Upon receipt of authorization from MCAO and, if section 1.1.4 above applies, selection of the Untested SAKs to be submitted for testing, the Agency shall ship the Untested SAKs to the Laboratory designated by MCAO.

1.2. RECEIPT AND PROCESSING OF SAKs FOLLOWING LABORATORY TESTING. Following the testing by the Laboratory, the SAKs shall be delivered to the DPS Lab for further testing. The DPS Lab must approve and comply with the technical specifications to be used in performing DNA analysis by the Laboratory (see the agreements set out in Attachment A for such specifications), take ownership of the data produced, perform technical review(s) of the data according to the FBI DNA Quality Assurance Standards, and provide to the Agency all eligible profiles for entry into CODIS. The Agency shall enter all eligible profiles into CODIS.

1.3. PAYMENTS TO THIRD PARTIES.

1.3.1. PAYMENT FOR SHIPPING OF SAKs. The Agency shall be responsible for payment of all shipping expenses incurred in submitting the Untested SAKs to the Laboratory and for return of the SAKs and results from the Laboratory.

1.3.2. PAYMENT TO THE LABORATORY. MCAO has executed a separate agreement (see Attachment A) with each Laboratory that provides for payment of a fixed amount to cover certain testing functions related to the Untested SAKs. The Agency will be solely responsible for paying the Laboratory for any additional testing or processing relating to the Untested SAKs.

1.3.3. PAYMENT TO THE DPS LAB. Pursuant to an Intergovernmental Agreement between MCAO and the DPS Lab (the "MCAO/DPS IGA"), MCAO shall pay the DPS Lab a fixed amount per SAK for the services provided by the DPS Lab pursuant to the MCAO/DPS IGA and as described in this MOU. MCAO shall not have any duty to pay the DPS Lab any amount in excess of the fixed amount set forth in the MCAO/DPS IGA. The Agency agrees to pay the DPS Lab for any amounts due in excess of the amounts paid by MCAO pursuant to the MCAO/DPS IGA.

1.4. REQUIRED QUARTERLY REPORTS TO MCAO. Not later than January 10<sup>th</sup>, April 10<sup>th</sup>, July 10<sup>th</sup>, and October 10<sup>th</sup> of each year through and including October 10, 2019, the Agency shall report the information set out in Attachment B to MCAO, in a format provided by MCAO (which may include separate reporting of cumulative and interim or periodic data), regarding the SAKs tested pursuant to this MOU. The Agency will cooperate with MCAO to provide all data that may be required by DANY.

1.5. TRACKING AND SHARING INFORMATION. The Agency agrees to track and share with MCAO all information regarding the selection, submittal, and processing of SAKs contemplated by this MOU, including inventory, selection, shipping, DNA testing by the Laboratory, receipt and determination of CODIS eligibility by Forensic Services, follow-up investigation by the Agency, and submittal to MCAO for consideration of prosecution.

1.6. TECHNICAL SPECIFICATIONS AND PRESERVING THE CHAIN OF CUSTODY.

The Agency agrees to the Technical Specifications and Chain of Custody provisions set out in Exhibit I of the agreement between MCAO and the Laboratory (see Attachment A). The Chain of Custody protocols for handling SAKs are intended to document and preserve a record of a continuous chain of custody of the evidence contained in the SAKs; such protocols shall include submitting with the Untested SAKs to the Laboratory a manifest of the contents of the package and appropriate supporting documentation.

1.7. RECORD KEEPING AND INSPECTION. The Agency shall maintain current, complete, and accurate records and accounts of all actions, obligations, and expenditures regarding performance of this MOU. The Agency shall permit and have readily available for examination and auditing by MCAO and any of its duly authorized agents and representatives, any and all records, documents, accounts, invoices, receipts or expenditures relating to this MOU. The Agency shall maintain all such reports and records until all audits and examinations are completed and resolved, or for a period of six years after termination of this MOU, whichever time period is longer.

2. DUTIES OF MCAO

2.1. RECEIPT AND REVIEW OF PROPOSED SUBMISSION OF UNTESTED SAKS.

MCAO shall receive and review the inventory submitted by the Agency, and provide written authorization regarding shipment by the Agency of a certain number, determined by MCAO, of Untested SAKs to the Laboratory.

2.2. PAYMENT TO LABORATORY. Pursuant to MCAO's agreement with the Laboratory (attached hereto as Attachment A), MCAO shall pay the Laboratory a fixed amount for services regarding the Untested SAKs processed by the Laboratory as contemplated by this MOU. MCAO shall not have any duty to pay the Laboratory any amount in excess of the fixed amount set forth in the agreement between MCAO and the Laboratory; if the Agency requests the Laboratory to perform services in addition to those covered by the

agreement between MCAO and the Laboratory, the Agency shall be responsible to pay for such additional services.

2.3. PAYMENT TO THE DPS LAB FOR SERVICES AND PROCESSING. Pursuant to the MCAO/DPS IGA, MCAO shall pay the DPS Lab a fixed amount per SAK for the services provided by the DPS Lab pursuant to the MCAO/DPS IGA and as described in this MOU. MCAO shall not have any duty to pay the DPS Lab any amount in excess of the fixed amount set forth in the MCAO/DPS IGA. The Agency agrees to pay the DPS Lab for any amounts due in excess of the amounts paid by MCAO pursuant to the MCAO/DPS IGA.

2.4. REPORTING TO DANY. MCAO shall submit the reports to DANY as contemplated by the Grant Agreement.

2.5. RECORD KEEPING AND INSPECTION. MCAO shall maintain current, complete, and accurate records and accounts of all actions, obligations, and expenditures regarding performance of this MOU. MCAO shall permit and have readily available for examination and auditing by the Agency and any of its duly authorized agents and representatives, any and all records, documents, accounts, invoices, receipts or expenditures relating to this MOU. The MCAO shall maintain all such reports and records until all audits and examinations are completed and resolved, or for a period of six years after termination of this MOU, whichever time period is longer.

### 3. MUTUAL DUTIES AND REPRESENTATIONS.

3.1. INDEMNIFICATION. Each Party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other Party (as "indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of the negligent performance of this Agreement, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

3.2. COOPERATION. MCAO and the Agency each agree to cooperate with each other and to participate in actions contemplated by the Grant and this MOU, including but not



limited to participation in any task force organized for purposes of establishing, interpreting, or enforcing protocols for elimination of a backlog of Untested SAKs.

3.3. AUTHORITY TO ENTER INTO AND PERFORM THIS MOU. MCAO and Agency each represent that (i) it has the authority to execute this MOU and perform the obligations and actions contemplated in this MOU; and (ii) it has received all required approvals and authorizations for such execution and performance, and such approvals and authorizations have not been revoked or limited in time or scope.

3.4. AGREEMENT TO USE BEST PRACTICES IN MEETING GOALS OF THE GRANT. MCAO and the Agency each agree to cooperate and use its best efforts to cause the following "best practice" procedures to be implemented: (a) all eligible DNA profiles resulting from SAK testing should be entered into CODIS within a reasonable timeframe, (b) law enforcement agencies and prosecutors should be notified of all CODIS hits that result from such testing so that investigation and where appropriate, prosecution can occur, and (c) a coordinated strategy to notify and engage victims following CODIS hits should be implemented.

#### 4. GENERAL PROVISIONS.

4.1. TIME FOR PERFORMANCE. The submittal of Untested SAKs and the processing and submittal of entries into CODIS shall be completed on or before September 30, 2017. The reporting obligations under this MOU shall continue through and include the final quarterly reporting date of October 10, 2019.

4.2. EXTENSION. This MOU may be extended for up to three one-year increments with the written agreement of the parties. The terms and conditions of this MOU shall remain the same during any extension period.

#### 4.3. TERMINATION.

4.3.1. Termination Without Cause. Either party may terminate this MOU on sixty (60) days' advance written notice.

4.3.2. Termination for Cause. Either party may terminate this MOU for cause if the other party fails to perform the duties set out herein. The non-breaching party shall



This MOU is hereby entered into effective on date of the last signature set out below.

CITY OF GLENDALE, BY AND THROUGH  
THE GLENDALE POLICE DEPARTMENT  
("AGENCY")

MARICOPA COUNTY, BY AND  
THROUGH THE MARICOPA  
COUNTY ATTORNEY'S OFFICE  
("MCAO")

By: Debra Black  
Name: DEBORA BLACK  
Title: POLICE CHIEF  
Date: \_\_\_\_\_

\_\_\_\_\_  
William G. Montgomery  
County Attorney  
Date: \_\_\_\_\_

Approved as to legal form and  
as being within the powers and  
authority of the Agency:

Approved as to legal form and  
as being within the powers and  
authority of MCAO:

By: \_\_\_\_\_  
Legal Counsel to the Agency  
Date: \_\_\_\_\_

\_\_\_\_\_  
Legal Counsel to MCAO  
Date: \_\_\_\_\_

**Attachment A:  
Agreements between MCAO and Each Laboratory**

**Attachment B:  
Information to be Reported Pursuant to the DANY  
Sexual Assault Kit Backlog Elimination Grant Program**

**Quarterly Performance Metrics Report**

**Definitions**

- In a “Forensic Hit” or “Case to Case Match,” the new profile matches DNA from another forensic sample.
- In an “Offender/Arrestee Hit” or “Match to a Known Offender,” the new profile matches the DNA of an offender or arrestee profile already in CODIS (i.e. the match is to a sample in the offender index).
- In a “Confirmatory Hit,” the profile matches with the previously named suspect.
- A “John Doe” warrant or indictment is intended to stop the statute of limitations for an unknown offender.

**Baseline Information:**

1. Agency Name
2. How many kits did Agency apply for to test under this MOU?
3. Have the kits that will be tested under this MOU been fully inventoried? (Yes/No)
  - a. If no, how is your inventory process progressing?
4. What is the Agency’s policy for notifying victims following a CODIS hit? (Please note any trends that the Agency observed in victim response and lessons learned from the Agency’s. If some victims chose not to cooperate with law enforcement following notification, please describe any reasons they gave.)

For all the following questions, the Agency should please report only activity that occurred during the most recent quarter.

**Data to be completed by the Agency:**

1. The number of Untested SAKs that qualify for the Grant (this will be set out in the inventory described in the MOU).
2. The number of Untested SAKs submitted to Laboratory for testing.
3. The number of SAKs that produced a CODIS eligible profile.
4. The number of DNA profiles entered into CODIS.
5. The number of hits in CODIS.
6. The number of “Forensic” or “Case to “Case” matches.

7. The number of “Offender/Arrestee hits” or “Matches to Known Offenders”.
8. The number of “Confirmatory Hits”.
9. The number of CODIS hits that match to a profile associated with another sexual assault case.
10. The number of victims the Agency attempted to notify following a CODIS hit.
11. The number of victims the Agency successfully notified following a CODIS hit.
12. The number of cases the Agency re-opened (or opened for the first time) as a result of identification through CODIS (a “CODIS hit”) based on a DNA profile resulting from the testing contemplated by this MOU.
13. The number of cases beyond the statute of limitations.
14. The number of arrests made as a result of a CODIS hit.

**Testing Data (to be completed by the DPS Lab):**

1. Number of kits submitted for testing
2. Number of kits that did not generate any or sufficient DNA for upload
3. Number of kits that produced a CODIS eligible profile

**Programmatic Information to be completed by the Agency:**

1. How has your jurisdiction coordinated with the other agencies within your multi-disciplinary strategy this quarter? (Please include the number of stakeholder meetings held and the agencies that participated. Include examples of successful coordination among agencies in your jurisdiction as a result of this project, as well as any challenges that you have faced.)
2. Are all kits associated with a reported crime now submitted to the lab? Are all such kits tested as they come in? If not, what is the practice?
3. Would your jurisdiction potentially benefit by and utilize training and technical assistance in any of the following areas if it were available? Check all that apply.
  - a. CODIS functionality
  - b. The forklift approach
  - c. Best practices training for law enforcement
  - d. Best practices training for hospital staff
  - e. Best practices training for victim services staff
  - f. Best practice training for prosecutors

- g. Interagency coordination
- h. Identifying additional funding sources
- i. Organizational consulting or assistance with process efficiency
- j. Other \_\_\_\_\_

**Prosecution-related Data (to be completed by MCAO):**

1. Number of felony prosecutions commenced
  - a. Number of prosecutions commenced with homicide as the top charge
  - b. Number of prosecutions commenced with felony sexual assault as the top charge
  - c. Number of prosecutions commenced with felony burglary as the top charge
  - d. Number of prosecutions commenced with felony robbery as the top charge
  - e. Number of prosecutions commenced with another felony as the top charge
2. Number of misdemeanor prosecutions commenced
3. Number of "John Doe" warrants or indictments obtained
4. Number of cases that resulted in a felony conviction
5. Number of cases that resulted in a misdemeanor conviction
6. Number of cases that resulted in a sexual assault conviction
7. Number of cases that resulted in an acquittal (on all charges)
8. Number of cases that resulted in a dismissal (on all charges)
9. Number of cases in which the CODIS hit identified a different assailant than the one originally named or prosecuted
10. Number of exonerations