



# 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, December 6, 2016

11:00 AM

Council Chambers

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### VOTING MEETING DATE/TIME CHANGE

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 NOVEMBER 22, 2016

1. [16-606](#) APPROVAL OF THE MINUTES OF NOVEMBER 22, 2016  
Staff Contact: Julie K. Bower, City Clerk

**Attachments:**      [Meeting Minutes of November 22, 2016](#)

## 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.

2.      [16-535](#)              RECOMMEND APPROVAL OF LIQUOR LICENSE NO. 5-21725, COCO LOCO LOUNGE  
Staff Contact: Vicki Rios, Director, Budget and Finance

**Attachments:**      [Map](#)  
[Calls for Service](#)

3.      [16-561](#)              AUTHORIZATION TO ENTER INTO A CONSTRUCTION AGREEMENT WITH HUNTER CONTRACTING CO., TO ASSESS AND REPAIR PIPELINES AT THE CHOLLA WATER TREATMENT PLANT  
Staff Contact: Craig Johnson, P.E., Director, Water Services

**Attachments:**      [Construction Agreement](#)  
[Bid Tabulation](#)

4.      [16-585](#)              AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH MGC CONTRACTORS, INC., AND APPROVE THE EXPENDITURE OF FUNDS FOR THE REPLACEMENT OF FILTER EQUIPMENT AND INSTALLATION OF CHLORINE CYLINDER VALVE ACTUATORS AT THE CHOLLA WATER TREATMENT PLANT  
Staff Contact: Craig Johnson, P.E., Director, Water Services

**Attachments:**      [Linking Agreement](#)

5.      [16-586](#)              AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH PRECISION ELECTRIC COMPANY, INC., FOR EQUIPMENT REPAIR AND MAINTENANCE  
Staff Contact: Craig Johnson, P.E., Director, Water Services

**Attachments:**      [Linking Agreement](#)

6.      [16-588](#)              AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH FOSTER ELECTRIC MOTOR SERVICE, INC., FOR EQUIPMENT REPAIR AND MAINTENANCE  
Staff Contact: Craig Johnson, P.E., Director, Water Services

**Attachments:**      [Linking Agreement](#)

7.      [16-596](#)              AUTHORIZATION TO ENTER INTO AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH BLACK & VEATCH CORPORATION FOR PHASE 2 DESIGN SERVICES FOR THE CHOLLA WATER TREATMENT PLANT IMPROVEMENTS  
Staff Contact: Craig Johnson, P.E., Director, Water Services

**Attachments:**      [Amendment No. 1](#)

8.      [16-599](#)      AUTHORIZATION TO ENTER INTO AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING, INC., FOR PHASE 2 DESIGN SERVICES FOR THE BOOSTER PUMP STATIONS AND ADMINISTRATION BUILDING IMPROVEMENTS AT THE CHOLLA WATER TREATMENT PLANT  
Staff Contact: Craig Johnson, P.E., Director, Water Services

**Attachments:**      [Amendment No. 1](#)

9.      [16-619](#)      AUTHORIZATION TO ELIMINATE POSITIONS IN THE COMMUNITY SERVICES DEPARTMENT AND CREATE POSITIONS IN THE PUBLIC WORKS DEPARTMENT  
Staff Contact: Jack Friedline, Director, Public Works

10.     [16-597](#)      AUTHORIZATION TO ENTER INTO A SERVICES AGREEMENT WITH THE PENCHANT GROUP, LLC AND APPROVE THE EXPENDITURE OF FUNDS  
Staff Contact: Rick St. John, Police Chief

**Attachments:**      [Services Agreement](#)

#### CONSENT RESOLUTIONS

11.     [16-526](#)      RESOLUTION NO. 5185 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF A DELEGATION AGREEMENT WITH THE COUNTY OF MARICOPA.  
Staff Contact: Elaine Adamczyk, Interim Community Services Director

**Attachments:**      [Resolution No. 5185](#)  
[Delegation Agreement](#)

12.     [16-592](#)      RESOLUTION NO. 5186 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND ENTERING INTO AMENDMENT NO. TWO (2) TO THE FY 2016-17 INDEPENDENT CONTRACTOR AGREEMENT WITH ARIZONA COMMUNITY ACTION ASSOCIATION.  
Staff Contact: Elaine Adamczyk, Interim Director, Community Services

**Attachments:**      [Resolution No. 5186](#)  
[Amendment No. 2](#)

13.     [16-593](#)      RESOLUTION NO. 5187 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AMENDMENT NO. 5 TO THE INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF ECONOMIC SECURITY FOR

## COMMUNITY ACTION PROGRAM FUNDING.

Staff Contact: Elaine Adamczyk, Interim Community Services Director

**Attachments:** [Resolution No. 5187](#)  
[Amendment No. 5](#)

**14. [16-602](#) RESOLUTION NO. 5188 NEW SERIES**

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO EXECUTE A LICENSE AGREEMENT WITH ARIZONA HISTORICAL SOCIETY FOR THE USE OF CITY PROPERTY LOCATED AT 9802 NORTH 59TH AVENUE, GLENDALE, ARIZONA.

Staff Contact: Erik Strunk, Director, Public Facilities, Recreation and Special Events

**Attachments:** [Resolution No. 5188](#)  
[License Agreement](#)  
[Background Attachments](#)

**ORDINANCES****15. [16-601](#) ORDINANCE NO. 3023 NEW SERIES**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF A REAL PROPERTY EXCHANGE AGREEMENT WITH FARM 101, LLC, FOR THE EXCHANGE OF REAL PROPERTY LOCATED AT THE SOUTHWEST CORNER OF 91ST AVENUE AND BETHANY HOME ROAD FOR REAL PROPERTY LOCATED AT THE NORTHWEST CORNER OF 95TH AVENUE AND THE MISSOURI AVENUE ALIGNMENT; AND ORDERING THAT A CERTIFIED COPY OF THIS ORDINANCE BE RECORDED.

Staff Contact: Kevin R. Phelps, City Manager

**Attachments:** [Ordinance No. 3023](#)  
[Real Property Exchange Agreement](#)

**16. [16-595](#) ORDINANCE NO. 3024 NEW SERIES**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A FOOD BANK LEASE AGREEMENT WITH HOPE FOR HUNGER CORPORATION, FOR THE PURPOSE OF WAREHOUSING AND DISTRIBUTING FOOD TO LOW AND MODERATE INCOME PERSONS; AND ORDERING THAT A CERTIFIED COPY OF THE FOOD BANK LEASE AGREEMENT AND THIS ORDINANCE BE RECORDED.

Staff Contact: Elaine Adamczyk, Interim Community Services Director

**Attachments:**      [Ordinance No. 3024](#)  
[Food Bank Lease Agreement](#)

17.    [16-609](#)                    ORDINANCE NO. 3025 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A WATER LINE EASEMENT LOCATED AT WESTGATE HEALTHCARE CAMPUS; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

Staff Contact: Jack Friedline, Director, Public Works

**Attachments:**      [Ordinance No. 3025 with Exhibit A and Exhibit B](#)

18.    [16-611](#)                    ORDINANCE NO. 3026 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A WATER LINE AND SEWERLINE EASEMENT LOCATED AT WESTGATE HEALTHCARE CAMPUS; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

Staff Contact: Jack Friedline, Director, Public Works

**Attachments:**      [Ordinance No. 3026 with Exhibit A and Exhibit B](#)

19.    [16-612](#)                    ORDINANCE NO. 3027 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A SIDEWALK EASEMENT LOCATED AT WESTGATE HEALTHCARE CAMPUS; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

Staff Contact: Jack Friedline, Director, Public Works

**Attachments:**      [Ordinance No. 3027 with Exhibit A and Exhibit B](#)

20.    [16-614](#)                    ORDINANCE NO. 3028 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF AN IRRIGATION EASEMENT IN FAVOR OF SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT LOCATED ON WESTBOUND GLENDALE AVENUE 571 FEET WEST OF 99TH AVENUE; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

Staff Contact: Jack Friedline, Director, Public Works

**Attachments:**      [Ordinance No. 3028 with Exhibit A and Exhibit B](#)

21.    [16-615](#)                    ORDINANCE NO. 3029 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF AN IRRIGATION EASEMENT IN FAVOR OF SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT LOCATED ON SOUTHBOUND 99TH AVENUE 1010 FEET NORTH OF GLENDALE AVENUE; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

Staff Contact: Jack Friedline, Director, Public Works

**Attachments:** [Ordinance No. 3029 with Exhibit A and Exhibit B](#)

22. [16-616](#) ORDINANCE NO. 3030 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A WARRANTY DEED FOR RIGHT OF WAY LOCATED AT WESTGATE HEALTHCARE CAMPUS; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

Staff Contact: Jack Friedline, Director, Public Works

**Attachments:** [Ordinance No. 3030 with Exhibit A and Exhibit B](#)

23. [16-617](#) ORDINANCE NO. 3031 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A WARRANTY DEED FOR RIGHT OF WAY LOCATED AT WESTGATE HEALTHCARE CAMPUS; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

Staff Contact: Jack Friedline, Director, Public Works

**Attachments:** [Ordinance No. 3031 with Exhibit A and Exhibit B](#)

24. [16-621](#) ORDINANCE NO. 3032 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A LAND USE LICENSE IN FAVOR OF THE CITY OF GLENDALE FROM THE SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT LOCATED ON THE NORTHWEST QUADRANT OF 99TH AVENUE AND WESTBOUND GLENDALE; AUTHORIZING THE EXECUTION OF A COMPANION PROPERTY USE AGREEMENT WITH 101 W HEALTHCARE, LLC; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

Staff Contact: Jack Friedline, Director, Public Works

**Attachments:** [Ordinance No. 3032 with Exhibit A, Exhibit B and Exhibit C](#)  
[Salt River Project Land Use License](#)  
[Property Use Agreement](#)

**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 #:** 16-606, **Version:** 1

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APPROVAL OF THE MINUTES OF NOVEMBER 22, 2016

Staff Contact: Julie K. Bower, City Clerk



# City of Glendale

5850 West Glendale Avenue  
Glendale, AZ 85301



## Meeting Minutes - Draft

Tuesday, November 22, 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; Jim Gruber, Chief Deputy City Attorney; Julie Bower, City Clerk; and Darcie McCracken, Deputy City Clerk.

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

Pastor Dan Simpson of Christ's Church of the Valley offered the invocation.

**CITIZEN COMMENTS**

Steve Einstman, a Sahuaro District resident, said he had spoken with staff about the condition of the streets, but was told the City did not have enough manpower. He asked Council to look into the issue.

Andrew Marwick, a Phoenix resident, spoke about the Coyotes and the transportation issues with the new stadium chosen. He said it was easier to get to Glendale for games than the proposed new site. The Coyotes could also move to Canada as there were several stadiums that would meet their needs.

Bill Demski, a Sahuaro District resident, spoke about his concerns with the professional standards unit of the Police Department. He described several incidents he had while riding his bike and his interactions with Glendale police officers. He had contacted the Justice Department.

James Deibler, a Phoenix resident, spoke about an article in the Glendale Star about chickens. He said chickens caused people to get sick and Council should do its research before approving chickens.

**APPROVAL OF THE MINUTES OF OCTOBER 25, 2016 VOTING MEETING AND NOVEMBER 14, 2016 SPECIAL VOTING MEETING**

1. [16-556](#) APPROVAL OF THE MINUTES OF OCTOBER 25, 2016 VOTING MEETING AND NOVEMBER 14, 2016 SPECIAL VOTING MEETING  
Staff Contact: Julie K. Bower, City Clerk

Mayor Weiers said there was a correction for the minutes.

Councilmember Turner said his explanation of his vote regarding the Cardinals settlement agreement was incomplete and provided the Clerk and other Councilmembers a corrected explanation of his vote. He asked that the November 14, 2016 Special Voting Meeting minutes be amended as followed: "Councilmember Turner was anxious to reset and repair the relationship that had been damaged in the past. He expressed concern about the short amount of time the public had been aware of the issue and it had made it difficult for him to contact members of the community and staff who might provide input.

He supported the improvements noted in the agreement, but was concerned about the loss of control over the City's parking lots. Councilmember Turner said the agreement was not clear about how parking decisions would be made. He was concerned how the agreement would affect the City's other partners in the area, including the arena management firm and Westgate management. He would like more time to study the agreement and share any concerns and receive input. Councilmember Turner also expressed concerns this agreement could possibly diminish the value of our arena and create difficulties with it in the future. Councilmember Turner also said that when he was sworn into office, he pledged to support the state constitution, not subvert it. Councilmember Turner voted Nay."

**A motion was made by Councilmember Turner, seconded by Councilmember Aldama, that the minutes of November 14, 2016 be amended and the minutes of October 25, 2016 and November 14, 2016 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

## CONSENT AGENDA

2. [16-530](#) RECOMMEND APPROVAL OF SPECIAL EVENT LIQUOR LICENSE, GLENDALE CIVIC PRIDE AMBASSADORS FOUNDATION  
Staff Contact: Vicki Rios, Director, Budget and Finance
3. [16-589](#) RECOMMEND APPROVAL OF WINE FESTIVAL LICENSES, KEELING SCHAEFER VINEYARDS  
Staff Contact: Vicki Rios, Director, Budget and Finance
4. [16-590](#) RECOMMEND APPROVAL OF WINE FESTIVAL LICENSES, AZ WINE CELLARS  
Staff Contact: Vicki Rios, Director, Budget and Finance
5. [16-591](#) RECOMMEND APPROVAL OF WINE FESTIVAL LICENSES, CORONADO VINEYARDS  
Staff Contact: Vicki Rios, Director, Budget and Finance
6. [16-531](#) RECOMMEND APPROVAL OF LIQUOR LICENSE NO. 5-21557, EAST WIND SUSHI & GRILL  
Staff Contact: Vicki Rios, Director, Budget and Finance
7. [16-532](#) RECOMMEND APPROVAL OF LIQUOR LICENSE NO. 5-21580, WESTGATE TAVERN & BOWL - SERIES 3  
Staff Contact: Vicki Rios, Director, Budget and Finance
8. [16-533](#) RECOMMEND APPROVAL OF LIQUOR LICENSE NO. 5-21580, WESTGATE TAVERN & BOWL - SERIES 6  
Staff Contact: Vicki Rios, Director, Budget and Finance
9. [16-534](#) RECOMMEND APPROVAL OF LIQUOR LICENSE NO. 5-21727, GLENDALE MINI MART

Staff Contact: Vicki Rios, Director, Budget and Finance

10. [16-537](#) RECOMMEND APPROVAL OF LIQUOR LICENSE NO. 5-21662, LA RUBIA Y LA MORENA  
Staff Contact: Vicki Rios, Director, Budget and Finance
11. [16-558](#) AUTHORIZATION TO ENTER INTO AMENDMENT NO. 1 TO THE WESTERN STATES CONTRACTING ALLIANCE (WSCA) USER AGREEMENT AND TO RATIFY EXPENDITURES WITH VERIZON WIRELESS FOR CELLULAR SERVICES  
Staff Contact: Chuck Murphy, Chief Information Officer, Innovation and Technology
12. [16-518](#) AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH HACH COMPANY FOR REAGENTS, PARTS AND LABORATORY SUPPLIES FOR WATER QUALITY TESTING  
Staff Contact: Craig Johnson, P.E., Director, Water Services
13. [16-519](#) AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH HACH COMPANY FOR MAINTENANCE AND SERVICE OF TESTING EQUIPMENT  
Staff Contact: Craig Johnson, P.E., Director, Water Services
14. [16-528](#) AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH B & F CONTRACTING, INC., AND APPROVE THE EXPENDITURE OF FUNDS FOR THE DESIGN AND REPLACEMENT OF 1,418 LINEAR FEET OF WATERLINE IN THE AREA OF 62ND DRIVE AND MCRAE WAY  
Staff Contact: Craig Johnson, P.E., Director, Water Services
15. [16-536](#) AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH MGC CONTRACTORS, INC., AND APPROVE THE EXPENDITURE OF FUNDS FOR DESIGN AND CONSTRUCTION SERVICES FOR THE REPLACEMENT OF CHEMICAL FEED PIPING AND PUMPS, AND SUMP PUMPS  
Staff Contact: Craig Johnson, P.E., Director, Water Services
16. [16-549](#) AUTHORIZATION TO ENTER INTO A CONSTRUCTION AGREEMENT WITH HUNTER CONTRACTING CO., AND APPROVE THE EXPENDITURE OF FUNDS TO REPLACE SEDIMENTATION GATES FOR CLARIFIERS AT THE WEST AREA RECLAMATION FACILITY  
Staff Contact: Craig Johnson, P.E., Director, Water Services
17. [16-562](#) AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH BLACK & VEATCH CORPORATION FOR DESIGN SERVICES FOR THE PROCESS IMPROVEMENTS AND CAPACITY EXPANSION AT THE PYRAMID PEAK WATER TREATMENT PLANT  
Staff Contact: Craig Johnson, P.E., Director, Water Services

18. [16-564](#) AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH WILSON ENGINEERS, LLC, FOR DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES AT SRP WELL 22  
Staff Contact: Craig Johnson, P.E., Director, Water Services
19. [16-554](#) AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH MIDWAY CHEVROLET COMPANY I, LLC, DOING BUSINESS AS MIDWAY CHEVROLET, FOR THE PURCHASE OF A VEHICLE  
Staff Contact: Jack Friedline, Director, Public Works
20. [16-570](#) AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH RUSH TRUCK CENTERS OF ARIZONA, DOING BUSINESS AS RUSH TRUCK CENTER OF PHOENIX, FOR THE PURCHASE OF THREE SIDE-LOAD TRUCKS  
Staff Contact: Jack Friedline, Director, Public Works
21. [16-571](#) AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH TCS SVC LLC DOING BUSINESS AS TOTAL CONSTRUCTION SERVICES, FOR GENERAL MAINTENANCE AND REPAIR (HANDYMAN SERVICES)  
Staff Contact: Jack Friedline, Director, Public Works
22. [16-572](#) AUTHORIZATION TO ENTER INTO AMENDMENT NO. 2 TO THE LINKING AGREEMENT WITH SAN TAN AUTO PARTNERS, LLC, DOING BUSINESS AS SAN TAN FORD, FOR THE PURCHASE OF VEHICLES  
Staff Contact: Jack Friedline, Director, Public Works
23. [16-573](#) AUTHORIZATION TO ENTER INTO AMENDMENT NO. 1 TO THE LINKING AGREEMENT WITH MIDWAY CHEVROLET COMPANY I, LLC, DOING BUSINESS AS MIDWAY CHEVROLET, FOR THE PURCHASE OF VEHICLES  
Staff Contact: Jack Friedline, Director, Public Works
24. [16-574](#) AUTHORIZATION TO ENTER INTO AMENDMENT NO. 2 TO THE LINKING AGREEMENT WITH COURTESY CHEVROLET FOR THE PURCHASE OF VEHICLES  
Staff Contact: Jack Friedline, Director, Public Works
25. [16-575](#) AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH DON SANDERSON FORD, INC., FOR THE PURCHASE OF VEHICLES  
Staff Contact: Jack Friedline, Director, Public Works
26. [16-577](#) AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH PAVEMENT RESTORATION, INC., FOR THE RECLAMITE® AND COS-50 SURFACE PRESERVATION PROJECT  
Staff Contact: Jack Friedline, Director, Public Works

27. [16-565](#) AUTHORIZATION TO ENTER INTO AMENDMENT NO. 1 TO THE LINKING AGREEMENT WITH DON SANDERSON FORD, INC., FOR THE PURCHASE OF VEHICLES  
Staff Contact: Jack Friedline, Director, Public Works
28. [16-584](#) AUTHORIZATION TO ENTER INTO A CONSTRUCTION AGREEMENT WITH TALIS CONSTRUCTION CORPORATION FOR THE REMOVAL AND REPLACEMENT OF SIDEWALK CURB RAMPS  
Staff Contact: Jack Friedline, Director, Public Works
29. [16-555](#) AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH AIRWEST HELICOPTERS, L.L.C. AND EXPENDITURE AUTHORIZATION FOR COSTS ASSOCIATED WITH POLICE HELICOPTER SERVICES  
Staff Contact: Rick St. John, Interim Police Chief
30. [16-581](#) POSITION RECLASSIFICATIONS  
Staff Contact: Jim Brown, Director, Human Resources and Risk Management

**CONSENT RESOLUTIONS**

Ms. Bower read Consent Resolution items 31 through 48.

31. [16-527](#) RESOLUTION NO. 5166 NEW SERIES
- A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF A SUBRECIPIENT AGREEMENT AND AUTHORIZING THE ACCEPTANCE AND EXPENDITURE OF THE FFY 2016 HOMELAND SECURITY GRANT PROGRAM AWARD (AGREEMENT NO. 160808-01) FROM THE STATE OF ARIZONA, DEPARTMENT OF HOMELAND SECURITY, TO ASSIST WITH THE 2016 UASI GLENDALE FIRE DEPARTMENT RRT PROJECT, IN THE APPROXIMATE AMOUNT OF \$100,000, ON BEHALF OF THE GLENDALE FIRE DEPARTMENT.  
Staff Contact: Terry Garrison, Fire Chief
32. [16-566](#) RESOLUTION NO. 5167 NEW SERIES
- A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO AND ACCEPTANCE OF THE ARIZONA DIAMONDBACKS FOUNDATION PLAY BALL FUND GRANT FOR THE SUMMER BALL PROGRAM IN THE APPROXIMATE AMOUNT OF \$1,000.  
Staff Contact: Erik Strunk, Director, Public Facilities, Recreation and Special Events

**33.**     [16-582](#)           RESOLUTION NO. 5168 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT WITH THE GLENDALE ELEMENTARY SCHOOL DISTRICT NO. 40 FOR FACILITY SHARING AND COOPERATIVE SERVICES.

Staff Contact: Erik Strunk, Director, Public Facilities, Recreation and Special Events

**34.**     [16-563](#)           RESOLUTION NO. 5169 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING A GRANT-IN-AID AGREEMENT FOR A REVENUE SHARING GRANT FROM THE TOHONO O'ODHAM NATION ON BEHALF OF THE PEORIA UNIFIED SCHOOL DISTRICT IN THE AMOUNT OF \$137,500.

Staff Contact: Vicki Rios, Director, Budget and Finance

**35.**     [16-538](#)           RESOLUTION NO. 5170 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF A SUBRECIPIENT AGREEMENT AND AUTHORIZING THE ACCEPTANCE AND EXPENDITURE OF THE FFY 2016 HOMELAND SECURITY GRANT PROGRAM AWARD (AGREEMENT NO. 160809-01) FROM THE STATE OF ARIZONA, DEPARTMENT OF HOMELAND SECURITY, TO ASSIST WITH THE GLENDALE POLICE 2016 UASI TLO SUSTAINMENT PROJECT, IN THE APPROXIMATE AMOUNT OF \$5,946, ON BEHALF OF THE GLENDALE POLICE DEPARTMENT.

Staff Contact: Rick St. John, Interim Police Chief

**36.**     [16-539](#)           RESOLUTION NO. 5171 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF A SUBRECIPIENT AGREEMENT AND AUTHORIZING THE ACCEPTANCE AND EXPENDITURE OF THE FFY 2016 HOMELAND SECURITY GRANT PROGRAM AWARD (AGREEMENT NO. 160809-02) FROM THE STATE OF ARIZONA, DEPARTMENT OF HOMELAND SECURITY, TO ASSIST WITH THE GLENDALE POLICE 2016 UASI RRT SUSTAINMENT PROJECT, IN THE APPROXIMATE AMOUNT OF \$100,000, ON BEHALF OF THE GLENDALE POLICE DEPARTMENT.

Staff Contact: Rick St. John, Interim Police Chief

**37.**     [16-540](#)           RESOLUTION NO. 5172 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF A HIGHWAY SAFETY CONTRACT AND ACCEPTING THE GRANT OFFER, FROM THE ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY (GOHS CONTRACT NO. 2017-405B-003), FOR PERSONNEL SERVICES (OVERTIME) AND EMPLOYEE RELATED EXPENSES TO ENHANCE OCCUPANT PROTECTION ENFORCEMENT AND EDUCATION THROUGHOUT THE CITY OF GLENDALE.

Staff Contact: Rick St. John, Interim Police Chief

**38.**     [16-541](#)     RESOLUTION NO. 5173 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF A HIGHWAY SAFETY CONTRACT AND ACCEPTING THE GRANT OFFER, FROM THE ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY (GOHS CONTRACT NO. 2017-405D-011), FOR PERSONNEL SERVICES (OVERTIME) AND EMPLOYEE RELATED EXPENSES TO ENHANCE DUI/IMPAIRED DRIVING ENFORCEMENT THROUGHOUT THE CITY OF GLENDALE.

Staff Contact: Rick St. John, Interim Police Chief

**39.**     [16-543](#)     RESOLUTION NO. 5174 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF A HIGHWAY SAFETY CONTRACT AND ACCEPTING THE GRANT OFFER, FROM THE ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY (GOHS CONTRACT NO. 2017-AI-001), FOR PROFESSIONAL AND OUTSIDE SERVICES (IPTM TRAINING) TO ENHANCE ACCIDENT INVESTIGATION THROUGHOUT THE CITY OF GLENDALE.

Staff Contact: Rick St. John, Interim Police Chief

**40.**     [16-544](#)     RESOLUTION NO. 5175 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF A HIGHWAY SAFETY CONTRACT AND ACCEPTING THE GRANT OFFER, FROM THE ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY (GOHS CONTRACT NO. 2017-AI-002), FOR ACCIDENT INVESTIGATION ENFORCEMENT EQUIPMENT TO ENHANCE ACCIDENT INVESTIGATION THROUGHOUT THE CITY OF GLENDALE.

Staff Contact: Rick St. John, Interim Police Chief

**41.**     [16-545](#)     RESOLUTION NO. 5176 NEW SERIES



A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF A HIGHWAY SAFETY CONTRACT AND ACCEPTING THE GRANT OFFER, FROM THE ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY (GOHS CONTRACT NO. 2017-AL-020), FOR DUI/IMPAIRED DRIVING RELATED MATERIALS, SUPPLIES AND EQUIPMENT TO ENHANCE DUI/IMPAIRED DRIVING ENFORCEMENT THROUGHOUT THE CITY OF GLENDALE.

Staff Contact: Rick St. John, Interim Police Chief

**42.**     [16-546](#)     RESOLUTION NO. 5177 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF A HIGHWAY SAFETY CONTRACT AND ACCEPTING THE GRANT OFFER, FROM THE ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY (GOHS CONTRACT NO. 2017-PT-021), FOR PERSONNEL SERVICES (OVERTIME), EMPLOYEE RELATED EXPENSES AND EQUIPMENT TO ENHANCE THE SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) THROUGHOUT THE CITY OF GLENDALE.

Staff Contact: Rick St. John, Interim Police Chief

**43.**     [16-547](#)     RESOLUTION NO. 5178 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF A HIGHWAY SAFETY CONTRACT AND ACCEPTING THE GRANT OFFER, FROM THE ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY (GOHS CONTRACT NO. 2017-PT-022), FOR SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) RELATED EQUIPMENT TO ENHANCE THE STEP THROUGHOUT THE CITY OF GLENDALE.

Staff Contact: Rick St. John, Interim Police Chief

**44.**     [16-548](#)     RESOLUTION NO. 5179 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PEORIA TO PROVIDE DETENTION AND WEEKEND COURT SERVICES FOR THE CITY OF PEORIA POLICE DEPARTMENT.

Staff Contact: Rick St. John, Interim Police Chief

**45.**     [16-578](#)     RESOLUTION NO. 5180 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT (GRANT PASS-THROUGH AGREEMENT) WITH THE CITY OF PHOENIX FOR GRANT NOS. AZ-2016-010-00 AND AZ-2016-017-00 RELATING TO TRANSIT SERVICES.

Staff Contact: Jack Friedline, Director, Public Works

46. [16-579](#) RESOLUTION NO. 5181 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AMENDMENT NO. ONE TO THE INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION (IGA/JPA 11-176-I).

Staff Contact: Jack Friedline, Director, Public Works

47. [16-580](#) RESOLUTION NO. 5182 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO AND ACCEPTANCE OF A GRANT FROM THE ARIZONA DEPARTMENT OF TRANSPORTATION, MULTIMODAL PLANNING DIVISION, FOR THE CONAIR LAND ACQUISITION, PHASE 1 OF 6 PROJECT AT THE GLENDALE MUNICIPAL AIRPORT.

Staff Contact: Jack Friedline, Director, Public Works

48. [16-583](#) RESOLUTION NO. 5183 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN AGREEMENT ENTITLED "TEMPORARY LICENSE AGREEMENT" WITH THE NEW WESTGATE, LLC FOR CERTAIN TEMPORARY PARKING RIGHTS AT WESTGATE.

Staff Contact: Jack Friedline, Director, Public Works

Approval of the Consent Agenda

**A motion was made by Turner, seconded by Tolmachoff, to approve the recommended actions on Consent Agenda Item Numbers 2 through 30 and Consent Resolutions 31 through 48. 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**

49. [16-551](#) AGENDA ITEM REMOVED AT THE REQUEST OF THE APPLICANT ON 11/18/16.

ORDINANCE NO. 3016 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, REZONING PROPERTY LOCATED AT 16480 NORTH 59TH AVENUE FROM C-O (COMMERCIAL OFFICE) TO G-O (GENERAL OFFICE); AMENDING THE ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE; AND ORDERING THAT A CERTIFIED COPY OF THIS ORDINANCE IS RECORDED.

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

50. [16-552](#) RESOLUTION NO. 5184 NEW SERIES

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 GPA16-04 FOR PROPERTY LOCATED AT 18800 NORTH 51ST AVENUE.

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

ORDINANCE NO. 3017 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, REZONING PROPERTY LOCATED AT 18800 NORTH 51ST AVENUE FROM A-1 (AGRICULTURAL) TO R1-4 PRD (SINGLE RESIDENCE, PLANNED RESIDENTIAL DEVELOPMENT) FOR A DEVELOPMENT PLAN, AMENDING THE ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE; AND ORDERING THAT A CERTIFIED COPY OF THIS ORDINANCE BE RECORDED.

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

Ms. Bower read Resolution No. 5184 and Ordinance No. 3017.

Mr. Froke said the general plan amendment would increase density to 3.5 to 5 units per acre and the property would be rezoned from agricultural to single residence, planned residential development.

Mr. Froke said the proposal was for an 18-lot subdivision in an area that was primarily residential and with development of this lot, the gap in the semi-regional equestrian trail on 51st Avenue would be filled. There was a single point of access to address headlight issues and the applicant had agreed to limit Lot 16 to a single-story out of concern for the existing neighborhood to the north. The Planning Commission unanimously recommended approval of the general plan amendment and the zoning case.

Councilmember Aldama asked if the trail along 51st Avenue would be disturbed and then

reconstructed during the project.

Mr. Froke said there was no defined trail currently from the south property line to the north property line of the lot. The developer would complete the trail for equestrian use.

Councilmember Malnar asked about the feedback received from the neighborhoods surrounding the project.

Mr. Froke said questions concerned the size of the lots and density. The project was very comparable to the neighborhood to the north. There was concern about having only two-story homes so the developer had addressed the concern by requiring a single-story home on the lot that bordered the neighborhood to the north of the project.

Councilmember Malnar asked if there was any opposition to the project.

Mr. Froke said there was not.

Councilmember Tolmachoff had attended the neighborhood meetings for the project and the main concern was that there be no two-story homes backing up to the neighborhood to the north.

Mayor Weiers opened the public hearing on GPA 16-04 and ZON 16-03.

Jane McBride, a Cholla District resident, thanked the developer and Planning staff for the considerations given to the neighborhood. She wanted clarification for the proposed drainage for rain water and watering of playground and common areas. The new home site elevation was much higher than the property to the north. She had spent over \$40,000 in repairs because of drainage issues at her property.

Mayor Weiers closed the public hearing.

Councilmember Malnar made a motion, seconded by Vice Mayor Hugh, to approve Resolution No. 5184.

Councilmember Malnar asked if an answer could be provided regarding the drainage question.

Mr. Froke said it might be more appropriate to answer that question under the zoning case as it was more site development related.

**A motion was made by Councilmember Malnar, seconded by Vice Mayor Hugh, to approve Resolution 5184 New Series. 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

Councilmember Malnar made a motion with stipulations, seconded by Councilmember Aldama, to approve Ordinance No. 3017.

Mr. Froke said the technical review of every project included an engineering review for land development. He said a drainage study was prepared by a private engineer. Every new development in Glendale had to contain its own water.

Zach Hilgart, Hilgart Wilson, said a developer could not put water on someone else's property and the water was designed to fall on the lot, drain to the streets and fall into a

retention basin. In the event the water exceeded that basin, the project was designed so the water went into 51st Avenue and nothing would drain into the lots to the north.

**A motion was made by Councilmember Malnar, seconded by Councilmember Aldama, to approve Ordinance 3017 New Series with 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

51. [16-559](#) ORDINANCE NO. 3018 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, EXTENDING AND INCREASING THE CORPORATE LIMITS OF THE CITY OF GLENDALE, MARICOPA COUNTY, STATE OF ARIZONA, PURSUANT TO THE PROVISIONS OF TITLE 9, CHAPTER 4, SECTION 9-471, ARIZONA REVISED STATUTES AND ITS AMENDMENTS, BY ANNEXING CERTAIN TERRITORY LOCATED WITHIN AN EXISTING COUNTY ISLAND OF THE CITY OF GLENDALE CONSISTING OF APPROXIMATELY 16 ACRES AT 7740 NORTH 83RD AVENUE TO BE KNOWN AS ANNEXATION AREA NO. 201; AMENDING THE ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE; AND ORDERING THAT A CERTIFIED COPY OF THIS ORDINANCE IS RECORDED.

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

Ms. Bower read Ordinance No. 3018.

Mr. Froke said the site was 16 acres in size, which included vacant lots and some custom homes. Single-family homes were planned for the vacant lots, with future development consistent with the City's general plan. Approval of the ordinance was the final step in the annexation process. Mr. Froke said the site was located at 83rd Avenue and Northern. The action closed a significant county island in the City.

Mayor Weiers opened the public hearing on AN-201 at 7740 N. 83rd Avenue.

There were no speakers on this item.

Mayor Weiers closed the public hearing.

**A motion was made by Councilmember Aldama, seconded by Vice Mayor Hugh, to approve this item. 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

52. [16-560](#) ORDINANCE NO. 3019 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, REZONING PROPERTY LOCATED AT 11401 WEST GLENDALE AVENUE FROM PAD (PLANNED AREA DEVELOPMENT) TO PAD (PLANNED AREA DEVELOPMENT) WITH A SUD (SPECIAL USE DISTRICT) OVERLAY ON AN APPROXIMATELY 61

ACRE PORTION AND REZONING FROM M-1 (LIGHT INDUSTRIAL) WITH A SUD (SPECIAL USE DISTRICT) OVERLAY TO M-1 (LIGHT INDUSTRIAL) WITH A SUD AMENDED (SPECIAL USE DISTRICT AMENDED) OVERLAY ON AN APPROXIMATELY 99 ACRE PORTION; AMENDING THE ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE; AND ORDERING THAT A CERTIFIED COPY OF THIS ORDINANCE IS RECORDED.

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

Ms. Bower read Ordinance No. 3019.

Mr. Froke said the request was to rezone the northern portion of the site located at 11401 W. Glendale Avenue to establish a special use district and to rezone 99 acres on the south portion of the site to amend the special use district, which was approved in ZON13-05 by Council in 2013. Mr. Froke said it would also add five additional years to the length of the temporary land use. The site was located on the south side of Glendale Avenue and west of Glen Harbor Blvd.

Mr. Froke said the SUD allowed mining and extraction of sand and gravel to 2028. Since initial Council approval, there had been sand and gravel operations at the location. The SUD had not caused any issues to the operation of Glendale Municipal Airport, nor nearby mining operations located in Maricopa County. In October 2016, the Planning Commission unanimously recommended approval of ZON16-05, subject to five stipulations. Staff recommended approval of the ordinance, subject to the five stipulations.

Councilmember Malnar asked what the options were for the land next to the airport over the next twenty years.

Mr. Froke explained that some of the revenues from the sand and gravel operation would help develop Copperwing for industrial use along Glendale Avenue.

Stephen Anderson, John F. Long Properties, said the land was near two rivers and the soil in the area was ideal for sand and gravel operations, but not suitable for construction. The sand and gravel operation would remove the problems from the soil. The company was required to reclaim the soil as it moved forward with its operation. It made the soil suitable for construction over a period of time. They had approval for a project known as Copperwing, which was a business park. Once the sand and gravel operation was completed in about 20 years, they would move forward to complete approval for the rest of the Copperwing project.

Mayor Weiers opened the public hearing.

Mr. Anderson said it was a successful operation and there had been no complaints regarding the project. He said there were no comments or questions in response to their citizen participation efforts. He had received a letter of approval and support from West-Mec. There had been a unanimous recommendation for approval from the Planning Commission and the company fully supported the stipulations.

Mayor Weiers closed the public hearing.

**A motion was made by Councilmember Tolmachoff, seconded by Councilmember Aldama, to approve this agenda items. 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

**53.**     [16-499](#)           ORDINANCE NO. 3020 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ABANDONMENT OF BETHANY HOME ROAD RIGHT-OF-WAY WEST OF LITCHFIELD ROAD, AND DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE.

Staff Contact: Jack Friedline, Director, Public Works

Ms. Bower read Ordinance No. 3020.

Mr. Friedline said the proposed ordinance would approve the abandonment of Bethany Home Road right-of-way, west of Litchfield Road. In 2013, the Council authorized annexation of property on the northwest and southwest corners of Bethany Home Road and Litchfield Road, including an existing right-of-way for a Bethany Home Road extension. Litchfield and Bethany Home LLC had requested the right-of-way be abandoned to accommodate future development.

Mr. Friedline said staff had determined that constructing Bethany Home Road would be of little benefit to Glendale or its residents. It was recommended that the City abandon the right-of-way.

Councilmember Malnar asked if rights-of-way had value and asked who would benefit from the City removing the right-of-way.

Mr. Friedline said the value was the ability to install infrastructure, such as water and sewer lines. He said typically a developer would give the City the right-of-way at no cost. If the City had no use for it, it was fair to give it back to the developer at no cost.

**A motion was made by Councilmember Turner, 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

**54.**     [16-576](#)           ORDINANCE NO. 3021 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND APPROVING A MASTER SPECIALIZED AVIATION SERVICE OPERATOR (SASO) AGREEMENT TEMPLATE FOR USE BY THE GLENDALE MUNICIPAL AIRPORT.

Staff Contact: Jack Friedline, Director, Public Works

Ms. Bower read Ordinance No. 3021.

Mr. Friedline said the proposed ordinance would approve a new Master Agreement template with Specialized Aviation Service Operator (SASO) Agreement. A SASO was a

business that provided commercial aeronautical services at the airport. The City did not currently have an agreement other than the Terminal Master Agreement that authorized a SASO to conduct businesses at the airport that were already adopted by Council. The agreement incorporated all the required FAA language and comments provided by Risk Management and Airport administration. The SASO would allow aviation businesses to offer their services quickly and provide revenue to the Airport.

Mr. Friedline said there were currently five SASOs on site. They paid fees, but there were no formal agreements in place. The Master Agreement template would ensure cooperative relationships, reduce the amount of time necessary to sign new agreements, encourage new businesses and ensure businesses had proper assurances. The agreement was approved by the Aviation Advisory Commission in August of 2016.

**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

**55.**     [16-567](#)

**ORDINANCE NO. 3022 NEW SERIES**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 2, ARTICLE VIII, DIVISION 5 OF THE CITY CODE BY RENAMING THE COMMISSION ON PERSONS WITH DISABILITIES TO A DIVERSITY COMMISSION; EXPANDING ITS DUTIES; AND SETTING FORTH AN EFFECTIVE DATE.

Staff Contact: Jim Brown, Director, Human Resources and Risk Management

Ms. Bower read Ordinance No. 3022.

Mr. Brown said the proposed ordinance would amend Chapter 2, Article VIII, Division 5 of the City Code by renaming the Commission on Persons with Disabilities to a Diversity Commission, expanding its duties and setting forth an effective date. Benchmark cities had committees that were similar in purpose, structure and function. Council determined this commission should be advisory in nature and should review policies related to diversity and advise the Council. The commission should also be able to hold a public forum in which citizens and stakeholders could be heard and information presented to the commission could be presented to the Council. Staff met with the Commission on Persons with Disabilities and they were agreeable to transforming their commission into a Diversity Commission that would address the concerns of the disabled and other protected and diverse classes in Glendale.

Councilmember Aldama made a motion, seconded by Councilmember Turner, to approve Ordinance No. 3022.

Councilmember Tolmachoff was concerned there was nothing that specified members of the subcommittees had to be Glendale residents. She felt the subcommittees should be made up of commission members.

Councilmember Malnar had a similar concern. He asked if all commissions had subcommittees and wanted to know if they were members at large.



Mr. Brown was not familiar with the subcommittee structures of the other commissions.

Councilmember Malnar proposed removing subsection E from the Ordinance. This was seconded by Vice Mayor Hugh. He said it was a 14-member committee and the language was not specific that the members had to be Glendale residents. He suggested using the language, "any resident of Glendale." He said a committee with 14 members was large enough to fill subcommittees and should be members of the committee. He suggested changing the language to "any member of the committee."

Councilmember Malnar distributed an amendment he had prepared.

Mr. Phelps said it was not uncommon for subcommittees to act in an ad hoc manner. He explained there were times when the committee might need outside expertise and it would give the committee an opportunity to use experts who could participate in an advisory role. He said it could provide more flexibility for the committee, but thought it could work both ways.

Mayor Weiers asked Councilmember Malnar if that was different than what he was proposing.

Councilmember Malnar said it was.

Mayor Weiers asked if he had language prepared regarding his questions.

Councilmember Malnar said he had prepared two options.

Councilmember Tolmachoff said there was nothing to prevent a subcommittee from reaching out to other community members for input. She felt the language was vague and too general. She said committee members should be Glendale residents. She said Council could always amend the ordinance in the future, if necessary.

Mayor Weiers asked Councilmember Malnar if copies were given to the City Attorney.

Councilmember Malnar provided copies to the City Attorney. He said the first option was to make any Glendale resident interested eligible to be appointed to the subcommittee. He was not comfortable opening the committees up to non-residents. The second option was to allow only members of the commission to be members of the subcommittees.

Councilmember Aldama asked if staff put that language in the ordinance. He asked if staff was trying to eliminate research time.

Mr. Brown said subcommittees was discussed in previous Council sessions and this was put in to give the committee flexibility. He said not all members of the Diversity Commission were required to be residents. They could be employers, members of the education system or Glendale residents.

Councilmember Aldama said commission members should be Glendale residents and he could see the commission going outside to obtain information. He would feel more comfortable to give it to staff to research.

Councilmember Tolmachoff said the ordinance stated that the commission would be composed of 14 members who would be residents of Glendale.

Mayor Weiers said that was for the commission itself.

Councilmember Tolmachoff said the commission would be business leaders and others who might not necessarily be Glendale residents.

Mr. Brown apologized and said he was looking at a different section of the ordinance.

Councilmember Tolmachoff said she would be most comfortable with commission members forming subcommittees. She said if commission members wanted to expand to more than 14 members at some point in the future, Council could discuss it.

Mayor Weiers clarified the handouts provided by Councilmember Malnar. The handout that stated Glendale residents would be handout B and the other would be handout A.

Councilmember Malnar agreed with Councilmember Tolmachoff. His preference was handout A, which changed the language to say any commission member may be appointed as a member of the subcommittee and members of the subcommittee may be appointed by the commission. Each subcommittee may be chaired by a member who shall be appointed by the chairperson of the commission. The subcommittee shall have no authority to act independent of the commission.

Mr. Gruber said it sounded like the direction was to limit the subcommittee members to members of the commission. He suggested replacing the word "any" with the word "only", so only commission members may be appointed as members of the subcommittee to avoid any doubt.

Councilmember Malnar approved of the change. Councilmember Malnar wanted to make a motion on handout A, which was limiting the subcommittee members to members of the commission.

Councilmember Turner said there was a motion on the floor already that had been seconded that needed to be withdrawn.

Councilmember Malnar said this would be a substitute motion to amend the proposed ordinance.

Mayor Weiers asked Councilmember Aldama if he was comfortable amending his motion.

Councilmember Aldama said he was not comfortable amending his motion.

Mr. Gruber recommended withdrawing the original motion.

Mayor Weiers asked if Councilmember Aldama was going to withdraw his motion.

Councilmember Malnar made a motion to strike section E with a second from Vice Mayor Hugh.

Councilmember Malnar wanted to withdraw his motion to strike subsection E and instead make a motion to amend the original motion to go with the substitute language in handout A, substituting the word "only" for the word "any." He said he needed someone to second that.

Councilmember Tolmachoff said only commission members.

Councilmember Malnar said that was correct, only commission members.

Mayor Weiers requested that the main motion be withdrawn as the attorney had advised. He asked Councilmember Malnar to withdraw his motion so Council could begin again.

Councilmember Aldama withdrew his motion for the purpose of amending Ordinance No. 3022. Councilmember Turner withdrew his second.

Councilmember Malnar withdrew his motion.

Councilmember Malnar said he had another amendment.

Councilmember Aldama said he should have said that before Councilmember Aldama withdrew his motion.

Councilmember Malnar said that he had a couple of other amendments he would like to suggest and would like them considered separately since there might not be agreement on all of them.

Councilmember Malnar distributed an additional amendment (handout C). He said the amendment was to section 2-313, Powers and Duties. The language as written, was an attempt to include people that might not need to be included and there would be an exclusion of people under the proposed ordinance. He had looked at Mesa's and Scottsdale's ordinances and liked the wording in the Scottsdale ordinance. He would like to replace the language to read that under Powers and Duties, the "commission will advocate and promote all dimensions of diversity. The commission will act as an advisory body to the Mayor, City Council, staff, and to make recommendations on ways to encourage mutual respect and understanding among all people, to discourage prejudice and discrimination and to work toward cultural awareness and unity." He said that wording stated what Council wanted without getting into classes protected by the federal government, and covered everyone without leaving anyone out.

Councilmember Aldama said the issue was going sideways and he made a motion, seconded by Councilmember Turner, to approve Ordinance No. 3022 as presented.

Councilmember Malnar made a substitute motion, seconded by Vice Mayor Hugh, to substitute the language he read in handout C, for in the language of the proposed ordinance as it was presented.

Mayor Weiers said Council would vote on Councilmember Malnar's motion first and asked if there was discussion on the motion.

Councilmember Tolmachoff said in section E, Councilmember Malnar was changing the language to only commission members will serve in subcommittees.

Councilmember Malnar said that was correct.

Councilmember Tolmachoff said the other change requested was to eliminate a list of people and using the replacement language that Councilmember Malnar read.

Councilmember Malnar said instead of putting specific groups and identifying them, he wanted to be totally inclusive by using broader language.

Mayor Weiers asked if that was language that Scottsdale was currently using.

Councilmember Malnar said that was almost verbatim of the language used by Scottsdale in its ordinance.

Councilmember Aldama asked if Council could instead use the language "all people," instead of striking everything out.

Councilmember Malnar said he had made his motion and there was a second on that motion.

Mayor Weiers asked if there was any other discussion on the substitute motion.

Councilmember Aldama asked if Council should vote on the first motion and second.

Councilmember Malnar said the first vote should be on the substitute motion.

Councilmember Turner said he was unclear on the parliamentary aspect of the issue. He said if proposed language A and C are the substitute motion to the first motion, then all that exists are A and C.

Councilmember Malnar said that was not what he said.

Councilmember Turner said the Councilmember's intent was to amend the initial motion to include A and C in place of the sections that A and C replaced.

Councilmember Malnar said that was correct.

Councilmember Turner said this was not the way Council had generally done business in the past. He felt the item might need to go to a workshop for further discussion or put off for a period of time while the issues were worked out. He didn't know how striking the specific language in favor of the language "all people" would impact the affected communities that Council was trying to provide a sense of security and inclusion. He said if Council was concerned about some community being left out, it could use the original language and add "all people" to the end of it. He said Council couldn't be more inclusive than that and also have the benefit of providing a sense of security to those identified classes.

Councilmember Malnar said the problem was there were classes in there that were not federally protected classes and that was why he felt Council should keep the broader language. He said the motion was to amend the ordinance to replace section E with the A language and in section A, replace it with handout C.

Mayor Weiers said there was a motion and a second, and asked if there was any other discussion.

Councilmember Turner moved to table the item.

Mayor Weiers said there was a motion and he thought they had to vote on it.

Councilmember Turner said he thought a motion to table took precedence over all the other motions.

Councilmember Tolmachoff seconded Councilmember Turner's motion.

Mayor Weiers asked Mr. Gruber for his advice on procedure.

Mr. Gruber said the motion to substitute had to be voted on.

Councilmember Aldama said Councilmember Malnar had had plenty of time during workshops to bring this item up and said it would make more sense for Councilmember Malnar to support tabling the issue to have an opportunity for further discussion on his suggested changes. He said tabling the issue would be more beneficial to the citizens.

Councilmember Tolmachoff said there was consensus to limiting the subcommittees to commission members. She said she would prefer that Council had consensus on this.

Councilmember Malnar said it was first time he had seen the ordinance presented. He said it was the very first opportunity he had to discuss the item. Many times City Councils didn't debate, discuss issues or put their viewpoints on the table. He said his changes gave the City a commission and would help them move forward as a City.

Councilmember Turner was still confused as to whether Council had a substitute motion or amendments to what was presented. He said incorporating these changes was a clumsy way to do it and voting on the motions separately was amending the main motion.

Councilmember Malnar said he agreed with that.

Councilmember Turner asked if Council had lost track of whether this was a substitute motion or an amendment to the motion.

Mayor Weiers said it was a substitute motion.

Vice Mayor Hugh said Councilmember Turner made a motion and a second to table this item. He said it was his understanding if there was not discussion on that motion, it had to be voted on.

Mayor Weiers said Council couldn't entertain a motion and a second until it had cleared the previous motion.

Vice Mayor Hugh said the motion to table with a second had to be voted on without discussion.

Ms. Bower said when there was a motion on the floor, Council had to deal with the motion on the floor.

Councilmember Aldama asked for clarification of the motion.

Councilmember Malnar said the motion was to amend the ordinance, substituting his handout A as section E and substituting his handout C as section A. He was willing to vote on these items separately.

Mr. Gruber said the proposal to vote on each item separately was permissible and that would be his recommendation.

Councilmember Malnar amended his substitute motion to approve handout A, language that only commission members may be members of the subcommittee.

Vice Mayor Hugh seconded the motion.

There was no discussion on that motion.

A roll call vote was taken. Those voting Aye: Aldama, Chavira, Malnar, Tolmachoff, Turner, Hugh and Weiers. The motion carried unanimously.

Councilmember Malnar made a substitute motion to amend section 2-313, Powers and Duties, replace section A with what was identified as handout C. Councilmember Malnar read the passage as it was currently written and asked to replace that language with, "The commission will advocate and promote all dimensions of diversity. The commission will act as an advisory body to the Mayor, City Council and staff and to make recommendations on ways to encourage mutual respect and understanding among all people, to discourage prejudice and discrimination and to work toward cultural awareness and unity."

Vice Mayor Hugh seconded the motion.

Mayor Weiers asked if a person would be covered in the new language if they were not covered in the original language.

Councilmember Malnar said yes.

Councilmember Tolmachoff said language regarding disabled persons was listed twice and she was not sure if that was an error.

Mayor Weiers said he thought it was supposed to read from U.S. military veteran status or a disabled status.

Councilmember Tolmachoff said disabled was there twice and she was unsure if it was supposed to be written that way. She said after reading it twice, she now understood what Councilmember Malnar was saying. By making a list, they might leave someone off the list.

Councilmember Aldama did not understand how Council could not accept representing individuals that might be in a specific category and just adding the words "all people" to it. He said either Council was embarrassed by it or Council just didn't want to be a part of it. He said simply adding in "all people" would cover everyone, including those on the list. That list of persons was who Council wanted to take care of and represent.

Councilmember Malnar said Council was putting people into a protected class which they were not federally protected in. He asked if Council wanted to start having protected classes and bringing that to the City. He didn't want to single out any groups specifically. He said the City should be open and promoting diversity to all people. He said diversity was for all people.

Councilmember Aldama asked if Councilmember Malnar didn't want to support disabled veterans. He said the City wanted to support those protected individuals and that was what they were doing. He said again to add the words "all people" to the language.

Councilmember Turner asked how this change in language might impact ratings the City received from organizations active in diversity.

Mr. Phelps wasn't sure he was qualified to speak on their behalf. He said some groups

encouraged a citizen-driven body to promote diversity. He said it was clear the Council wanted a committee to promote diversity and didn't think either version of the suggested language would prohibit the Council from doing that.

Councilmember Turner asked if Mr. Brown knew about the issue.

Mr. Brown said outside organizations looked to see if the City had a diversity commission and other types of ordinances in place. He wasn't sure of any specific language that would be required.

Mayor Weiers asked if Councilmember Malnar's proposed language would prevent the Council from advocating and promoting diversity. He didn't see that it would. He said it accomplished the goal Council set out to do. He said there were people who were not on the list that would be included with the proposed language. He said everyone deserved to be looked at as an equal.

Councilmember Tolmachoff said she disagreed with having a list. She clarified the language was used in another city.

Councilmember Malnar said the language was used in Scottsdale.

Mayor Weiers asked if the language was verbatim.

Councilmember Malnar said it was almost verbatim.

Mayor Weiers said he did not think Scottsdale had lost any events because of it.

Councilmember Tolmachoff said it didn't not cover anyone on the original language, but said it also applied to anyone who was not on the list. She asked if that was Councilmember Malnar's intention in proposing the language.

Councilmember Malnar said yes. He said everyone needed to be included. He said he took out language from the Scottsdale ordinance which referred to making "recommendations and to special events which would further its purpose," explaining that he thought the Council had already discussed that.

Mayor Weiers said he didn't hear the words "all people" in the text Councilmember Malnar had read.

Councilmember Malnar said the language did not say all people and said he did add that in.

Councilmember Turner said using the generic "all people" was hiding in the dark and using the specific list shed more light on the subject. He said there was great value in knowing these groups were protected. He would not object to including the words "all people" as well. He also would not object to adding other classes at a future date. He would like to amend Councilmember Malnar's amendment.

Councilmember Malnar said he had already made a substitute motion and didn't think Councilmember Turner could amend an amendment.

Councilmember Turner said he was not substituting and wanted to propose adding "and all people" to the end of the original language in the ordinance.

Councilmember Malnar said he believed Council had to vote on the motion before it before making another motion.

Mayor Weiers said Council had to vote on the original motion.

Councilmember Malnar moved the question.

Mayor Weiers said the question had been moved and seconded.

A roll call vote was taken on the substitute motion to amend section 2-313, Powers and Duties, replace section A with what was identified as handout C. Those voting Aye: Malnar, Hugh and Weiers. Those voting Nay: Aldama, Chavira, Tolmachoff and Turner. The motion failed.

Mayor Weiers said Council now had the original ordinance without the amendment.

Councilmember Tolmachoff asked if Council could add "all people" to that.

Councilmember Malnar made a motion to table the item.

Councilmember Aldama said Councilmember Tolmachoff was asking a question and he didn't think she was finished.

Councilmember Tolmachoff wanted to know if she could make another motion on the item to add "all people" to the original language.

Mayor Weiers said Councilmember Tolmachoff could make a motion, but a motion had been made to table the item that had not been seconded.

Vice Mayor Hugh seconded the motion to table the item.

Councilmember Aldama wanted to explain his vote, and said it was important that the item be passed unanimously by Council and accepted by the community. He said Council needed to go back to the drawing board. He voted Aye.

A roll call vote was taken. Those voting Aye: Aldama, Chavira, Malnar, Tolmachoff, Turner, Hugh and Weiers. The motion carried unanimously.

Mayor Weiers said the item was tabled and hoped Council could get it worked out the next time around.

**A motion was made by Councilmember Malnar, seconded by Vice Mayor Hugh, that this agenda item be tabled. 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 reschedule the Voting Meeting of Tuesday, December 13, 2016 to Tuesday, December 6, 2016 at 11:00 a.m. in City Council Chambers due to the Council Installation being held on Tuesday, December 13, 2016 at 6:00 p.m. in City Council Chambers, and further moved to hold the next regularly scheduled City Council Workshop on Tuesday, December 6, 2016 at 1:30 p.m. in 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 said his mobile office hours would be held on December 5, 2016, at Desert Garden Elementary School, 7020 W. Ocotillo Road, in the cafeteria, from 5 p.m. to 6:30 p.m. He also congratulated Chief Rick St. John for his promotion to Chief of Police and was confident he would lead the Glendale Police Department. He wished everyone a safe and Happy Thanksgiving.

Councilmember Tolmachoff invited Cholla residents to the second annual Cholla Holiday Mixer on December 8, 2016 at Foothills Recreation and Aquatics Center from 6 p.m. to 8 p.m. She said there would be prizes, food and an ugly sweater contest.

Councilmember Turner congratulated Chief St. John on his promotion. He also wished everyone a Happy Thanksgiving. He reminded everyone about Glendale Glitters on Friday evening.

Vice Mayor Hugh congratulated Chief St. John and was looking forward to his continued service.

Mayor Weiers said Chief St. John already knew how he felt. He said the 4th Annual Hometown Christmas Parade was on December 10, 2016 at 11 a.m. He said the parade's Grand Marshall would be Jordin Sparks.

**ADJOURNMENT**

The City Council adjourned at 8:03p.m.



Legislation Description

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**File #: 16-535, Version: 1**

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**RECOMMEND APPROVAL OF LIQUOR LICENSE NO. 5-21725, COCO LOCO LOUNGE**

Staff Contact: Vicki Rios, Director, Budget and Finance

**Purpose and Recommended Action**

This is a request for City Council to recommend approval to the Arizona Department of Liquor Licenses and Control of a person-to-person, location-to-location series 6 (Bar - All Liquor) license for CoCo Loco Lounge located at 5510 W. Camelback Road, Suites 9-12. The Arizona Department of Liquor Licenses and Control application (No. 06070242) was submitted by Marco Antonio Martinez.

**Background Summary**

The location of the establishment is in the Cactus District and is over 300 feet from any church or school. The property is zoned C-2 (General Commercial). The population density within a one-mile radius is 20,685. This series 6 license will replace the Series 6 license currently issued at this location, therefore, the approval of this license will not increase the number of liquor licenses in the area. The current number of liquor licenses within a one-mile radius is as listed below.

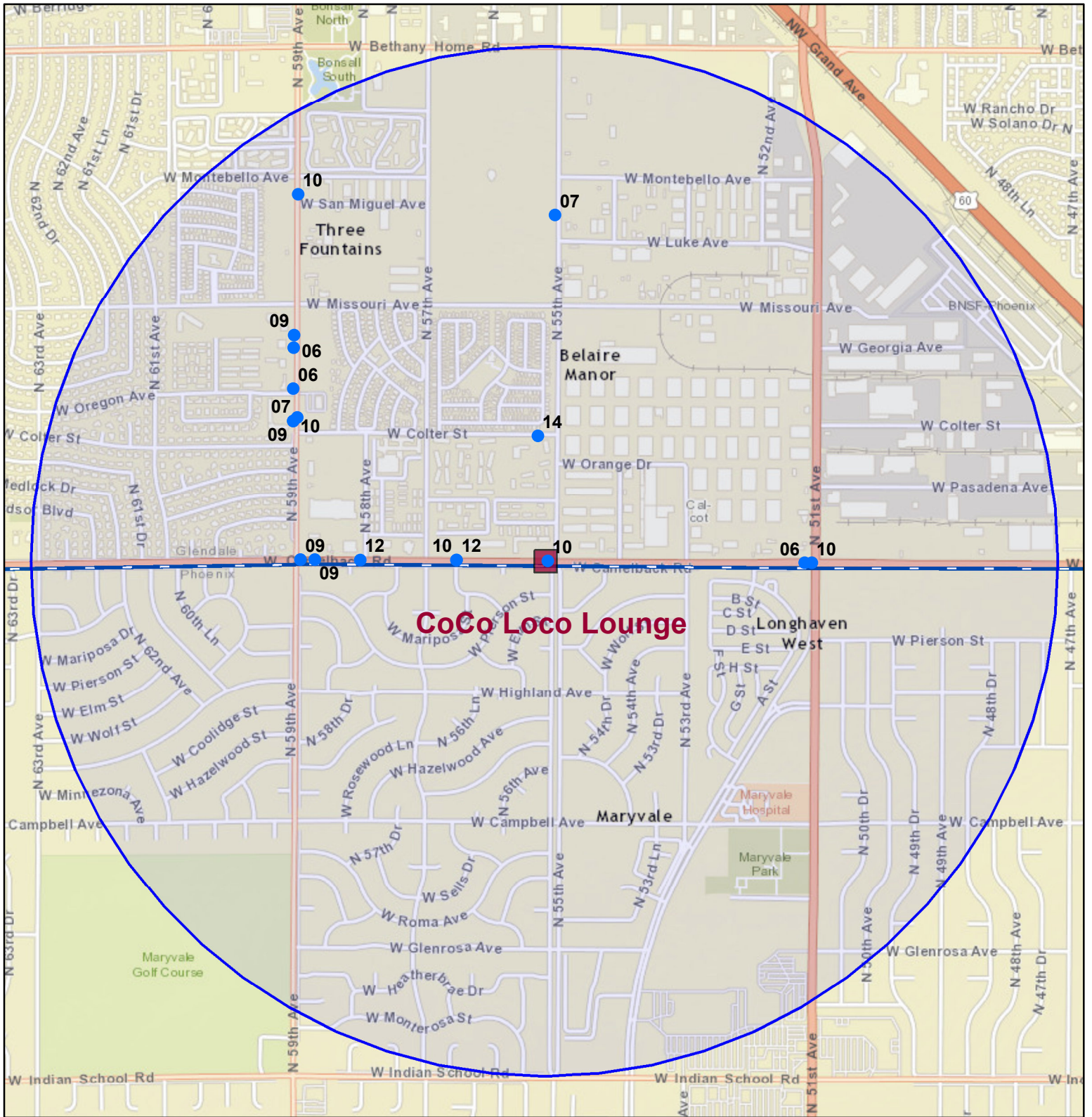
<b>Series</b>	<b>Type</b>	<b>Quantity</b>
06	Bar - All Liquor	3
07	Bar - Beer and Wine	2
09	Liquor Store - All Liquor	4
10	Liquor Store - Beer and Wine	5
12	Restaurant	2
14	Private Club	<u>1</u>
	<b>Total</b>	<b>17</b>

Pursuant to A.R.S. § 4-203(A), when considering this person-to-person, location-to-location series 6 license, Council may take into consideration the applicant's capability, qualifications, and reliability.

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

**Community Benefit/Public Involvement**

No public protests were received during the 20-day posting period, October 13 thru November 2, 2016.



**BUSINESS NAME:** CoCo Loco Lounge

**LOCATION:** 5510 W. Camelback Road, Suite 9-12

**APPLICANT:** Marco Antonio Martinez

**ZONING:** C-2

**APPLICATION NO:** 5-21725

**SALES TAX AND LICENSE DIVISION  
CITY OF GLENDALE, AZ**



16-131

# GLENDALE POLICE DEPARTMENT

## Liquor Application Worksheet

Date: 10-25-16

License Type: **Series 6 Bar (All Spiritous Liquor)**

Definition: Allows for the sale of all types of liquor, on-premise consumption and allows the bar to sell packaged goods to go. Delivery service is allowed.

Application Type: **Person Location Transfer**

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

Business Name: **CoCo Loco Lounge**

Business Address: **5510 W. Camelback RD. #9-12**

### Applicant/s Information

Name: **Martinez, Marco Antonio**

Name:

Name:

Name:

### Background investigation of applicant/s completed.

Calls for Service History:	Call history for location beginning: 10/25/2011	Other Suites	New ownership call history beginning:
Liquor Related		4	
Vice Related			
Drug Related		5	
Fights / Assaults	12	18	
Robberies		6	
Burglary / Theft	3	53	
911 calls		18	
Trespassing	1	17	
Accidents		3	
Fraud / Forgery		1	
Threats		1	
Criminal damage		11	
Other non-criminal*	8	123	
Other criminal	1	9	
<b>Total calls for service</b>	<b>25</b>	<b>269</b>	<b>N/A</b>

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

**GLENDALE POLICE DEPARTMENT**  
Liquor Application Worksheet

**Applicant Background Synopsis:**

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

**Current License Holder:**

Wilford Rhine (Agent)  
West Street LLC (Owner)

There are no known concerns with the current license holder.

**Location History:**

No significant Calls for Service history at this location.

**Special Concerns:**

None found

**Background investigation complete:**

Police Department recommendation has No Cause for Denial.

		Date
Investigating Officer – M. Ervin	<u>M. ERVIN</u>	<u>10-26-16</u>
CID Lieutenant or Commander	<u>A. Anderson #6698</u>	<u>10-26-16</u>
Deputy City Attorney	_____	_____
Chief of Police or designee	<u>C. Bygg</u>	<u>10/29/16</u>



## Legislation Description

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**File #: 16-561, Version: 1**

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**AUTHORIZATION TO ENTER INTO A CONSTRUCTION AGREEMENT WITH HUNTER CONTRACTING CO., TO ASSESS AND REPAIR PIPELINES AT THE CHOLLA WATER TREATMENT PLANT**

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 agreement with Hunter Contracting Co., (Hunter) in an amount not to exceed \$190,425 (base bid plus Alternates 1 and 2) to excavate, assess, and repair pipelines at the Cholla Water Treatment Plant.

**Background**

The Cholla Water Treatment Plant is a conventional surface water treatment plant serving the citizens of Glendale. Several areas have been identified which show signs of soil settlement. This soil movement could impact the operations and safety of the facility if no action is taken. The project includes excavation, exploration/condition assessment, and potential repair of existing piping at the area around the plant's gravity thickeners. The excavation depth is expected to reach depths of up to 30 feet to assess the condition of existing facilities.

**Analysis**

The project provides stabilization of the soil during backfill around the gravity thickener area after repairs are made which will prevent future damage or breaks by preventing any potential settling. Should there be a disruption in service to the gravity thickeners, it would be impossible to process sludge onsite and would require the immediate disposal to the sanitary sewer. The project will be completed during a scheduled plant shutdown to prevent any disruptions in production.

The Engineering Department opened bids for construction of this project on September 29, 2016 and two bids were received. Hunter Contracting Co. submitted the lowest responsive bid in the amount of \$190,425.

**Previous Related Council Action**

On October 14, 2014, Council authorized the City Manager to enter into an agreement with Ninyo & Moore Geotechnical Consultants, Inc. to provide evaluation and remediation recommendations of current soil conditions at the Cholla Water Treatment Plant.

**Community Benefit/Public Involvement**

Benefits to be realized from the project include maintaining the integrity and operation of the water

treatment plant, minimizing service interruptions, ensuring continued compliance with environmental regulations, minimizing sanitary sewer releases, and decreased service disruptions caused by unplanned outages.

**Budget and Financial Impacts**

Funds are available in the Water Services FY2016-17 capital budget.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$190,425</b>	<b>2400-61024-550800, Cholla WTP Process Improvements</b>

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

## CONSTRUCTION AGREEMENT

This Construction Agreement ("Agreement") is entered into and effective between the CITY OF GLENDALE, an Arizona municipal corporation ("City"), and Hunter Contracting Co., an Arizona corporation, authorized to do business in Arizona ("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 the Notice to Contractors and the attached Exhibit A ("Project");
- B. City desires to retain the services of Contractor to perform those specific duties and produce the specific work as set forth in the Project, the plans and specifications, the Information for Bidders, and the Maricopa Association of Governments ("MAG") General and Supplemental Conditions and Provisions;
- C. City and Contractor desire to memorialize their agreement with this document.

### AGREEMENT

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

#### 1. Project.

1.1 **Scope.** Contractor will provide all services and material necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors, providers or consultants retained by City.

1.2 **Documents.** The following documents are, by this reference, entirely incorporated into this Agreement and attached Exhibits as though fully set forth herein:

- (A) Notice to Contractors;
- (B) Information for Bidders;
- (C) MAG General Conditions, Supplemental General Conditions, Special and Technical Provisions;
- (D) Proposal;
- (E) Bid Bond;
- (F) Payment Bond;
- (G) Performance Bond;
- (H) Certificate of Insurance;
- (I) Appendix; and
- (J) Plans and Addenda thereto.

Should a conflict exist between this Agreement (and its attachments), and any of the incorporated documents as listed above, the provisions of this Agreement shall govern.

#### 1.3 Project Team.

- (A) **Project Manager.** Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, to complete the project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement.
- (B) **Project Team.**
  - (1) The Project manager and all other employees assigned to the project by Contractor will comprise the "Project Team."
  - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the project by Contractor.



(C) **Sub-contractors.**

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

2. **Schedule.** The Project will be undertaken in a manner that ensures it is completed in a timely and efficient manner. If not otherwise stated in Exhibit A, the Project shall be completed by no later than within fifty-five (55) consecutive calendar days from and including the date of receipt of the Notice to Proceed.

3. **Contractor's Work.**

3.1 **Standard.** Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services and materials for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 **Licensing.** Contractor warrants that:

- (A) Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and
- (B) Neither Contractor nor any Sub-contractor has been debarred or otherwise 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 of this Agreement.

3.3 **Compliance.** Services and materials will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, or other standards and criteria designated by City.

Contractor must not discriminate against any employee or applicant for employment on the basis of race, religion, color sex or national origin. Contractor must develop, implement and maintain non-discrimination policies and post the policies in conspicuous places visible to employees and applicants for employment. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section.

3.4 **Coordination; Interaction.**

- (A) If the City determines that the Project requires the coordination of professional services or other providers, Contractor will work in close consultation with City to proactively interact with any other contractors retained by City on the Project ("Coordinating Entities").
- (B) Subject to any limitations expressly stated in the budget, Contractor will meet to review the Project, schedules, budget, and in-progress work with Coordinating Entities and the City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.

- (C) If the Project does not involve Coordinating Entities, Contractor will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.

**3.5 Hazardous Substances.** Contractor is responsible for the appropriate handling, disposal of, and if necessary, any remediation and all losses and damages to the City, associated with the use or release of hazardous substances by Contractor in connection with completion of the Project.

**3.6 Warranties.** At any time within two years after completion of the Project, Contractor must, at Contractor's sole expense and within 20 days of written notice from the City, uncover, correct and remedy all defects in Contractor's work. City will accept a manufacturer's warranty on approved equipment as satisfaction of the Contractor's warranty under this subsection.

**3.7 Bonds.** Upon execution of this Agreement, and if applicable, Contractor must furnish Payment and Performance bonds as required under A.R.S. § 34-608.

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

**4.1 Compensation.** Contractor's compensation for the Project, including those furnished by its Sub-contractors will not exceed \$190,425 as specifically detailed in the Contractor's bid and set forth in Exhibit B ("Compensation").

**4.2 Change in Scope of Project.** The Compensation may be equitably adjusted if the originally contemplated scope of services as outlined in the Project is significantly modified by the City.

- a. Adjustments to the Scope or Compensation require a written amendment to this Agreement and may require City Council approval.
- b. Additional services which are outside the scope of the Project and not contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.
- 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) The Contractor will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.
- (B) The period covered by each Payment Application will be one calendar month ending on the last day of the month.

##### **5.2 Payment.**

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

**5.3 Review and Withholding.** City's Project Manager will timely review and certify Payment Applications.

- (A) If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.
- (B) City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.
- (C) Contractor will provide, by separate cover, and concurrent with the execution of this Agreement, all required financial information to the City, including City of Glendale Transaction Privilege License and Federal Taxpayer identification numbers.
- (D) City will temporarily withhold Compensation amounts as required by A.R.S. 34-221(C).

## 6. Termination.

**6.1 For Convenience.** City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than fifteen (15) days following the date of delivery.

- (A) Contractor will be equitably compensated any services and materials furnished prior to receipt of the termination notice and for reasonable costs incurred.
- (B) Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with Project closeout and delivery of the required items to the City.

**6.2 For Cause.** City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven (7) days after receipt of written notice specifying the breach.

- (A) Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages.
- (B) If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand; however, Contractor will not be subject to consequential damages more than \$1,000,000 or the amount of this Agreement, whichever is greater.

## 7. Insurance.

**7.1 Requirements.** Contractor must obtain and maintain the following insurance ("Required Insurance"):

- (A) 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, "Contractor's Policies"), until each Parties' 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.
  - (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, products and completed operations, XCU hazards if requested by the City, and a separation of insurance provision.
  - (4) These limits may be met through a combination of primary and excess liability coverage.

- (C) 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) Equipment Insurance. Contractor must secure, pay for, and maintain all-risk insurance as necessary to protect the City against loss of owned, non-owned, rented or leased capital equipment and tools, equipment and scaffolding, staging, towers and forms owned or rented by Contractor or its Sub-contractors.
- (F) 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.
- (G) Certificates of Insurance.
  - (1) Within ten (10) business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which will confirm the existence or issuance of Contractor and Sub-contractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Sub-contractor's Policies in accordance with the provisions of this section.
  - (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.
  - (3) Contractor's failure to secure and maintain Contractor Policies and to assure Sub-contractor policies as required will constitute a material default under this Agreement.
- (H) Other Contractors or Vendors.
  - (1) Other contractors or vendors that may be contracted by Contractor with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular agreement.
  - (2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).
- (I) Policies. Except with respect to workers' compensation and employer's liability coverages, the City must be named and properly endorsed as additional insureds on all liability policies required by this section.
  - (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self insurance policies or programs maintained by the additional insureds.
  - (2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and acceptable to all parties.

## 7.2 Sub-contractors.

- (A) Contractor must also cause its Sub-contractors to obtain and maintain the Required Insurance.

- (B) City may consider waiving these insurance requirements for a specific Sub-contractor if City is satisfied the amounts required are not commercially available to the Sub-contractor and the insurance the Sub-contractor does have is appropriate for the Sub-contractor's work under this Agreement.
- (C) Contractor and Sub-contractors must provide to the City proof of Required Insurance whenever requested.

**7.3 Indemnification.**

- (A) To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense"; collectively, "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.
- (B) This indemnity and hold harmless policy applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.
- (C) Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

**7.4 Waiver of Subrogation.** Contractor waives, and will require any Subcontractor to waive, all rights of subrogation against the City to the extent of all losses or damages covered by any policy of insurance.

**8. E-verify, Records and Audits.** To the extent applicable under A.R.S. § 41-4401, the Contractor warrant their compliance and that of its subcontractors with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). The Contractor or subcontractor's breach of this warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by the City under the terms of this Agreement. The City retains the legal right to randomly inspect the papers and records of the other party to ensure that the other party is complying with the above-mentioned warranty. The Contractor and subcontractor warrant to keep their respective papers and records open for random inspection during normal business hours by the other party. The parties shall cooperate with the City's random inspections, including granting the inspecting party entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

**9. No Boycott of Israel.** The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.

**10. 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.

**11. Notices.**

11.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:

- (A) The Notice is in writing, and
- (B) Delivered in person or by private express overnight delivery service (delivery charges prepaid), certified or registered mail (return receipt requested).
- (C) Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:

- (1) Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier on or before 5:00 p.m.; or
- (2) As of the next business day after receipt, if received after 5:00 p.m.
- (D) The burden of proof of the place and time of delivery is upon the Party giving the Notice.
- (E) Digitalized signatures and copies of signatures will have the same effect as original signatures.

**11.2 Representatives.**

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

Hunter Contracting Co.  
 Attn: Robert Carlson  
 701 North Cooper Road  
 Gilbert, Arizona 85233

- (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  
 Attn: Tom Kaczmarowski  
 5850 West Glendale Avenue  
 Glendale, Arizona 85301

With required copies to:

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

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

- (C) 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 considered to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.

- (D) Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

**12. Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

**13. Entire Agreement; Survival; Counterparts; Signatures.**

**13.1 Integration.** This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- (A) Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.

- (B) Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
- (C) Any solicitation, addendums and responses submitted by the Contractor are incorporated fully into this Agreement as Exhibit A. Any inconsistency between Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

**13.2 Interpretation.**

- (A) The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- (B) The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- (C) The Agreement will be interpreted in accordance with the laws of the State of Arizona.

**13.3 Survival.** Except as specifically provided otherwise in this Agreement each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

**13.4 Amendment.** No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval.

**13.5 Remedies.** All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

**13.6 Severability.** If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform to applicable law.

**13.7 Counterparts.** This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

**14. Dispute Resolution.** Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered according to the American Arbitration Association's Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

**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

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

City of Glendale,  
an Arizona municipal corporation

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

ATTEST:

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

APPROVED AS TO FORM:

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

Hunter Contracting Co.,  
an Arizona corporation

\_\_\_\_\_  
By: Robert Carlson  
Its: Vice President

WOMEN-OWNED/MINORITY BUSINESS [ ] YES [ ] NO  
CITY OF GLENDALE TRANSACTION PRIVILEGE TAX NO. \_\_\_\_\_  
FEDERAL TAXPAYER IDENTIFICATION NO. \_\_\_\_\_



**EXHIBIT A  
CONSTRUCTION AGREEMENT**

**PROJECT**

Project includes exploration/condition assessment, and potential repair, of two existing pipelines at the Cholla Water Treatment Plant facility. An additional pipeline at the west drain pump station vault will also be investigated/repared.

**EXHIBIT B  
CONSTRUCTION AGREEMENT**

**COMPENSATION**

**METHOD AND AMOUNT OF COMPENSATION**

By bid, including all services, materials and costs.

**NOT-TO-EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the entire term of the Project must not exceed \$190,425.00

**DETAILED PROJECT COMPENSATION**

Base Bid:	\$183,230.00
Alternate One:	\$ 5,390.00
Alternate Two:	\$ 1,805.00
<b>TOTAL:</b>	<b>\$190,425.00</b>

BID TABULATION

PROJECT# 121329 - PHASE 1A-CHOLLA WTP SETTLEMENT PROJECT-PHASE 1 PIPING ASSESSMENT

OPENED AT THE CITY OF GLENDALE, ENGINEERING DEPARTMENT  
5850 W. GLENDALE AVENUE, 3RD FLOOR

DATE: October 17, 2016 - 10:00 a.m.

	CONTRACTOR	BID BOND/CHECK	ACKNOWLEDGE ADDENDUM	TOTAL BASE BID	TOTAL BID ALTERNATE 1	TOTAL BID ALTERNATE 2
1	ACHEN-GARDNER CONSTRUCTION, LLC	BB	YES	\$178,000.00	\$24,000.00	\$1,400.00
2	HUNTER CONTRACTING CO.	BB	YES	\$183,230.00	\$5,390.00	\$1,805.00
3						
4						
5						
6						
7						
8						
9						
10						

City of Glendale

CHOLLA WTP SETTLEMENT PROJECT-PHASE 1A PIPING ASSESSMENT

Project 121329 Phase 1A

**BID SCHEDULE**

**ACHEN-GARDNER**

**HUNTER CONTRACTING**

Item	Description	QTY	Unit	Unit Cost	ACHEN-GARDNER		HUNTER CONTRACTING	
					Total Cost	Unit Cost	Total Cost	
0.5	Mobilization / Demobilization	1	EA	\$11,000.00	\$11,000.00	\$25,100.00	\$25,100.00	
1	<i>Lump Sum</i> to assess condition of existing area (Northeast OR Southwest) adjacent to the east gravity thickener. SEE Special Provisions Item 1. SCOPE OF WORK for work description. (0'-18' DEPTH)	2	EA	\$65,500.00	\$131,000.00	\$41,190.00	\$82,380.00	
1.5	<i>Lump Sum</i> to assess condition of one of two existing areas (Northeast (1EA) OR Southwest(1EA)) adjacent to the east gravity thickener. SEE Special Provisions Item 1. SCOPE OF WORK for work description. (18' 26' DEPTH)	2	EA	\$2,500.00	\$5,000.00	\$15,390.00	\$30,780.00	
2	Potential piping associated with Bid Item 1 northeast location – SEE SCOPE OF WORK	1	LS	\$8,000.00	\$8,000.00	\$18,400.00	\$18,400.00	
3	Potential piping associated with Bid Item 1 southwest location – SEE SCOPE OF WORK	1	LS	\$3,000.00	\$3,000.00	\$6,570.00	\$6,570.00	
4	Owners allowance for Construction Contingency	1	LS	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	
<b>TOTAL BASE BID</b>					<b>\$178,000.00</b>	<b>\$183,230.00</b>		

**BID ALTERNATE NO. 1**

Item	Description	QTY	Unit	Unit Cost	ACHEN-GARDNER		HUNTER CONTRACTING	
					Total Cost	Unit Cost	Total Cost	
BA1	<i>Lump Sum</i> to assess and repair existing piping / elbow at submersible pump station adjacent to Washwater Clarifier No. 1. SEE Special Provisions SCOPE OF WORK page 36 for description.	1	LS	\$24,000.00	\$24,000.00	\$5,390.00	\$5,390.00	
<b>TOTAL BID ALTERNATE NO. 1</b>					<b>\$24,000.00</b>	<b>\$5,390.00</b>		

**BID ALTERNATE NO. 2**

Item	Description	QTY	Unit	Unit Cost	ACHEN-GARDNER		HUNTER CONTRACTING	
					Total Cost	Unit Cost	Total Cost	
BA2	Replace sealant material to existing expansion joints between gravity thickener and thickened pump station. SEE Special Provisions SCOPE OF WORK page 36 for description.	50	LF	\$28.00	\$1,400.00	\$36.10	\$1,805.00	
<b>TOTAL BID ALTERNATE NO. 2</b>					<b>\$1,400.00</b>	<b>\$1,805.00</b>		



## Legislation Description

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**File #: 16-585, Version: 1**

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**AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH MGC CONTRACTORS, INC., AND APPROVE THE EXPENDITURE OF FUNDS FOR THE REPLACEMENT OF FILTER EQUIPMENT AND INSTALLATION OF CHLORINE CYLINDER VALVE ACTUATORS AT THE CHOLLA WATER TREATMENT PLANT**

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 linking agreement with MGC Contractors, Inc., (MGC) for the replacement of filter equipment and installation of chlorine cylinder valve actuators at the Cholla Water Treatment Plant; approve expenditure of funds in an amount not to exceed \$833,187.04 for entire term of the agreement; and authorize the City Manager, at his discretion, to extend the agreement for one additional one-year term. This cooperative purchase is available through an agreement between the City of Peoria and MGC, contract ACON18413C, and can be extended through April 11, 2018.

### **Background**

The City's water treatment process relies on granular activated carbon media filtration to treat raw water to meet numerous potable water quality regulatory standards. The Cholla Water Treatment Plant's (CWTP) filter valves and flowmeters are in critical need of replacement due to reaching the end of product life and reoccurring equipment maintenance.

Additionally, the project will install new chlorine cylinder shutoff valve actuators and associated control systems. These actuators enhance safety and are used to remotely shut off chlorine cylinder valves.

### **Analysis**

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

On April 12, 2013, the City of Peoria entered into a contract with MGC to purchase the goods and services described in the Job Order Contract for Water & Wastewater Treatment Facilities Project, Contract No. ACON18413. This agreement permits cooperative use by other governmental agencies. The City of Glendale's Materials Management and the City's Attorney's office have reviewed and approved the utilization of the agreement from the City of Peoria for the defined services, and concur the cooperative purchase is in the best

interest of the City.

**Previous Related Council Action**

On January 13, 2015, Council approved a Professional Services contract with Black and Veatch for the assessment, design, and construction administration services for the Cholla WTP Process Improvements Project, project number 131418.

**Community Benefit/Public Involvement**

The ability to reliably produce potable water ensures continuous service delivery to the citizens located in the plant's service area. This project will help maintain the quality of life, safety, and security of Glendale's citizens.

**Budget and Financial Impacts**

Funding is available in the Water Services FY2016-17 capital budget.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$833,187.04</b>	<b>2400-61024-550800, Cholla WTP Process Improvements</b>

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
MGC CONTRACTORS, INC**

THIS LINKING AGREEMENT (this "Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the City of Glendale, an Arizona municipal corporation (the "City"), and MGC Contractors, Inc., an Arizona Corporation ("Contractor"), collectively, the "Parties."

**RECITALS**

- A. On April 12, 2013, under the S.A.V.E Cooperative Purchasing Agreement, the City of Peoria entered into a contract with Contractor to purchase the goods and services described in the Job Order Contract for Water & Wastewater Treatment Facilities Project, Contract No. ACON18413 ("Cooperative Purchasing Agreement"), which is attached hereto as Exhibit A. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the City.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

**AGREEMENT**

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

1. Term of Agreement. The City is purchasing the supplies and/or services from Contractor pursuant to the Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement purchases can be made by governmental entities from the date of award, which was April 12, 2013, until the date the contract expires on April 11, 2017, unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not be extended beyond April 11, 2018. The initial period of this Agreement, therefore, is the period from the Effective Date of this Agreement until April 11, 2017. The City Manager or

designee, however, may renew the term of this Agreement for two (2) one-year periods until the Cooperative Purchasing Agreement expires on April 11, 2018. Renewals are not automatic and shall only occur if the City gives the Contractor notice of its intent to renew. The City may give the Contractor notice of its intent to renew this Agreement 30 days prior to the anniversary of the Effective Date to effectuate such renewal.

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

- A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as Exhibit B.
- B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.

3. Compensation.

- A. City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit C.
- B. The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed eight hundred and thirty three thousand one hundred eight-seven and 04/100 dollars (\$833,187.04) for the entire term of the Agreement (initial term plus any renewals).

4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.

5. Non-discrimination. 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.

6. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.

7. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.

8. No Boycott of Israel. The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.

9. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:



9. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale  
c/o Tom Kaczmarowski  
5850 West Glendale Avenue  
Glendale, Arizona 85301  
623-930-3640  
and

MGC Contractors, Inc  
c/o Randy Gates  
4110 East Elwood Street  
Phoenix, Arizona 85040  
602-437-5000

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


“City”

“Contractor”

City of Glendale, an Arizona  
municipal corporation

MGC Contractors, Inc.,  
an Arizona corporation

By: \_\_\_\_\_  
City Manager

By:   
Name: Randy L. Gates  
Title: President

ATTEST:

\_\_\_\_\_  
Julie K. Bower (SEAL)  
City Clerk

APPROVED AS TO FORM:

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

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
MGC CONTRACTORS, INC.**

**EXHIBIT A**

Job Order Contract for Water & Wastewater Treatment Facilities Project - ACON18413C  
Acceptance of Offer and Contract Award April 11, 2013  
Contract Amendment to extend term to April 11, 2015  
Contract Amendment to extend term to April 11, 2016  
Contract Amendment to extend term to April 11, 2017



# CONTRACT AMENDMENT

Solicitation No P13-0042B Page 1 of 1

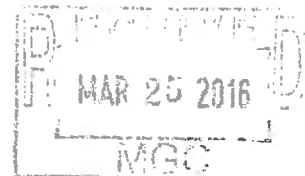
Description: JOC for Water & Wastewater Treatment Facilities Projects (MGC Contractors)

Amendment No. Three (3) Date: March 7, 2016

Materials Management Procurement  
9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, AZ 85345  
Telephone: (623) 773-7115  
Fax: (623) 773-7118  
Buyer: Christine Finney

In accordance with the Contract Special Terms and Conditions, **Contract Extension**, the above referenced contract shall expire on 4/11/2016 and is hereby extended an additional twelve (12) months.

The New Contract Term is therefore 4/12/2016 to 4/11/2017.



Contractor hereby acknowledges receipt and agreement. A signed copy shall be filed with the City of Peoria, Materials Management Division.

Randy Gates 3/8/16  
Signature Date

Randy Gates, President  
Typed Name and Title

MGC Contractors, Inc.  
Company Name

4110 E. Elwood St.  
Address

Phoenix  
City

AZ  
State

85040  
Zip Code

Attested By

Rhonda Geriminsky  
Rhonda Geriminsky, City Clerk

Stuart Kent  
Director Stuart Kent, Interim Public Works/Utilities Director

Dan Davis  
Project Manager Dan Davis, Construction Superintendent

Approved as to Form

Stephen M Kemp  
Stephen M Kemp City Attorney

The above referenced Contract Amendment is hereby Executed

March 17 2016 at Peoria Arizona  
Dan Zerkko  
Dan Zerkko Materials Manager



CC Number

ACON18413C  
Contract Number

City Seal  
Copyright 2003  
City of Peoria Arizona

ACON18413C

RIDER

TO BE ATTACHED TO AND FORM PART OF

ARIZONA - ARIZONA, STATE OF - STATUTOR 28,34 & 41 PERF. & PA  
(Bond Type)

NO. 58706707  
(Bond Number)

IN FAVOR OF City Of Peoria  
(Obligee)

ON BEHALF OF MGC Contractors, Inc.  
(Principal)

EFFECTIVE September 3, 2013  
(Original Effective Date)

CONTRACT NO. P13-0042B

IT IS AGREED THAT, in consideration of the original premium charged for this bond, and any additional premium that may be properly chargeable as a result of this rider.

The Surety, Western Surety Company  
hereby gives its consent to change;

Effective Date

(of) the attached bond

FROM: Old Effective Date = 4/12/2015 Old Expiration Date = 4/11/2016

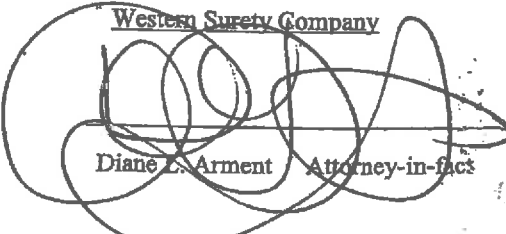
TO: New Effective Date = 4/12/2016 New Expiration Date = 4/11/2017

REASON: Bond Extension for New Term per Contract Amendment. New Contract Term is 4/12/16 to 4/11/17.

EFFECTIVE: April 12, 2016

PROVIDED, however that the attached bond shall be subject to all its agreements, limitations, and conditions except as herein expressly modified, and that the liability of the Surety under the attached bond and under the attached bond as changed by this rider shall not be cumulative.

SIGNED, AND SEALED this 24th day of March, 2016

Western Surety Company  
  
Diane L. Arment Attorney-in-fact



# CONTRACT AMENDMENT

Solicitation No. P13-0042B

Page 1 of 2

Description: JOC for Water & Wastewater Treatment Facilities Projects (MGC Contractors)

Amendment No. Two (2)

Date: 12/30/14

Materials Management Procurement  
9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, AZ 85345  
Telephone: (623) 773-7115  
Fax: (623) 773-7118  
Buyer: Christine Finney

In accordance with the Contract Special Terms and Conditions, Contract Extension, the above referenced contract shall expire on 4/11/15.

The New Contract Term Is: 4/12/15 to 4/11/16

Contractor hereby acknowledges receipt and agreement. A signed copy shall be filed with the City of Peoria, Materials Management Division.

*Randy Gates* 1/20/15  
Signature Date

Randy Gates, President  
Typed Name and Title

MGC Contractors, Inc.  
Company Name

4110 E. Elwood St.  
Address

Phoenix  
City

AZ  
State

85040  
Zip Code

Attested By:

Rhonda Geriminsky, City Clerk

*Michael D. Weber*  
(for Bill Mattingly)

Director: Bill Mattingly, Public Works/Utilities Director

*Dan Davis* 1-17-15  
Project Manager: Dan Davis, Construction Superintendent

Approved as to Form:

Stephen M. Kemp, City Attorney

The above referenced Contract Amendment is hereby Executed:

at Peoria, Arizona

Dan Zenko, Materials Manager

City Seal  
Copyright 2003  
City of Peoria, Arizona



## CONTRACT AMENDMENT

Solicitation No. P13-0042B

Page 2 of 2

Description: JOC for Water & Wastewater Treatment Facilities  
Projects (MGC Contractors)

Amendment No. Two (2)

Date: 12/30/14

Materials Management  
Procurement  
9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, AZ 85345  
Telephone: (623) 773-7115  
Fax: (623) 773-7118  
Buyer: Christine Finney

**Key Personnel:** In accordance with the Contract Terms and Conditions, Key Personnel, the following individuals are hereby *added* to the Contractor's list of Key Personnel.

**Matt Pavlich**

- matt@mgecontractors.com
- Cell# (602) 513-3123



# CONTRACT AMENDMENT

Solicitation No. P13-0042B Page 1 of 2  
 Description: JOC for Water & Wastewater Treatment Facilities Projects (MGC Contractors)  
 Amendment No. One (1) Date: April 8, 2014

**Materials Management Procurement**  
 9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
 Peoria, AZ 85345  
 Telephone: (623) 773-7115  
 Fax: (623) 773-7118  
 Buyer: Christine Finney

### The following changes are hereby made to the contract:

- I. **Contract Extension** - In accordance with the Contract Special Terms and Conditions, **Contract Extension**, the above referenced contract shall expire on April 11, 2014 and is hereby extended an additional twelve (12) months.

The new Contract Term is April 12, 2014 to April 11, 2015.

Contractor hereby acknowledges receipt and agreement. A signed copy shall be filed with the City of Peoria, Materials Management Division.

_____	_____	Randy Gates, President	MGC Contractors, Inc.	
Signature	Date	Typed Name and Title	Company Name	
_____	_____	_____	_____	_____
4110 East Elwood Street	_____	Phoenix	AZ	85040
Address	_____	City	State	Zip Code

Attested By:

\_\_\_\_\_  
 Rhonda Geriminsky, City Clerk

\_\_\_\_\_  
 CC Number

ACON18413A  
 \_\_\_\_\_  
 Contract Number

\_\_\_\_\_  
 Director: Bill Mattingly, PW/Utilities Director

\_\_\_\_\_  
 Department Rep: Karl Zook, PE, Construction Superintendent

Approved as to Form:

\_\_\_\_\_  
 Stephen M. Kemp, City Attorney

The above referenced Contract Amendment is hereby Executed:

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
 at Peoria, Arizona

\_\_\_\_\_  
 Dan Zenko, Materials Manager

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 City of Peoria, Arizona



## CONTRACT AMENDMENT

Solicitation No. P13-0042B

Page 2 of 2

Description: JOC for Water & Wastewater Treatment Facilities  
Projects (MGC Contractors)

Amendment No. One (1)

Date: April 8, 2014

**Materials Management  
Procurement**

9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, AZ 85345  
Telephone: (623) 773-7115  
Fax: (623) 773-7118

Buyer: Christine Finney

II. **Page 17, Section 9.3, (Job Order Cost Proposal Structure)** is hereby **DELETED** and **REPLACED** with the following REVISED Section 9.3 *Changes shown in italicized underline.*

9.3. **Job Order Cost Proposal Structure.** For each Job Order, the Job Order Contractor shall prepare a Job Order Cost Proposal with the sufficient level of cost detail as required by the Owner. Cost detail may include, but is not limited to: schedule of values, work schedule, direct labor cost and fringe benefits, direct material costs (supported by quotes), direct equipment costs (supported by quotes), allowable overhead costs (includes insurance), allowable profit, cost of subcontractors (supported by quotes), and contractor's overhead allowance (*not to exceed 5 percent*) for subcontractor costs.

III. **Key Personnel:** In accordance with the Contract Terms and Conditions, Key Personnel, the following individuals are hereby added to the Contractor's list of Key Personnel.

Nick Patterson

- [nick@mgccontractors.com](mailto:nick@mgccontractors.com)
- Cell# (602) 722-7080

Keith McClure

- [keith@mgccontractors.com](mailto:keith@mgccontractors.com)
- Cell# (602) 680-8628

Bryan Forster

- a. [bryanf@mgccontractors.com](mailto:bryanf@mgccontractors.com)
- b. Cell# (602) 695-3652

**Nothing Further**





# City of Peoria, Arizona Job Order Contract



Statement of Qualifications No: P13-0042 B

Job Description: JOC for Water & Wastewater Treatment Facilities Projects

Location: City of Peoria, Materials Management

Contact: Christine Finney, CPPB

Mailing Address: 9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl., Peoria, AZ 85345

Phone: (623) 773-7115

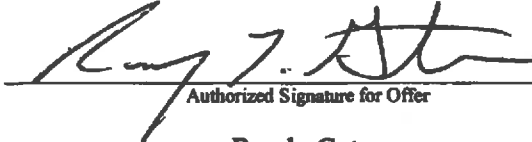
### OFFER

Contractor's License Number:

A-ROC069949, B-1- ROC071441

**MGC Contractors, Inc.**

Job Order Contractor Name



Authorized Signature for Offer

**4110 East Elwood Street**

Address

**Randy Gates**

Printed Name

**Phoenix, AZ 85040**

City State Zip Code

**President**

Title

**(602) 437-5000**

Telephone

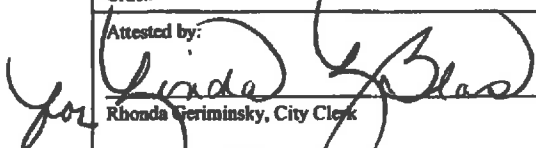
**(602) 470-4000**

Facsimile

### ACCEPTANCE OF OFFER AND CONTRACT AWARD (For City of Peoria Use Only)

Your offer is hereby accepted. The Contractor is now bound to sell the construction services listed by the attached award notice based upon the solicitation, including all terms conditions, specifications, amendments, etc., of the contract and the Contractor's offer as accepted by the City. The Contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until Contractor receives an executed Notice to Proceed and Purchase Order.

Attested by:

*for Rhonda Veriminsky*  


Rhonda Veriminsky, City Clerk

City of Peoria, Arizona.

Eff. Date: April 12, 2013

Approved as to form:

  
 Stephen M. Kohn, City Attorney

Awarded on April 11, 2013



City Seal  
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CC

ACW 18413

Contract Number

Official File

  
 Dan Zenko, Materials Management Supervisor

A CON 18413

**JOB ORDER CONTRACT AGREEMENT**



**P13-0042**

**Water & Wastewater Treatment Facilities Projects**

**CONTRACT FOR CONSTRUCTION**

**JOB ORDER CONTRACT AGREEMENT  
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**ATTACHMENTS**

Attachment A	JOC General Scope of Services
Attachment B	SIQ & Contractor's Response
Attachment C	JOC Cost Proposal Forms (Pricing Matrix, Project Cost Sheet, & Contractor's Labor Rates)
Attachment D	Contractor's Contacts (Contact List & Authorized Signature Form)

## JOB ORDER CONTRACTING CONTRACT

THIS CONTRACT is entered into and made effective the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the City of Peoria, Arizona, an Arizona charter municipality (the "Owner"), and MGC Contractors, Inc., (the "Job Order Contractor"). The parties agree as follows:

### 1. DEFINITIONS.

1.1. **Owner.** Owner means Owner's senior manager, Contracting Officer or a duly authorized representative which means any person specifically authorized to act for Owner by executing the Contract and any modification thereto. Owner's duties include administration of the Contract, including the negotiation of change orders and modifications and assessing Job Order Contractor's technical performance and progress; inspecting and periodically reporting on such performance and progress during the stated period of performance, and finally certifying as to the acceptance of the Work in its entirety or any portion thereof, as required by the Contract documents.

1.2. **Job Order Contractor.** Job Order Contractor means Job Order Contractor's senior manager or its duly authorized representative or any person specifically authorized to act for Job Order Contractor by executing the Contract, and any modifications thereto. Job Order Contractor's duties include administration of the Contract and performance of the Work.

1.3. **Contract.** Contract means this agreement including its attachments and any Job Orders that may be issued.

1.4. **Subcontract.** Subcontract means any Contract including purchase orders (other than one involving an employer-employee relationship) entered into by Job Order Contractor calling for equipment, supplies or services required for Contract performance, including any modifications thereto.

1.5. **Job Order.** Job Order means a specific written agreement between the Owner and the Job Order Contractor for Work to be performed under this Contract for an individual, mutually agreed upon scope of work, schedule and price.

1.6. **Work.** Work means in response to Job Orders that may be mutually agreed upon and issued periodically by Owner. Job Order Contractor shall, except as may be specified elsewhere in the Contract, furnish all necessary labor, materials, tools, supplies, equipment, transportation, supervision, management, and perform all operations necessary and required for survey, design, and construction work which will be defined and further described as to specific project requirements in each Job Order. The Work shall be performed in accordance with the requirements set forth in each Job Order and as further specified in *Attachment "A"* (General Scope of Services), *Attachment "B"* (SIQ & Contractor's Response), *Attachment "C"* (JOC Cost Proposal Forms), and in *Attachment "D"* (Contractor's Contacts), all of which are incorporated herein and made a part hereof.

1.7. **Punch List Preparation.** A minimum of thirty (30) days prior to Final Completion the Job Order Contractor, in conjunction with the Owner, shall prepare a comprehensive list of Punch list items, which the Owner may edit and supplement. The Job Order Contractor shall proceed promptly to complete and correct Punch list items. Failure to include an item on the Punch list does not alter the responsibility of the Job Order Contractor to complete all Work in accordance with the Contract Documents. Warranties required by the Contract Documents shall not commence until the date of Final Completion unless otherwise provided in the Contract Documents.

1.8. **Final Completion.** Final Completion of the Work shall be deemed to have occurred on the later of the dates that the Work passes a Final Completion inspection and acceptance by the Owner. Final Completion shall not be deemed to have occurred and no final payment shall be due the Job Order

Contractor or any of its subcontractors or suppliers until the Work has passed the Final Completion inspection and acceptance and all required Final Completion close-out documentation items has been produced to the Owner by the Job Order Contractor.

## **1.9. Reference Standards**

**1.9.1.** The “Uniform Standard Specifications for Public Works Construction” and the “Uniform Standard Details for Public Works Construction” which are sponsored and distributed by the Maricopa Association of Governments (MAG), and which are hereinafter referred to as the “MAG Specifications”, are hereby adopted as part of these contract documents.

**1.9.2.** July 15, 1997 by Section 23-50a of Ordinance 97-38, the City of Peoria adopted the “Uniform Standard Details for Public Works Construction from the Maricopa County Association of Governments by reference with certain exceptions.

**1.9.3.** A copy of these documents is kept on file at the Office of the City Clerk at the City of Peoria.

## **2. CONTRACT TERM**

**2.1. Contract Term.** The term of the Contract shall commence on the date it was executed by both parties and shall continue for a period of one (1) year thereafter in accordance with the terms and conditions of this Contract. By mutual written Contract Amendment, any resultant contract may be extended for supplemental periods of up to a maximum of forty-eight (48) months. Job Orders may be issued at any time during the term of this Contract. This Contract will remain in full force and effect during the performance of any Job Order.

**2.2. Job Order.** In response to Job Orders that may be mutually agreed upon and issued periodically by Owner. Job Order Contractor shall perform the Work, except as may be specified elsewhere in the Contract, which will be defined and further described as to specific project requirements in each Job Order. The Work shall be performed in accordance with the requirements set forth in each Job Order and as further specified in *Attachment "A"*(General Scope of Services), *Attachment "B"* (SIQ & Contractor’s Response), *Attachment "C"* (JOC Cost Proposal Forms), and in *Attachment "D"* (Contractor’s Contacts), all of which are incorporated herein and made a part hereof.

**2.3. Mutual Agreement.** This Contract embodies the agreement of Owner and Job Order Contractor to terms and conditions which will govern any Work that may be prescribed under a Job Order that may be issued by Owner and agreed to by Job Order Contractor. Nothing herein shall be construed as requiring Owner to issue any Job Order, nor requiring Job Order Contractor to accept any Job Order, it being the intent that both parties must mutually agree to any specific Work before a Job Order may be issued.

**2.4. Cooperative Purchasing:** While this contract is for the City of Peoria, other public agencies and political subdivisions have expressed interest in utilizing the contract. In addition to the City of Peoria, and with approval of the contractor, this contract may be extended for use by other eligible public agencies (i.e. municipalities, school districts, nonprofit educational institutions, public health institutions, and government agencies of the State). Eligible public agencies who elect to utilize the contract through cooperative purchasing (or piggybacking) on the contract do so at their discretion. No volume is implied or guaranteed, and the contractor must be in agreement with the cooperative transaction. The Strategic Alliance for Volume Expenditures (SAVE), a group of school districts and other public agencies, have signed an intergovernmental cooperative purchase agreement to obtain economies of scale. As a member of SAVE, the City of Peoria will act as the lead agency. Any such usage by other participating public agencies must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective public agency. School District Procurement Rules A.A.C. R7-2-1191 through R7-2-1195 authorizes and governs intergovernmental procurements. Potential participating public agencies (i.e.

municipalities, school districts, nonprofit educational institutions, public health institutions, and government agencies of the State) recognize potential equipment, logistical and capacity limitations by the contractor may limit the contractor's ability to extend use of this contract. Any orders placed to the contractor will be placed by the specific public agency participating in this purchase, and payment for purchases made under this agreement will be the sole responsibility of each participating public agency. The City of Peoria shall not be responsible for any disputes arising out of transactions made by others.

### **3. PERFORMANCE OF THE WORK**

**3.1. Job Order Agreement.** Performance of the Work shall be undertaken only upon the issuance of written Job Orders by Owner. Job Orders shall be in accordance with the requirements specified in *Attachment "A"*(General Scope of Services), *Attachment "B"* (SIQ & Contractor's Response), *Attachment "C"* (JOC Cost Proposal Forms), and in *Attachment "D"* (Contractor's Contacts), and shall set forth, with the necessary particularity, the following:

- 3.1.1. Contract number along with Job Order Contractor's name;
- 3.1.2. Job Order number and date;
- 3.1.3. The agreed Work and applicable technical specifications and drawings;
- 3.1.4. The agreed period of performance and, if required by Owner, a work schedule;
- 3.1.5. The place of performance;
- 3.1.6. The agreed total price for the Work to be performed;
- 3.1.7. Submittal requirements;
- 3.1.8. Owner's authorized representative who will accept the completed Work;
- 3.1.9. Signatures by the parties hereto signifying agreement with the specific terms of the Job Order; and
- 3.1.10. Such other information as may be necessary to perform the Work.

### **3.2. Job Order Contractor Duties and Obligations.**

**3.2.1. Permits & Responsibilities.** Job Order Contractor shall be responsible for processing of drawings, for approval by appropriate oversight bodies; for obtaining any necessary licenses and permits; and for complying with any Federal, State and municipal laws, codes, and regulations applicable to the performance of the Work. Owner will reimburse Job Order Contractor for the actual, documented costs of construction permits required for the performance of the Work. Job Order Contractor shall also be responsible for all damages to persons or property that occur as a result of Job Order Contractor's fault or negligence, and shall take proper safety and health precautions to protect the Work, the workers, the public, and the property of others. Job Order Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire Work, except for any completed unit of Work which may have been accepted under the Contract.

**3.2.2. Self-Performance By The Job-Order-Contractor.** The JOC shall be allowed to bid as a subcontractor for work over \$50,000 and, if it is the lowest acceptable bidder. Any change orders for self-performed work shall require pre-approval by the owner.

**3.2.3. Outdoor Construction Restrictions.** Peoria Ordinance No. 98-11 restricts outdoor construction as listed in the following table:

	Construction Type	April 2 – September 29	September 30 – April 1
A	Concrete Work	5:00 a.m. to 7:00 p.m.	6:00 a.m. to 7:00 p.m.
B	Other Construction (within 500 feet of residential area)	6:00 a.m. to 7:00 p.m.	7:00 a.m. to 7:00 p.m.
C	Construction Work (more than 500 feet of residential area)	5:00 a.m. to 7:00 p.m.	5:00 a.m. to 7:00 p.m.

3.2.3.1. No interference with the traffic flow on arterial streets shall be permitted during the hours of 6:00 a.m. to 8:30 a.m. or from 4:00 p.m. to 7:00 p.m. unless prior authorization is obtained in writing by the City of Peoria Traffic Engineer or their assignee. Specific work hours may be stipulated by the City of Peoria on the project barricade plan.

3.2.3.2. During off peak hours, the minimum number of lanes shall be two lanes (one in each direction) on streets with four lanes or less and four lanes (two in each direction) on streets with five or more lanes.

3.2.3.3. Night work must have prior authorization from the City. In addition, certain areas of the City may have seasonal or special event restrictions for construction work as designated by the City on a case by case basis.

**3.2.4. Jobsite Superintendent.** During performance of a Job Order and until the Work is completed and accepted, Job Order Contractor shall directly superintend the Work or assign a competent superintendent who will supervise the performance of Work and is satisfactory to Owner and has authority to act for Job Order Contractor.

3.2.4.1. Job Order Contractor will ensure that the site supervisor for the project is English proficient and that there is at least one English proficient person at the construction site at all times work is being performed in order to communicate with the City's project manager.

**3.2.5. Construction Layout.** Job Order Contractor shall lay out its work in accordance with the Contract plans and specifications and shall be responsible for all measurements in connection with the layout of the Work. Job Order Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to layout any part of the Work. Job Order Contractor shall also be responsible for maintaining and preserving all control points established by Owner.

**3.2.6. Survey Control Points.** Existing survey markers (either brass caps or iron pipes) shall be protected by the Contractor or removed and replaced under direct supervision of the City Engineer or his authorized representatives. Survey monuments shall be constructed to the requirements of MAG Specifications, Section 405, and Standard Details. Lot corners shall not be disturbed without knowledge and consent of the property owner. The Contractor shall replace benchmarks, monuments, or lot corners moved or destroyed during construction at no expense to the Owner. Contractor and his sureties shall be liable for correct replacement of disturbed survey benchmarks except where the Owner elects to replace survey benchmarks using his own forces.

**3.2.7. Traffic Regulations.** All traffic affected by this construction shall be regulated in accordance with the City of Phoenix – Traffic Barricade manual, latest edition, and the City of Phoenix in the Traffic Barricade Manual shall be referred to as the City of Peoria City Engineer for interpretation.

At the time of the pre-construction conference, the Contractor shall designate an employee who is well qualified and experienced in construction traffic control and safety to be responsible for implementing, monitoring and altering traffic control measure, as necessary. At the same time the City will designate a representative who will be responsible to see that all traffic control and any alterations are implemented and monitored to the extent that traffic is carried throughout the work area in an effective manner and that manner and that motorists, pedestrians, bicyclists and workers are protected from hazard and accidents.

**3.2.7.1.** The following shall be considered major streets: All major Parkway, mile (section line), arterial and collector (mid-section line and quarter section line) streets so classified by the City of Peoria.

**3.2.7.2.** All traffic control devices required for this project shall be the responsibility of the Contractor. The Contractor shall place advance warnings; **REDUCE SPEED, LOOSE GRAVEL, 25 MPH SPEED LIMIT** and **DO NOT PASS** signs in accordance with the Traffic Barricade Manual.

**3.2.7.3.** The Contractor shall provide, erect and maintain all necessary flashing arrow boards, barricades, suitable and sufficient warning lights signals and signs, and shall take all necessary precautions for the protection of the work and safety of the public. The Contractor shall provide, erect and maintain acceptable and adequate detour signs at all closures and along detour routes.

**3.2.7.4.** All barricades and obstructions shall be illuminated at night, and all safety lights shall be kept burning from sunset until sunrise. All barricades and signs used by the Contractor shall conform to the standard design, generally accepted for such purposes and payment for all such services and materials shall be considered as included in the other pay items of the Contract.

**3.2.7.5.** The Contractor shall insure that all existing traffic signs are erect, clean and in full view of the intended traffic at all times. Street name signs at major street intersections shall be maintained erect at all times. If these signs should interfere with construction, the Contractor shall notify the Inspector at least forty eight (48) hours in advance for City personnel to temporarily relocate said signs. The City Engineer will re-set all traffic and street name signs to permanent locations when notified by the Engineer that construction is complete unless otherwise stated in the specifications Payment for this item shall be made at the contract lump sum price for **TRAFFIC CONTROL**.

**3.2.7.6.** The Police Department shall determine if construction activities or traffic hazards at the construction project *require* the use of Police Assistants or AZ Post Certified Peace Officers, alternatively, *if the Police Department determines that* flagmen are *sufficient*, it shall be the Contractor's responsibility to provide adequate personnel including flagmen to direct traffic safely. All City of Peoria projects shall use only City of Peoria Police Assistants or City of Peoria AZ Post Certified Officers, unless the Police Chief or their designee has determined that no such assistants or officers are available. Arrangements for Police Assistant or Police Officer services should be made with the liaison officer at the Peoria Police Department at telephone number (623) 773-7062 or [offduty@peoriaaz.gov](mailto:offduty@peoriaaz.gov).

**3.2.7.7.** Manual traffic control shall be in conformity with the Traffic Barricade Manual. A traffic control plan shall be submitted to the Peoria Police Department indicating whether a need for traffic control exists during the project. The traffic control plan shall be submitted electronically and the liaison officer shall be contacted at the Peoria Police Department at telephone number (623) 773-7062.

**3.2.7.8.** When traffic hazards at construction sites warrant the use of certified police personnel to direct traffic, arrangement should be made with the liaison officer at the Peoria Police Department at telephone number (623) 773-7062.

**3.2.7.9.** The assembly and turnarounds of the Contractor's equipment shall be accomplished using adjacent local streets when possible.

**3.2.7.10.** Equipment used and/or directed by the Contractor shall travel with traffic at all times. Supply trucks shall travel with traffic except when being spotted. Provide a flagman or officer to assist with this operation.



**3.2.7.11.** During construction, it may be necessary to alter traffic control. Alterations shall be in accordance with the Traffic Barricade Manual.

**3.2.7.12.** No street within this project may be closed to through traffic or to local emergency traffic without prior written approval of the City Engineer of the City of Peoria. Written approval may be given if sufficient time exists to allow for notification of the public at least two (2) days in advance of such closing. Partial closure of streets within the project shall be done in strict conformity with written directions to be obtained from the City Engineer.

**3.2.7.13.** Caution should be used when excavating near intersections with traffic signal underground cable. Notify the City Engineer twenty four (24) hours in advance of any work at such intersections. The Contractor shall install and maintain temporary overhead traffic signal cable as specified by the City Engineer when underground conduit is to be severed by excavations at intersections. The Contractor shall provide an off-duty uniformed police officer to direct traffic while the traffic signal is turned off and the wiring is transferred. All damaged or modified traffic signal overhead and underground items shall be repaired and restored to the City Engineer's satisfaction. Magnetic detector loops shall under no circumstances be spliced.

**3.2.7.14.** The Contractor shall address how local access to adjacent properties will be handled in accordance with the specification herein.

**3.2.7.15.** Where crossings of existing pavements occur, no open trenches shall be permitted overnight, but plating may be permitted if conditions allow as determined by the City Engineer or his authorized representative. If plates cannot be used, crossings shall be back-filled or the Contractor shall provide a detour.

**3.2.8. Operations & Storage.** Job Order Contractor shall confine all operations (including storage of materials) to areas authorized or approved by Owner.

**3.2.9. Cleaning Up & Refuse Disposal.** Job Order Contractor shall at all times keep the site, including storage areas, free from accumulations of waste materials. Before completing the Work, Job Order Contractor shall remove from the premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of Owner. Upon completing the Work, Job Order Contractor shall leave the site in a clean and orderly condition satisfactory to Owner.

**3.2.9.1.** Final cleanup of the premises shall be included in the period of performance of the Job Order.

**3.2.9.2.** Job Order Contractor shall be responsible for all construction refuse disposal containers and their removal from the site.

**3.2.9.3.** Disposal of any hazardous materials not addressed and priced in the Job Order will be segregated for disposal by Owner unless Owner requires Job Order Contractor to dispose of the materials in which case, an equitable adjustment in the price will be negotiated and agreed.

**3.2.9.4.** The Contractor and/or subcontractor shall be required to use the City of Peoria Solid Waste Division's services for commercial collection of Solid Waste. This requirement is not intended to preclude other methods or means for hauling debris or excess material from the project site such as trucking large volumes of material, including soil, building demolition, or hazardous and special wastes. The intent is to use City of Peoria Solid Waste service where standard waste disposal is needed. Specifically, all roll-off and front-load containers used on a City of Peoria construction site shall be contracted for through the City of Peoria Solid Waste Division at the prevailing rate. It is the contractor's responsibility to contact and make all necessary arrangements with the City of Peoria Solid Waste Division for these services. Any and all charges for these services are the responsibility of the contractor. The City Solid Waste Division may, at it's option, decline to provide service for business reasons at any time during the contract. Any exceptions to this requirement will be at the sole discretion of the City

Solid Waste Division. Please contact the Solid Waste Customer Service Representatives at 623-773-7160.

**3.2.10. Existing Improvements and Utilities.** Job Order Contractor shall protect from damage all existing improvements and utilities at or near the site and on adjacent property of third parties, the locations of which are made known to or should be known by Job Order Contractor. Job Order Contractor shall repair any damage to those facilities, including those that are the property of third parties, resulting from failure to comply with the requirements of the Job Order or failure to exercise reasonable care in performing the Work. If Job Order Contractor fails or refuses to repair the damage promptly, Owner may have the necessary repair work performed and charge the cost to Job Order Contractor.

**3.2.11. Safety.** Job Order Contractor shall be responsible for compliance with all safety rules and regulations of the Federal Occupational Safety and Health Act of 1970 (OSHA), all applicable state and local laws, ordinances, and regulations during the performance of the Work. Job Order Contractor shall indemnify Owner for fines, penalties, and corrective measures that result from the acts of commission or omission of Job Order Contractor, its subcontractors, if any, agents, employees, and assigns and its failure to comply with such safety rules and regulations.

**3.2.11.1. Job Order Contractor Safety Compliance.** Job Order Contractor shall furnish and enforce the use of individual protective equipment as needed to complete the Work, including hard hats, rain gear, protective foot wear, protective clothing and gloves, eye protection, ear protection, respirators, safety belts, safety harnesses, safety lifelines and lanyards, and high visibility reflective safety vests.

**3.2.11.2. Job Order Contractor Provided Warnings.** Job Order Contractor shall provide warning signs, barricades and verbal warnings as required.

**3.2.11.3. Emergency Procedures.** Job Order Contractor shall inform its employees of emergency procedures to be adhered to in case of a fire, medical emergency, or any other life-threatening situations.

**3.2.11.4. Accident Notification.** Job Order Contractor shall promptly notify Owner of any recordable accident involving personnel or damage to material and equipment. Copies of any injury reports or accident investigation reports shall be provided to the Owner.

**3.2.11.5. Jobsite Safety Documents.** Job Order Contractor shall maintain a set of OSHA articles and Material Safety Data Sheets (MSDS) at the jobsite office as they apply to the Work being performed. Copies shall be provided to Owner when requested.

**3.2.11.6. Job Order Contractor's Safety Program.** Job Order Contractor shall submit to Owner a copy of its safety policies and program procedures which establish the safety rules and regulations as they are to be applied to performance of the Work. These documents shall be submitted by Job Order Contractor within fourteen (14) calendar days after issuance of the initial Job Order and prior to the commencement of the Work.

**3.2.11.7. Job Order Contractor Safety Representative.** Job Order Contractor shall assign, during performance of the Work, a designated safety representative to develop and monitor the project safety program. The name, company address, and telephone number of the assigned individual shall be submitted to Owner by Job Order Contractor along with its safety policies and program procedures.

**3.2.11.8. Emergency Medical Treatment.** Job Order Contractor shall make available for its employees and those of its subcontractors, while they are performing Work on the site, emergency medical treatment either at the site or at a nearby medical facility.

**3.2.11.9. Owner's Right to Monitor.** Owner reserves the right to approve and monitor Job Order Contractor's safety policies and program procedures as applied during performance of the Work.

Failure to comply with safety policies and program procedures, once approved by Owner, shall be cause for the termination of the Job Order in accordance with § 14.

**3.2.11.10. First Aid Kit.** Job Order Contractor shall provide and maintain on the jobsite, at all times when Work is in progress, a completely stocked first aid kit which contains all standard emergency medical supplies.

**3.2.11.11. Fire Extinguisher.** Job Order Contractor shall provide and maintain on the jobsite, at all times when Work is in progress, a fully charged fire extinguisher appropriate for the potential fire hazard.

**3.2.12. Dissemination of Contract Information.** Job Order Contractor shall not publish, permit to be published, or distribute for public consumption, any information, oral or written, concerning this Contract, any Job Order or the Work performed under this Contract, without the prior consent of Owner.

**3.2.13. Shop Drawings.** Job Order Contractor's duties under this Contract include the preparation of shop drawings or sketches necessary to permit orderly construction of Owner's design plans. Job Order Contractor agrees to provide detailed design drawings and plans if requested by Owner.

**3.2.14. Jobsite Drawings and Specifications.** Job Order Contractor shall keep on the Work site a copy of the drawings and specifications and shall at all times give Owner access thereto.

### **3.3. Owner Rights and Obligations.**

#### **3.3.1. Suspension of Work.**

**3.3.1.1. Owner's Written Order.** Owner may order Job Order Contractor, in writing, to suspend, delay, or interrupt all or any part of the Work for a period of time that Owner determines reasonably appropriate.

**3.3.1.2. Work Delay or Suspension.** If the performance of all or any part of the Work is suspended, delayed, or interrupted by an act of Owner in the administration of a Job Order, or by Owner's failure to act within the time specified in the Job Order, an adjustment shall be made for any increase in the cost of performance of the Job Order necessarily caused by the suspension, delay, or interruption, and the Job Order will be modified in writing accordingly.

**3.3.1.3. Job Order Contractor Costs.** A claim under this Subparagraph 3.3.1 shall not be allowed for any costs incurred more than thirty (30) calendar days before Job Order Contractor shall have notified Owner in writing of the act or failure to act (but this requirement shall not apply as to a claim resulting from a suspension order), and unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the Job Order.

**3.3.2. Owner's Right to Possession.** Owner shall have the right to take possession of or use any completed or partially completed part of the Work. Before taking possession of or using any Work, Owner shall furnish Job Order Contractor a list of items of work remaining to be performed or corrected on those portions of the Work that Owner intends to take possession of or use. However, failure of Owner to list any item of Work shall not relieve Job Order Contractor of responsibility for complying with the terms of this Contract. Owner possession or use shall not be deemed an acceptance of any Work under this Contract.

**3.3.2.1. Owner's Possession or Use.** While Owner has such possession or use, Job Order Contractor shall be relieved of the responsibility for the loss of or damage to the Work resulting from Owner's possession or use, notwithstanding the terms of Subparagraph 3.2.1. If prior possession or use by Owner delays the progress of the Work or causes additional expense to Job Order Contractor, an equitable adjustment shall be made in the Job Order price or the period of performance, and the Job Order shall be modified in writing accordingly.

**3.3.3. Other Contracts.** Owner may undertake or award other Contracts for additional work at or near the site of Work under this Contract. Job Order Contractor shall fully cooperate with the other Job Order Contractors and with Owner's employees and shall carefully adapt scheduling and performing the Work under this Contract to accommodate the additional work, heeding any direction that may be provided by Owner. Job Order Contractor shall not commit or permit any act that will interfere with the performance of its Work by any other contractor or by Owner's employees.

**3.4. Job Order Amendment.** Job Orders may be amended by Owner in the same manner as they are issued.

**3.5. Job Order Value.** The maximum Job Order value is Three Million Dollars (\$3,000,000), except as provided by § 16.32.1.

#### **4. JOB ORDER DOCUMENTS**

**4.1. Specification and Drawings.** Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of differences between drawings and specifications, the drawings shall govern. In case of discrepancy either in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to Owner, who shall promptly make a determination in writing. Any adjustment by Job Order Contractor without such a determination shall be at its own risk and expense. Owner shall furnish from time to time such detail drawings and other information as considered necessary, unless otherwise provided.

**4.1.1.** Wherever in the specifications or upon the drawings the words "directed," "required," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the "direction," "requirement," "order," "designation," or "prescription," of Owner is intended and similarly the words "approved," "acceptable," "satisfactory," or words of like import shall mean "approved by," or "acceptable to," or "satisfactory to" Owner, unless otherwise expressly stated.

**4.1.2.** Where "as shown," "as indicated," "as detailed," or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying the Contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place," that is "furnished and installed."

**4.2. Shop Drawings.** Shop drawings include sketches, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by Job Order Contractor to explain in detail specific portions of the Work. Owner may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under the Contract. Shop drawings means drawings submitted to Owner by Job Order Contractor showing in detail:

**4.2.1.** The proposed fabrication and assembly of structural elements and,

**4.2.2.** The installation (i.e., form, fit and attachment details) of materials or equipment.

**4.2.3.** The construction and detailing of elements of the Work.

**4.3. Shop Drawing Coordination.** Job Order Contractor shall coordinate all shop drawings, and review them for accuracy, completeness, and compliance with Contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to Owner without evidence of Job Order Contractor's approval may be returned for resubmission. Owner will indicate its approval or disapproval of the shop drawings and if not approved as submitted shall indicate Owner's reasons therefore. Any work done before such approval shall be at Job Order Contractor's risk. Approval by Owner shall not relieve Job Order Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of the Contract, except with respect to variations described and approved in accordance with § 4.4 below.

**4.4. Shop Drawing Modifications.** If shop drawings show variations from the Job Order requirements, Job Order Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If Owner approves any such variation, Owner shall issue an appropriate Contract modification, except that, if the variation is minor and does not involve a change in price or in time of performance, a modification need not be issued.

**4.5. Shop Drawing Omissions.** Omissions from the drawings or specifications or the mis-description of details of work which are manifestly necessary to carry out the intent of the drawings and specifications, or which are customarily performed, shall not relieve Job Order Contractor from performing such omitted or mis-described details of the Work but they shall be performed as if fully and correctly set forth and described in the drawings and specifications.

**4.6. Owner Furnished Drawings.** Job Order Contractor shall check all Owner furnished drawings immediately upon receipt and shall promptly notify Owner of any discrepancies. Any errors or omissions in Owner furnished drawings are the responsibility of the Owner to rectify, including associated costs. Figures marked on drawings shall be followed in preference to scale measurements. Large scale drawings shall govern small scale drawings. Job Order Contractor shall compare all drawings and verify the figures before laying out the Work and will be responsible for any errors which might have been avoided thereby.

**4.7. Shop Drawing Submittal.** Job Order Contractor shall submit to Owner for approval an appropriate number of copies of all shop drawings as called for under the various headings of these specifications. Sets of all shop drawings will be retained by Owner and one set will be returned to Job Order Contractor with annotation of approval or rejection within one (1) week after submission, unless a longer review period is necessary by mutual agreement between Owner and Job Order Contractor.

**4.8. Use of Job Order Documents.** All drawings (to include as-built drawings), sketches, designs, design data, specifications, note books, technical and scientific data provided to Job Order Contractor or developed by Job Order Contractor pursuant to the Contract and all photographs, negatives, reports, findings, recommendations, data and memoranda of every description relating thereto, as well as all copies of the foregoing relating to the Work or any part thereof, shall be the property of Owner and may be used by Owner without any claim by Job Order Contractor for additional compensation, unless such material developed by Job Order Contractor does not result in an issued Job Order. In such cases, Job Order Contractor will receive reasonable reimbursement for the development of such materials before Owner uses them in any manner whatsoever. In addition, Owner agrees to hold Job Order Contractor harmless to the extent permitted by law from any legal liability arising out of the Owner's use of such materials.

## **5. MATERIAL AND WORKMANSHIP**

**5.1. Suitability of Material and Equipment.** All equipment, material, and articles incorporated in the Work covered by this Contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in the Contract. References in the specifications to equipment, material, article, or patented process by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. Job Order Contractor may, at its option, use any equipment, material, article, or process that, in the sole judgment and prior written approval of the Owner, is equal to that named in the specifications.

**5.2. Owner Approval.** Job Order Contractor shall obtain Owner's approval of the equipment to be incorporated into the Work. When requesting approval, Job Order Contractor shall furnish to Owner the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the equipment. When required by the Contract or by Owner, Job Order Contractor shall also obtain Owner's approval of the material or articles which Job Order Contractor contemplates incorporating into the Work. When requesting approval, Job Order Contractor shall provide

full information concerning the material or articles. When directed to do so, Job Order Contractor shall submit samples for approval. Machinery, equipment, material and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

**5.3. Testing of Materials.** Unless otherwise specified in a Job Order, the Job Order Contractor shall be responsible for any required testing of materials prior to incorporation into the Work. Reimbursement for testing required by third party entities will be included in the individual Job Order.

**5.4. Workmanship.** All work under the Contract shall be performed in a skillful and workmanlike manner.

## **6. SITE CONDITIONS**

**6.1. Site Investigation.** Job Order Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the Work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the Work or its cost, including but not limited to:

**6.1.1.** Conditions bearing upon transportation, disposal, handling, and storage of materials;

**6.1.2.** The availability of labor, water, electric power, and roads;

**6.1.3.** Uncertainties of weather, river stages, tides, or similar physical conditions at the site;

**6.1.4.** The visible conformation and conditions of the ground; and

**6.1.5.** The character of equipment and facilities needed preliminary to and during work performance.

**6.2. Surface and Subsurface Investigation.** Job Order Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by Owner, as well as from the drawings and specifications made a part of this Contract. Owner will provide to Job Order Contractor all subsurface investigation reports it has commissioned, and has knowledge of, that reasonably reflect expected conditions at the location of the Job Order.

**6.3. Differing Site Conditions.** Job Order Contractor shall promptly, and before the conditions are disturbed, give a written notice to Owner of:

**6.3.1.** Subsurface or latent physical conditions at the site which differ materially from those indicated in the Contract, or

**6.3.2.** Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

**6.4. Owner Investigation.** Owner shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in Job Order Contractor's cost of, or the time required for, performing any part of the Work, whether or not changed as a result of the conditions, an equitable adjustment shall be made and the Job Order modified in writing accordingly.

**6.5. Written Notice of Differing Site Conditions.** No request by Job Order Contractor for an equitable adjustment to a Job Order under this § 6 shall be allowed, unless Job Order Contractor has given the written notice required.

**6.6. Payment Adjustment.** No request by Job Order Contractor for an equitable adjustment to a Job Order for differing site conditions shall be allowed if made after final payment under such Job Order.

## **7. JOB ORDER SCHEDULES**

**7.1. Construction Schedule.** If the Job Order Contractor fails to submit a schedule with the Job Order, Owner may withhold approval of progress payments until Job Order Contractor submits the required schedule. If required, the Job Order Contractor will submit for approval with the signed Job Order a practicable schedule showing the sequence in which Job Order Contractor proposes to perform the Work, and the dates on which Job Order Contractor contemplates starting and completing the several salient features of the Work (including acquiring materials, plant and equipment). The schedule may be a formal computerized schedule or a progress chart in a bar chart format of suitable scale to indicate appropriately the percentage of Work scheduled for completion by any given date during the period. In either case, the basic information should be the same and the schedule or chart must contain as a minimum:

**7.1.1.** A detailed list of work activities or work elements.

**7.1.2.** Show the logical dependencies (ties) to indicate what Work must be accomplished before other Work can begin.

**7.1.3.** Show early start and early finish dates along with late start and late finish dates for each work activity or work element.

**7.2. Failure to Submit Schedule.** Failure of Job Order Contractor to comply with the requirements of Owner under this clause shall be grounds for a determination by Owner that Job Order Contractor is not prosecuting the Work with sufficient diligence to ensure completion within the time specified in the Job Order. Upon making this determination, Owner may terminate Job Order Contractor's right to proceed with the Work if not cured within seven (7) days after written notice is provided, or any separable part of it, in accordance with § 14.

**7.3. Progress Report.** Job Order Contractor shall submit a progress report every thirty (30) days, or as directed by Owner, and upon doing so shall immediately deliver a current schedule to Owner if it has materially changed since the last submission of a schedule. If Job Order Contractor falls behind the approved schedule, Job Order Contractor shall take steps necessary to improve its progress, including those that may be reasonably required by Owner. Without additional cost to Owner, Owner may require Job Order Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant or equipment, and to submit for approval any supplementary schedule or schedules in chart form as Owner deems necessary to demonstrate how the approved rate of progress will be regained.

**7.4. Emergency Work.** Job Order Contractor will give top priority to any emergency Work Owner may have and will allocate all resources necessary to accomplish such Work in accordance with Owner's schedule requirements. To the extent the Job Order Contractor incurs additional cost, expense or schedule delay in performing Owner's emergency Work, Owner will equitably adjust the Contract in accordance with § 10.

## **8. INSPECTION OF CONSTRUCTION AND ACCEPTANCE**

**8.1. Job Order Contractor Inspection System.** Job Order Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the Work called for conforms to Job Order requirements. Job Order Contractor shall maintain complete inspection records and make them available to Owner. All work shall be conducted under the general direction of Owner and is subject to inspection and test by Owner at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the Contract.

**8.2. Owner Inspections and Tests.** Owner inspections and tests are for the sole benefit of Owner and do not:

**8.2.1.** Relieve Job Order Contractor of responsibility for providing adequate quality control measures;

**8.2.2.** Relieve Job Order Contractor of responsibility for damage to or loss of the material before acceptance;

**8.2.3.** Constitute or imply acceptance; or

**8.2.4.** Affect the continuing rights of Owner after acceptance of the complete work.

**8.3. Job Order Contractor Responsibilities.** The presence or absence of an inspector does not relieve Job Order Contractor from any Contract requirement, nor is the inspector authorized to change any term or condition of the specification without Owner's written authorization.

**8.4. Job Order Contractor Performance.** Job Order Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by Owner. Owner may charge to Job Order Contractor any additional cost of inspection or test when Work is not ready at the time specified by Job Order Contractor for inspection or test, or when prior rejection makes re-inspection or retest necessary. Owner shall perform all inspections and tests in a manner that will not unnecessarily delay the Work. Special, full size and performance tests shall be performed as described in the Job Order.

**8.5. Job Order Contractor Corrective Work.** Job Order Contractor shall, without charge, replace or correct Work found by Owner not to conform to Job Order requirements, unless Owner consents to accept the Work with an appropriate adjustment in Contract price. Job Order Contractor shall promptly segregate and remove rejected material from the premises.

**8.6. Failure to Replace or Correct Work.** If Job Order Contractor does not promptly replace or correct rejected Work, Owner may:

**8.6.1.** By Contract or otherwise, replace or correct the Work and charge the cost to Job Order Contractor; or

**8.6.2.** Terminate for default Job Order Contractor's right to proceed.

**8.7. Owner Inspection before Acceptance.** If, before acceptance of the entire Work, Owner decides to examine already completed Work by removing it or tearing it out, Job Order Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the Work is found to be defective or nonconforming in any material respect due to the fault of Job Order Contractor or its subcontractors, Job Order Contractor shall bear the expenses of the examination and of satisfactory reconstruction. However, if the Work is found to meet requirements, Owner shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the Work was thereby delayed, an extension of the period of time for performance.

**8.8. Owner Acceptance.** Unless otherwise specified in the Job Order, Owner shall accept, as promptly as practicable after completion and inspection, all work required by the Job Order or that portion of the Work that the Owner determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or Owner's rights under any warranty or guarantee.

## **9. INVOICING AND PAYMENT**

**9.1. Compensation.** As full consideration for the satisfactory performance by Job Order Contractor of Work prescribed under the Contract, Owner shall pay Job Order Contractor the amounts specified in the individual Job Orders.



**9.2. Invoices.** Job Order Contractor shall submit invoices to the following address:

City of Peoria  
8401 W. Monroe St  
Peoria, AZ 85345

**9.3. Job Order Cost Proposal Structure.** For each Job Order, the Job Order Contractor shall prepare a Job Order Cost Proposal with the sufficient level of cost detail as required by the Owner. Cost detail may include, but is not limited to: schedule of values, work schedule, direct labor cost and fringe benefits, direct material costs (supported by quotes), direct equipment costs (supported by quotes), allowable overhead costs (includes insurance), allowable profit, cost of subcontractors (supported by quotes), and contractor's overhead allowance for subcontractor costs.

**9.4. Progress Payments.** Owner shall make progress payments monthly as the Work proceeds, or at more frequent intervals as determined by Owner, on estimates of Work completed submitted by the Job Order Contractor and approved by Owner. Job Order Contractor shall use an acceptable invoice form and shall include supporting documents to reflect a breakdown of the total price showing the amount included therein for each principal category of the Work, in such detail as requested, to provide a basis for determining progress payments. In the estimation of Work completed, Owner will authorize payment for material delivered on the site and preparatory work done if Job Order Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform the Work.

**9.5. Retention.** Not applicable.

**9.6. Owner's Property.** All material and work covered by progress payments made shall, at the time of payment, become the sole property of Owner, but this provision shall not be construed as:

**9.6.1.** Relieving Job Order Contractor from the sole responsibility for all material and Work upon which payments have been made or the restoration of any damaged Work; or

**9.6.2.** Waiving the right of Owner to require the fulfillment of all of the terms of the Contract.

**9.7. Approval and Certification.** An estimate of the Work submitted shall be deemed approved and certified for payment after seven days from the date of submission unless before that time the Owner or Owner's agent prepares and issues a specific written finding setting forth those items in detail in the estimate of the Work that are not approved for payment under this contract. The Owner may withhold an amount from the progress payment sufficient to pay the expenses the Owner reasonably expects to incur in correcting the deficiency set forth in the written finding. The progress payments shall be paid on or before fourteen days after the estimate of the Work is certified and approved. The estimate of the Work shall be deemed received by the Owner on submission to any person designated by the Owner for the submission, review or approval of the estimate of the Work.

**9.8. Unpaid Amounts.** Owner shall pay all unpaid amounts due Job Order Contractor under this Contract within thirty (30) days, after:

**9.8.1.** Completion and acceptance of the Work;

**9.8.2.** Presentation of a properly executed invoice;

**9.8.3.** Presentation of release of all claims against Owner arising by virtue of the Contract, other than claims, in stated amounts, that Job Order Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if Job Order Contractor's claim to amounts payable under this Contract has been assigned. Job Order Contractor shall complete a Job Order Contractor's release form acceptable to Owner; or

**9.8.4.** Consent of Job Order Contractor's surety, if any.

## 10. CHANGES

**10.1. Owner Changes.** Owner may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the Work within the general scope of the Job Orders, including changes:

**10.1.1.** In the specifications (including drawings and designs);

**10.1.2.** In Owner-furnished facilities, equipment, materials, services, or site; or

**10.1.3.** Directing acceleration in the performance of the Work, or otherwise altering the schedule for performance of the Work.

**10.2. Owner Change Orders.** Any other written order (which, as used in this paragraph, includes direction, instruction, interpretation, or determination) from Owner that causes a change shall be treated as a change order under this § 10; provided, that Job Order Contractor gives Owner timely written notice stating the date, circumstances, and source of the order and that Job Order Contractor regards the order as a change order.

**10.3. Contract Adjustments.** Except as provided in this § 10, no order, statement, or conduct of Owner shall be treated as a change under this § 10 or entitle Job Order Contractor to an equitable adjustment hereunder.

**10.4. Modification of the Job Order.** If any change under this § 10 causes an increase or decrease in Job Order Contractor's cost of, or the time required for, the performance of any part of the Work under a Job Order, whether or not changed by any such order, Owner shall negotiate an equitable adjustment and modify the Job Order in writing.

**10.5. Job Order Contractor Proposal.** Job Order Contractor must submit any proposal under this § 10 within thirty (30) calendar days after:

**10.5.1.** Receipt of a written change order under § 10.1 above; or

**10.5.2.** The furnishing of a written notice under § 10.2 above by submitting to Owner a written statement describing the general nature and amount of the proposal, unless this period is extended by Owner. The statement of proposal for adjustment may be included in the notice under § 10.2 above.

**10.6. Final Payment Limitation.** No proposal by Job Order Contractor for an equitable adjustment shall be allowed if asserted after final payment under the Job Order.

**10.7. Job Order Contractor Extension Justification.** Job Order Contractor shall furnish to the Owner a written proposal for any proposed extension in the period of performance. The proposal shall contain a price breakdown and period of performance extension justification.

**10.8. Job Order Contractor Price Breakdown Structure.** Job Order Contractor, in connection with any proposal it makes for a Job Order change shall furnish a price breakdown itemized as required by Owner and the pricing matrix as required in the awarded contract.

## 11. INSURANCE & BONDS

**11.1. Job Order Contractor Insurance.** Job Order Contractor shall purchase and maintain in effect during the term of this Contract insurance of the types and with minimum limits of liability as stated below. Such insurance shall protect Job Order Contractor and Owner from claims which may arise out of or result from Job Order Contractor's operations whether such operations are performed by Job Order Contractor or by any subcontractor or by anyone for whose acts any of them may be liable.

**11.1.1. WORKERS' COMPENSATION INSURANCE** providing statutory benefits in accordance with the laws of the State of Arizona or any Federal statutes as may be applicable to the Work being performed under this Contract.

**11.1.2. EMPLOYER'S LIABILITY INSURANCE** with limits of liability not less than: \$1,000,000 Each Accident; \$1,000,000 Each Employee for Disease; and \$1,000,000 Policy Limit for Disease.

**11.1.3. COMMERCIAL GENERAL LIABILITY INSURANCE** including Products/Completed Operations and Contractual Liability with limits of liability not less than: \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate; and \$2,000,000 Each Occurrence.

**11.1.4. AUTOMOBILE LIABILITY INSURANCE** covering all owned, hired and non-owned motor vehicles used in connection with the Work being performed under this Contract with limits of liability not less than: \$1,000,000 Each Person for Bodily Injury; \$1,000,000 Each Accident for Bodily Injury; and \$1,000,000 Each Occurrence for Property Damage.

**11.2. Owner as Additional Insured.** The policies providing Commercial General Liability and Automobile Liability insurance as required in § 11.1 shall be endorsed to name Owner as Additional Insured. Such insurance as is provided herein shall be primary and non-contributing with any other valid and collectible insurance available to Owner.

**11.3. Policy Endorsement.** All policies providing Job Order Contractor's insurance as required in § 11.1 above shall be endorsed to provide the following:

**11.3.1.** Thirty days written notice of cancellation or non-renewal given to Owner at the address designated in § 16.2.

**11.3.2.** Waiver of subrogation in favor of Owner.

**11.4. Limits of Liability.** The limits of liability as required above may be provided by a single policy of insurance or by a combination of primary, excess or umbrella policies. But in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required above.

**11.5. Certificate of Insurance.** Proof of compliance with these insurance requirements shall be furnished Owner in the form of an original certificate of insurance signed by an authorized representative or agent of the insurance company(ies) within ten (10) days of execution of this agreement. Renewal or replacement certificates shall be furnished Owner not less than twenty-one (21) days prior to the expiration or termination date of the applicable policy(ies).

**11.6. Subcontractor Insurance.** Job Order Contractor shall require any and all subcontractors performing Work under this Contract to carry insurance of the types and with limits of liability as Job Order Contractor shall deem appropriate and adequate for the Work being performed. Job Order Contractor shall obtain and make available for inspection by Owner upon request current certificates of insurance evidencing insurance coverages carried by such subcontractors.

**11.7. Bonds.** If required by Owner, Job Order Contractor shall furnish Performance and Payment Bonds, each in an amount equal to one hundred percent (100%) of the Work, in a penal sum equal to the aggregate price of all Job Orders issued to the Job Order Contractor. The Performance and Payment Bonds must be submitted to Owner within ten (10) calendar days after issuance of a Job Order.

**11.8. Notice to Proceed.** Notice to Proceed will not be issued until properly executed bonds are received and accepted by Owner. A separate Notice to Proceed will be issued for each Job Order. The Notice to Proceed shall stipulate the actual contract start date, the contract duration and the contract completion date. The time required for the Contractor to obtain permits, licenses and easements shall be included in the contract duration and shall not be justification for a delay claim by the Contractor. The

time required for the Contractor to prepare, transmit and obtain approval of applicable submittals shall be included in the contract duration and shall not be justification for a delay claim by the Contractor. No work shall be started until after all required permits, licenses, and easements have been obtained. No work shall be started until all applicable submittals have been submitted and returned approved by the Owner's Representative. The Contractor shall notify the City of Peoria's project manager or engineer at least seventy-two (72) hours before the following events:

**11.8.1.** The start of construction in order to arrange for inspection.

**11.8.2.** Shutdown of City water, sewer, drainage, irrigation and traffic control facility.

**11.8.3.** Shutdown of existing water wells and booster pumps. Shutdown shall not exceed seventy-two (72) hours for any installation. Only one installation may be shutdown at any time.

**11.8.4.** Coordination of all draining and filling of water lines and irrigation laterals and all operations of existing valves or gages with the project manager.

**11.8.5.** Start-up or testing of any water well or booster pump to be connected to any part of the existing City water system. This includes operation of existing valves necessary to accommodate the water.

**12. INDEMNIFICATION.** To the fullest extent permitted by law, the Job Order Contractor shall defend, indemnify and hold harmless the Owner, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Job Order Contractor, its employees, agents, or any tier of subcontractors in the performance of this Contract. Job Order Contractor's duty to defend, hold harmless and indemnify the Owner, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting there from, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of the Job Order Contractor or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Job Order Contractor may be legally liable. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

### **13. DISPUTES.**

**13.1. Party Cooperation.** The parties are fully committed to working with each other throughout the term of the Contract and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Job Order Contractor and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

**13.2. Field Level Resolution.** Job Order Contractor and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between the parties' representatives named herein.

**13.3. Job Order Contractor Performance.** The Job Order Contractor shall continue to perform the Work and Owner shall continue to satisfy its payment obligations to Job Order Contractor, pending the final resolution of any dispute or disagreements between the parties.

**13.4. Partnering.** If requested and mutually agreed upon, the Owner and Job Order Contractor will share in the expense of an initial facilitated partnering workshop, followed up by periodic refresher meetings at mutually agreed times. The goal of the workshop will be to identify common goals, common interests, lines of communication, and a commitment to cooperative problem solving.

**13.5. Owner's Representative.** Owner designates the individual listed below as its representative, which individual has the authority and responsibility for avoiding and resolving disputes under this Contract. (Identify individual's name, title, address and telephone numbers)

City of Peoria, Materials Management  
Dan Zenko, Materials Management Supervisor  
9875 N. 85<sup>th</sup> Ave – 2<sup>nd</sup> Floor  
Peoria, AZ 85345

**13.6. Job Order Contractor's Representative.** Job Order Contractor designates the individual listed below as its representative, which individual has the authority and responsibility for avoiding and resolving disputes under this Contract. (Identify individual's name, title, address and telephone numbers)

MGC Contractors Inc.  
Randy Gates, President  
4110 E. Elwood Street  
Phoenix, AZ 85040  
(602) 437-5000

**13.7. Owner's Resolution.** Any dispute which is not disposed of by agreement will be decided by the Owner, who will reduce its decision to writing and mail or otherwise furnish a copy thereof to the Job Order Contractor. Any dispute not finally resolved under this § 13 may be brought before the state courts of the State of Arizona and adjudicated in accordance with the laws of Arizona.

#### **14. TERMINATION AND DEFAULT**

**14.1. Termination for Convenience.** Owner may terminate performance of the Work under this Contract in whole or, from time to time, in part if Owner determines that termination is in Owner's interest. Owner shall effect such termination by delivering to Job Order Contractor a Notice of Termination specifying the extent of termination and the effective date.

**14.2. Notice of Termination.** After receipt of a Notice of Termination, and except as directed by Owner, Job Order Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this § 14:

**14.2.1.** Stop work as specified in the notice;

**14.2.2.** Place no further subcontracts or orders (referred to as subcontracts in this § 14) for materials, services or facilities, except as necessary to complete any Work not terminated;

**14.2.3.** Assign to Owner, if directed by Owner, all right, title, and interest of Job Order Contractor under the subcontracts to the extent they relate to the Work terminated, in which case Owner shall have the right to settle or to pay any termination settlement proposal arising out of those terminations, or with approval or ratification to the extent required by Owner, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, the approval or ratification of which will be final for purposes of this § 14;

**14.2.4.** As directed by Owner, transfer title and deliver to Owner:

**14.2.4.1.** The fabricated or unfabricated parts, Work in progress, completed Work, supplies, and other material produced or acquired for the Work terminated;

**14.2.4.2.** The completed or partially completed plans, drawings, information, and other property that, if the Contract had been completed, would be required to be furnished to Owner;

**14.2.5.** Complete performance of the Work not terminated;

**14.2.6.** Take any action that may be necessary, or that Owner may direct, for the protection and preservation of the property related to this Contract that is in the possession of Job Order Contractor and in which Owner has or may acquire an interest; and

**14.2.7.** Use its best efforts to sell, as directed or authorized by Owner, any property of the types referred to in § 14.2.3 above; provided, however, that Job Order Contractor is not required to extend credit to any purchaser and may acquire the property under the conditions prescribed by, and at prices approved by, Owner. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by Owner under the Contract, credited to the price or cost of the Work, or paid in any other manner directed by Owner.

**14.3. Final Termination Settlement Proposal.** After termination, Job Order Contractor shall submit a final termination settlement proposal to Owner in the form and with the certification prescribed by Owner. Job Order Contractor shall submit the proposal promptly, but no later than one year from the effective date of termination.

**14.4. Owner Payment.** Job Order Contractor and Owner may agree upon the whole or any part of the amount to be paid because of the termination. The amount will include a reasonable allowance for profit on work done. The Contract shall be amended, and Job Order Contractor paid the agreed amount.

**14.4.1.** If Job Order Contractor and Owner fail to agree on the whole amount to be paid Job Order Contractor because of the termination of work, Owner shall pay Job Order Contractor the amounts determined as follows, but without duplication of any amounts agreed upon under § 14.4 above:

**14.4.1.1.** For Work performed before the effective date of termination, the total (without duplication of any items) of:

**14.4.1.1.1.** The cost of this Work;

**14.4.1.1.2.** The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the Contract if not included in § 14.4.1.1.1. above; and

**14.4.1.1.3.** A markup, including overhead and profit, on § 14.4.1.1.1. above as is determined for pricing changes.

**14.4.1.2.** The reasonable costs of settlement of the Work terminated, including:

**14.4.1.2.1.** Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

**14.4.1.2.2.** The termination and settlement of subcontracts (excluding the amounts of such settlements); and

**14.4.1.2.3.** Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

**14.5. Destroyed, Lost, Stolen or Damaged Property.** Except for normal spoilage, and except to the extent that Owner expressly assumed the risk of loss, Owner shall exclude from the amounts payable to Job Order Contractor under Subparagraph 14.4.1 above, the fair value, as determined by Owner, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to Owner or to a buyer.

**14.6. Amount Due Job Order Contractor.** In arriving at the amount due Job Order Contractor under this § 14, there shall be deducted:

**14.6.1.** All unliquidated advances or other payments to Job Order Contractor under the terminated portion of the Job Order;

**14.6.2.** Any claim which Owner has against Job Order Contractor under the Contract; and

**14.6.3.** The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by Job Order Contractor or sold under the provisions of this § 14 and not recovered by or credited to Owner.

**14.7. Partial Termination.** If the termination is partial, Job Order Contractor may file a proposal with Owner for an equitable adjustment of the price(s) of the continued portion of any Job Order. Any proposal by Job Order Contractor for an equitable adjustment under this § 14 shall be requested within ninety (90) calendar days from the effective date of termination unless extended in writing by Owner. Owner may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by Job Order Contractor of the terminated portion of any Job Order, if Owner believes the total of these payments will not exceed the amount to which Job Order Contractor will be entitled.

**14.8. Excess Payments.** If the total payments exceed the amount finally determined to be due, Job Order Contractor shall repay the excess to Owner upon demand.

**14.9. Job Order Contractor Records.** Unless otherwise provided in this Contract or by statute, Job Order Contractor shall maintain all records and documents relating to the terminated portion of this Contract for three (3) years after final settlement. This includes all books and other evidence bearing on Job Order Contractor's costs and expenses under this Contract. Job Order Contractor shall make these records and documents available to Owner, at Job Order Contractor's office, at all reasonable times, without cost. If approved by Owner, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

**14.10. Default.** If Job Order Contractor refuses or fails to prosecute the Work, or any separable part, with the diligence that will ensure its completion within the time specified in the Job Order including any extension, or fails to complete the Work within this time, Owner may terminate the Job Order Contractor's right to proceed with the Work (or separable part of the Work), upon thirty (30) days written notice to the Job Order Contractor. In this event, Owner may take over the Work and complete it by Contract or otherwise and may take possession of and use any materials, appliances, and plant on the site necessary for completing the Work.

**14.11. Job Order Contractor's Right to Proceed.** Job Order Contractor's right to proceed shall not be terminated under this § 14, if:

**14.11.1.** The delay in completing the Work arises from unforeseeable causes beyond the control and without the fault or negligence of Job Order Contractor. Examples of such causes include: acts of God or of the public enemy, acts of Owner in its Contractual capacity, acts of another contractor in the performance of a Contract with Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather (The basis used to define normal weather will be data showing high and low temperatures, precipitation, and number of days of severe weather in the city closest to the site for the previous ten (10) years, as compiled by the United States Department of Commerce National Weather Service.), or delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both Job Order Contractor and the subcontractors or suppliers; and

**14.11.2.** Job Order Contractor, within 30 calendar days from the beginning of any such delay (unless extended by Owner), notifies Owner in writing of the causes of delay. The Owner shall ascertain the facts and the extent of delay. If, in the judgment of Owner, the findings of fact warrant such action, the time for completing the Work shall be extended. The findings of Owner shall be final and conclusive on the parties, but subject to appeal and review under § 13.

**14.12. Owner's Right to Terminate.** The rights and remedies of Owner in this § 14 are in addition to any other rights and remedies provided by law or under this Contract.

**14.13. Owner and Job Order Contractor Rights.** If, after termination of Job Order Contractor's right to proceed, it is determined that Job Order Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Owner.

**14.14. Liquidated Damages.** Liquidated Damages shall be assessed for each calendar of delay. Liquidated Damages shall be per MAG Specs, Section 108.9 per day for each calendar day of delay. If the contract is not terminated, the contractor shall continue performance and be liable to the Owner for the liquidated damages until the products are delivered or services performed. In the event the City exercises its right of termination, the contractor shall be liable to the Owner for any excess costs, and in addition, for liquidated damages until such time the Owner may reasonably obtain delivery or performance of similar supplies or services.

**14.15. Immigration Act.** Contractor understands and acknowledges the applicability to Contractor of the Immigration Reform and Control Act of 1986 (IRCA). Contractor agrees to comply with the IRCA in performing under this contract and to permit City inspection of personnel records to verify such compliance.

## **15. WARRANTY OF CONSTRUCTION**

**15.1. Applicable Warranties.** In addition to any other warranties in any Job Orders, Job Order Contractor warrants, except as provided in § 15.10, that work performed conforms to the Job Order requirements and is free of any defect in equipment, material or design furnished, or workmanship performed by Job Order Contractor or any of its subcontractors or suppliers at any tier.

**15.2. Warranty Duration.** This warranty shall continue for a period of one (1) year from the date of final acceptance of the Work. If Owner takes possession of any part of the Work before final acceptance, this warranty shall continue for a period of one (1) year from the date possession is taken.

**15.3. Job Order Contractor Corrective Work.** Job Order Contractor shall remedy at Job Order Contractor's expense any failure of the Work to conform to the plans and specifications, or any construction defect. In addition, the Job Order Contractor shall remedy at Job Order Contractor's expense any damage to Owner's real or personal property, when that damage is the result of:

**15.3.1.** Job Order Contractor's failure to conform to requirements; or

**15.3.2.** Any defect of equipment, material, workmanship, or design furnished by the Job Order Contractor.

**15.4. Job Order Contractor Restoration.** Job Order Contractor shall restore any work damaged in fulfilling the terms and conditions of this § 15. Job Order Contractor's warranty with respect to work repaired or replaced will run for one (1) year from the date of repair or replacement.

**15.5. Owner Notification.** Owner shall notify Job Order Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.

**15.6. Failure to Correct Work.** If Job Order Contractor fails to remedy any failure, defect, or damage within ten (10) days after receipt of notice, Owner shall have the right to replace, repair, or otherwise remedy the failure, defect or damage at Job Order Contractor's expense.

**15.7. Subcontractor and Supplier Warranties.** With respect to all warranties, expressed or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished for Job Orders issued under this Contract, Job Order Contractor shall:

**15.7.1.** Obtain all warranties required by the Job Order;

**15.7.2.** Require all warranties to be executed, in writing, for the benefit of Owner; and



**15.7.3. Enforce all warranties for the benefit of Owner.**

**15.8. Owner Remedy.** In the event Job Order Contractor's warranty under § 15.2 has expired, Owner may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

**15.9. Owner Furnished Material or Design.** Unless a defect is caused by the negligence of Job Order Contractor or subcontractor or supplier at any tier, Job Order Contractor shall not be liable for the repair of any defects of material or design furnished by Owner or for the repair of any damage that results from any defect in Owner-furnished material or design.

**15.10. Pre-Existing Work.** Job Order Contractor is not responsible for and does not warranty pre-existing work or facilities that may be assigned to Job Order Contractor except as modified by the Job Order.

**15.11. Owner's Rights.** This warranty shall not limit Owner's rights under § 8 of this Contract with respect to latent defects, gross mistakes, or fraud.

## **16. STANDARD TERMS AND CONDITIONS**

**16.1. Contract Order of Precedence.** In the event of an inconsistency between provisions of this Contract, the inconsistency shall be resolved by giving precedence in the following order:

**16.1.1.** Contract Modifications, if any;

**16.1.2.** This Contract, including Attachments;

**16.1.3.** Job Orders;

**16.1.4.** Drawings; and

**16.1.5.** Specifications.

**16.2. Certification.** By signature in the Offer section of the Offer and Contract Award page the Job Order Contractor certifies:

**16.2.1.** The submission of the offer did not involve collusion or other anti-competitive practices.

**16.2.2.** The Job Order Contractor shall not discriminate against any employee or applicant for employment.

**16.2.3.** The Job Order Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor, or service to a public servant in connection with the submitted offer. Failure to sign the offer, or signing it with a false statement, shall void the submitted offer or any resulting contracts, and the vendor may be debarred.

**16.2.4.** The Job Order Contractor is licensed to perform the Work pursuant to Arizona Revised Statutes Title 32, Chapter 10.

**16.3. Bribes and Kick-Backs.** The Job Order Contractor shall not by any means:

**16.3.1.** Induce any person or entity employed in the construction of the Project to give up any part of the compensation to which that person or entity is entitled;

**16.3.2.** Confer on any governmental, public or quasi-public official having any authority or influence over the Project, any payment, loan subscription, advance, deposit of money, services or anything of value, present or promised;

**16.3.3.** Offer nor accept any bribes or kick-backs in connection with the Project from or to any individual or entity, including any of its trade contractors, subcontractors, consultants, suppliers or manufacturers of Project goods and materials; or,

**16.3.4.** Without the express written permission of the Owner, call for or by exclusion require or recommend the use of any subcontractor, consultant, product, material, equipment, system, process or procedure in which the Job Order Contractor has a direct or indirect proprietary or other pecuniary interest.

**16.4. Applicable Law.** In the performance of this agreement, contractors shall abide by and conform to any and all laws of the United States, State of Arizona and City of Peoria including but not limited to federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this agreement.

Contractor specifically understands and acknowledges the applicability to it of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986, and the Drug Free Workplace Act of 1989. In addition, if this agreement pertains to construction, Contractor must also comply with A.R.S. § 34-301, as amended (Employment of Aliens on Public Works Prohibited) and A.R.S. § 34-302, as amended (Residence Requirements for Employees).

Under the provisions of A.R.S. § 41-4401, Contractor hereby warrants to the City that Contractor and each of its subcontractors ("Subcontractors") will comply with, and are contractually obligated to comply with, all Federal immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A) (hereinafter, "Contractor Immigration Warranty").

A breach of the Contractor Immigration Warranty shall constitute a material breach of this agreement and shall subject Contractor to penalties up to and including termination of this agreement at the sole discretion of the City. The City may, at its sole discretion, conduct random verification of the employment records of Contractor and any Subcontractors to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any random verifications performed.

Neither Contractor nor any Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if Contractor or the Subcontractor establishes that it has complied with the employment verification provisions prescribed by §§ 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A).

The provisions of this Paragraph must be included in any contract Contractor enters into with any Subcontractors who provide services under this agreement or any subcontract. "Services" is defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

Contractor warrants, for the term of this agreement and for six months thereafter, that it has fully complied with the requirements of the Immigration Reform and Control Act of 1986 and all related or similar legal authorities.

This contract shall be governed by the City and Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this contract or in statutes pertaining specifically to the City. This contract shall be governed by the laws of the State of Arizona and suit pertaining to this contract may be brought only in courts in the State of Arizona.

This contract is subject to the provisions of ARS §38-511; the City may cancel this contract without penalty or further obligations by the City or any of its departments or agencies if any person

significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City or any of its departments or agencies, is at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract..

**16.4.1. Job Order Contractor warrants**, for the term of this agreement and for six months thereafter, that it has fully complied with the requirements of the Immigration Reform and Control Act of 1986 and all related or similar legal authorities.

**16.4.2. This contract shall be governed by the Owner.** City and Job Order Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this contract or in statutes pertaining specifically to the Owner. This contract shall be governed by the laws of the State of Arizona. Any lawsuit pertaining to this contract may be brought only in courts in the State of Arizona.

**16.4.3. This contract is subject to the provisions of ARS § 38-511;** the Owner may cancel this contract without penalty or further obligations by the Owner or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the Owner or any of its departments or agencies, is at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

**16.5. Legal Remedies:** All claims and controversies shall be subject to resolution according to the terms of the City of Peoria Procurement Code.

**16.6. Contract:** The contract between the Owner and the Job Order Contractor shall consist of (1) the Solicitation, including instructions, all terms and conditions, specifications, scopes of work, attachments, price sheet(s) and any amendments thereto, and (2) the offer submitted by the Job Order Contractor in response to the solicitation. In the event of a conflict in language between the Solicitation and the Offer, the provisions and requirements in the Solicitation shall govern. However, the Owner reserves the right to clarify, in writing, any contractual terms with the concurrence of the Job Order Contractor, and such written contract shall govern in case of conflict with the applicable requirements stated in the Solicitation or the Vendor's offer. The Solicitation shall govern in all other matters not affected by the written contract.

**16.7. Contract Amendments:** This contract may be modified only by a written Contract Amendment signed by persons duly authorized to enter into contracts on behalf of the Owner and the Job Order Contractor.

**16.8. Contract Applicability:** The Offeror shall substantially conform to the terms, conditions, specifications and other requirements found within the text of this Solicitation. All previous agreements, contracts, or other documents, which have been executed between the Offeror and the Owner are not applicable to this Solicitation or any resultant contract.

**16.9. Severability.** The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

**16.10. Relationship to Parties.** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Job Order Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and that the Job Order Contractor should make arrangements to directly pay such expenses, if any.

**16.11. No Delegation or Assignment.** Contractor shall not delegate any duty under this Contract, and no right or interest in this Contract shall be assigned by Contractor to any successor entity or third party, including but not limited to an affiliated successor or purchaser of Contractor or its assets, without prior written permission of the City. The City, at its option, may cancel this Contract in the event Contractor undertakes a delegation or assignment without first obtaining the City's written approval. Contractor agrees and acknowledges that it would not be unreasonable for the City to decline to approve a delegation or assignment that results in a material change to the services provided under this Contract or an increased cost to the City.

**16.12. Job Order Contractor/Supplier Contract.** The Job Order Contractor shall enter into written contracts with its subcontractor(s) and supplier(s), if any, and those written contracts shall be consistent with this Contract for Construction. It is the intent of the Owner and the Job Order Contractor that the obligations of the Job Order Contractor's subcontractor(s) and supplier(s), if any, inure to the benefit of the Owner and the Job Order Contractor, and that the Owner be a third-party beneficiary of the Job Order Contractor's agreements with its subcontractor(s) and supplier(s).

**16.12.1.** The Job Order Contractor shall make available to each subcontractor and supplier, if any, prior to the execution of written contracts with any of them, a copy of the pertinent portions of this Contract for Construction, including those portions of the Construction documents to which the subcontractor or supplier will be bound, and shall require that each subcontractor and supplier shall similarly make copies of applicable parts of such documents available to its respective subcontractor(s) and supplier(s).

**16.12.2.** The Job Order Contractor shall engage each of its subcontractor(s) and supplier(s) with written contracts which preserve and protect the rights of the Owner and include the acknowledgment and agreement of each subcontractor or supplier that the Owner is a third-party beneficiary of the contract. The Job Order Contractor's agreements with its subcontractor(s) and supplier(s) shall require that in the event of default under, or termination of, this Contract for Construction, and upon request of the Owner, the Job Order Contractor's subcontractor(s) and supplier(s) will perform services for the Owner.

**16.12.3.** The Job Order Contractor shall include in its agreements with its subcontractor(s) and supplier(s) a provision which contains the acknowledgment and agreement of the subcontractor or supplier that it has received and reviewed the applicable terms, conditions and requirements of this Contract for Construction that are included by reference in its written contract with the Job Order Contractor, and that it will abide by those terms, conditions and requirements.

**16.13. Rights and Remedies.** No provision in this document or in the vendor's offer shall be construed, expressly or by implication, as waiver by the Owner of any existing or future right and/or remedy available by law in the event of any claim of default or breach of contract. The failure of the Owner to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the Owner's acceptance of and payment for materials or services, shall not release the Job Order Contractor from any responsibilities or obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of the Owner to insist upon the strict performance of the Contract.

**16.14. Overcharges By Antitrust Violations.** The Owner maintains that, in practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Job Order Contractor hereby assigns to the Owner any and all claims for such overcharges as to the goods and services used to fulfill the Contract.

**16.15. Force Majeure.** Except for payment for sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force Majeure.

**16.15.1.** The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God: acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; floods; lockouts, injunctions-intervention-acts, or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this Contract.

**16.15.2.** Force majeure shall not include the following occurrences: late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences; late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this Force Majeure term and Condition; or any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure. If either party is delayed at any time in the progress of the work by force majeure, then the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand delivered or mailed *Certified-Return Receipt* and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing. The time of completion shall be extended by contract modification for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this contract.

**16.16. Right To Assurance.** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

**16.17. Right To Audit Records.** The City may, at reasonable times and places, audit the books and records of any Contractor as related to any contract held with the City. This right to audit also empowers the City to inspect the papers of any Contractor or Subcontractor employee who works on this contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty made pursuant to Paragraph 16.4 above.

**16.18. Warranties.** Job Order Contractor warrants that all material, service or construction delivered under this contract shall conform to the specifications of this contract. Unless otherwise stated in Job Order Contractor's response, the Owner is responsible for selecting items, their use, and the results obtained from any other items used with the items furnished under this contract. Mere receipt of shipment of the material/service specified and any inspection incidental thereto by the Owner shall not alter or affect the obligations of the Job Order Contractor or the rights of the Owner under the foregoing warranties. Additional warranty requirements may be set forth in the solicitation.

**16.19. Inspection.** All material and/or services are subject to inspection and acceptance by the Owner. Materials and/or services failing to conform to the specifications of this Contract will be held at Job Order Contractor's risk and may be returned to the Job Order Contractor. If so returned, all costs are the responsibility of the Job Order Contractor. The Owner may elect to do any or all of the following:

- 16.19.1.** Waive the non-conformance.
- 16.19.2.** Stop the work immediately.
- 16.19.3.** Bring material into compliance.

**16.19.4.** This shall be accomplished by a written determination from the Owner.

**16.20. Title and Risk of Loss.** The title and risk of loss of material and/or service shall not pass to the Owner until the Owner actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.

**16.21. No Replacement of Defective Tender.** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach of the Contract as a whole.

**16.22. Shipment Under Reservation Prohibited.** Job Order Contractor is not authorized to ship materials under reservation and no tender of a bill of lading will operate as a tender of the materials.

**16.23. Liens.** All materials, service or construction shall be free of all liens; and if the Owner requests, a formal release of all liens shall be delivered to the Owner.

**16.24. Licenses.** shall maintain in current status, all Federal, State and Local licenses and created under this contract are the property of the Owner and shall not be used or released by the Job Order Contractor or any other person except with the prior written permission of the Owner.

**16.25. Patents and Copyrights.** All services, information, computer program elements, reports and other deliverables, which may be patented or copyrighted and created under this contract are the property of the Owner and shall not be used or released by the Job Order Contractor or any other person except with the prior written permission of the Owner.

**16.26. Cost of Bid/Proposal Preparation.** The Owner shall not reimburse the cost of developing presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner.

**16.27. Public Records.** All offers submitted in response to this solicitation shall become the property of the City and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Code. However, subsequent to the award of the contract, any information and documents obtained by the City during the course of an audit conducted in accordance with Paragraph 16.17 above for the purpose of determining compliance by Contractor or a Subcontractor with the Contractor Immigration Warranty mandated by Paragraph 16.4 above shall remain confidential and shall not be made available for public review or produced in response to a public records request, unless the City is ordered or otherwise directed to do so by a court of competent jurisdiction.

**16.28. Advertising.** Job Order Contractor shall not advertise or publish information concerning this Contract, without prior written consent of the Owner.

**16.29. Delivery Orders.** The Owner shall issue a Purchase Order for the material and/or services covered by this contract. All such documents shall reference the contract number as indicated on the signature page of the contract

**16.30. Prohibited Lobbying Activities.** The Offeror, his/her agent or representative shall not contact, orally or in any written form any City elected official or any City employee other than the Materials Management Division, the procuring department, City Manager, Deputy City Manager or City Attorney's office (for legal issues only) regarding the contents of this solicitation or the solicitation process commencing from receipt of a copy of this request for proposals and ending upon submission of a staff report for placement on a City Council agenda. The Materials Manager shall disqualify an Offeror's proposal for violation of this provision. This provision shall not prohibit an Offeror from petitioning an elected official after submission of a staff report for placement on a City Council agenda or engaging in any other protected first amendment activity after submission of a staff report for placement on a City Council agenda.

**16.31. Prohibited Political Contributions.** Contractor during the term of this Agreement shall not make a contribution reportable under Title 16, Chapter 6, Article 1, Arizona Revised Statutes to a candidate or candidate committee for any city elective office during the term of this Agreement. The City reserves the right to terminate the Agreement without penalty for any violation of this provision.

**16.32. A.R.S. Title 34 Provisions.**

**16.32.1.** The maximum dollar amount of an individual job order shall be Three Million Dollars (\$3,000,000) or such higher or lower amount prescribed by the Owner in an action notice pursuant to A.R.S. title 38, chapter 3, article 3.1 or a rule adopted by the Owner as the maximum amount of an individual job order. Requirements shall not be artificially divided or fragmented in order to constitute a job order that satisfies this requirement.

**16.32.2.** If the Job Order Contractor subcontracts or intends to subcontract part or all of the work under a job order and if this contract includes descriptions of standard individual tasks, standard unit prices for standard individual tasks and pricing of job orders based on the number of units of standard individual tasks in the job order, then:

**16.32.2.1.** The Job Order Contractor has a duty to deliver promptly to each subcontractor invited to bid a coefficient to the Job Order Contractor to do all or part of the work under one or more job orders:

**16.32.2.1.1.** A copy of the descriptions of all standard individual tasks on which the subcontractor is invited to bid.

**16.32.2.1.2.** A copy of the standard unit prices for the individual tasks on which the subcontractor is invited to bid.

**16.32.2.2.** If not previously delivered to the subcontractor, the Job Order Contractor has a duty to deliver promptly the following to each subcontractor invited to or that has agreed to do any of the work included in any job order:

**16.32.2.2.1.** A copy of the description of each standard individual task that is included in the job order and that the subcontractor is invited to perform.

**16.32.2.2.2.** The number of units of each standard individual task that is included in the job order and that the subcontractor is invited to perform.

**16.32.2.2.3.** The standard unit price for each standard individual task that is included in the job order and that the subcontractor is invited to perform.

**16.32.3.** The Owner will include the full street or physical address of each separate location at which the construction will be performed for each individual Job Order. The Job Order Contractor (and on behalf of each subcontractor at any level) hereby agrees to include in each of its subcontracts the same address information. The Job Order Contractor and each subcontractor at any level shall include in each subcontract the full street or physical address of each separate location at which construction work will be performed.

**16.33. Funding.** Any contract entered into by the Owner of Peoria is subject to funding availability. Fiscal years for the Owner of Peoria are July 1 to June 30. The Owner Council approves all budget requests. If a specific funding request is not approved, the contract shall be terminated.

**16.34. Federal Funding.** It is the responsibility of the Contractor to determine on any job order project if federal wage rates apply. It is also the responsibility of the Contractor to incorporate any necessary amounts in the bid to accommodate for required federal record keeping and necessary pay structures. The Contractor should contact the City of Peoria regarding any applicable Davis Bacon wage rates.

**16.35. Standard Federal Provisions.** This section applies to Job Orders funded with federal monies. All recipients and subrecipients of federal funding are required to comply with all federal and state laws, rules, and regulations and therefore must ensure that their contractors also comply with all federal and state laws, rules, and regulations conditions. The following provisions are incorporated into the contract for compliance with any federal funding that might be awarded pertaining to a specific Job Order.

**16.35.1. Compliance with Civil Rights Act of 1964.** During the performance of this contract, the contractor agrees to comply with the following: (i) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352, 42 U.S.C. Sec. 2000d), (ii) the Rehabilitation Act of 1973 (Pub. L. 93-1123, 87 Stat. 355, 29 U.S.C. Sec. 794), (iii) the Age Discrimination Act of 1975 (Pub. L. 94-135 Sec. 303, 89 Stat. 713, 728, 42 U.S.C. Sec. 6102), (iv) Section 13 of the Federal Water Pollution Control Act (Pub. L. 92-500, 33 U.S.C. Sec. 1251), and subsequent regulations, ensures access to facilities or programs regardless of race, color, national origin, sex, age or handicap.

**16.35.2. Termination for convenience (43 CFR § 12.84).** Except as provided in §12.83 awards may be terminated in whole or in part only as follows: (a) By the awarding agency with the consent of the grantee or subgrantee in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or (b) By the grantee or subgrantee upon written notification to the awarding agency, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either §12.83 or paragraph (a) of this section.

**16.35.3. Equal Employment Opportunity (41 CFR § 60-1.4).** During the performance of this contract, the contractor agrees as follows:(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin. (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor. (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders. (6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order



11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law. (7) the contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**16.35.4. Compliance with Copeland Act Requirements.** The Contractor shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

**16.35.5. Use of American Iron, Steel, and Manufactured Goods.** The Contractor hereby represents and warrants to and for the benefit of the City (Purchaser) and the State that (a) the Contractor has reviewed and understands the Buy American Requirements, (b) all of the iron, steel, and manufactured goods used in the project will be and/or have been produced in the United States in a manner that complies with the Buy American Requirements, unless a waiver of the requirements is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the Buy American Requirements, as may be requested by the Purchaser or the State. Notwithstanding any other provision of this contract, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or State to recover as damages against the Contractor any loss, expense or cost (including without limitation attorney's fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Purchaser). While the Contractor has no direct contractual privity with the State, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this contract necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

**16.35.6. Compliance with Davis-Bacon Act.** Contractor shall comply with the Davis Bacon Act (40 U.S.C. §276a-276a-7) as Supplemented by Department of Labor regulations (29 CFR Part 5): All laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and the through the Federal Government shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with subchapter IV of chapter 31 of Title 40, United States Code. In addition, all covered contracts shall include the standard contract clauses regarding prevailing wages and benefits included in the United States Department of Labor regulations found at 29 Code of Federal Regulations ("CFR") § 5.5, which are incorporated by reference in this contract. The contractor shall comply with the requirements of 29 CFR Part 3, which are also incorporated by reference in this Contract. The contractor or subcontractors shall insert in any subcontracts the clauses contained in 29 CFR § 5.5(a) (1) through (10) and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR § 5.5. A breach of the contract clauses in 29 CFR § 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR § 5.12. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract. Disputes

arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the United States Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the City, the State of Arizona ("State"), the United States Department of Labor, or their employees or their representatives. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1). No part of this contract shall be subcontracted to any person or firm ineligible for award of a government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

**16.35.7. Contract Work Hours and Safety Standards Act - Overtime Compensation.** (a) *Overtime requirements.* No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours. (b) *Violation; liability for unpaid wages; liquidated damages.* The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the Contract Work Hours and Safety Standards Act. (c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contracting Officer will withhold payments from other Federal or Federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act. (d) *Payrolls and basic records.* (1) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act. (2) The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours. (e) *Subcontracts.* The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower-tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

**16.35.8. Patent Rights (43 CFR Part 12).** Contractor shall comply with federal requirements (CFR 43, Part 12, Subpart C—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

**16.35.9. Copyrights (43 CFR § 12.74).** The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes: (a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and (b) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.

**16.35.10. Audit Practices (43 CFR Part 12).** The contractor agrees access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

**16.35.11. Retention of Records (43 CFR Part 12).** The contractor agrees to retain all required records for three years after grantees or sub-grantees make final payments and all other pending matters are closed.

**16.35.12. Clean Air Act, Clean Water Act, and EPA Regulations.** Contractor shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

**16.35.13. Energy Policy and Conservation Act.** Contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

**16.35.14. Central Contractor Registration Required.** (a) The Contractor is required to properly register and maintain an updated registration with the Central Contractor Registration (CCR), which is the primary Federal Government repository for contractor information required for the conduct of business with the Federal Government. The requirements for such registration are set forth in the Federal Acquisition Regulation (FAR), including the establishment of a "Data Universal Numbering System (DUNS) number," the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities. (b) "Registered in the CCR database" means that – (1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and (2) The Federal Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record "Active". The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process. (c) The DUNS number will be used by the City to verify that the Contractor is registered in the CCR database. (d) If the Contractor does not become registered in the CCR database in the time prescribed by the City, the City will proceed to award the Contract to the next otherwise successful registered responding entity. (e) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the City's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this Contract and is not a substitute for a properly executed contractual document.

**16.35.15. Reporting Requirements for Projects funded under the ARRA.** (a) This Contract requires the Contractor to provide products and/or services that are funded under the ARRA. Section 1512(c) of the ARRA requires each contractor to report on its use of Recovery Act funds under this Contract. These reports will be made available to the public. (b) Reports from contractors for all work funded, in whole or in part, by the ARRA, and for which an invoice is submitted prior to June 30, 2009, are due no later than July 10, 2009. Thereafter, reports shall be submitted no later than the 10th day after the end of each calendar quarter. (c) The Contractor shall report the following information, using the online reporting tool available at [www.FederalReporting.gov](http://www.FederalReporting.gov): (1) The City of Peoria contract and order number, as applicable. (2) The amount of ARRA funds invoiced by the Contractor for the reporting period. (3) A list of all significant services performed or supplies delivered, including construction, for which the Contractor invoiced in the calendar quarter. (4) Program or project title, if any. (5) A description of the overall purpose and expected outcomes or results of the Contract, including significant deliverables and, if appropriate, associated units of measure. (6) An assessment of the Contractor's progress towards the

completion of the overall purpose and expected outcomes or results of the Contract (*i.e.*, not started, less than 50 percent completed, completed 50 percent or more, or fully completed). This covers the Contract (or portion thereof) funded by the ARRA. (7) A narrative description of the employment impact of work funded by the ARRA. This narrative should be cumulative for each calendar quarter and only address the impact on the Contractor's workforce. At a minimum, the Contractor shall provide - (i) A brief description of the types of jobs created and jobs retained in the United States and outlying areas (see definition in Federal Acquisition Regulation (FAR) 2.101). This description may rely on job titles, broader labor categories, or the Contractor's existing practice for describing jobs as long as the terms used are widely understood and describe the general nature of the work; and (ii) An estimate of the number of jobs created and jobs retained by the prime contractor, in the United States and outlying areas. A job cannot be reported as both created and retained. (8) Names and total compensation of each of the five most highly compensated officers of the Contractor for the calendar year in which the Contract is awarded if - (i) In the Contractor's preceding fiscal year, the Contractor received - (A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and (B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and (ii) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (9) For subcontracts valued at less than \$25,000 or any subcontracts awarded to an individual, or subcontracts awarded to a subcontractor that in the previous tax year had gross income under \$300,000, the Contractor shall only report the aggregate number of such first tier subcontracts awarded in the quarter and their aggregate total dollar amount. (10) For any first-tier subcontract funded in whole or in part under the ARRA, that is over \$25,000 and not subject to reporting under paragraph 9, the Contractor shall require the subcontractor to provide the information described in (i), (ix), (x), and (xi) below to the Contractor for the purposes of the quarterly report. The Contractor shall advise the subcontractor that the information will be made available to the public as required by Section 1512 of the ARRA. The Contractor shall provide detailed information on these first-tier subcontracts as follows: (i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company. (ii) Name of the subcontractor. (iii) Amount of the subcontract award. (iv) Date of the subcontract award. (v) The applicable North American Industry Classification System (NAICS) code. (vi) Funding agency. (vii) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract. (viii) Subcontract number (the contract number assigned by the prime contractor). (ix) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable. (x) Subcontract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable. (xi) Names and total compensation of each of the subcontractor's five most highly compensated officers, for the calendar year in which the subcontract is awarded if - (A) In the subcontractor's preceding fiscal year, the subcontractor received - (1) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and (B) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

## **ATTACHMENTS**

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|---------------------|---|
| <b>Attachment A</b> | <b>JOC General Scope of Services</b>  |
| <b>Attachment B</b> | <b>SIQ &amp; Contractor's Response</b>  |
| <b>Attachment C</b> | <b>JOC Cost Proposal Forms (Pricing Matrix, Project Cost Sheet, Contractor's Labor Rates)</b> |
| <b>Attachment D</b> | <b>Contractor's Contacts (Contact List &amp; Authorized Signature Form)</b>                   |

**ATTACHMENT A**  
**JOC General Scope of Services**

**1.0 GENERAL INFORMATION**

This is a fixed price, indefinite quantity type Contract for the performance of a broad range of construction work on an as-needed basis as may be required by Owner. The specific work requirements will be identified in Job Orders to be issued by Owner.

**2.0 DOCUMENTS**

2.1 The currently applicable pricing structure contains pricing information for the Work to be accomplished in the pricing matrix specified. The Pricing matrix can only be updated at time of yearly contract renewal by mutually agreeable change order. Previously issued Job Orders and changes will not be retroactively repriced although any changes priced after receipt of an update will be priced by the updated version of the new pricing matrix.

2.2 The construction specifications in effect at Contract signing, and provided to the Job Order Contractor, shall be the specifications under this Contract.

**3.0 WORK AUTHORIZATION**

Any Work required under this Contract shall be authorized by issuance of formal, written Job Orders, as follows:

3.1 As the need exists (as determined by Owner) for performance under the terms of this Contract, Owner will notify Job Order Contractor of an existing requirement.

3.2 Upon the receipt of this notification, Job Order Contractor shall respond within two (2) working days, or as otherwise agreed, by:

3.2.1 Visiting the proposed site in the company of Owner, or;

3.2.2 Establishing contact with Owner to further define the scope of the requirement.

3.3 After mutual agreement on the scope of the individual requirement, Job Order Contractor shall then prepare a proposal for accomplishment of the task unless Job Order Contractor, in its sole discretion, elects not to undertake the Work. If the Work is declined, Job Order Contractor will so notify Owner in a timely manner.

3.4 The price matrix shall serve as the basis for establishing the value of the Work to be performed.

3.5 Job Order Contractor's proposal shall be submitted within ten (10) working days unless otherwise agreed.

3.6 Upon receipt of Job Order Contractor's proposal, Owner will review the proposal for completeness and will reach agreement with Job Order Contractor on pricing, schedule, and all other terms, prior to issuance of a Job Order.

3.7 In the event Owner does not issue a Job Order after receipt of Job Order Contractor's proposal, Owner is not obligated to reimburse Job Order Contractor for any costs incurred in the preparation of the proposal, except as noted in § 4.8.

#### **4.0 SCHEDULING OF WORK**

**4.1** For each Job Order, Owner will issue a Notice to Proceed. The first day of performance under a Job Order shall be the effective date specified in the Notice to Proceed. Any preliminary work started or material ordered or purchased before receipt of the Notice to Proceed shall be at the risk and expense of Job Order Contractor. Job Order Contractor shall diligently prosecute the Work to completion within the time set forth in the Job Order. The period of performance includes allowance for mobilization, holidays, weekend days, normal inclement weather, and cleanup. Therefore, claims for delay based on these elements will not be allowed. When Job Order Contractor considers the Work complete and ready for its intended use, Job Order Contractor shall request Owner to inspect the Work to determine the status of completion. When Owner determines the Work to be Punch List Prepared as defined in 1.7, Owner will provide Contractor with a list of items to be completed or corrected prior to final payment for the Job Order. Job Order Contractor shall proceed promptly to complete and correct items on the list.

**4.2** Job placement of materials and equipment shall be made with a minimum of interference to Owner operations and personnel.

**4.3** Furniture and portable office equipment in the immediate work area will be moved by Job Order Contractor and replaced to its original location. If the furniture and portable office equipment cannot be replaced to its original location, Owner will designate new locations. If furniture and portable office equipment (or other items) must be moved and/or stored outside the immediate area, Owner will compensate Job Order Contractor for any such transportation and storage costs incurred.

**4.4** Job Order Contractor shall take all precautions to ensure that no damage will result from its operations to private or public property. All damages shall be repaired or replaced by Job Order Contractor at no cost to Owner.

**4.5** Job Order Contractor shall be responsible for providing all necessary traffic control, such as street blockages, traffic cones, flagmen, etc., as required for each Job Order. Proposed traffic control methods shall be submitted to Owner for approval.

#### **5.0 QUALITY ASSURANCE/QUALITY CONTROL PROGRAM**

Job Order Contractor shall submit, for Owner approval, a Quality Assurance/Quality Control Plan within fifteen (15) calendar days after issuance of the initial Job Order. This plan should address all aspects of quality control including responsibility for surveillance of work, documentation, trend analysis, corrective action and interface with Owner's inspectors.

#### **6.0 DESIGN**

Job Order Contractor's duties under the Contract include the preparation of shop drawings or sketches necessary to permit orderly construction of Owner's design plans. Job Order Contractor agrees to provide detailed design drawings and plans if requested by Owner, with reimbursement included as part of the Job Order Contractor's proposal.

#### **7.0 TEMPORARY SANITATION FACILITIES**

The Contractor shall provide ample toilet facilities with proper enclosures for the use of workmen employed on the work site. Toilet facilities shall be installed and maintained in conformity with all applicable state and local laws, codes, regulations and ordinances. They shall be properly lit and ventilated, and kept clean at all times.

Adequate and satisfactory drinking water shall be provided at all times and under no circumstances and under no conditions will the use of common cups be permitted. The Contractor must supply sanitary drinking cups for the benefit of all employees.

#### **7.1 DUST CONTROL AND WATER**

The dust control measures shall be in accordance with the requirements of the "*Maricopa County Health Department Air Pollution Control Regulations*," namely Regulation II, Rule 21, subparagraph C and Regulation III, Rule 310 shall be rigidly observed and enforced. Water or other approved dust palliative in sufficient quantities shall be applied during all phases of construction involving open earthwork to prevent unnecessary discharge of dust and dirt into the air. The Contractor shall be responsible for compliance with these regulations. A Notice to Proceed will not be issued until the City of Peoria has received a copy of the Contractor's Dust Control Permit and Plan.

The Contractor shall be required to obtain the necessary permit and all pertinent information from the Maricopa County Air Pollution Control Bureau, 2406 S. 24th Street #E-214, Phoenix, Arizona, (602) 506-6700 extension 372.

The Contractor shall keep suitable equipment on hand at the job site for maintaining dust control on the project streets, and shall employ sufficient labor, materials and equipment for that purpose at all times during the project to the satisfaction of the City Engineer.

Watering shall conform to the provisions of Section 225 of the MAG Standard Specifications. The cost of watering will be included in the price bid for the construction operation to which such watering is incidental or appurtenant.

Installation and removal of fire hydrant meters should be scheduled at least forty-eight (48) hours in advance through the City of Peoria Utilities Division at (623) 773-7160. A \$1,000 deposit is required for each meter. An additional \$28.00 service fee is also required. The cost of the water is at the prevailing rate.

#### **7.2 Electricity:**

Except for remote locations or unless otherwise specified in a Job Order, Owner shall furnish to Job Order Contractor from existing Owner facilities and without cost to Job Order Contractor, electricity necessary for the performance of work under this Contract. It is the responsibility of Job Order Contractor to determine the extent to which existing Owner electrical facilities are adequate for the needs of this Contract.

Upon completion of this Contract the removal of all taps, connections and accessories will be accomplished by and at the expense of Job Order Contractor, and costs included in the Job Order Proposal, so as to leave the electrical power source and facility in its original condition. Such removal shall also be subject to the approval of Owner.

#### **8.0 WORK BY OWNER**

Owner reserves the right to undertake or award Contracts for the performance of the same or similar type work contemplated herein, and to do so will not breach or otherwise violate the Contract.



**ATTACHMENT B**  
**SIQ & Contractor's Response**  
**(See Attached)**



**STATEMENT OF INTEREST AND  
QUALIFICATIONS**

Solicitation Number: P13-0042

**Materials Management  
Procurement**  
9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, Arizona 85345-6560  
Phone: (623) 773-7115  
Fax: (623) 773-7118

**REQUEST FOR  
STATEMENT OF INTEREST & QUALIFICATIONS**

**JOB ORDER CONTRACTING**  
for

**WATER and WASTEWATER FACILITIES PROJECTS**

**P13-0042**

**Due Date: February 6, 2013, 5:00 PM Arizona Time**

City of Peoria  
Materials Management Division  
Contact: Christine Finney  
9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, Arizona 85345  
(623) 773-7115



## STATEMENT OF INTEREST AND QUALIFICATIONS

Solicitation Number: P13-0042

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Procurement  
9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
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### JOB ORDER CONTRACTING For Water & Wastewater Facilities Projects

#### **SECTION 1 - INTRODUCTION**

##### **1.1 Introduction**

The City of Peoria Arizona is seeking experienced contractors to provide services as described below for various projects utilizing Job Order Contracting (JOC) project delivery. Job Order Contracting may include design services, pre-construction services, construction work, maintenance and as-built documents. The contract period will be for an initial term of one (1) year with no more than four (4) additional one-year extensions.

During the term of the contract, work shall be conducted as a series of individual job orders. Projects determined by the City to be appropriate for this Job Order Contract, the City will request that the Contractor prepare a scope of work, cost proposal and project schedule. If acceptable, the City will issue an Individual Job Order Agreement and direct the Contractor to proceed with the work. Although the City anticipates that awarded Contractors will be issued work, the Contractor is neither guaranteed a minimum amount of work nor any jobs at all. The City reserves the right and will issue job orders based on ability of the Contractor to meet the City's work schedule and the availability of trades and expertise in relation to each project.

##### **1.2 Cooperative Purchasing**

Any contract resulting from this solicitation shall be for the use of the City of Peoria. In addition, specific eligible political subdivisions and nonprofit educational or public health institutions may also participate at their discretion. In order to participate in any resultant contract, a political subdivision or nonprofit educational or public health institution must have been invited to participate in this specific solicitation and the contractor must be in agreement with the cooperative transaction. In addition to cooperative purchasing, any eligible agency may elect to participate (piggyback) on any resultant contract; the specific eligible political subdivision, nonprofit educational or public health institution and the contractor must be in agreement.

Any orders placed to the successful contractor will be placed by the specific agencies participating in this purchase. Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The City shall not be responsible for any disputes arising out of transactions made by others.

##### **1.3 Project Budget**

The City of Peoria Capital Improvement Program identifies funding for projects in fiscal year 2013 and shows planned projects for the next ten years. A copy of the City's ten year CIP can be viewed at <http://www.peoriaaz.gov/NewSecondary.aspx?id=54959>. The approved 2013 budget is available to fund various projects utilizing the awarded JOC contract. Estimated value (combination of all projects) is between \$5,000,000 and \$6,000,000 in the first whole fiscal year (2014). Projects may extend into the next fiscal year and beyond but in no instance will any one project under this JOC exceed \$3,000,000.



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### 1.4 Project Schedule

The City of Peoria has elected to use the JOC delivery method for these projects as outlined under A.R.S. Title 34. Cost effective construction in the shortest possible time frame and within the City's tolerance of financial risk will be the guiding principles behind the various water and wastewater facilities projects.

## SECTION 2 – PROJECT DESCRIPTION & SCOPE OF WORK

### 2.1 Description

This Job Order Contract is issued to assist the City of Peoria with general construction services, together with architectural and engineering services as necessary, as they pertain to utility water and wastewater facilities construction projects. Interested contractors will have the ability to show related experience and a proven track record in projects of the same nature and magnitude. The selected contractors will be expected to deliver turn key projects, including all permitting and compliance with regulatory requirements.

For any project determined by the City to be appropriate for this Job Order Contract, the City will request that the contractor prepare a scope of work, cost proposal and project schedule. If acceptable, the City will issue an individual Job Order. Although the City anticipates that JOC Contractors will be issued work, the Contractor is neither guaranteed a minimum amount of work nor any jobs at all. The City reserves the right and will issue job orders based on ability of the contractor to meet the City's work schedule and the availability of trades and expertise in relation to each project.

### 2.2 Scope of Work

The City of Peoria owns and maintains a network of water, reclaimed water, and wastewater facilities. Currently the City of Peoria owns two (2) water treatment plants, three (3) water reclamation facilities, and approximately fifty (50) off-site facilities that include wells, recharge wells, reservoirs, booster stations, pressure reducing stations, and lift stations.

The successful Job Order Contractor, under the direction of the City of Peoria will be responsible for all aspects of construction and all phases of the project. The Job Order Contractor shall be responsible for professional quality, technical accuracy and coordination of all design, drawings, specifications, and all other construction services provided under the Job Order Contract.

Interested contractors must have experience in the following areas:

Water Treatment & Water Production Facilities - Design and construction of new facilities or rehabilitation of existing water treatment plants, booster stations, reservoirs, and any other water related facilities. Scope for these jobs will include any or all of the following: earthwork and landscaping, structural, electrical, mechanical, instrumentation and control and SCADA, and any other functions required.

Water Reclamation & other Wastewater Facilities - Design and construction of new facilities or rehabilitation of existing water reclamation facilities, lift stations, and any other wastewater and reclaimed water related facilities. Scope for these jobs will include any or all of the following:



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earthwork and landscaping, structural, electrical, mechanical, instrumentation and control and SCADA, and any other functions required.

**Well Sites** - Design and construction of wells, and rehabilitation or repair of well sites. Scope for these jobs will include any or all of the following: earthwork and landscaping, well drilling and equipping including structural, electrical, mechanical, instrumentation and control and SCADA, and any other functions required.

**Additional Activities** – The following work activities may be included in individual projects. The successful Contractors shall have experience, knowledge, and ability to accomplish these tasks. Not all activities will be included in all projects.

- Design services or post design services – Design services or post design services may be required for some of the projects. The scope of work for design or post design services, when applicable, will be defined by the City and included in the job order. The Job Order Contractor shall use Arizona registered professional engineering firms to prepare and seal construction documents. Any as-builts required to be completed as part of the post design services shall be in accordance with Chapter 7 of the City of Peoria Infrastructure Design Guidelines.
- Permitting - Obtain all necessary permits required to complete the project, including but not limited to; Engineering Off-site, Building Safety, haul route, stockpile, SWPPP, dust control, traffic control plans, MCESD approval to construct, approval of construction, etc.
- Maintaining traffic control when required according to the approved traffic control plans.
- Placing asphalt pavements including full depth sections, overlays, patches and repairs to restore areas damaged by construction.
- Placing concrete pavements including curb and gutter, driveways, sidewalks, to restore areas damaged by construction.
- Restoration of landscaping to restore areas damaged by construction.
- Utility Locating (potholing) underground utilities and obstructions.
- Provide pipeline and equipment testing as required.
- Other related work or ancillary trades including but not limited to public involvement, utility relocation, , road repair, electrical, paving and concrete/block walls.

The existing operations and functions shall be maintained during construction. It is anticipated that the construction activities will be coordinated and phased in such a manner that will not compromise the ongoing operations. In addition, security of the site and property is of paramount concern and a security and access plan will be required prior to the start of any construction.



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### 2.3 Sample Project

The following is a sample of a typical project that may be done under this Job Order Contract. This sample project is provided for contractors to use in completing their Project Assessment Plan so the City can see how your firm would approach a project if awarded the contract. The City is currently in the design phase and anticipates retaining the services of one of the awarded Job Order Contractors resulting from this SIQ.

The example project identified by the City is the construction of a 100,000 gallon underground concrete reservoir and booster pump station at the Butler Water Reclamation Facility (see Appendix 2). This new infrastructure will provide increased quantities of reclaimed water for all potential future customers identified within the service area boundaries of the Butler Reclaimed Water System.

The Contractor will be required to provide a project scope plan showing the process to be followed through the design/preconstruction, permitting, construction and close-out phases of the project.

### SECTION 3 – EVALUATION CRITERIA

#### 3.1 Evaluation and Job Order Contractor Selection

The Job Order Contractor will be selected through a qualifications based selection process - do not include pricing information with the Statement of Qualifications. A short list of qualified and available firms will be developed and contracts will be awarded based on the City's needs. The City of Peoria intends to select multiple Job Order Contractors for the award of this Job Order Contract.

The City of Peoria is currently looking to establish a Job Order Contract (JOC) for indefinite quantity and indefinite delivery for various utility related construction projects. Interested contractors will have the ability to show related experience and a proven track record in projects of the same nature and magnitude. The selected Contractors will be expected to deliver turn key projects, including all permitting and regulatory requirements.

For any project determined by the City to be appropriate for this Job Order Contract, the City will issue an Individual Job Order, at which time the parties will execute a Project Agreement specifying the cost and completion schedule for that project. Although the City anticipates that Job Order Contractors will be issued work, the Contractor is neither guaranteed a minimum amount of work nor any jobs at all. The City reserves the right and will issue delivery orders based on ability of the Job Order Contractor to meet the City's work schedule and the availability of trades and expertise in relation to each project.

#### 3.2 Evaluation Process

The contractor(s) will be selected through a qualifications based selection process. The City expects to award the project to the best valued contractor(s) based on the requirements in this solicitation. The contractor selected for qualification will be the contractor whose qualification is responsive, responsible, and the most advantageous to City, as determined by City in its sole discretion. The City reserves the right to add, delete, or modify any part of this solicitation at City's sole discretion. The City will evaluate contractors based on the overall value of each qualification. Contractors interested



# STATEMENT OF INTEREST AND QUALIFICATIONS

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Solicitation Number: P13-0042

in providing services must submit a Statement of Qualifications (SOQ) that addresses the points as outlined herein.

### 3.3 Key Personnel

The City expects the interested firms to identify within their organizations, individual(s) assigned to provide the following functions throughout the life of the contract:

- JOC Account Management
- Preconstruction Services
- Estimating
- Construction Management
- Field Supervision

### 3.4 Criteria and Weights

The City will evaluate contractors based on the overall value of each qualification. Evaluation criteria will be weighted according to the following categories:

Category	Weight
Responsiveness	Pass/Fail
References	Pass/Fail
Project Assessment Plan:	
Scope Plan	25%
Risk Assessment / Value Added	25%
Project Schedule / Subcontractor Selection Plan	5%
Interview	45%

#### 3.4.1 Responsiveness (Pass/Fail)

Contractors must prepare qualifications that follow the format and sequence specified in this solicitation. This includes adherence to the format of any attachments. The following conditions/criteria must be met in order to be considered responsive:

- The Contractor will complete and provide all information in **Attachment A (Proposal Form)**
- The Contractor will complete and provide all information in **Attachment B (Reference List)**
- The Contractor will complete and provide all information in **Attachment C (Project Assessment Plan)**
- The Contractor will complete and provide all information in **Attachment D (Project Schedule and Subcontractor Plan)**

#### 3.4.2 References (Pass/Fail)

- The Contractor will submit 3 references as outlined in **Attachment B**.

#### 3.4.3 Project Assessment Plan (Weighted at 50%)

- The Contractor will submit a Project Assessment Plan as outlined in **Attachment C**.



## STATEMENT OF INTEREST AND QUALIFICATIONS

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- The PA Plan must be 4 pages or less (2-pages for Scope Plan (25%), and 2 pages maximum for risk assessment and value added (25%) items).
- The PA Plan shall NOT contain any names or information that can be used to identify the Contractor.
- The Contractor must use the template as provided in **Attachment C**. Contractors may not re-create or modify this attachment (no color, black ink only, no font changes, no pictures, no diagrams, etc).
- Any plan that does not follow these requirements, or contains names or information that can be used to identify who the contractor is, may be marked as unresponsive and eliminated from the evaluation process.

### **3.4.4 Project Schedule & Subcontractor Selection Plan (Weighted at 5%)**

- Provide a 1 page Gantt style project duration schedule for the project that only conveys major milestones, including City approval processes, and final submittal to the City (Attachment D).
- Provide a detailed 1-page subcontractor selection plan that uses qualification and price in the selection criteria (Attachment D). The contractor should describe how they will pre-qualify and select their subcontractor as required per ARS 34-603.
- The Project Schedule and Subcontractor Selection Plan shall NOT contain any names or information that can be used to identify the Contractor.

### **3.4.5 Interviews (Weighted at 45%)**

- The City will shortlist contractors based on the criteria in this section.
- The City may interview all of the critical team components proposed.
- The City may request to interview additional personnel.
- The City may interview individuals separately and/or as a group.
- The City may request a list of similar past projects from each team member.
- For this project, Contractors may bring up to two additional team members at their discretion to the interview. These additional team members will only be allowed in the interview during the 15-minute presentation and will not be interviewed or scored. The purpose of this is to allow Contractors to bring in up to two additional team members whom they feel are important to this projects success.
- **Important Note:** All proposed team members must be available for interview on the date specified in this solicitation. No substitutes or proxies will be allowed. Individuals who fail to attend the interview will not be given a score which may jeopardize the contractor's competitiveness.

## **SECTION 4 – SELECTION PROCESS**

### **4.1 Interview and Selection Process**

Contractors will be prioritized and selected through a qualifications based selection process based on the criteria in Section 3. A selection committee will evaluate and score each Project Assessment Plan. The City will use a Linear Relationship Model (LRM) as outlined in Appendix 1 to assist the City in ranking the contractors.

A selection committee will evaluate and score each SOQ and interview the top 3 to 5 contractors





## STATEMENT OF INTEREST AND QUALIFICATIONS

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based on the scores from the Project Assessment Plan, Schedule and Subcontractor Selection Plan. After conducting the interviews, investigations of the contractors will be performed by the City.

For this project the Final List will consist of the top 3 scoring contractors (based on PA Plan scores, Interview scores, Pass/Fail Reference, and Pass/Fail Responsiveness).

### 4.2 Identification of Potential Best-Value

Scores from the interview will be used to determine the final ranking order of the shortlisted contractors.

The top selected contractor(s) on the final list will then enter into negotiations with the City to reach agreement on final contract form, content and fee structure.

If the City is satisfied with the potential best-value contractor(s), they will proceed to issue an award. If the City is not satisfied with the negotiations, the City may consider breaking off negotiations and selecting the next contractor on the final list for potential award.

## SECTION 5 – POST AWARD ACTIVITIES

### 5.1 Weekly Reporting System

Once a Notice to Proceed has been issued, the awarded Contractor will be required to submit weekly reports documenting risks on the project. The weekly reports are due every Friday, until the project is closed out or project has been accepted and final payment is received. For projects with a duration of less than 6 months, the weekly report will be at the discretion of the City's project manager.

### 5.2 Post Project Evaluation

For contracts that span over multiple years, the City will perform annual project evaluations prior to contract renewal. The City will evaluate the overall performance of the project team (including, but not limited to: overall quality, on-time completion, no cost change orders, compliance to budget, no complaints, ability to work with the City staff, and submission of accurate weekly reports). The final rating will be used towards future City of Peoria projects.

## SECTION 6 – CRITICAL DATES

### 6.1 Pre-Submittal Conference

A pre-submittal conference will be held on **Tuesday, January 22<sup>nd</sup> at 10:00 a.m. Arizona Time**. The meeting location is the City of Peoria, Development and Community Services Building, Point of View Conference Room, 9875 N. 85<sup>th</sup> Avenue, Peoria AZ, 85345.

Staff may not be available to respond to individual inquiries regarding the project scope outside of this pre-submittal conference. All interested parties are urged to attend this meeting.



## STATEMENT OF INTEREST AND QUALIFICATIONS

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### 6.2 Critical Dates:

The following are the critical dates for this project. Please be advised that these dates are subject to change as deemed necessary by the City.

January 22, 2013	Pre-Submittal Conference
February 6, 2013	Submittals Due
February 14, 2013	Notification of Interviews
February 26, 2013	Interviews (shortlisted contractors only)
February 28, 2013	Best-Value Contractor Notification

### SECTION 7 – SOQ SUBMITTAL FORMAT

#### 7.1 Submittal Format

- The SOQ must be submitted to the contact listed in Section 7.2. The copies should be stapled (and not bound) to facilitate easy handling, photocopying, and reading by the evaluation committee.
  - No faxed or emailed SOQs will be considered.
  - The SOQ must be received by the date listed in Section 7.2
1. Attachment A: Proposal Form – One (1) original must be submitted.
  2. Attachment B: Reference Form – One (1) original must be submitted.
  3. Attachment C: Project Assessment Plan – Six (6) copies of the completed 2-page scope plan, 2-page project assessment and value added plan must be submitted.
  4. Attachment D: Project Schedule and Subcontractor Selection Plan – Six (6) copies of the 1 page project schedule and six (6) copies of the 1 page subcontractor selection plan must be submitted.

#### 7.2 Submittal Due Date and Contact Information

- Proposal Responses must be received by 5:00 p.m. (AZ time) on February 6, 2013.
- Contact Information

Attention: Christine Finney, Buyer II  
SOQ #: P13-0042 – JOC for Water and Wastewater Facilities Projects  
City of Peoria Materials Management  
9875 N. 85<sup>th</sup> Avenue, 2<sup>nd</sup> Floor  
Peoria, Arizona 85345



## STATEMENT OF INTEREST AND QUALIFICATIONS

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### 7.3 Disqualification

Please be advised that failure to comply with the following criteria may be grounds for disqualification and will be strictly enforced:

- Receipt of SOQ at the proper location by the specified date and time
- The number of copies of the submittal requested
- Adherence to maximum page requirements
- Not submitting all required documentation
- Adherence to having no identifying information (except for Attachments A & B)

## SECTION 8 – GENERAL INFORMATION

### 8.1 Questions

- All questions regarding this SOQ must be submitted in writing by emailing:  
[Christine.Finney@PeoriaAZ.Gov](mailto:Christine.Finney@PeoriaAZ.Gov)
- Inquiries within 48 hours preceding the due date & time will not be addressed.

### 8.2 General Information

- **Instructions:** The City of Peoria shall not be held responsible for any oral instructions. Any changes to this SOQ shall be in the form of a published addendum.
- **Contact:** Contact with City of Peoria staff, elected or appointed officials, or selection committee members concerning this SOQ, at any time, in any venue, is strictly prohibited, except as described in Section 8.1 above, and may be grounds for disqualification.
- **Costs:** The City of Peoria will not be responsible for any costs incurred by any contractor submitting an SOQ or responding to this notice. The City reserves the right to waive any irregularities in any submittal and to reject all submittals and re-advertise or cancel the project in its entirety, at its sole discretion. The City reserves the right to request clarification or additional information.
- **Material:** All materials submitted in response to this solicitation become the property of the City, and may become a part of any resulting contract. Award or rejection of a proposal does not affect this right.
- **Compliance:** The selected contractor will be required to comply with the Legal Arizona Workers Act.
- **Federal Funds:** The selected contractor will be required to comply with all associated Federal Compliance Regulations for any federally funded projects that may be done under this JOC contract.



## STATEMENT OF INTEREST AND QUALIFICATIONS

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### 8.3 Protest Policy and Procedures

- The City of Peoria Protest Policy and Procedures are available online at
- <http://www.peoriaaz.gov/NewSecondary.aspx?id=53287>. The policy is contained within the City of Peoria Procurement Code, Chapter 2- Administration, Section 2-321. Procurement Code Protests; Informal and Formal.
- The specific protest procedures are contained in the Materials Management "Administrative Guidelines" and can be accessed at <http://www.peoriaaz.gov/NewSecondary.aspx?id=54937> under the "DOWNLOADS" box on the right side of the web page.

### 8.4 Attachments (All must be completed and returned to be considered responsive)

Attachment A: Proposal Form  
Attachment B: Reference List  
Attachment C: Project Assessment Plan (Scope Plan & Risk/Value Added Plan)  
Attachment D: Project Schedule and Subcontractor Selection Plan

### 8.5 Appendices

Appendix 1: Scoring and Ranking Submittals  
Appendix 2: Example Project

*The JOC Contract template (for review only) and all templates for Attachments A, B, C, and D can be accessed on the City's FTP website.*

#### *FTP Site Access Directions:*

*Using your Web Browser, enter the following address:*

<ftp://cityftps.peoriaaz.gov>

*You will be prompted for a User ID and Password.*

*User ID: ftpsolicitation*

*Password: AEC91&lv*

*(password is case sensitive)*

*You should then see the available file. The file name for this project is P13-0042 – JOC for Water and Wastewater Facilities Projects. You can copy or download to your computer or server. Download speed will depend on the internet connection speeds on both sides.*

*If you have trouble moving beyond the prompt for user id and password, it is likely your network or pc's firewall and/or anti-virus software is blocking access. Temporarily turning off your firewall and/or anti-virus software should allow you to continue with access.*



# STATEMENT OF INTEREST AND QUALIFICATIONS

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## ATTACHMENT A PROPOSAL FORM

One (1) original of this Proposal Form (Attachment A) must be completed and sent to the City of Peoria. Please staple Proposal Form (Attachment A) to the original Reference form (Attachment B), Project Assessment Plan (Attachment C) and Project Schedule and Subcontractor Selection Plan (Attachment D).

**Project Team:**

Name of Job Order Contractor (Contractor):	<u>MGC Contractors, Inc.</u>
Name of JOC Account Manager (Individual):	<u>Randy Gates</u>
Name of Preconstruction Manager (Individual):	<u>Greg Beetem</u>
Name of Estimator (Individual):	<u>Mike Panter</u>
Name of Construction Manager (Individual):	<u>Greg Beetem</u>
Name of Field Supervisor (Individual):	<u>Doug Hoopes</u>

**Bonding:**

Individual project bonding capacity:	<u>\$30,000,000</u>
Total bonding capacity:	<u>\$180,000,000</u>
Amount of bonded contracts currently in process:	<u>\$29,263,500</u>

The Project Assessment Plan, Project Schedule and Subcontractor Selection Plan must NOT contain any information that may identify the Contractor or critical team members.

MGC Contractors, Inc.

Name of Company  
Randy L. Gates - President

Printed Name and Title of Contractor Representative  
4110 E. Elwood Street Phoenix, AZ

  
Signature of Contractor Representative  
85040

Address  
(602) 437-5000 City, State  
(602) 470-4000 Zip Code  
February 6, 2013

Phone  
Randy@mgccontractors.com Fax Date

Email  
General Engineering A – ROC069949, General Commercial B1 – ROC071441

Contractor License Number



# SOLICITATION AMENDMENT

Solicitation No: P13-0042  
 Description: JOC for Water & Wastewater Treatment Facilities Projects  
 Amendment No: One (1)  
 Solicitation Due Date: February 6, 2013  
 Solicitation Due Time: 5:00 P.M. Arizona Time

**Materials Management Procurement**  
 9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
 Peoria, Arizona 85345-6560  
 Telephone: (623) 773-7115  
 Fax: (623) 773-7118

**Buyer: Christine Finney**

**A signed copy of this Amendment shall be received by the City of Peoria, Materials Management no later than the Solicitation Due Date and Time.**

## I. CLARIFICATIONS:

A. The Pre-Proposal Presentation, Slide Number 25, Entitled Scope of Work, is hereby REVISED for the purposes of clarification. Additional items have been added which more accurately coincide with the Scope of Work identified on Pages 3 & 4 of the SIQ. Revised Slide #25 attached.

## II. REVISIONS:

A. ATTACHMENT B, Reference List (Page 14) is hereby REVISED as follows:

The Section marked "Annual Value" is revised to read "Project Value". Revised Page 14 attached.

**Nothing Further**

*All other provisions of this Solicitation shall remain in their entirety.*

Vendor hereby acknowledges receipt and agreement with the amendment.

  
 \_\_\_\_\_  
 Signature Date

February 6, 2006

Randy L. Gates - President  
 \_\_\_\_\_  
 Typed Name and Title

MGC Contractors, Inc.  
 \_\_\_\_\_  
 Company Name

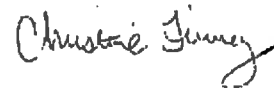
4110 E. Elwood Street  
 \_\_\_\_\_  
 Address

Phoenix Arizona 85040  
 \_\_\_\_\_  
 City State Zip

The above referenced Solicitation Amendment is hereby Executed

January 24, 2013

at Peoria, Arizona by:





## STATEMENT OF INTEREST AND QUALIFICATIONS

Solicitation Number: P13-0042

Materials Management  
Procurement  
9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, Arizona 85345-6560  
Phone: (623) 773-7115  
Fax: (623) 773-7118

### ATTACHMENT B REFERENCE LIST

#### HOW TO CREATE AND SUBMIT A REFERENCE LIST

1. The reference list must contain different projects. You cannot have multiple people evaluating the same job. However, one person may evaluate several different jobs.
2. The references for past projects must be of similar size and scope for the type of project being solicited.
3. The past projects must be completed past projects (no on-going or substantially complete projects).
4. The City will contact the references for additional information and clarification. If the reference cannot be contacted, there will be no credit given for that reference and your firm may be eliminated from the selection process.



# STATEMENT OF INTEREST AND QUALIFICATIONS

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## REVISED ATTACHMENT B REFERENCE LIST

Please list a minimum of three (3) owner references from similar completed projects within the past three (3) years whom the Materials Management Division may contact:

1. Company: City of Peoria – Butler Road WRF Effluent Modifications  
 Contact: Mr. Daniel Kiel, P.E. Phone: (623) 773-7982  
 Address: 8401 W. Monroe Street, Peoria, AZ 85345  
 Description of Work: Installation of first phase of reclaimed water distribution system which included a 23,000 gallon hydro tank, distribution piping, flow meter and chlorine feed.  
 Project Value: \$446,229  
 Date Completed: January 2011
  
2. Company: City of Phoenix – 4C-B1 Pump Station Upgrade (JOC)  
 Contact: Mr. Gary Neden, P.E. Phone: (602) 495-7389  
 Address: 200 W. Washington Street 8th Floor Phoenix, AZ 85033-1611  
 Description of Work: Addition of 2 surge tanks and 3 booster pumps and a new motor control center within an operating facility  
 Project Value: \$1,035,000  
 Date Completed: June 2011
  
3. Company: City of Scottsdale – Water Campus Re-Use Water Pump Station (JOC)  
 Contact: Mr. Chuck Hill Phone: (480) 312-7250  
 Address: 9388 E. San Salvador Dr. Scottsdale, AZ 85258  
 Description of Work: Remove and replace ancillary process water pump station while maintaining operations of the ancillary process water system in an active WRF.  
 Project Value: \$446,196  
 Date Completed: August 2011





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### ATTACHMENT C PROJECT ASSESSMENT PLAN GUIDE AND TEMPLATE

#### **Introduction**

The purpose of the Project Assessment (PA) Plan is to identify if a contractor can quickly identify the risks on a future project in terms of cost, time, and client expectations (of quality and performance). The PA Plan is used to:

1. Assist the client in prioritizing contractors based on their ability to understand the risks of a project.
2. Provide high performing contractors with an opportunity to differentiate themselves from their competitors.
3. Minimize the effort of experienced companies who are competing for the project.

Contractors should keep in mind that the PA Plan is only one step in the selection process. If all the PA Plans are the same, the PA Plan will have little impact in the selection (other factors, such as the interview will dictate the selection). The PA Plan will become part of the contract.

#### **PA Plan Format**

The PA Plan contains three major sections: Scope Plan, Potential Risks and Solutions and the Potential Value Added Options. The City's goal is to make the selection process as efficient as possible. Efficiency is to minimize the effort of all participants, especially those who will not be awarded the project. Therefore, the PA Plan should be brief and concise. The PA Plan shall NOT exceed 4 pages front side of page only (2 pages Scope Plan, 2 pages combined for Risks and Value Added Ideas).

In order to minimize any bias by the evaluation committee, the PA Plans shall NOT contain ANY names (such as contractor or manufacturer names, personnel names, project names, product names, or company letterhead). A PA Plan template is attached and must be downloaded from the FTP site. Contractors are NOT allowed to re-create the PA Plan Template (cannot alter font size, font type, add colors, add pictures, etc). Failure to comply with these requirements may result in disqualification. The PA Plans should not contain any marketing information, brochures, product names, technical information, or general items. All documents shall be on 8½" x 11", in black and white ink only, no graphics or pictures.

#### **Overview of the Scope Plan Section**

The purpose of the scope plan submittal is an opportunity for the contractor to differentiate themselves by giving a concise and well organized description of the project. The Scope Plan should be a succinct summary of the project and should be used to prove to the client that the contractor can visualize what they are going to do before they do it. The Plan should identify the major components, risks, and show contractors capability to predict, preplan, prioritize and minimize technical risks.

#### **Overview of the Risk Assessment Section**

The contractor should clearly address the following items:

1. List and prioritize major risk items that are unique to this project. This includes areas that may cause the project to not be completed on time, not finished within budget, generate any change orders, or may be a source of dissatisfaction for the owner. Risks can include things that you control and things that you do not control.
2. Explain how the contractor will avoid / minimize the risk. If the contractor has a unique method to minimize the risk, they should explain it in non-technical terms.

#### **Overview of the Value Added Item Section**

The contractor should identify and list any value added options that they feel may apply to this project. Do not include marketing material.



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## ATTACHMENT C PROJECT ASSESSMENT PLAN

### SECTION 1 – SCOPE PLAN

It is our understanding that the City of Peoria (City) wishes to engage multiple general contractors to provide water and wastewater preconstruction and construction services via the Job Order Contracting (JOC) project delivery method with no single project to exceed \$3,000,000. In response to the City's Request for Statement of Interest and Qualifications (SIQ), proposers are to provide a step-by-step plan for the implementation of the Butler Water Reclamation Facility Effluent Line Modifications Phase 2 (Project) to convey their interest, knowledge of the project and ability to complete the project.

The purpose of the project is to convey effluent for reuse to a new adjacent community park and other existing or new consumers on the City's reclaimed water distribution system.

The new project elements include:

- An underground concrete storage tank currently planned to have a 100,000 gallon capacity
- Vertical turbine pumps likely to be VFD driven
- A standalone disinfection and sampling system
- Valves, flow meter, piping and appurtenances
- Primary power feed, secondary electrical, instrumentation and control systems
- Tie-in to an operating WRF

We will use our proven JOC methodology (more than \$50M experience and average size of approximately \$800K) to produce this project for the City. We have dedicated JOC resources that include several smaller, more mobile crews than those typically utilized on large treatment plant projects. We have tailored these crews toward delivering JOC projects efficiently and economically, accounting for the fact that these projects are typically smaller and on a fast track to completion. If design services are required for subsequent projects we will consult with the City and subcontract the best qualified firm for the design.

To prepare our schedule for the sample project included in Attachment D we have:

- Carefully read the SIQ
- Studied the information provided on the sample project carefully
- Attended the pre-submittal conference and visited the site
- Incorporated our many years of Reclaimed Water Distribution System experience in the Valley

Our approach to this project will begin with the preconstruction phase in which we will provide design collaboration with the City and the Engineer of Record to provide thorough Risk Assessments and Value Added advice to the Team. Our advice could save the City upwards of \$78,000 on this project and will highlight such items as accounting for the addition of the system's largest user – the adjacent community park – and will pay particular attention to fine tuning the layouts of piping and pumping systems for optimum operability and cost effectiveness. Another focus of our VA – one that is often overlooked by contractors – is avoiding premature corrosion caused by dissimilar metals, thereby extending the life of the system.

We will utilize existing as-built drawings, Bluestake, potholing and private locating services if necessary to confirm locations of underground utilities that could impact the project. As a pre-installation and pre-fabrication quality control step, we will use our in-house CAD department to detail all site layouts to make sure equipment, structures and piping are ordered, fabricated and constructed properly to fit together seamlessly. Our level of detail goes as far as valve handle orientations and exact pipe support locations. Not only does this step help to avoid costly mistakes, but it allows City operations staff the opportunity to see their actual facility before it's built and apply their specialized



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knowledge by suggesting changes that may improve operability.

To ensure the project is delivered on time, we suggest beginning procurement of long lead items such as pumps and electrical switchgear during the preconstruction phase. This may be accomplished by the City prepurchasing these items or phasing the project to allow us to purchase the items during the preconstruction services phase. We will initiate the development of a primary power design through Arizona Public Service early on to ensure power is available in time to start up the project. During this phase we will also begin communicating with Maricopa County Environmental Services Department and the City's Building Safety and Engineering Departments to obtain an Approval to Construct and all other required construction permits as soon as the design is completed.

We will develop a cost model and initiate a design log at notice to proceed. The cost model will be adjusted as the design progresses to ensure the project remains under budget. We will use the design log to complement the cost model so the team can monitor scope versus budget before additions become a threat to the overall project. The cost model will be converted to a Guaranteed Maximum Price (GMP) at the end of the preconstruction phase. Using this proven cost monitoring process will ensure the City will not see change orders for any reason other than City initiated changes to the project scope.

The construction phase will begin after the City's acceptance of the aforementioned GMP. After receiving Notice to Proceed and securing all permits, we will begin onsite with installing safety measures for protection of personnel and existing facilities, then initiate our dust and noise control programs. We will commence construction by building the project from the ground up, starting with excavation and preparation of the reservoir sub-grade. Construction of the reservoir structure will come next, along with installation of pipelines and other items within the excavation, specifically including tie-in to the existing RWDS pipeline up to the first valve on the Phase 2 system. We will backfill the excavation and begin work on grade after leak testing the reservoir. The work at this level involves careful coordination between electrical, concrete and mechanical crews to complete the pumps, piping, disinfection and control systems. Each system will then be tested individually prior to commissioning of the overall facility.

Particular attention will be paid to the 30" tie-in to the Butler effluent line. A detailed MOPO (maintenance of plant operations) will be developed to insure no unplanned outages or unexpected consequences will be encountered. For this tie-in, we intend to pre-build a header including a valve so as little work as possible is required when the effluent line is actually shut down. Effluent flow patterns will be analyzed and an ideal time frame for shutting down the line will be determined. On a system like Butler's, low flows are usually experienced around 3:00 AM. Our crews are adept at working at night during important MOPOs such as this. Rest assured we will use our experience to handle high risk situations like this flawlessly.

To achieve Final Project Completion several steps must first be completed, including:

- *Commissioning* of the facility and establishing beneficial use
- Completion of initial and final *punchlists*
- Final *painting* – usually the final construction step after all wrenches are done turning for a clean finish
- Final *as-builts* – including red-lined contract drawings as well as CAD layout drawings we developed
- *Training* of operations staff on not only individual pieces of equipment but on the system as a whole
- Close out of all *permits*
- Final *invoicing*, lien releases and execution of affidavits required by the City
- Inventory and turnover of *spare parts*
- Completion and turnover of final *Operations and Maintenance Manuals*

We will deliver a high quality addition to the City's Reclaimed Water Distribution System and pledge to deliver the project for less than the Guaranteed Maximum Price—**no change orders!** We will be servicing the project long after completion by responding rapidly to any warranty claims that may arise. We will strive to exceed the City's expectations on this and any other JOC projects we are assigned.



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## ATTACHMENT C PROJECT ASSESSMENT PLAN

### SECTION 2 – IDENTIFICATION & MINIMIZATION OF RISK

<b>Risk 1:</b>	There is a tendency to design pumping systems that perform in a worst case scenario. These pumping systems can be hard to operate, have high capital costs and are not energy efficient.
<b>Solution:</b>	As the Job Order Contractor we will thoroughly review all designs for constructability and operability to develop the optimum pumping configuration for this system and include the existing hydro tank (completed in January 2011) into the capacity calculations. We will utilize our decades of experience designing and constructing pumping systems along with a recommendation to perform a hydraulic study of the entire reclaimed water system to ensure the project team provides the most efficient and reliable system, while still maintaining flexibility for the best <i>and</i> worst case scenarios.
<b>Risk 2:</b>	Some project schedules are negatively impacted because the primary power provider is not fully informed about the requirements of the project.
<b>Solution:</b>	We will actively pursue the provider to install the primary power before it is needed for startup and testing. Our schedule, included in this proposal, indicates that installation of primary power can become a critical schedule item if we do not proactively manage this activity (early and frequent communication) to ensure primary power is ready when we need it. Maintaining constant communication with the provider is the key to preventing unnecessary delays.
<b>Risk 3:</b>	An enhancement to the City – the Community Park – is being developed adjacent to this project. This requires sensitivity to the risks associated with disturbing citizens using the park, as well as minding the needs of the plants and wildlife that will be attractions within the park.
<b>Solution:</b>	Our construction sequencing plan will account for scheduled park events and our work schedule will be adjusted to avoid any construction activities that may impact those events. We will provide continual, extensive dust control on the project so that no dust is transmitted to the park. We will conduct an ambient noise study in the park adjacent to the facility, revise the study during reuse pumping system operations and install permanent noise attenuation systems to achieve pre-project noise levels. Close attention must be paid to disinfectant levels in the reclaimed water sent to the park. For instance, too high of chlorine levels can be hazardous to the grass and the fish in the lake.
<b>Risk 4:</b>	Tying this project into existing operating facilities presents the risk of overflows inside and outside the plant.
<b>Solution:</b>	Our company will develop highly detailed maintenance of plant operations (MOPO) plans that will consider and mitigate any risk associated with connecting the new system into the existing plant. Actual shutdown durations will be kept to a minimum and we will proactively manage all MOPO activities to their successful completion.
<b>Risk 5:</b>	There are several methods of disinfection that can be used on this project and each of them have benefits and risks. For example, chlorine gas is inexpensive but requires air quality sensors and alarms, whereas liquid chlorine can be more expensive than gas but has less biological risk.
<b>Solution:</b>	We will insist that the design team take all risks and benefits of the various methods into consideration and will install the disinfection system in accordance with all plans and regulations to mitigate personnel and material risks associated with this system. We will require the preconstruction team to study the life cycle costs of each disinfection system and weigh these costs against the risks to insure the optimum disinfection methods are employed.
<b>Risk 6:</b>	Dissimilar metals can cause premature corrosion – not only in the piping systems, but inside the pumps and other equipment.
<b>Solution:</b>	Our personnel have been trained on how to mitigate corrosion within the systems typically constructed on water and wastewater facilities. We will work with pump and other equipment suppliers to make sure all metals being used are electrochemically similar. When all else fails, cathodic protection may be installed. All too often we see galvanic corrosion (caused by dissimilar metals) appearing on municipal facilities just a few months after they've been constructed – this is avoidable.



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### ATTACHMENT C PROJECT ASSESSMENT PLAN

#### SECTION 2 – VALUE ADDED OPTIONS

<b>Item 1:</b>	Broker dirt hauling to save disposal costs – we have many active projects in the West Valley, some of which need clean fill material. We will save money on hauling costs by utilizing the excess excavated material from this project on nearby projects in need.			
<b>Impact:</b>	Cost (\$)	Save \$6,000	Schedule (Days)	No Change
<b>Item 2:</b>	Eliminate flow meter bypass piping and valves because majority of flow meter maintenance does not require the flow tube to be removed. The flow meters in sizes 16" and below are readily available so replacement can be completed quickly if necessary. Keep in mind, a broken magnetic flow meter is essentially a pipe spool and has no effect on the flow of water.			
<b>Impact:</b>	Cost (\$)	Save \$30,000	Schedule (Days)	Save 5 days
<b>Item 3:</b>	We have built several similar facilities by installing all equipment on top of the concrete tank eliminating the need for equipment slabs on grade and reducing the overall footprint of the facility. Space will be very important if this facility requires future expansion as useable space is limited in the areas immediately surrounding the hydro tank. The City can save money on this and future phases through more consolidation of the facility without sacrificing O&M access.			
<b>Impact:</b>	Cost (\$)	Save \$9,000	Schedule (Days)	Save 9 days
<b>Item 4:</b>	Relocate pressure relief to downstream of pump discharge line, thereby providing more space for future expansion and saving money on pipe required for this project.			
<b>Impact:</b>	Cost (\$)	Save \$3,000	Schedule (Days)	Save 2 days
<b>Item 5:</b>	Consider future expansion of reservoir in the Phase 2 structural design. <ul style="list-style-type: none"> <li>• East wall of Phase 2 reservoir may be reused as the West wall of a future reservoir expansion</li> <li>• Stub walls and slabs on new tank to minimize cost of future tank expansion</li> <li>• Rebar couplings and waterstop can be embedded in the Phase 2 reservoir to tie in future walls and slabs</li> </ul>			
<b>Impact:</b>	Cost (\$)	Adds \$3,000 to current project and saves \$30,000+ in future expansion costs.	Schedule (Days)	0 days on this project, saves weeks on future expansion



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### ATTACHMENT D

#### PROJECT DURATION SCHEDULE and SUBCONTRACTOR SELECTION PLAN

*See attached schedule*

#### Overview of the Subcontractor Selection Plan

We are committed to the belief that the specific knowledge possessed by high quality subcontractors and suppliers can have a positive impact on a JOC project. Our company competitively bids virtually all of the subcontractor and vendor items on JOC projects. Exceptions are noted below as "qualifications only"; and may include certain specialized subcontractors such as SCADA programming, or suppliers the City dictates based on requirements to match existing installed equipment.

We use a prequalification system that is fully compliant with the Arizona Revised Statute 34-603. Upon determination of the project's specific needs a detailed list of pre-qualified subcontractors for each discipline are asked to review the project. The Design Team reviews any feedback that could increase value to the City through risk assessment or value added options.

During this review it is determined which subcontractors will be selected based on qualifications and price—or qualifications only. Both of these selection criteria are often required for a single JOC. Our Subcontractor Selection Plan fully embraces these requirements, although as stated earlier, competitive bidding by qualified firms is our preference.

Key elements in developing the qualifications and price selection criteria for all Subcontractors and suppliers are:

- Past history on our projects: Quality, on time completion, lack of claim or litigation activity
- Current availability: We will insure that the sub or supplier has the manpower to complete the work on time and in a quality fashion, particularly if it is a pre-purchase item or will require long lead attention
- Experience at the specific site: Has the firm worked at the project site in question? Are they familiar with the need to maintain the exiting process elements?
- Experience with the specific work items on the project: Do they have a history with this type of work?
- Safety record: We will review workmen's compensation records and past claim history

Firms meeting the above requirements are invited to bid an individual JOC, and responses will be compiled. Their quotations and correspondence will be fully available for the City's review and comment. Each successful bidder will be issued a subcontract or purchase order.

Subcontractors and suppliers that are selected because they possess proprietary information—or perhaps sole suppliers of equipment who are considered on their qualifications only—are brought into a JOC early. Often times their portion of the work is key to the overall project engineering and design. Specific considerations for these firms include:

- Early involvement, to insure that the other construction elements of the project fit seamlessly with the specific service or material being supplied by these firms.
- Review of price and schedule, to insure that prices are fair and that no schedule delays occur due to misunderstandings or missing key elements.
- We stand ready to assist qualifications only subcontractors and suppliers, as they often require unloading, storage or construction trade assistance with their work.

It is vital that we adhere to our Subcontractor Selection Plan to insure that all subcontractors and suppliers be allowed full participation in the design and scheduling phases. This insures an on time JOC that is on budget and is what the City staff wanted.





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## APPENDIX 1

### Scoring and Ranking Submittals

**Overview**

The City of Peoria uses a simple linear data model to score and rank the contractors. The model uses raw data scores with a 1-10 rating, then normalizes those scores to a 100 point basis, then multiplies by the weighted percentage for the final score and ranking. Example: 8.1 = 81 X 45% = 36.5.

**Example**

The following data and tables are for informational purposes only. Based on the raw data and weights, Contractor C is identified as the highest ranked firm (85.5 points out of 100 possible points). Any firm that receives a fail in the responsiveness or reference categories will be eliminated from the selection process.

	Criteria	Weight	Vendor A		Vendor B		Vendor C	
			Raw Score	Weighted Score	Raw Score	Weighted Score	Raw Score	Weighted Score
1	Responsiveness	Pass/Fail	Pass	Pass	Pass	Pass	Pass	Pass
2	Interview Score	45%	8.1	36.5	7.8	35.1	8.3	37.4
3	Scope Plan	25%	5.6	14	6.1	15.3	7.8	19.5
4	PA/VA Plan Score	25%	9.1	22.8	9.7	24.3	9.5	23.8
5	Project Duration Schedule & Subcontractor Plan Score	5%	8.5	4.3	9.3	4.7	9.5	4.8
6	References	Pass/Fail	Pass	Pass	Pass	Pass	Pass	Pass
		100%		77.6		79.4		85.5
	Final Ranking			3		2		1
				Vendor A		Vendor B		Vendor C





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### APPENDIX 2

#### Sample Project

#### *Expansion of Reclaim Water System for the Butler Water Reclamation Facility*

##### ***Project Description:***

The City of Peoria is developing a reclaimed water distribution system in its Southern area. The first phase entailed the construction of a small reservoir/surge tank located at the Butler Water Reclamation Facility (WRF). As part of this first phase, the City extended a distribution line to the Municipal Operations Center (MOC) and to the City Hall Campus located at the intersection of 85<sup>th</sup> Avenue and Monroe Streets. Currently the City of Peoria is using reclaimed water from this system to provide irrigation at City Hall and also for a truck wash facility at the MOC. In addition, two (2) existing Home Owners Associations are taking advantage of the reclaim water to irrigate their common area (see exhibit A for distribution system details).

The proposed project will design and construct a 100,000 gallon underground concrete reservoir and booster pump station at the Butler WRF (see exhibit B). This new infrastructure will provide increased quantities of reclaimed water for all potential future customers identified within the service area boundaries of the Butler Reclaimed Water System.

*The City is currently in the design phase and anticipates retaining the services of the selected Job Order Contractor under the following scope:*

1. Preconstruction Services:
  - Provide one constructability review during design (60% stage).
  - Provide up to two cost estimates during design (60% and 90%).
  - Prepare a construction GMP proposal.
2. Construction:
  - 100,000 underground concrete reservoir
  - 1 MGD Booster Pump Station (on top of the reservoir)
  - Disinfection System (assume chlorine gas)
  - EI&C

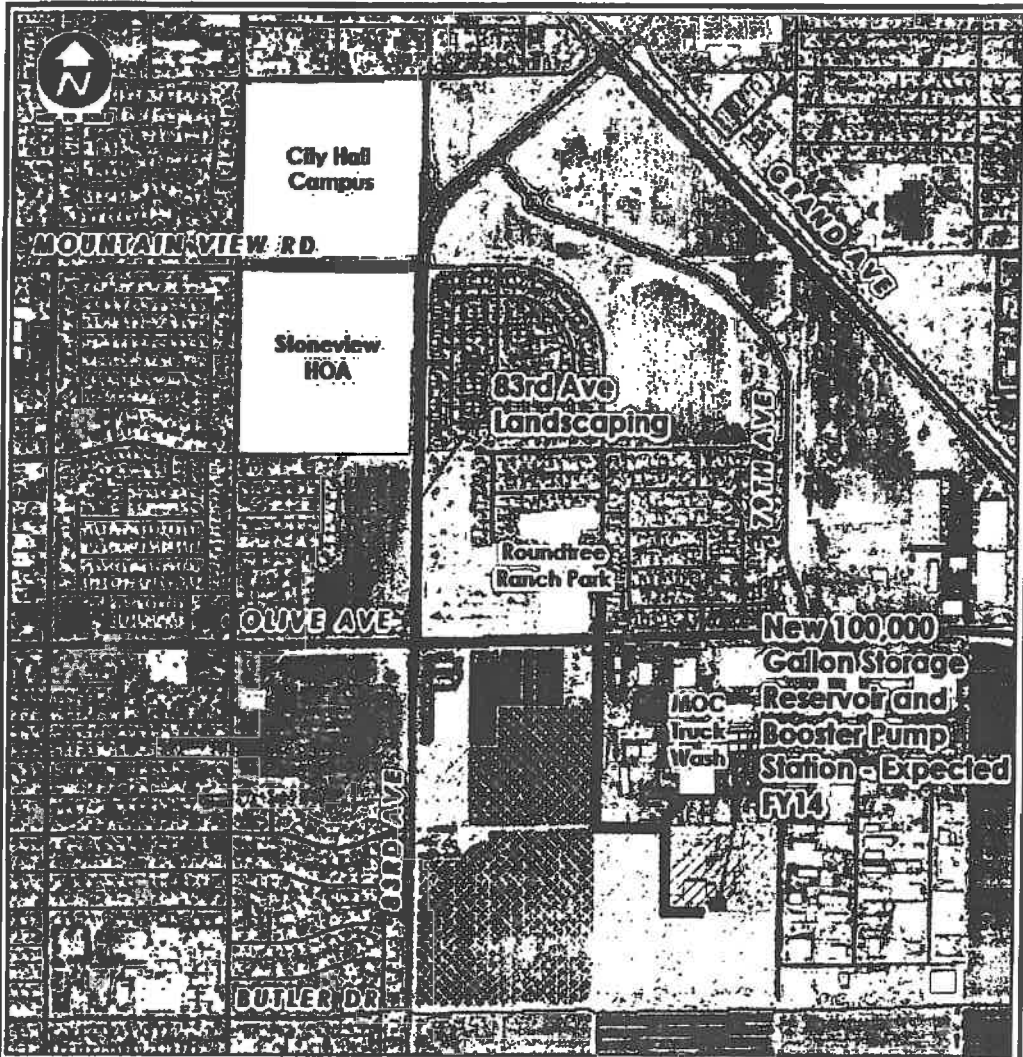


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Exhibit A



### LEGEND

- Existing Reclaimed Waterline
- New Storage Reservoir & Booster Pump Station
- Pioneer Park
- Butler Drive Water Reclamation Facility

City of Peoria  
Butler Reclaimed Water  
System - Existing  
Customers  
8/16/12



**NOTE:**  
This map is based on information  
received from the City of Peoria and  
is not a guarantee of accuracy.

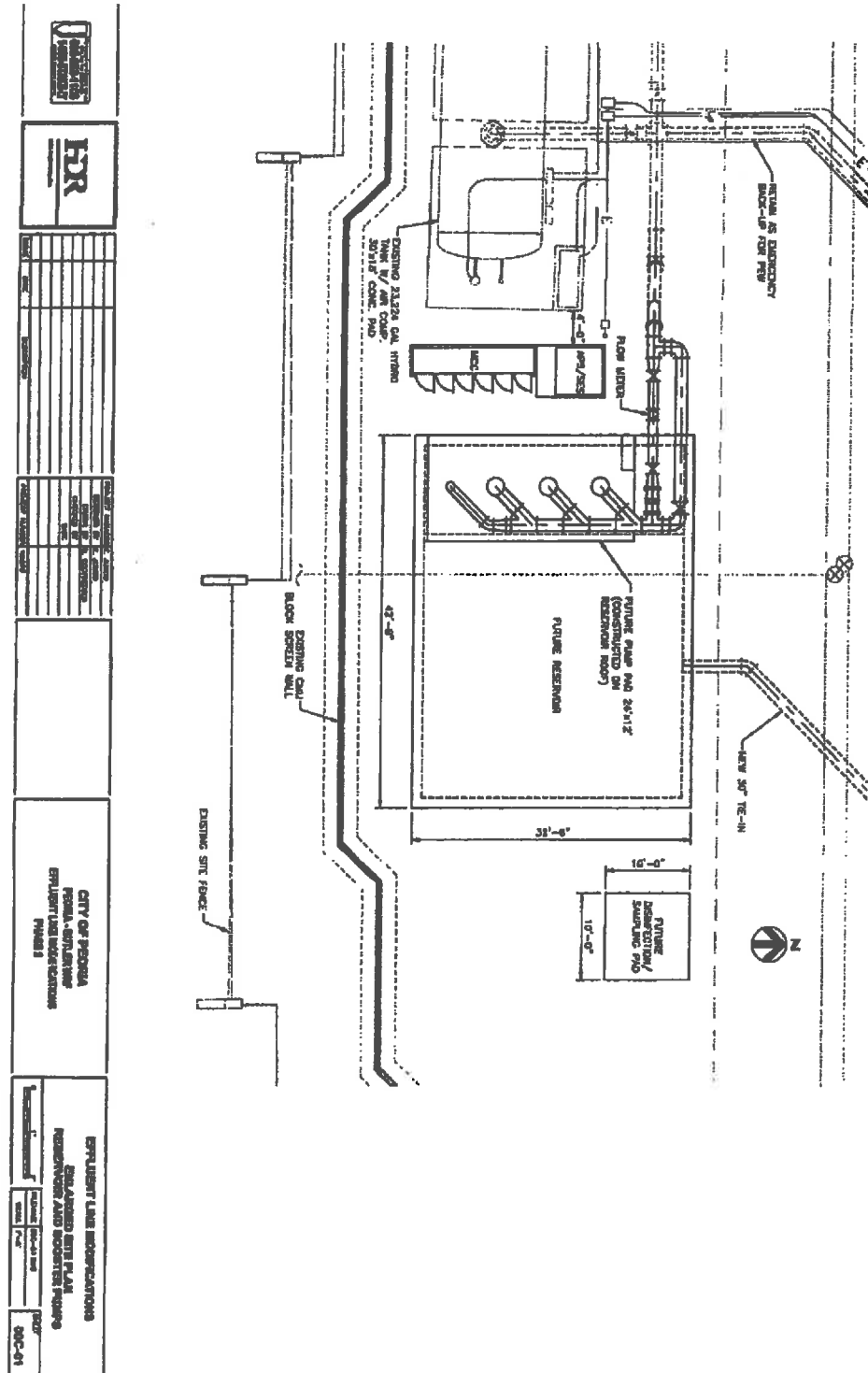


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## Exhibit B



<p>PROJECT: CITY OF PEORIA WASTEWATER TREATMENT PLANT IMPROVEMENTS PHASE II</p>	
<p>EFFLUENT LINE INDICATIONS</p>	
<p>DATE: 11/09/10</p>	<p>BY: [Signature]</p>

**ATTACHMENT C**

**JOC Cost Proposal Forms  
(Pricing Matrix, Project Cost Sheet, & Contractor's Labor  
Rates)**

**(See Attached)**

**City of Peoria  
JOC Pricing Matrix**

**P13-0042, JOC for Water & Wastewater Treatment Facilities Projects  
Company Name: MGC Contractors, Inc.**

	\$1.00 to \$100,000	\$100,000 to \$250,000	\$250,000 to \$500,000	\$500,000 to \$1,000,000	over \$1,000,000
<b>Indirect Cost of the Work</b>					
General & Administrative Expense (Overhead)	7.00%	7.00%	6.00%	6.00%	5.00%
Job Order Contractor's Fee (Profit)	10.00%	10.00%	9.00%	9.00%	8.00%
Payment & Performance Bonds	1.50%	1.50%	1.25%	1.25%	1.00%
Insurance	1.25%	1.25%	1.25%	1.25%	1.25%
AZ/County/City Taxes (65% of .091)	5.915%	5.915%	5.915%	5.915%	5.915%
<b>Total Indirect Cost %</b>	<b>25.67%</b>	<b>25.67%</b>	<b>23.42%</b>	<b>23.42%</b>	<b>21.17%</b>
<b>Labor Burden Percentage</b>	<b>28.00%</b>	<b>28.00%</b>	<b>28.00%</b>	<b>28.00%</b>	<b>28.00%</b>

## City of Peoria Job Order Cost Proposal

CONTRACTOR NAME: MGC Contractors, Inc.

Contract Type Water & Wastewater Facilities Projects  
 Job Order No. P13-0042  
 Job Title: \_\_\_\_\_  
 Location: \_\_\_\_\_

City Project No.: \_\_\_\_\_  
 Contractor's Job No.: \_\_\_\_\_  
 Prepared by: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Revision: \_\_\_\_\_

Description of Work to be Performed  
 (supporting information attached):

**SECTION A: LABOR (Inclusive of burden)**

Position	Unit	Quantity
Project Manager	Hours	1.0
Project Engineer	Hours	1.0
Superintendent	Hours	1.0
PROJECT ADMINISTRATOR	Hours	1.0
ESTIMATOR	Hours	1.0
CAD TECHNICIAN	Hours	1.0
Foreman	Hours	1.0
Specialty Operator	Hours	1.0
Equipment Operator	Hours	1.0
Skilled Tradesman (Journeyman)	Hours	1.0
Skilled Worker (Apprentice)	Hours	1.0
Semi Skilled Worker	Hours	1.0
Laborer	Hours	1.0

Labor Cost		Position
Each	Total	Total
\$ 90.00	\$ 90.00	\$ 90.00
\$ 60.00	\$ 60.00	\$ 60.00
\$ 80.00	\$ 80.00	\$ 80.00
\$ 50.00	\$ 50.00	\$ 50.00
\$ 90.00	\$ 90.00	\$ 90.00
\$ 50.00	\$ 50.00	\$ 50.00
\$ 53.64	\$ 53.64	\$ 53.64
\$ 42.97	\$ 42.97	\$ 42.97
\$ 35.50	\$ 35.50	\$ 35.50
\$ 42.42	\$ 42.42	\$ 42.42
\$ 38.16	\$ 38.16	\$ 38.16
\$ 38.16	\$ 38.16	\$ 38.16
\$ 24.55	\$ 24.55	\$ 24.55
<b>Total Labor Cost</b>		<b>\$ 683.40</b>

**SECTION B: EQUIPMENT (supporting information attached, i.e. EquipmentWatch.com)**

Item	Unit	Quantity
Equip1	Hours	1.0
Equip2	Hours	1.0
Equip3	Hours	1.0
Equip4	Hours	1.0
Equip5	Hours	1.0
Equip6	Hours	1.0
Equip7	Hours	1.0
Equip8	Hours	1.0
Equip9	Hours	1.0
Equip10	Hours	1.0

Equipment		Item
Each	Total	Total
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
<b>Total Equipment Cost</b>		<b>\$ -</b>

**SECTION C: MATERIALS**

Item	Unit	Quantity
Materials1	Each	1.0
Materials2	Box	1.0
Materials3	Roll	1.0
Materials4	Ton	1.0
Materials5	Yard	1.0
Materials6	Each	1.0
Materials7	Each	1.0
Materials8	Each	1.0
Materials9	Each	1.0
Materials10	Each	1.0

Material		Item
Each	Total	Total
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
\$ -	\$ -	\$ -
<b>Total Material Cost</b>		<b>\$ -</b>

## City of Peoria Job Order Cost Proposal

**CONTRACTOR NAME:** MGC Contractors, Inc.

<b>Contract Type</b> <u>Water &amp; Wastewater Facilities Projects</u> <b>Job Order No.</b> <u>P13-0042</u> <b>Job Title:</b> _____ <b>Location:</b> _____	<b>City Project No.:</b> _____ <b>Contractor's Job No.:</b> _____ <b>Prepared by:</b> _____ <b>Date:</b> _____
---	---

**SECTION D: SUBCONTRACTORS & CONSULTANTS**

Company	Description of Work to be Performed (Supporting quote & information attached)	Item Total
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
<b>Total Subcontractor Cost</b>		<b>\$0.00</b>

<b>OVERHEAD:</b>	0%
<b>PROFIT:</b>	0%
<b>Subtotal General Contractor Costs (A+B+C):</b>	\$693.40
<b>O&amp;P (15% of A+C):</b>	\$0.00
<b>Total General Contractor Costs including O&amp;P:</b>	\$693.40
<b>Subtotal Subcontractor Costs (D)</b>	\$0.00
<b>Profit (5% of D)</b>	\$0.00
<b>Total Subcontractor Costs including O&amp;P:</b>	\$0.00
<b>TOTAL GC and Subcontractor Costs including O&amp;P:</b>	\$693.40
<b>Insurance Costs @ 1.25%</b>	\$8.67
<b>Bond Costs @ 1.25%</b>	\$8.67
<b>Sales Tax (85% of 9.1%)</b>	\$42.04
<b>Subtotal Job Cost:</b>	<b>\$762.77</b>
<b>Contingencies</b>	\$0.00
<b>TOTAL JOB COST:</b>	<b>\$762.77</b>

Submitted by:

Name, Title	Date	
-------------	------	--

3/12/2013 CF

CONTRACTOR NAME: MGC Contractors, Inc.

Contract Type Water & Wastewater Facilities Projects

Job Order No. P13-0042

**SECTION A: LABOR (Inclusive of burden)**

Position	Unit	Quantity	Each
Project Manager	Hours	1.0	\$ 90.00
Project Engineer	Hours	1.0	\$ 60.00
Superintendent	Hours	1.0	\$ 80.00
PROJECT ADMINISTRATOR	Hours	1.0	\$ 50.00
ESTIMATOR	Hours	1.0	\$ 90.00
CAD TECHNICIAN	Hours	1.0	\$ 50.00
Foreman	Hours	1.0	\$ 53.64
Specialty Operator	Hours	1.0	\$ 42.97
Equipment Operator	Hours	1.0	\$ 35.50
Skilled Tradesman (Journeyman)	Hours	1.0	\$ 42.42
Skilled Worker (Apprentice)	Hours	1.0	\$ 38.16
Semi Skilled Worker	Hours	1.0	\$ 36.16
Laborer	Hours	1.0	\$ 24.55



**ATTACHMENT D**

**Contractor's Contacts  
(Contact List & Authorized Signature Form)**

**(See Attached)**



March 20, 2013

City of Peoria  
9875 North 85<sup>th</sup> Avenue, 2<sup>nd</sup> Floor  
Peoria, AZ 85345

ATTN: Christine Finney, CPPB

RE: JOC for Water & Wastewater Treatment Facilities Projects  
Key Personnel

**Randy Gates, Project Executive**  
Mobile

**randy@mgccontractors.com**  
602-757-4432

**Greg Beetem, Project Manager**  
Mobile

**greg@mgccontractors.com**  
602-757-6140

**Mike Panter, Senior Estimator**  
Mobile

**mikep@mgccontractors.com**  
602-722-6537

**Doug Hoopes, General Superintendent**  
Mobile

**dhoopes@mgccontractors.com**  
602-513-3255

**Main Office**  
**Main Office Fax**

**602-437-5000**  
**602-470-4000**



March 20, 2013

City of Peoria  
9875 North 85<sup>th</sup> Avenue, 2<sup>nd</sup> Floor  
Peoria, AZ 85345

ATTN: Christine Finney, CPPB

RE: JOC for Water & Wastewater Treatment Facilities Projects  
Authorized Signature Form

Dear Christine,

Per your request, the following individuals are authorized to sign contractual documents for MGC.

Randy L. Gates, President

Greg Beetem, Project Manager

If you have any questions or need additional information, please call.

Sincerely,

Wendy S. Harvey  
Corporate Secretary

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
MGC CONTRACTORS, INC.**

**EXHIBIT B  
Scope of Work**

**PROJECT**

MGC is to finish and install motor operated butterfly valves, flowmeters and new chlorine safety equipment the Cholla Water Treatment Plant. This work shall be performed during the annual winter shutdown of the Cholla Water Treatment Plant.

Items to be replaced are as follows: six (6) effluent motor operated butterfly valves, six (6) effluent flowmeters, four (4) waste butterfly valves, six (6) influent butterfly valves as well as six (6) new chlorine safety relief valves with control cabinet. MGC will also perform demolition work on both the Spent GAC Piping and the Surface Wash Piping as indicated in contract drawings.



## **City of Glendale**

### **Cholla WTP Improvements Phase II MGC Project Proposal, Rev 3**

### ***GAC Filters 1-6 Valve & Flowmeter Replacements***



August 9<sup>th</sup>, 2016

City of Glendale  
5850 West Glendale Avenue, Suite 315  
Glendale, Arizona 85301  
Attn: Tom Kaczmarowski, PE

Re: Job Order Contract Proposal  
Cholla WTP Improvements Project II – GAC Filters 1-6 Valve & Flowmeter Replacements Rev 3

Dear Tom:

In accordance with the information provided, we are pleased to offer a proposal for to furnish and install six (6) effluent motor operated butterfly valves, six (6) effluent flowmeters, four (4) waste butterfly valves, six (6) influent butterfly valves as well as six (6) new chlorine safety relief valves with control cabinet. Work will be completed as requested. The total price for this work is (\$833,187.04) Eight Hundred Thirty-Three Thousand One Hundred and Eighty-Seven dollars and Four Cents. This price includes three (4) allowances that total \$61,596. A further breakdown of the proposal is attached. An allowance for video inspecting and removing two (2) pipe plugs on the existing 48" and 66" discharge lines has been included per Owners request. All applicable sales tax and performance and payment bonds have been included. Please note the following clarifications:

GAC Filter Gallery Area Work:

- A general allowance for \$10,000 has been added to cover unforeseen existing conditions.
- Removal, safe storage and re-installation of Gallery building shade panels.
- Unwiring and permanently terminating Spent GAC & Surface Wash valve actuators for demo.
- Demolition and disposal of Spent GAC, Surface Wash, and effluent valve & piping.
- Furnish and install new 18" effluent motor operated butterfly valves, flowmeters and required piping.
- Furnish and install new pressure indicating transmitters on filters 1-4 with "in like kind" of filters 5 & 6. All required piping has been included.
- Furnish and install new effluent flowmeter electrical panel breakers and new electrical conduits and wire as shown on contract drawings.
- Stencil filter number on wall behind valve & flowmeter at each filter. Shall be 1' x 1'.
- New piping, valves and flowmeters will be swabbed with chlorine for disinfection prior to installation.
- Startup has been included for all new and/or existing re-used equipment.
- We have assumed all lines will be emptied and plant will be shutdown prior to work being performed.
- We have assumed any required programming changes will be completed by the City of Glendale.
- As-built drawings will be provided at end of project.



### GAC Top of Filter Basin Work:

- A painting allowance for \$21,596.00 has been included to cover the following items:
  - Sandblasting and painting of all twelve (12) Waste and Influent wall spools
  - Sandblasting and re-painting all twelve (12) Waste and Influent torque tubes
  - Preparing and re-painting all twelve (12) Waste and Influent actuators
  - Preparing and sandblasting twelve (12) new blind flanges in Gallery area.
- Demolition and disposal of Surface Wash piping inside of all twelve (12) basins. Approximately 480 lf of pipe is to be removed. It is assumed that work can be performed either on top of media or on top of the stainless steel baffles under the media. If not, additional compensation may be required.
- Removal and replacement of media in basins and disinfection is excluded from MGC scope. If added, additional compensation will be required.
- Unwiring and re-wiring the twelve (12) existing Waste and Influent valve actuators. Actuators are to be re-used.
- Remove all twelve (12) Waste & Influent valve torque tubes and actuators. Sandblast & paint existing valve bonnets and install bonnets on new valves. Waste valves on filters 5 & 6, two (2), were recently replaced by others and will be re-used with the existing & re-painted bonnets.
- Furnish and install ten (10) new 24" Waste & Influent valves. Existing torque tubes and actuators will be re-used on the ten (10) new valves. An allowance for re-coating all twelve (12) torques tubes and actuators has been included. As well as sandblasting and painting of existing flanged pipe sleeves.
- Hennessy Equipment and MGC will perform startup.
- We have assumed plant will be offline and Influent channel, Waste channel and filter basins will all be drained to allow construction prior to MGC starting work.
- Clean-out GAC gulleets.
- As-built drawings, if required, will be provided at end of project.

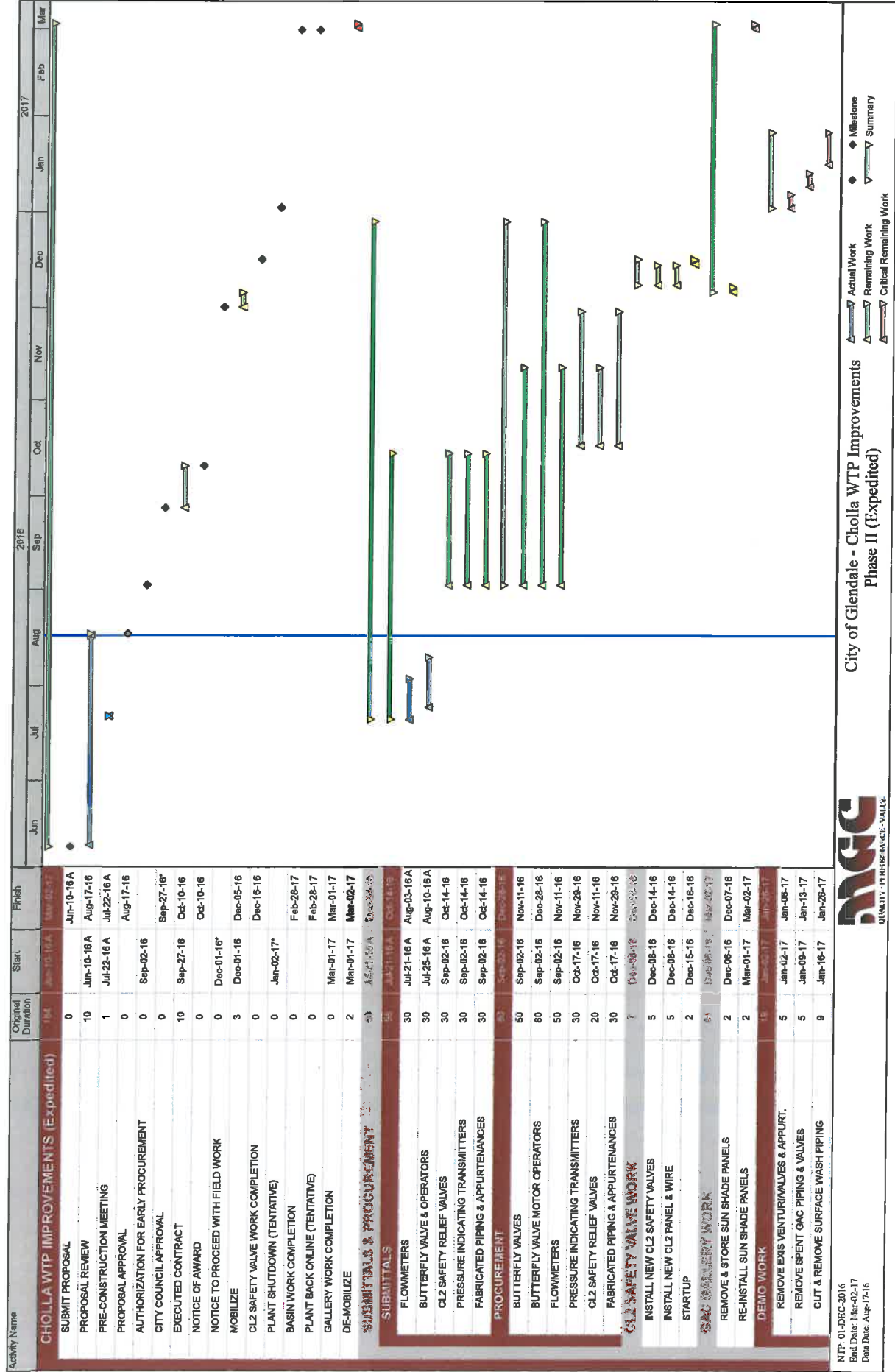
### Chlorine Safety Valve Work:

- A power and controls allowance for \$10,000 has been included for unknown electrical chlorine safety valve work.
- Furnish and install six (6) new chlorine safety relief valves and control panel.
- Chemical Feed Technologies and MGC will perform startup.
- We have assumed any required programming changes will be completed by the City of Glendale.
- As-built drawings, if required, will be provided at end of project.

Thank you for the opportunity to be of service, if you have any questions please do not hesitate to call.

Sincerely,

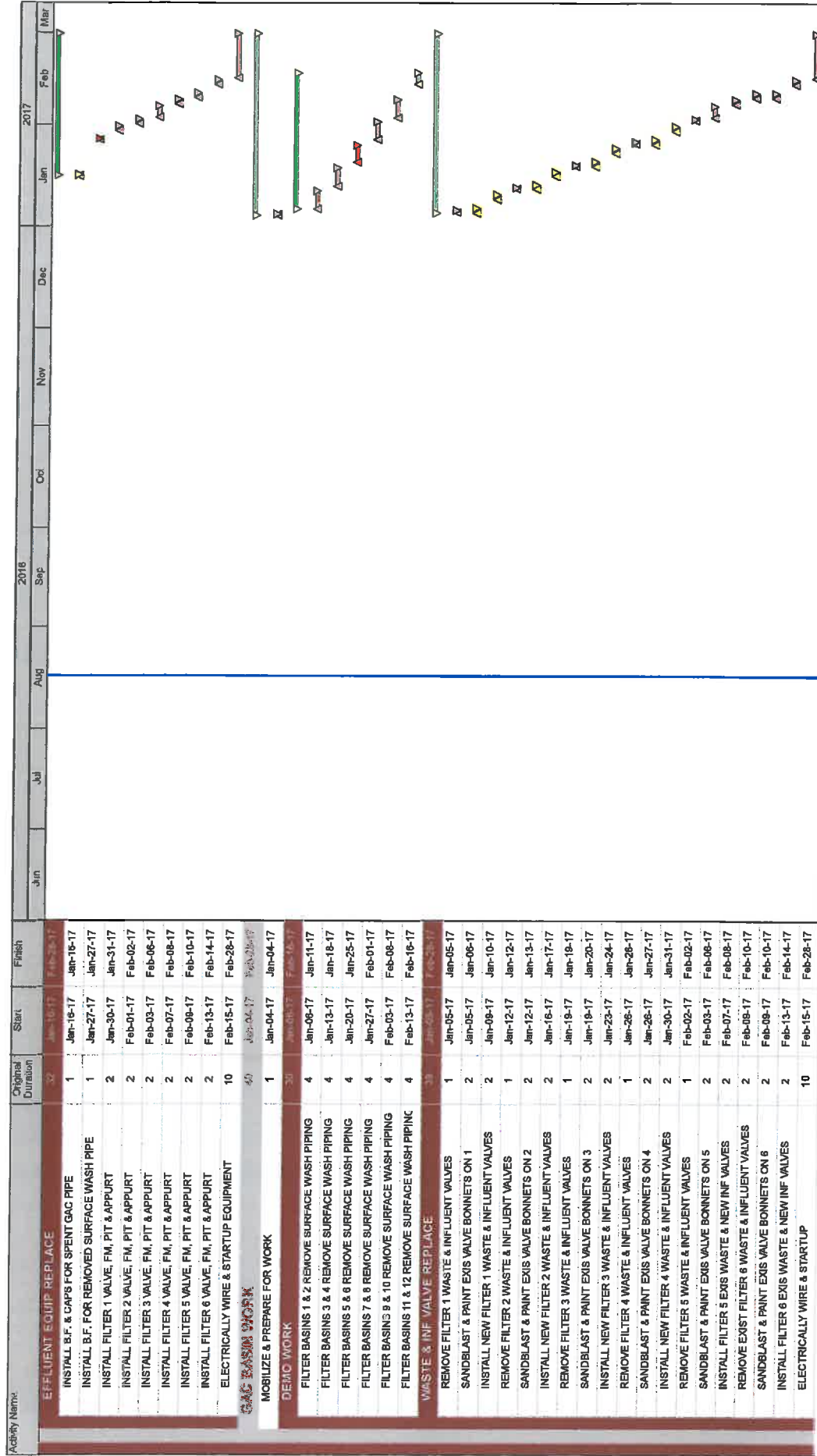
Randy L. Gates  
President



City of Glendale - Cholla WTP Improvements  
Phase II (Expedited)

◆ Actual Work  
 ◆ Remaining Work  
 ◆ Critical Remaining Work  
 ◆ Milestone  
 ◆ Summary





City of Glendale - Cholla WTP Improvements  
Phase II (Expedited)

Legend:  
 ◆ Milestone  
 ◆ Actual Work  
 ◆ Remaining Work  
 ◆ Critical Remaining Work

NTP: 01-288C-2016  
 End Date: 3/14/2017  
 Data Date: Aug-17-16

Activity Name	Original Duration	Start	Finish
<b>EFFLUENT EQUIP REPLACE</b>			
INSTALL B.F. & CAPS FOR SPENT GAC PIPE	1	Jan-16-17	Jan-16-17
INSTALL B.F. FOR REMOVED SURFACE WASH PIPE	1	Jan-27-17	Jan-27-17
INSTALL FILTER 1 VALVE, FM, PIT & APPURT	2	Jan-30-17	Jan-31-17
INSTALL FILTER 2 VALVE, FM, PIT & APPURT	2	Feb-01-17	Feb-02-17
INSTALL FILTER 3 VALVE, FM, PIT & APPURT	2	Feb-03-17	Feb-06-17
INSTALL FILTER 4 VALVE, FM, PIT & APPURT	2	Feb-07-17	Feb-08-17
INSTALL FILTER 5 VALVE, FM, PIT & APPURT	2	Feb-08-17	Feb-10-17
INSTALL FILTER 6 VALVE, FM, PIT & APPURT	2	Feb-13-17	Feb-14-17
ELECTRICALLY WIRE & STARTUP EQUIPMENT	10	Feb-15-17	Feb-28-17
<b>GAC BASIN WORK</b>			
MOBILIZE & PREPARE FOR WORK	30	Jan-04-17	Feb-04-17
<b>DEMC WORK</b>			
FILTER BASINS 1 & 2 REMOVE SURFACE WASH PIPING	4	Jan-06-17	Jan-11-17
FILTER BASINS 3 & 4 REMOVE SURFACE WASH PIPING	4	Jan-13-17	Jan-18-17
FILTER BASINS 5 & 6 REMOVE SURFACE WASH PIPING	4	Jan-20-17	Jan-25-17
FILTER BASINS 7 & 8 REMOVE SURFACE WASH PIPING	4	Jan-27-17	Feb-01-17
FILTER BASINS 9 & 10 REMOVE SURFACE WASH PIPING	4	Feb-03-17	Feb-08-17
FILTER BASINS 11 & 12 REMOVE SURFACE WASH PIPING	4	Feb-13-17	Feb-19-17
<b>WASTE &amp; INF VALVE REPLACE</b>			
REMOVE FILTER 1 WASTE & INFLUENT VALVES	1	Jan-05-17	Jan-05-17
SANDBLAST & PAINT EXIS VALVE BONNETS ON 1	2	Jan-05-17	Jan-06-17
INSTALL NEW FILTER 1 WASTE & INFLUENT VALVES	2	Jan-09-17	Jan-10-17
REMOVE FILTER 2 WASTE & INFLUENT VALVES	1	Jan-12-17	Jan-12-17
SANDBLAST & PAINT EXIS VALVE BONNETS ON 2	2	Jan-12-17	Jan-13-17
INSTALL NEW FILTER 2 WASTE & INFLUENT VALVES	2	Jan-16-17	Jan-17-17
REMOVE FILTER 3 WASTE & INFLUENT VALVES	1	Jan-19-17	Jan-19-17
SANDBLAST & PAINT EXIS VALVE BONNETS ON 3	2	Jan-19-17	Jan-20-17
INSTALL NEW FILTER 3 WASTE & INFLUENT VALVES	2	Jan-23-17	Jan-24-17
REMOVE FILTER 4 WASTE & INFLUENT VALVES	1	Jan-26-17	Jan-26-17
SANDBLAST & PAINT EXIS VALVE BONNETS ON 4	2	Jan-26-17	Jan-27-17
INSTALL NEW FILTER 4 WASTE & INFLUENT VALVES	2	Jan-30-17	Jan-31-17
REMOVE FILTER 5 WASTE & INFLUENT VALVES	1	Feb-02-17	Feb-02-17
SANDBLAST & PAINT EXIS VALVE BONNETS ON 5	2	Feb-03-17	Feb-06-17
INSTALL FILTER 5 EXIS WASTE & NEW INF VALVES	2	Feb-07-17	Feb-08-17
REMOVE EXIST FILTER 6 WASTE & INFLUENT VALVES	2	Feb-08-17	Feb-10-17
SANDBLAST & PAINT EXIS VALVE BONNETS ON 6	2	Feb-08-17	Feb-10-17
INSTALL FILTER 6 EXIS WASTE & NEW INF VALVES	2	Feb-13-17	Feb-14-17
ELECTRICALLY WIRE & STARTUP	10	Feb-15-17	Feb-28-17



June 10, 2016

Bryan Forster  
MGC Contractors  
Email: [bryanf@mgcontractors.com](mailto:bryanf@mgcontractors.com)

RE: City of Glendale Cholla WTP  
Proposal: 196079.00

Dear Mr. Forster,

In accordance with the bid documents and supporting information, Keller Electrical Industries (KEI) proposes the following scope and budget. Proposal is based upon Engineering drawings dated June 4<sup>th</sup>, 2016.

**Total Proposal Amount: \$36,609.62**

### Scope of Work

- Determinate required valves slated for removal, add term box to conduit and cap wires.
- Furnish and install (4) new PIT's and manifolds to match existing.
- Furnish and install (6) 30amp 3 pole NEMA 3R disconnects for new MOV's.
- Furnish and install circuit breakers for FIT circuits.
- Install junction boxes required for installation of new equipment.
- Run conduit and wire as shown on drawings.
- Terminate and test.

### 1 Project Management

- a. Develop a manufacturing and delivery schedule detailing the equipment and services offered for this project.
- b. Attend project meetings.
- c. Provide material and labor reports and invoicing on a timely basis.
- d. Provide contract close-out documentation.

### 2 Engineering

- a. Produce detailed physical and electrical drawings for equipment manufacture and installation.
- b. Produce calculations where required for conduit, conductors, grounding, lighting, and NEC compliance.
- c. Coordinate with permitting and utility authorities.
- d. Provide submittal review and construction QA/QC services.

### 3 Manufacturing and Supply of Equipment

- a. Fabricate and assemble electrical and control system equipment.
- b. Conduct a Factory Acceptance Test and provide written test reports when required.
- c. Deliver electrical and control system equipment to the project site.
- d. Provided startup assistance for the manufactured equipment.

### 4 Permitting, Construction, and Demolition

- a. Coordinate with utility and Authorities having Jurisdiction to assure a code compliant facility.

- b. Provide grounding, power distribution, and instrumentation construction services in accordance with approved plans and specifications.
- c. Furnish, install, and test all electrical, instrumentation, and control equipment.
- d. Energize electrical and control systems. Demonstrate functionality.

## **5 Programming**

- a. Programming is excluded.

## **6 Testing and Startup Assistance**

- a. Coordinate with owner and engineer to assure that plant electrical and control systems function in the intended manner.
- b. Provide field startup and testing services.
- c. Provide training for Owner's personnel on facility operation

## **7 Contract Closeout**

- a. Provide "Record" or "As Built" drawings.
- b. Provide Operations and Maintenance Manuals for the equipment and facility.
- c. Provide warranties for equipment, products, and systems.

## **8 Spare Parts**

- a. Costs for spare parts are not included in this proposal.

## **9 Schedule**

- a. TBD.

## **10 Exclusions, Clarifications and Assumptions**

- a. Coring for conduit is excluded.
- b. Flow meters and MOV's excluded.
- c. Only work, equipment, and materials explicitly stated in this document are part of this proposal. KEI accepts the responsibility for the coordination and furnishing of small and incidental equipment and services normally associated with this type of work and for coordination with other disciplines. Any additional significant equipment, materials, or services will be furnished only upon execution of a change order.
- d. All other equipment and services not specifically mentioned in this scope of work nor defined above shall be the responsibility of others.
- e. This proposal is based upon KEI executing their work in reasonable coordination with other disciplines and entities. Additional KEI costs due to significant or extraordinary delays by others will be grounds for change orders.
- f. KEI reserves the right to withhold shipment of equipment and materials until payment has been received for all outstanding invoices.
- g. KEI will not supply personnel for startup or commissioning until payment has been received for all outstanding invoices.
- h. A bid bond is not included in this proposal but KEI will provide one for additional cost.

## **11 Exceptions to the Bid Documents**

## **12 Taxes and Freight**

- a. Taxes are not included in this proposal. Upon request, KEI will furnish an estimate of taxes for this work. Owner to furnish KEI with tax exempt information.
- b. Unless noted differently, this proposal includes freight cost for delivery of KEI manufactured products to the project site.

- c. Unless noted differently, freight cost for equipment shipped FOB manufacturer's facility or FOB port-of-entry is not included in this proposal.

### 13 Warranty:

- a. The warranty period for KEI manufactured electrical and control equipment is 18 months from ship date or 12 months from ~~startup~~ date. During this period, KEI will repair or replace at no cost to owner any failed component or system. substantial completion
- b. Unless noted differently, KEI will honor a manufacturer's warranty for all purchased equipment and will coordinate with the manufacturer to repair or replace the equipment in accordance with the manufacturer's warranty.
- c. The KEI warranty covers only KEI furnished equipment and explicitly excludes all costs of lost production, loss of facility availability, and any and all other incidental costs.
- d. KEI will make every effort to honor the warranty in a timely manner. Delays in getting parts or equipment from manufacturers may affect the time to implement repairs or replacement.

### 14 Payment Terms and Conditions:

- a. KEI will submit invoices monthly in accordance with an approved AIA format schedule of values and in accordance with the terms and conditions of the project specifications.

### 15 Attachments

- a. None

KEI appreciates the opportunity to furnish this proposal. We have made every effort to assure that the proposed equipment and services will satisfy your requirements. Should you have any questions, comments, concerns or require further clarification, please feel free to contact me at your convenience.



**A-O Painting, Inc.**

**PAINTING - COATING PROPOSAL**

Date: June 9, 2016  
Proposal submitted to: Bryan Forster bryanf@mgccontractors.com  
Company: MGC Contractors, Inc.  
Address: P.O. Box 61748, Phoenix, AZ 85082-1748  
Telephone: (602) 437-5000 Cell: (602) 695-3652 Fax: (602) 470-4000

Job Name: GLENDALE JOC - CHOLLA WTP IMPROVS PHS II  
Location: Cholla St and 49<sup>th</sup> Ave, Glendale, AZ (OWNER: City of Glendale)

Bryan,

**Item 1 shall is a contingency/allowance item**

Below find proposed price to paint/coat items as further outlined.

Price Includes:

- |   |             |
|---|-------------|
| 1. Paint Twelve (12) New Blind PVC Flanges in Gallery (MGC to provide Manlift)                          | \$ 1,596.00 |
| 2. Paint Ten (10) Victaulic Caps  | \$ 1,600.00 |
| 3. Sandblast and Repaint Twelve (12) Torque Tube Bonnets (Multi. Mobilizations)                         | \$ 3,300.00 |
| 4. Paint all New Fab Steel Piping, Flowmeters, Butterfly Valve, Misc. Small Bore Piping and Pipe Stands | \$ 3,995.00 |

Base Bid ~~\$ 10,491.00~~  
**\$8,895.00**

\*Contingency/Allowance Items

- |  |   |
|--|---|
| 1. Sandblast and Repaint all Twelve (12) Waste and Influent Spools | add \$8,350.00  |
| 2. Sandblast and Repaint Twelve (12) Torque Tubes                  | " " \$2,950.00  |
| 3. Prep and Repaint Twelve (12) Actuators with Stands              | " " \$4,100.00  |
|  | Additions <del>\$ 15,400.00</del><br><b>\$16,996.00</b> |

**Total (Labor and Material) \$25,891.00**

Exclusions:

- > *Painting of Existing Piping*
- > *PVC Blind Flanges in Basin*
- > *Shop Priming*
- > *Manlifts*
- > *Concrete Coatings*

Thank you,

Paul Ortega  
Vice President

This proposal will expire 30 days from the date of this document. Terms: Cash Net 30 days. Interest at 1 1/2% per month on past due accounts. Customer agrees to pay reasonable lawyer fees if legal action is necessary for collection. Bond(s) excluded unless otherwise indicated above. If this project is Service Activity (MRRA), Tax on Material is included.





6829 W. Frye Rd.  
 Chandler, AZ 85226  
 P : 480-921-0498  
 F : 480-921-7391  
 E : sales@instandcontrols.com

# Quote

# 11671  
 Date 6/8/2016  
 Quote Expires 8/7/2016

**Bill To**  
 MGC Contractors  
 4110 E. Elwood St.  
 Phoenix AZ 85040

**Ship To**  
 MGC Contractors  
 4110 E. Elwood St.  
 Phoenix AZ 85040

### Memo

City of Glendale - Cholla Plant

**Sales Rep** Brian Camacho      **Quoted By** Brian Tracey      **Terms** Net 30

**FOB** Shipping Point      **Shipping Method** Best Way      **Shipping Terms** Pre-Pay and Add      **Collect Account #**

**Contact** Bryan Forster      **Email** bryanf@mgccontractors.com

**Expires** 8/7/2016      **Please Make PO ...**  
 Endress + Hauser

Manf.	Item	Description	Qty	Unit Pri...	Extended	Est. Lead Time
Endress + Hauser	5W4C4F-1PH1/0	** Filters Equipment Replacement (1-4) **  Endress + Hauser Promag W 400, 5W4C4F, DN450 18" Model No: 5W4C4F-AAALHA0DHA1K0AAAEBI8Z1  Electromagnetic flowmeter Inline version. The specialist in the water and wastewater industry for the most demanding applications.	4	3,172.32	12,689.28	Best available lead time to be confirmed after order acceptance

Subtotal	30,058.56
Shipping	0.00
Tax	0.00
<b>Total</b>	<b>30,058.56</b>



# Quote

Date 6/8/2016

6829 W. Frye Rd.  
 Chandler, AZ 85226  
 P : 480-921-0498  
 F : 480-921-7391  
 E : sales@instandcontrols.com

Manf.	Item	Description	Qty	Unit Pri...	Extended	Est. Lead Time
		International drinking water approvals. Installation length: DVGW/ISO conform. Corrosion-resistant transmitter version. Same housing for compact/remote version. :: Certified corrosion protection (optional) and an integrated web server. :: For direct underground installation or permanent underwater use (optional).  AA-Approval: Non-hazardous area A-Design: Insertion length short ISO/DVGW until DN400, DN450-2000 1:1 L-Power Supply: 100-240VAC/24VAC/DC H-Output; Input: 4-20mA HART, pulse/freq./switch output A-Housing: Compact, alu, coated 0-Cable, Remote Version: Not used D-Electrical Connection: Thread NPT1/2 H-Liner: Hard rubber A1K- Process Connection: Cl.150, carbon steel, flange ASME B16.5 0-Electrodes: 1.4435/316L A-Calibration Flow: 0.5% AA->Operation Language Display: English EB->Application Package: Heartbeat Verification + Monitoring I8->Service: Product documentation on CD Z1-1x TAG-stainless steel label Model No: 5W4C4F-1PH1/0				

Subtotal	30,058.56
Shipping	0.00
Tax	0.00
<b>Total</b>	<b>30,058.56</b>



# Quote

Date 6/8/2016

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 Chandler, AZ 85226  
 P : 480-921-0498  
 F : 480-921-7391  
 E : sales@instandcontrols.com

Manf.	Item	Description	Qty	Unit Pri...	Extended	Est. Lead Time
Endress + Hauser	5W4C4F-1PH1/0	<p><b>** Filters Equipment Replacement (5-6) **</b></p> <p>Endress + Hauser            Promag W 400, 5W4C4F, DN450 18"            Model No: 5W4C4F-AAALHA0DHA1K0AAAEBI8Z1</p> <p>Electromagnetic flowmeter            Inline version.            The specialist in the            water and wastewater industry for the            most demanding applications.            International drinking water approvals.            Installation length: DVGW/ISO conform.            Corrosion-resistant transmitter version.            Same housing for compact/remote version.            :: Certified corrosion protection            (optional) and an integrated web server.            :: For direct underground installation            or permanent underwater use (optional).</p> <p>AA-Approval: Non-hazardous area            A-Design: Insertion length short ISO/DVGW until DN400,            DN450-2000 1:1            L-Power Supply: 100-240VAC/24VAC/DC            H-Output; Input: 4-20mA HART, pulse/freq./switch output            A-Housing: Compact, alu, coated            0-Cable, Remote Version: Not used            D-Electrical Connection: Thread NPT1/2            H-Liner: Hard rubber            A1K- Process Connection: Cl.150, carbon steel, flange</p>	2	3,172.32	6,344.64	Best available lead time to be confirmed after order acceptance

Subtotal	30,058.56
Shipping	0.00
Tax	0.00
<b>Total</b>	<b>30,058.56</b>





# Quote

Date 6/8/2016

6829 W. Frye Rd.  
 Chandler, AZ 85226  
 P : 480-921-0498  
 F : 480-921-7391  
 E : sales@instandcontrols.com

Manf.	Item	Description	Qty	Unit Pri...	Extended	Est. Lead Time
		ASME B16.5 0-Electrodes: 1.4435/316L A-Callibration Flow: 0.5% AA->Operation Language Display: English EB->Application Package: Heartbeat Verification + Monitoring I8->Service: Product documentation on CD Z1-1x TAG-stainless steel label Model No: 5W4C4F-1PH1/0				
Endress + Hauser	DK5GD-4FAHL	Endress + Hauser Promag, grounding disc/protection disc Includes 1 grounding disc/protection disc Model No: DK5GD-4FAHL  4FA-Nominal Diameter: DN450 18", 1.4435/316L H-Liner: Hard rubber L-Process Connection: Cl.150 ANSI B16.5	12	225.00	2,700.00	
Endress + Hauser	SFX350-1202/0	Endress + Hauser Field Xpert SFX350 Hand Held Model No: SFX350-AAEDUP2  AA-Approval: Non-hazardous area E-Language Operating System/Device Xpert: English D-Desktop Dock, Power Supply,USB-Interface without Power Cord U-Power Cord: US	1	3,662.70	3,662.70	5 WORKING DAYS ARO + SHIPPING

Subtotal	30,058.56
Shipping	0.00
Tax	0.00
<b>Total</b>	<b>30,058.56</b>



# Quote

Date 6/8/2016

6829 W. Frye Rd.  
 Chandler, AZ 85226  
 P : 480-921-0498  
 F : 480-921-7391  
 E : sales@instandcontrols.com

Manf.	Item	Description	Qty	Unit Pri...	Extended	Est. Lead Time
		P2- Accessory Enclosed: Holster SFX350-1202/0				
Endress + Hauser	XD21BL-ABA41...	<p>Endress + Hauser-Service-Start-Up p/n XD21BL-ABA41Y....Time Based Commissioning Service</p> <p>Time-based Commissioning Service Ensures optimum set-up by qualified service technicians. Includes: visual check of device(installation and wiring), Configuration, instruction on site for plant personnel and service report.</p> <p>The technician will be equipped with necessary tools and testing devices. Any chemicals for analyzers/turbidity measurement could be provided separately.</p> <p>Prior to commissioning, the instrument needs to be installed mechanically, electrically and be accessible. The work permit is issued.</p> <p>The price includes traveling expenses and time on site. Without any other agreements the service will be performed during the standard business hours (Monday - Friday). Labor time exceeding the determined duration and additional travel will be charged separately.</p> <p>A- Preparation and standard travel time: included in the base price</p> <p>B- Standard labor time: 1 x 8h</p> <p>A - Surcharges: not selected</p> <p>4- Extended Factory Warranty: 1- 6 instrument/s, 2 additional years after shipment date (3</p>	1	1,381.99	1,381.99	Best available lead time to be confirmed after order acceptance

Subtotal	30,058.56
Shipping	0.00
Tax	0.00
<b>Total</b>	<b>30,058.56</b>



# Quote

Date 6/8/2016

6829 W. Frye Rd.  
 Chandler, AZ 85226  
 P : 480-921-0498  
 F : 480-921-7391  
 E : sales@instandcontrols.com

Manf.	Item	Description	Qty	Unit Pri...	Extended	Est. Lead Time
		years in total), in workshop 1- Commissioning Level: Standard: Visual inspection, configuration, output value check  Additional travel expenses: Special additional travel costs  Best available lead time to be confirmed after order acceptance				
Endress + Hauser	Shipping Estimat...	Endress + Hauser  Shipping Estimate-Actual Charges will apply on invoice.  Shipping from Zip -46143 -to Zip 85040	1	3,279.95	3,279.95	

Should you have any questions concerning any of the details of the document, feel free to contact Instrumentation And Controls.

Subtotal	30,058.56
Shipping	0.00
Tax	0.00
<b>Total</b>	<b>30,058.56</b>



Please make your PO out to  
 MISCO InterMountain  
 1820 West Drake Drive Suite 105  
 Tempe, Arizona 85283

# QUOTATION

Date: July 18th 2016  
 Proposal #: 071816MGC  
 Revision:

To: Bryan Forster  
 MGC Contractors

Job Name: Cholla WTP Chlorine Emergency Valves  
 Engineer: B&V  
 Design Stage: 100%  
 Submittal Lead Time: 5-7 days  
 Equipment Lead Time: 5-7 weeks

Salesperson	Cell Phone	E-Mail		Prices Valid	FOB	Freight
Stefan Oreshkov	480.415.7846	<a href="mailto:soreshkov@miscowater.com">soreshkov@miscowater.com</a>		30 Days	Factory	Included
Line Item	Description	Tag Number	Manufacturer Part Number	Quantity	Unit Price	Total Price
1	E-Pro Powell Electric Valve Closure System including the following:	0	0	1		
2	E-Pro Actuator Assembly - Qty of 6	0	0	6		
3	Bottom Adapter for the Header Cylinder Valve - Qty of 6	0	0	6		
4	NEMA 4X E-Pro Electrical Panel - Qty of 1. The control Panel automatically activates the actuator to close the valve in a event of accidental release, fire alarm, security breach.	0	0	1	\$ 43,309.56	\$ 43,309.56
5	Special Chlorine Wrench - Qty of 6		0	6		
6	Storage Bracket, Wall Mounted - Qty of 6		0	6		
7	E-Stop Assembly -Qty of 1 (second E-Stop push button is included as part of the electrical panel)		0	1		
8	Startup & Commissioning and Training		0	1		
9	OPTIONAL E-Pro Junction Box with Cables (up to 20 feet) - Qty of 1.		0	1	\$ 1,487.20	\$ 1,487.20
					<b>TOTAL</b>	<b>\$ 44,796.76</b>

**Any applicable Duties or Sales, Use, Excise or similar taxes will be added to the price and invoiced separately (unless acceptable exemption certificate is furnished)**



**SOUTHWEST** INDUSTRIAL RIGGING  
**CRANES - MACHINERY MOVING - HEAVY HAUL**

2802 W. Palm Lane, Phoenix, Arizona 85009  
FAX: 602-278-5191 DISPATCH: 602-278-6281

DATE: 6/9/16  
TO: MGC  
ATTN: Bryan  
RE: Cholla WTP



Thank you for the opportunity to quote your upcoming project.

**60T Hydraulic Rough Terrain Crane (Operated by Southwest)**

Move-in Rate: \$650.00

Hourly Rate: \$165.00

Move-out Rate: \$650.00

**8 Hour Minimum Labor Only**

Overtime will be billed at the rate of \$40.00 per hour / per man for hours worked in excess of 8.0 per day, weekends, nights and holidays are included. Sundays will be billed at the rate of \$80.00 above the hourly rate.

**Keith Mason 602-350-0080**

[kmason@swirusa1.com](mailto:kmason@swirusa1.com)



BRANCH 905  
 2210 WEST WILLIAMS DR  
 PHOENIX AZ 85027  
 623-869-0100  
 623-869-6721 FAX

**# 137997513**

**Job Site**

CHOLLA WATER TREATMENT PLANT  
 4805 W CHOLLA ST  
 GLENDALE AZ 85304-2800

**Office: 602-437-5000 Cell: 602-695-3653**

MGC CONTRACTORS INC  
 PO BOX 61748  
 PHOENIX AZ 85082-1748

Customer # : 513607  
 Quote Date : 06/08/16  
 Estimated Out : 11/15/16 07:00 AM  
 Estimated In : 12/05/16 07:00 AM  
 UR Job Loc : 4805 W CHOLLA ST, GL  
 UR Job # : 192  
 Customer Job ID:  
 P.O. # : TBD  
 Ordered By : BRYAN FORSTER  
 Written By : ROBERT ORTIZ  
 Salesperson : ROBERT ORTIZ

**This is not an invoice  
 Please do not pay from this document**

RENTAL ITEMS:							
Qty	Equipment	Description	Minimum	Day	Week	4 Week	Estimated Amt.
1	3103050	BOOM 30-33' ARTICULATING DC	155.00	155.00	455.00	1255.00	1,255.00
*****							
* ALL HARNESSSES MUST BE RETURNED AT THE END OF RENTAL *							
* OR WITHIN 72HRS OF RENTAL *							
* THANK YOU *							
*****							
* ALL HARNESSSES MUST BE RETURNED AT THE END OF RENTAL *							
* OR WITHIN 72HRS OF RENTAL *							
* THANK YOU *							
*****							

Rental Subtotal: 1,255.00

SALES/MISCELLANEOUS ITEMS:					
Qty	Item	Price	Unit of Measure	Extended Amt.	
1	PROPERTY TAX SURCHARGE	[DRSURAZ/MCI] 18.825	EACH	18.83	
1	ENVIRONMENTAL CHARGE	[ENV/MCI] 16.310	EACH	16.31	
1	DELIVERY CHARGE	75.000	EACH	75.00	
1	PICKUP CHARGE	75.000	EACH	75.00	

Sales/Misc Subtotal: 185.14

Agreement Subtotal: 1,440.14

Tax: 123.85

Estimated Total: 1,563.99

**COMMENTS/NOTES:**

TO SCHEDULE EQUIPMENT FOR PICKUP, CALL 800-UR-RENTS (800-877-3687)  
 WE ARE AVAILABLE 24/7 TO SUPPLY YOU WITH A CONFIRMATION #  
 IN ORDER TO CLOSE THIS CONTRACT

**Note: This proposal may be withdrawn if not accepted within 30 days.**

**THIS IS NOT A RENTAL AGREEMENT. THE RENTAL OF EQUIPMENT AND ANY OTHER ITEMS LISTED ABOVE IS SUBJECT TO AVAILABILITY AND ACCEPTANCE OF THE TERMS AND CONDITIONS OF UNITED'S RENTAL AGREEMENT, WHICH MUST BE SIGNED PRIOR TO OR UPON DELIVERY OF THE EQUIPMENT AND OTHER ITEMS.**

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
MGC CONTRACTORS, INC.**

**EXHIBIT C**

**METHOD AND AMOUNT OF COMPENSATION**

Job Order Contract - \$833,187.04

**NOT TO EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project must not exceed \$833,187.04 the entire term of the Agreement.

**DETAILED PROJECT COMPENSATION**

Base Bid Price: \$771,591.04

Allowance for existing basin equipment painting: \$21,596.00

Allowance for CL2 safety valve electrical power: \$10,000.00

General allowance: \$10,000.00

Pipe video and plug removal allowance: \$20,000.00

# City of Glendale Job Order Cost Proposal

CONTRACTOR NAME: MGC Contractors, Inc.

## PROPOSAL WORKSHEET

Contract Type	<u>Water &amp; Wastewater Facilities Projects</u>	City Project No.:	<u>131418</u>
Job Order No.	<u>P13-0042</u>	Contractor's Job No.:	<u>15-322</u>
Job Title:	<u>Cholla WTP Improvements Phase 2</u>	Prepared by:	<u>BJF</u>
Location:	<u>4805 W. Cholla St, Glendale, AZ 85304</u>	Date:	<u>9/9/2016</u>
		Revision:	<u>2</u>

**Description of Work to be Performed**  
(supporting information attached):

**Cholla WTP Improvements Phase 2**

- Remove & re-install shade panels at gallery area. (MGC)
- Unwire & permanently terminate connections for Spent GAC & Surface Wash actuated valves. (Keller)
- Demo & dispose of existing effluent venturi/valves, Spent GAC & Surface Wash piping and appurtenances. (MGC)
- Furnish & install new 18" effluent motor operated butterfly valves and flowmeters in gallery. Qty 6. A General allowance of \$10,000 has been included to cover unforeseen existing conditions. (MGC, Keller)
- Furnish & install new effluent flowmeter breakers and additional power conduits. (Keller)
- Furnish & install new pressure indicating transmitters on effluent piping for filters 1-4. PIT's to match existing on filters 5 & 6. (MGC, Keller)
- Demo existing Surface Wash Water piping inside basin area. MGC assumes if media has not been removed, work can be performed on top of media. If media has been removed, MGC assumes work can be performed off of stainless baffles at bottom of filter basin. (MGC)
- Unwire/wire both the 24" Waste valve actuators & 24" Influent valve actuators that are to be removed & re-installed. (Keller)
- Demo & dispose of existing 24" Waste (4 Ea) & 24" Influent (6 Ea) flanged butterfly valves (10 total). (MGC)
- Furnish & install new 24" Waste (4 Ea) & 24" Influent (6 Ea) flanged butterfly valves (10 total). Re-install existing torque tubes and actuators. Existing bonnets located on top of valves will be sandblasted, re-coated & re-used (10 total). An allowance of \$20,000 has been included to sandblast and repaint existing torque tubes and actuators if necessary. (MGC, A-O Painting)
- Remove & re-install Waste valve actuators, torque tubes & valve bonnets located on top of basins 5 & 6. Bonnets are to be sandblasted, re-coated & re-used (2 total). Existing valves were recently replaced by others and are not included in this project. (MGC, A-O Painting)
- Furnish & install new chlorine safety relief valves. Allowance item for \$10,000 has been included to electrically wire. (MGC)
- Clean out GAC gulleets. (MGC)

**SECTION A: LABOR (inclusive of burden)**

Position	Unit	Quantity
Project Manager	Hours	240.0
Project Engineer	Hours	320.0
General Superintendent	Hours	40.0
Superintendent	Hours	654.0
PROJECT ADMINISTRATOR	Hours	0.0
ESTIMATOR	Hours	0.0
CAD Technician	Hours	50.0
Foreman	Hours	626.0
Specialty Operator	Hours	0.0
Equipment Operator	Hours	225.0
Skilled Tradesman (Journeyman)	Hours	526.0
Skilled Worker (Apprentice)	Hours	15.0
Semi Skilled Worker	Hours	574.0
Laborer	Hours	1,145.0

Labor Cost		Position
Each	Total	Total
\$ 90.00	\$ 21,600.00	\$ 21,600.00
\$ 60.00	\$ 19,200.00	\$ 19,200.00
\$ 90.00	\$ 3,600.00	\$ 3,600.00
\$ 80.00	\$ 52,320.00	\$ 52,320.00
\$ 50.00	\$ -	\$ -
\$ 90.00	\$ -	\$ -
\$ 50.00	\$ 2,500.00	\$ 2,500.00
\$ 53.64	\$ 33,578.64	\$ 33,578.64
\$ 42.97	\$ -	\$ -
\$ 35.50	\$ 7,987.50	\$ 7,987.50
\$ 42.42	\$ 22,312.92	\$ 22,312.92
\$ 38.16	\$ 572.40	\$ 572.40
\$ 36.16	\$ 20,755.84	\$ 20,755.84
\$ 24.55	\$ 28,109.75	\$ 28,109.75
Total Labor Cost:		\$ 212,537.05

**SECTION B: EQUIPMENT**

Item	Unit	Quantity
Pickup Truck	Hours	448.0
Supervisor Truck	Hours	555.2
60 Ton Crane w/ JIB (Rental)	WK	8.0
Articulated Boom Lift (Rental)	WK	8.0
Reach Forklift	Hours	188.0
Compressor / Jackhammer (or other air tools)	Hours	12.0

Equipment		Item
Each	Total	Total
\$ 21.00	\$ 9,408.00	\$ 9,408.00
\$ 34.70	\$ 19,265.44	\$ 19,265.44
\$ 6,600.00	\$ 52,800.00	\$ 52,800.00
\$ 455.00	\$ 3,640.00	\$ 3,640.00
\$ 50.00	\$ 9,400.00	\$ 9,400.00
\$ 24.50	\$ 294.00	\$ 294.00
Total Equipment Cost:		\$ 94,807.44



# City of Glendale Job Order Cost Proposal

CONTRACTOR NAME: MGC Contractors, Inc.

## PROPOSAL WORKSHEET

Contract Type: <u>Water &amp; Wastewater Facilities Project</u>	City Project No.: <u>131418</u>
Job Order No.: <u>P13-0042</u>	Contractor's Job No.: <u>15-322</u>
Job Title: <u>Cholla WTP Improvements Phase 2</u>	Prepared by: <u>BJF</u>
Location: <u>4805 W. Cholla St, Glendale, AZ 85304</u>	Date: <u>9/9/2016</u>

**SECTION C: MATERIALS (see attached breakdowns for further information)**

Item	Unit	Quantity
Site Facilities	LS	1.0
18" Dezurik Effluent Valves & EIM Operators	EA	6.0
24" Dezurik Waste & Influent Valves	EA	10.0
Piping & Appurtenances	LS	1.0
CL2 Safety Relief Valves	LS	1.0
18" E+H Flowmeters w/ SS Grounding Rings	EA	6.0
Small Tools 10% of Labor & Burden	LS	1.0

Material		Item
Each	Total	Total
\$ 17,985.00	\$ 17,985.00	\$ 17,985.00
\$ 11,140.00	\$ 66,840.00	\$ 66,840.00
\$ 5,755.00	\$ 57,550.00	\$ 57,550.00
\$ 56,518.00	\$ 56,518.00	\$ 56,518.00
\$ 43,309.56	\$ 43,309.56	\$ 43,309.56
\$ 5,009.76	\$ 30,058.56	\$ 30,058.56
\$ 16,563.71	\$ 16,563.71	\$ 16,563.71
<b>Total Material Cost</b>		<b>\$ 288,824.83</b>

**SECTION D: SUBCONTRACTORS & CONSULTANTS**

Company	Description of Work to be Performed (Supporting quote & information attached)	Item Total
A-O Painting	Painting of new pipe & valve materials including exist. valve collars.	\$ 8,895.00
Keller Electrical	Electrically disconnect & re-connect. Furnish & install elec equip.	\$ 36,609.62
<b>Total Subcontractor Cost</b>		<b>\$45,504.62</b>

OVERHEAD: 6%

PROFIT: 9%

Subtotal General Contractor Costs (A+B+C): \$ 596,169.32  
 O&P (% of A+C): \$75,204.28  
 Total General Contractor Costs including O&P: \$671,373.60

Subtotal Subcontractor Costs (D) \$45,504.62  
 Profit (5% of D) \$2,275.23  
 Total Subcontractor Costs including O&P: \$47,779.85

TOTAL GC and Subcontractor Costs including O&P: \$719,153.45  
 Insurance Costs @ 1.25% \$8,989.42  
 Bond Costs @ 1.25% \$8,989.42  
 Sales Tax (65% of 9.2%) \$43,005.38  
 Valve & Flowmeter Total Cost (\$151466.68)  
 Deduction Factor of .0564 \$ (8,546.62)

**Subtotal Job Cost: \$771,591.04**

**ALLOWANCES**

Existing basin equipment painting allowance \$21,596.00  
 CL2 safety valve electrical power allowance \$10,000.00  
 General Allowance \$10,000.00  
 Pipe video & plug allowance \$20,000.00

**TOTAL JOB COST: \$833,187.04**

Submitted by:

Bryan Forster, Project Manager  
 Name, Title

Thursday, July 21, 2016  
 Date

Approved by:

\_\_\_\_\_  
 Name, Title

\_\_\_\_\_  
 Date

Bid: Cholla WTP Improvements Phase 2  
 Work Order Breakdown  
 By: B. Forster

#	Description	Info	LABOR										EQUIPMENT					\$ Total For Line
			HRS Craft Supt	HRS Forman	HRS Equipment Operator	HRS Skilled Tradesman	HRS Skilled Worker	HRS Skilled Laborer	HRS Laborer	HRS Laborer	HRS Pickup Supervisor	HRS Air Hammer	HRS ForkLift					
1	Remove & re-install shade panels		9.0	9.0	9.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	9.0	0.0	0.0	1.5	\$ 2,131	
2	Remove panels		6.0	6.0	6.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	6.0	0.0	0.0	1.0	\$ 1,420	
3	Stage and store panels		15.0	15.0	15.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	30.0	0.0	0.0	2.5	\$ 3,919	
4	Re-install panels																	
5																		
6	Gallery Surface Wash piping demo		4.0	4.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	8.0	0.0	0.0	0.0	\$ 1,184	
7	Prep work		45.0	45.0	45.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	90.0	45.0	0.0	45.0	\$ 17,168	
8	Cut & remove 8" header piping	app. 180 ft	18.0	18.0	18.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	18.0	18.0	0.0	18.0	\$ 6,425	
9	Remove 8" BFV & operator	6 each	30.0	30.0	30.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	60.0	30.0	0.0	30.0	\$ 11,446	
10	Cut & remove 8" branch piping to basins	app. 120 ft	6.0	6.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	6.0	0.0	0.0	0.0	\$ 1,157	
11	Install new blindflanges in gallery & paint	12 each	0.0	2.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	4.0	0.0	0.0	0.0	\$ 205	
12	Cleanup																	
13																		
14	Gallery Spent GAC piping demo		2.0	2.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	8.0	0.0	0.0	0.0	\$ 533	
15	Prep work		24.0	24.0	24.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	24.0	24.0	0.0	24.0	\$ 7,549	
16	Remove 4" spent GAC piping		3.0	3.0	3.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3.0	3.0	0.0	3.0	\$ 944	
17	Remove Knife Gate valves	6 each	3.0	3.0	3.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3.0	3.0	0.0	3.0	\$ 944	
18	Remove Check valve	6 each	3.0	3.0	3.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3.0	3.0	0.0	3.0	\$ 687	
19	Install grooved caps	6 each	0.0	2.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	4.0	0.0	0.0	0.0	\$ 205	
20	Cleanup																	
21																		
22	Gallery venturi/valve demo		2.0	2.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	4.0	0.0	0.0	0.0	\$ 592	
23	Prep work		3.0	3.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	6.0	3.0	0.0	0.0	\$ 888	
24	Remove misc. small bore piping	6 each	12.0	12.0	12.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	24.0	12.0	0.0	0.0	\$ 4,272	
25	Remove pipe supports	6 each	24.0	24.0	24.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	48.0	24.0	0.0	24.0	\$ 9,156	
26	Remove Venturi/Valve & appurtenances		0.0	2.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	4.0	0.0	0.0	0.0	\$ 205	
27	Cleanup																	
28																		
29	Gallery effluent valve & flowmeter installation		2.0	2.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	4.0	0.0	0.0	0.0	\$ 592	
30	Prep work		36.0	36.0	36.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	72.0	36.0	0.0	36.0	\$ 13,735	
31	Install new valve, flowmeter & piping	6 each	18.0	18.0	18.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	36.0	18.0	0.0	0.0	\$ 5,328	
32	Install new pipe support	6 each	24.0	24.0	24.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	48.0	24.0	0.0	24.0	\$ 7,104	
33	Install pressure transmitter, piping & supports	6 each	0.0	2.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	4.0	0.0	0.0	0.0	\$ 205	
34	Cleanup																	
35																		
36	Basin Surface Wash Water piping demo		18.0	18.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	36.0	0.0	0.0	0.0	\$ 5,328	
37	Laydown tarps on media & prep work	12 each	96.0	96.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	192.0	96.0	0.0	96.0	\$ 28,418	
38	Remove Surface Wash Water piping	app. 480 ft	24.0	24.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	24.0	24.0	0.0	24.0	\$ 6,515	
39	Install new blind flanges & paint	24 each	0.0	6.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	12.0	0.0	0.0	0.0	\$ 1,088	
40	Cleanup																	
41																		
42	Waste & Influent valve demo & install		12.0	12.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	24.0	0.0	0.0	0.0	\$ 3,552	
43	Prep work & unwind																	

**Bid: Cholla WTP Improvemtns Phase 2**  
**Work Order Breakdown**  
**By: B. Forster**

#	Description	Info	LABOR										EQUIPMENT				\$ Total For Line								
			HRS Craft Supt	HRS Forman	HRS Equipment Operator	HRS Skilled Tradesman	HRS Skilled Worker	HRS Skilled Laborer	HRS Laborer	HRS Pickup Supervisor	HRS Air Hammer	HRS ForkLift	HRS Skilled Worker	HRS Skilled Tradesman	HRS Skilled Laborer	HRS Laborer		HRS Pickup Supervisor	HRS Air Hammer	HRS ForkLift					
44	Remove operators & risers	12 each	18.0	18.0	0.0	18.0	0.0	0.0	18.0	0.0	0.0	18.0	0.0	0.0	36.0	18.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ 5,328
45	Unbolt & remove old valves	10 each	30.0	30.0	0.0	30.0	0.0	0.0	30.0	0.0	30.0	0.0	0.0	60.0	30.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ 8,881
46	Sandblast re-coat existing torque tube collars	12 each	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ -
47	Install new butterfly valves	10 each	80.0	80.0	0.0	80.0	0.0	0.0	80.0	0.0	80.0	0.0	0.0	160.0	80.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ 23,682
48	Re-install operator & risers	12 each	24.0	24.0	0.0	24.0	0.0	0.0	24.0	0.0	24.0	0.0	0.0	48.0	24.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ 7,104
49	Electrically re-connect & startup	12 each	48.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	48.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ 5,506
50	Cleanup		0.0	6.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	12.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ 616
51																									\$ -
52	Cholorine safety valve install																								\$ -
53	Install chlorine safety valves	6 each	15.0	15.0	0.0	0.0	0.0	0.0	15.0	0.0	15.0	0.0	0.0	15.0	15.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ 4,008
54																									\$ -
	<b>Total Column</b>		654.0	626.0	225.0	526.0	15.0	574.0	1,145.0	654.0	12.0	188.0	198,025	1,145.0	654.0	12.0	188.0	198,025	1,145.0	654.0	12.0	188.0	198,025	1,145.0	\$ 198,025
	<b>Unit Cost</b>		\$ 80.00	\$ 53.64	\$ 35.50	\$ 42.42	\$ 38.16	\$ 36.16	\$ 24.55	\$ 34.70	\$ 24.50	\$ 50.00	\$ 198,025	\$ 24.55	\$ 34.70	\$ 24.50	\$ 50.00	\$ 198,025	\$ 24.55	\$ 34.70	\$ 24.50	\$ 50.00	\$ 198,025	\$ 24.55	\$ 198,025
	<b>Total Cost \$</b>		\$ 52,320	\$ 33,579	\$ 7,988	\$ 22,313	\$ 572	\$ 20,756	\$ 28,110	\$ 22,694	\$ 294	\$ 9,400	\$ 198,025	\$ 28,110	\$ 22,694	\$ 294	\$ 9,400	\$ 198,025	\$ 28,110	\$ 22,694	\$ 294	\$ 9,400	\$ 198,025	\$ 28,110	\$ 198,025

**City of Glendale**  
**Project No. 131418**  
**Cholla Water Treatment Plant Improvements Phase 2**  
**Equipment Piping Takeoff**

Item #	Specification	Drawing	Description	Size	Quantity	Unit	Cost Each	Total	Notes
<b>Filters Equipment Replacement (1-4)</b>									
<b>Filter Effluent Valves (1-4)</b>									
1	15101	M-03	Dezurik Butterfly Flanged Butterfly Valve w/ EIM MO Actuator	18"	4	Ea	\$ 11,140.00	\$ 44,560.00	
2	15101	M-03	Valve Setup & Accessories	18"	8	Ea	\$ 550.00	\$ 4,400.00	
3	N/A	M-03	Flange Type Pipe Supports w/ Anchors & U-bolts	18"	4	Ea	\$ 345.00	\$ 1,380.00	
4	N/A	M-03	Fab Steel Pipe Spool (Add two 2" welded half couplings to each spool)	18" X Approx 1'-2" Long	4	Ea	\$ 1,270.00	\$ 5,080.00	
<b>Filter Effluent Flowmeters (1-4)</b>									
5	13562	M-03	E+H Mag-Flow Meter, On-Pipe Readout	18"	4	Ea	\$ 5,009.76	\$ 20,039.04	
6	13562	M-03	316 SS Grounding Rings	18"	8	Ea	\$ 225.00	\$ 1,800.00	
7	15101	M-03	Flowmeter Setup	18"	8	Ea	\$ 450.00	\$ 3,600.00	
<b>Filter Effluent Pressure Transmitters (1-4)</b>									
8	N/A	N/A	module 03031-0761-0022 3111087 S1SSD2	1/2"	4	Ea	By Keller	By Keller	PIT to match Filters 5&6
9	N/A	N/A	PIT Diaphragm P/N: C305121124-0000 316 SS	1/2"	4	Ea	By Keller	By Keller	PIT to match Filters 5&6
10	N/A	N/A	PIT Piping Setup	2", 1", 1/2"	4	Ea	\$ 500.00	\$ 2,000.00	
11	N/A	N/A	PIT SS Unistrut w/ Base Support Stand, Anchors & Grout		4	Ea	\$ 400.00	\$ 1,600.00	
<b>Surface Wash Piping Removal</b>									
12	N/A	M-02	Steel Grooved Vic Cap Fitting w/ Clamp	6"	4	Ea	\$ 155.00	\$ 620.00	
13	N/A	M-02	Schedule 80 PVC Blind Flange	8"	24	Ea	\$ 65.00	\$ 1,560.00	Both @ Filters & Basins
14	N/A	M-02	Nut, Bolt, Gaskets (316 SS, Neoprene Gasket)	8"	24	Ea	\$ 35.00	\$ 840.00	Both @ Filters & Basins
<b>Spent GAC Piping Removal</b>									
15	N/A	M-02	Schedule 80 PVC Blind Flange	10"	4	Ea	\$ 238.00	\$ 956.00	Located @ Knife Gate
16	N/A	M-02	Nut, Bolt, Gaskets (316 SS, Neoprene Gasket)	10"	4	Ea	\$ 80.00	\$ 320.00	
								<b>Sub-Total</b>	\$ 88,755.04
<b>Filters Equipment Replacement (5-6)</b>									
<b>Filter Effluent Valves (5&amp;6)</b>									
17	15101	M-03	Dezurik Butterfly Flanged Butterfly Valve w/ EIM MO Actuator	18"	2	Ea	\$ 11,140.00	\$ 22,280.00	
18	15101	M-03	Valve Setup & Accessories	18"	4	Ea	\$ 550.00	\$ 2,200.00	
19	N/A	M-03	Flange Type Pipe Supports w/ Anchors & U-bolts	18"	2	Ea	\$ 345.00	\$ 690.00	
20	N/A	M-03, M-04	Fab Steel Pipe Spool (Add two 2" welded half couplings to each spool)	18" X Approx 1'-2" Long	2	Ea	\$ 1,270.00	\$ 2,540.00	
<b>Filter Effluent Flowmeters (5&amp;6)</b>									
21	13562	M-03	E+H Mag-Flow Meter, On-Pipe Readout	18"	2	Ea	\$ 5,009.76	\$ 10,019.52	
22	13562	M-03	316 SS Grounding Rings	18"	4	Ea	\$ 225.00	\$ 900.00	
23	15101	M-03	Flowmeter Setup	18"	4	Ea	\$ 450.00	\$ 1,800.00	
<b>Filter Effluent Pressure Transmitters (5&amp;6)</b>									
24	N/A	N/A	module 03031-0761-0022 3111087 S1SSD2	1/2"	0	Ea	No Bid	No Bid	Re-Use Existing
25	N/A	N/A	PIT Diaphragm P/N: C305121124-0000 316 SS	1/2"	0	Ea	No Bid	No Bid	Re-Use Existing
26	N/A	N/A	PIT Piping Setup	2", 1", 1/2"	4	Ea	\$ 500.00	\$ 2,000.00	
27	N/A	N/A	PIT SS Unistrut w/ Base Support Stand & Anchors		2	Ea	\$ 400.00	\$ 800.00	

City of Glendale  
Project No. 131418  
Cholla Water Treatment Plant Improvements Phase 2  
Equipment Piping Takeoff

Item #	Specification	Drawing	Description	Size	Quantity	Unit	Cost Each	Total	Notes
<b>Surface Wash Piping Removal (5&amp;6)</b>									
37	N/A	M-02	Steel Grooved Vic Cap Fitting w/ Clamp	6"	2	Ea	\$ 155.00	\$ 310.00	
38	N/A	M-02	Schedule 80 PVC Blind Flange	8"	12	Ea	\$ 85.00	\$ 780.00	Both @ Fillers & Basins
39	N/A	M-02	Nut, Bolt, Gaskets (316 SS, Neoprene Gasket)	8"	12	Ea	\$ 35.00	\$ 420.00	Both @ Fillers & Basins
40	N/A	See Photo	Steel Grooved Vic Cap Fitting w/ Clamp	8"	3	Ea	\$ 264.00	\$ 792.00	For Surface Wash Bypass
41	N/A	M-02	Schedule 80 PVC Blind Flange	10"	2	Ea	\$ 80.00	\$ 160.00	Located @ Knife Gate
42	N/A	M-02	Nut, Bolt, Gaskets (316 SS, Neoprene Gasket)	10"	2	Ea	\$ 80.00	\$ 160.00	Located @ Knife Gate
43	N/A	M-02	Nut, Bolt, Gaskets (316 SS, Neoprene Gasket)	10"	2	Ea	\$ 80.00	\$ 160.00	Located @ Knife Gate
44	N/A	M-02	Nut, Bolt, Gaskets (316 SS, Neoprene Gasket)	10"	2	Ea	\$ 80.00	\$ 160.00	Located @ Knife Gate
45	N/A	M-02	Nut, Bolt, Gaskets (316 SS, Neoprene Gasket)	10"	2	Ea	\$ 80.00	\$ 160.00	Located @ Knife Gate
							<b>Sub-Total</b>	<b>\$ 45,851.52</b>	
<b>Waste &amp; Influent Valve Replacement</b>									
46	15101	M-02	Dezurik Butterfly Flanged Butterfly Valve (Part# 2056438R002)	24"	10	Ea	\$ 5,755.00	\$ 57,550.00	Excludes Waste V/Vs on 5&6
47	15101	M-02	Valve Setup & Accessories	24"	24	Ea	\$ 840.00	\$ 20,160.00	Includes Waste V/Vs on 5&6
48	N/A	See Photo	Valve to Riser Coupling	for 24" Valve	12	Ea	No Bid	No Bid	Re-Use Existing
49	N/A	See Photo	Valve to Riser Coupling	for 24" Valve	12	Ea	No Bid	No Bid	Re-Use Existing
							<b>Sub-Total</b>	<b>\$ 77,710.00</b>	
<b>Chlorine Safety Relief Valves</b>									
50	11725	N/A	CL2 Automatic Safety Relief Shut-off System. Includes 6 actuators & panel		1	LS	\$ 43,309.56	\$ 43,309.56	
51	N/A	N/A	Safety Relief Setup		6	Ea	\$ 75.00	\$ 450.00	
52	N/A	N/A	Safety Relief Setup		6	Ea	\$ 75.00	\$ 450.00	
							<b>Sub-Total</b>	<b>\$ 43,759.56</b>	
							<b>Total Cost</b>	<b>\$ 256,076.12</b>	



## Legislation Description

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**File #: 16-586, Version: 1**

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**AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH PRECISION ELECTRIC COMPANY, INC., FOR EQUIPMENT REPAIR AND MAINTENANCE**

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 linking agreement with Precision Electric Company, Inc., (Precision) for equipment repair and maintenance in an amount not to exceed \$50,000 for the initial term; and authorize the City Manager, at the City Manager's discretion, to extend the agreement for two (2) additional two-year terms, in an amount not to exceed \$250,000 for the entire term of the agreement. This cooperative purchase is available through an agreement between the City of Chandler and Precision, agreement no. WA5-936-3480, and can be extended through June 30, 2021.

**Background**

The City's water treatment and distribution; and wastewater collection and treatment systems include an array of pumps, mixers, processing and filtering equipment. From time to time, this equipment needs rehabilitating or replacing. Even though the system has redundant and backup equipment available, the loss of equipment reduces the service level capacity. So time is of the essence to get the equipment back in service. Having "on-call" repair contractors reduces the time equipment is out of service.

The City has contracted with multiple repair vendors as most vendors do not repair all brands or types of equipment and some have exclusive responsibilities for specific manufacturers. The City intends to contract with additional firms as they become available

**Analysis**

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

On June 12, 2015, the City of Chandler entered into agreement no. WA5-936-3480, for the repair and maintenance of equipment. This agreement permits its cooperative use by other governmental agencies. The City of Glendale Materials Management and the City Attorney's Office have reviewed and approved the utilization of the agreement for the defined services, and concur the cooperative purchase is in the best

interest of the city.

**Previous Related Council Action**

On October 25, 2016, Council approved the linking agreement with Hennesy Mechanical Sales for equipment repair and maintenance at various water and wastewater facilities.

**Community Benefit/Public Involvement**

Maintained equipment ensures reliable and sufficient water and wastewater services for the community.

Cooperative purchasing typically produces the lowest possible volume prices and allows for the most effective use of available funding. The bids are publicly advertised and all Arizona firms have an opportunity to participate.

**Budget and Financial Impacts**

Funding is available in the FY2016-17 Water Services operating budget. Annual budget appropriation thereafter is contingent upon Council approval. The budget will be encumbered only as electrical parts are needed.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$50,000</b>	<b>2360-17160-523400, Arrowhead Water Reclamation Facility</b>
	<b>2360-17170-523400, West Area Water Reclamation Facility</b>
	<b>2400-17280-523400, Central System Maintenance</b>
	<b>2400-17250-523400, Pyramid Peak Water Treatment Plant</b>
	<b>2400-17260-523400, Cholla Water Treatment Plant</b>
	<b>2400-17290-523400, Water Distribution</b>
	<b>2400-17310-523400, Oasis Surface Water Treatment Plant</b>
	<b>2400-17320-523400, Oasis Groundwater Water Treatment Plant</b>

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
PRECISION ELECTRIC COMPANY, INC.**

THIS LINKING AGREEMENT (this "Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the City of Glendale, an Arizona municipal corporation (the "City"), and Precision Electric Company, Inc., an Arizona corporation ("Contractor"), collectively, the "Parties."

**RECITALS**

- A. On June 12, 2015, under the S.A.V.E. Cooperative Purchasing Agreement, the City of Chandler entered into a contract with Contractor to purchase the goods and services described in the Water Wastewater Equipment Repair and Maintenance Agreement, Agreement No. WA5-936-3480 ("Cooperative Purchasing Agreement"), which is attached hereto as Exhibit A. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the City.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

**AGREEMENT**

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

1. Term of Agreement. The City is purchasing supplies and/or services from Contractor pursuant to the Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement, purchases can be made by governmental entities from the date of award, which was July 1, 2015, until the date the contract expires on June 30, 2017, unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not be extended beyond June 30, 2021. The initial period of this Agreement, therefore, is the period from the Effective Date of this Agreement until June 30, 2017. The City Manager or



designee, however, may renew the term of this Agreement for two (2) two-year periods until the Cooperative Purchasing Agreement expires on June 30, 2021. Renewals are not automatic and shall only occur if the City gives the Contractor notice of its intent to renew. The City may give the Contractor notice of its intent to renew this Agreement 30 days prior to the anniversary of the Effective Date to effectuate such renewal.

2. Scope of Work; Terms, Conditions, and Specifications.
  - A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as Exhibit B.
  - B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.
3. Compensation.
  - A. City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit C.
  - B. The total purchase price for supplies and/or services purchased under this Agreement shall not exceed fifty thousand dollars (\$50,000) annually or two hundred fifty thousand dollars (\$250,000) for the entire term of the Agreement (initial term plus any renewals).
4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.
5. Non-discrimination. 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.
6. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.
7. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.
8. No Boycott of Israel. The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.

9. Attestation of PCI Compliance. When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.
10. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

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

and

Precision Electric Company, Inc.  
c/o Steve Belt  
1822 East Jackson Street  
Phoenix, AZ 85034

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

“City”

City of Glendale, an Arizona  
municipal corporation

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

“Contractor”

Precision Electric Company, Inc.,  
an Arizona corporation

By:   
Name: Steven C. Belt  
Title: Division Manager

ATTEST:

\_\_\_\_\_  
Julie K. Bower (SEAL)  
City Clerk

APPROVED AS TO FORM:

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

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
PRECISION ELECTRIC COMPANY, INC.**

**EXHIBIT A**

Water Wastewater Equipment Repair and Maintenance Agreement #WA5-936-3480

1962-81  
- 2364

**CITY OF CHANDLER SERVICES AGREEMENT  
WATER WASTEWATER EQUIPMENT REPAIR AND MAINTENANCE  
AGREEMENT NO.: WA5-936-3480**

THIS AGREEMENT is made and entered into this 12 day of June, 2015, by and between the City of Chandler, a municipal corporation of the State of Arizona, hereinafter referred to as "CITY", and Precision Electric Company, Inc., a corporation of the State of Arizona, hereinafter referred to as "CONTRACTOR".

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

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

**1. CONTRACT ADMINISTRATOR:**

- 1.1 **Contract Administrator.** CONTRACTOR shall act under the authority and approval of the Cost Center Superintendent/ designee (Contract Administrator), to provide the services required by this Agreement.
- 1.2 **Key Staff.** This Contract has been awarded to CONTRACTOR based partially on the key personnel proposed to perform the services required herein. CONTRACTOR shall not change nor substitute any of these key staff for work on this Contract without prior written approval by CITY.
- 1.3 **Subcontractors.** During the performance of the Agreement, CONTRACTOR may engage such additional SUBCONTRACTORS as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with CONTRACTOR.
- 1.4 **Subcontracts.** CONTRACTOR shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of CITY. The subcontract shall incorporate by reference the terms and conditions of this Contract.

**2. SCOPE OF WORK:** CONTRACTOR shall Water and Wastewater Equipment Repair and maintenance all as more specifically set forth in the Scope of Work, labeled Exhibit B, attached hereto and made a part hereof by reference and as set forth in the Specifications and details included therein.

- 2.1 **Non-Discrimination.** The CONTRACTOR shall comply with State Executive Order No. 99-4 and all other applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.
- 2.2 **Licenses.** CONTRACTOR shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by the CONTRACTOR as applicable to this contract.
- 2.3 **Advertising, Publishing and Promotion of Contract.** The CONTRACTOR shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the CITY.
- 2.4 **Compliance with Applicable Laws.** CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable licenses and permit requirements.

- 2.4.1 Pursuant to the provisions of A.R.S. § 41-4401, the Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").
- 2.4.2 A breach of the Contractor Immigration Warranty (Exhibit A) shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.
- 2.4.3 The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.
- 2.4.4 The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verification.
- 2.4.5 The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.
- 2.4.6 In accordance with A.R.S. §35-393.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Iran.
- 2.4.7 In accordance with A.R.S. §35-391.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Sudan.
- 2.5. Warranties.**
- 2.6. One-Year Warranty.** CONTRACTOR must provide a one-year warranty on all work performed pursuant to this Contract.
- 3. ACCEPTANCE and DOCUMENTATION:** Each task shall be reviewed and approved by the Contract Administrator to determine acceptable completion.
- 3.1 Records.** The CONTRACTOR shall retain and shall contractually require each SUBCONTRACTOR to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.
- 3.2 Audit.** At any time during the term of this Contract and five (5) years thereafter, the CONTRACTOR'S or any SUBCONTRACTOR'S books and records shall be subject to audit by the City to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, the CONTRACTOR shall produce a legible copy of any or all such records.
- 3.3 New/Current Products.** All equipment, materials, parts and other components incorporated in the work or services performed pursuant to this Contract shall be new, or the latest model and of the most suitable grade for the purpose intended. All work shall be performed in a skilled and workmanlike manner.
- 3.4 Property of CITY.** Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of CITY. CONTRACTOR is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. CONTRACTOR shall not use or release these materials without the prior written consent of CITY.

**4. PRICE:**

- 4.1.** CONTRACTOR will charge hourly rates listed in Exhibit C for time spent performing services cope of work at the relevant work location. CONTRACTOR will charge partial hours spent performing services rounded up to the closest 5-minute increment of the hourly rate (1/12 of one hour rate) and shall detail time spent performing services and type of employee providing it in each monthly invoice. Parts or equipment used to perform services shall be itemized on monthly invoice and supported with CONTRACTOR'S invoice showing amount it paid. Any work on Saturdays, Sundays or holidays will require advance approval from Contract Administrator.
- 4.2. Taxes.** CONTRACTOR shall be solely legally responsible for any and all tax obligations, which may result out of CONTRACTOR'S performance of this Contract. CITY shall have no legal obligation to pay any amounts for taxes, of any type, incurred by CONTRACTOR. City agrees that Contractor may bill the City for applicable privilege license taxes which are paid for by Contractor and that the City will reimburse Contractor for privilege license taxes actually paid by Contractor. If Contractor obtains any refund of privilege license taxes paid, City will be entitled to a refund of such amounts.
- 4.3. Payment.** A separate invoice shall be issued for each shipment of material or service performed, and no payment will be issued prior to receipt of material and/or completion of specified services and receipt of a correct invoice.
- 4.4. IRS W9 Form.** In order to receive payment CONTRACTOR shall have a current I.R.S. W9 Form on file with CITY, unless not required by law.
- 4.5. Price Adjustment.** CITY may approve a fully documented request for a price increase only after the Contract has been in effect for two years. The requested increase shall be based upon a cost increase to CONTRACTOR that was clearly unpredictable at the time of the offer and is directly correlated to the price of the product concerned. CITY shall determine whether the requested price increase or an alternate option, is in the best interest of CITY. If a price increase is agreed upon a written Contract Amendment shall be approved and executed by the Parties.
- 4.6. Acceptance by City.** CITY reserves the right to accept or reject the request for a price increase. If CITY approves the price increase, the price shall remain firm for the renewal term for which it was requested. If a price increase is agreed upon a written Contract Amendment must be approved and executed by the Parties.
- 4.7. Price Reduction.** CONTRACTOR shall offer CITY a price reduction for its services concurrent with a published price reduction made to other customers.

**5. TERM:**

- 5.1.** The term of the Contract is two year(s), commencing on July 1, 2015 and terminating on June 30, 2017 unless sooner terminated in accordance with the provisions herein. The contract may be extended two additional terms of two years each with mutual agreement of the City and The Contractor.

**6 USE OF THIS CONTRACT:** The Contract is for the sole convenience of the City of Chandler. CITY reserves the rights to obtain like services from another source to secure significant cost savings or when timely completion cannot be met by CONTRACTOR.

- 6.1. Cooperative Use of Contract.** In addition to the City of Chandler and with approval of the CONTRACTOR, this Contract may be extended for use by other municipalities, school districts and government agencies of the State. A current listing of eligible entities may be found at [www.maricopa.gov/materials](http://www.maricopa.gov/materials) and then click on 'Contracts', 'S.A.V.E.' listing and 'ICPA'. Any such

usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.

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

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

**6.2. Emergency Purchases:** CITY reserves the rights to purchase from other sources those items, which are required on an emergency basis and cannot be supplied immediately by the CONTRACTOR.

**6. CITY'S CONTRACTUAL REMEDIES:**

**7.1. Right to Assurance.** If the City in good faith has reason to believe that the CONTRACTOR does not intend to, or is unable to perform or continue performing under this Contract, the Contract Administrator may demand in writing that the CONTRACTOR give a written assurance of intent to perform. Failure by the CONTRACTOR to provide written assurance within the number of Days specified in the demand may, at the City's option, be the basis for terminating the Contract in addition to any other rights and remedies provided by law or this Contract.

**7.2. Stop Work Order.** The City may, at any time, by written order to the CONTRACTOR, require the CONTRACTOR to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the City after the order is delivered to the CONTRACTOR. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the CONTRACTOR shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

**7.3.** If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the CONTRACTOR shall resume work. The Contract Administrator shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

**7.4. Non-exclusive Remedies.** The rights and the remedies of the City under this Contract are not exclusive.

**7.5. Nonconforming Tender.** Services and materials supplied under this Contract shall fully comply with Contract requirements and specifications. Services or materials that do not fully comply constitute a breach of contract.

**7.6. Right of Offset.** The City shall be entitled to offset against any sums due CONTRACTOR, any expenses or costs incurred by the City, or damages assessed by the City concerning the CONTRACTOR'S non-conforming performance or failure to perform the Contract, including expenses to complete the work and other costs and damages incurred by CITY.

**8. TERMINATION:**

- 8.1 Termination for Convenience:** CITY reserves the right to terminate this Agreement or any part thereof for its sole convenience with thirty (30) days written notice. In the event of such termination, CONTRACTOR shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subCONTRACTORS to cease such work. As compensation in full for services performed to the date of such termination, the CONTRACTOR shall receive a fee for the percentage of services actually performed. This fee shall be in the amount to be mutually agreed upon by the CONTRACTOR and CITY, based on the agreed Scope of Work. If there is no mutual agreement, the Management Services Director shall determine the percentage of work performed under each task detailed in the Scope of Work and the CONTRACTOR'S compensation shall be based upon such determination and CONTRACTOR'S fee schedule included herein.
- 8.2 Termination for Cause:** City may terminate this Agreement for Cause upon the occurrence of any one or more of the following events:
- 1) If CONTRACTOR fails to perform pursuant to the terms of this Agreement
  - 2) If CONTRACTOR is adjudged a bankrupt or insolvent;
  - 3) If CONTRACTOR makes a general assignment for the benefit of creditors;
  - 4) If a trustee or receiver is appointed for CONTRACTOR or for any of CONTRACTOR'S property;
  - 5) If CONTRACTOR files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws;
  - 6) If CONTRACTOR disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction;
  - 7) Where Agreement has been so terminated by CITY, the termination shall not affect any rights of CITY against CONTRACTOR then existing or which may thereafter accrue.
- 8.3. Cancellation for Conflict of Interest.** Pursuant to A.R.S. § 38-511, CITY may cancel this Contract after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.
- 8.4. Gratuities.** CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by CONTRACTOR or a representative of CONTRACTOR to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by CONTRACTOR.
- 8.5. Suspension or Debarment.** CITY may, by written notice to the CONTRACTOR, immediately terminate this Contract if CITY determines that CONTRACTOR has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a SUBCONTRACTOR of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the CONTRACTOR is not currently suspended or debarred. If CONTRACTOR becomes suspended or debarred, CONTRACTOR shall immediately notify CITY.
- 8.6. Continuation of Performance through Termination.** The CONTRACTOR shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.



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

The amount and type of insurance coverage requirements set forth in the Agreement will in no way be construed as limiting the scope of indemnity in this paragraph.

## 12. INSURANCE:

### 1. General.

- A. At the same time as execution of this Agreement, the CONTRACTOR shall furnish the City of Chandler a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY. Provided, however, the A.M. Best rating requirement shall not be deemed to apply to required Workers' Compensation coverage.
- B. The CONTRACTOR and any of its subcontractors, subconsultants or sublicensees shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.
- C. The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.
- D. The City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect CONTRACTOR from liabilities that might arise out of the performance of the Agreement services under this Agreement by CONTRACTOR, its agents, representatives, employees, subcontractors, sublicensees or subconsultants and the CONTRACTOR is free to purchase any additional insurance as may be determined necessary.
- E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve the CONTRACTOR from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.
- F. Use of SubContractors: If any work is subcontracted in any way, the CONTRACTOR shall execute a written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the City requires of the CONTRACTOR in this Agreement. The CONTRACTOR is responsible for executing the Agreement with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.

### 2. Minimum Scope And Limits Of Insurance. The CONTRACTOR shall provide coverage with limits of liability not less than those stated below.

- A. *Commercial General Liability-Occurrence Form.* CONTRACTOR must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent contractors, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.
- B. *Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles Vehicle Liability.* CONTRACTOR must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on CONTRACTOR owned, hired, and non-owned vehicles assigned to or used in the performance of the CONTRACTOR's work or services under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

- C. *Workers Compensation and Employers Liability Insurance:* CONTRACTOR must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of CONTRACTOR employees engaged in the performance of work or services under this Agreement and must also maintain Employers' Liability insurance of not less than \$1,000,000 for each accident and \$1,000,000 disease for each employee.

D. ***Installation Floater***

*Coverage equal to the initial Contract Amount including labor and expenses, policy shall include the following provisions:*

- a. *The CITY, CONTRACTOR, subcontractor and any others with an insurable interest in the work shall be Insureds on the policy.*
- b. *Coverage shall be written on a Covered Cause of Loss-Special Form, replacement cost basis and shall include coverage for flood and earth movement as well as coverage for losses that may occur during equipment testing.*
- c. *Policy shall be maintained until whichever of the following shall first occur:*
  - i. *final payment has been made; or,*
  - ii. *until no person or entity, other than the CITY has an insurable interest in the property required to be covered.*
- d. *Policy shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy by the CITY.*
- e. *The Installation Floater must provide coverage from the time the equipment/material becomes the responsibility of the CONTRACTOR and shall continue without interruption during the installation, including any time during which the equipment/material is being transported to the installation site, or awaiting installation, whether on or off site.*
- f. *CONTRACTOR is responsible for the payment of all deductibles under the Installation Floater policy waives all rights of recovery and subrogation against the City under the CONTRACTOR-provided Installation Floater coverage.*

3. **Additional Policy Provisions Required.**

- A. *Self-Insured Retentions Or Deductibles.* Any self-insured retentions and deductibles must be declared and approved by the City. If not approved, the City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to the City, its officers, officials, agents, employees, and volunteers.
- B. *City as Additional Insured.* The policies are to contain, or be endorsed to contain, the following provisions:
  1. The Commercial General Liability, Installation Floater, and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the CONTRACTOR including the City's general supervision of the CONTRACTOR; Products and Completed operations of the CONTRACTOR; and automobiles owned, leased, hired, or borrowed by the CONTRACTOR.
  2. The CONTRACTOR's insurance must contain broad form contractual liability coverage and must not exclude liability arising out of explosion, collapse, or underground property damage hazards ("XCU") coverage.
  3. The City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the CONTRACTOR even if those limits of liability are in excess of those required by this Agreement.

4. The CONTRACTOR's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, and employees shall be in excess of the coverage provided by the CONTRACTOR and must not contribute to it.
5. The CONTRACTOR's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
6. Coverage provided by the CONTRACTOR must not be limited to the liability assumed under the indemnification provisions of this Agreement.
7. The policies must contain a severability of interest clause and waiver of subrogation against the City, its officers, officials, agents, and employees, for losses arising from Work performed by the CONTRACTOR for the City.
8. The CONTRACTOR, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of 3 years following completion and acceptance of the Work. The CONTRACTOR must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this 3 year period containing all the Agreement insurance requirements, including naming the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insured as required.
9. If a Certificate of Insurance is submitted as verification of coverage, the City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the required policies expire during the life of this Agreement, the CONTRACTOR must forward renewal or replacement Certificates to the City within 10 days after the renewal date containing all the necessary insurance provisions.
13. **NOTICES:** All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of the CITY  
 Contract Administrator: Procurement Officer

Contact:	<u>Mike Mandt</u>
Mailing Address:	<u>PO Box 4008</u>
Physical Address:	<u>175 S Arizona Avenue</u>
City, State, Zip	<u>Chandler, AZ 85244-4008</u>
Phone:	<u>480-782-2406</u>

In the case of the CONTRACTOR  
 Firm Name: Precision Electric Company, Inc.

Contact:	<u>Steve Belt</u>
Address:	<u>1822 East Jackson Street</u>
City, State, Zip	<u>Phoenix, AZ 85034</u>
Phone:	<u>602-417-2661</u>
	<u>steve@precisionelectric.com</u>

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

**14. CONFLICT OF INTEREST:**

- 14.1. **No Kickback.** CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in CONTRACTOR'S proposal to the CITY.

- 14.2. Kickback Termination.** CITY may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the CITY is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a CONTRACTOR to any other party to the Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when written notice from CITY is received by all other parties, unless the notice specifies a later time (A.R.S. §38-511).
- 14.3 No Conflict:** CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.
- 15. GENERAL TERMS:**
- 15.1. Ownership.** All deliverables and/or other products of the Contract (including but not limited to all software documentation, reports, records, summaries and other matter and materials prepared or developed by CONTRACTOR in performance of the Contract) shall be the sole, absolute and exclusive property of CITY, free from any claim or retention of right on the part of CONTRACTOR, its agents, sub-contractors, officers or employees.
- 15.2. Entire Agreement.** This Agreement, including all-Exhibits attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.
- 15.3. Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 15.4. Assignment:** Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the CITY.
- 15.5. Amendments.** The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the CONTRACTOR are violations of the Contract. Any such changes, including unauthorized written Contract Amendments shall be void and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on such changes.
- 15.6. Independent CONTRACTOR.** The CONTRACTOR under this Contract is an independent CONTRACTOR. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 15.7. No Parole Evidence.** This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

15.8. **Authority:** Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this 12  
day of June, 2015.

FOR THE CITY OF CHANDLER

Jay Libby  
Mayor

FOR THE CONTRACTOR

By: [Signature] Steven C. Belt  
Signature

APPROVED AS TO FORM:

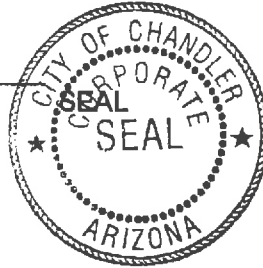
Cynthia Haglin  
City Attorney

ATTEST: If Corporation

Steven L. Rist  
Secretary

ATTEST:

Marb Passalunghi  
City Clerk



**EXHIBIT A**

**Contractor Immigration Warranty  
To Be Completed by Contractor Prior to Execution of Contract**

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

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

<b>Contract Number:</b> (480) 232-8374 Cell (602) 417-2661 Office (602) 252-2821 Shop Number		
<b>Name (as listed in the contract):</b> Steve Belt		
<b>Street Name and Number:</b> 1822 East Jackson Street		
<b>City:</b> Phoenix	<b>State:</b> Arizona	<b>Zip Code:</b> 85034

I hereby attest that:

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

**Signature of Contractor (Employer) or Authorized Designee:**



Steven C. Belt

**Printed Name:** Steven C. Belt

**Title:** Division Manager

**Date (month/day/year):** 5-18-2015

**Exhibit B**  
**Scope of Work**

1. SCOPE

The purpose of this contract is to provide equipment repair for various City departments, which currently include Water Production, Wastewater Treatment, Wastewater Collection, Reverse Osmosis, Solid Waste and Streets. The contract is separated into six categories as indicated below.

1.1 Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.

This work will take place at the City's Pecos Water Treatment Facility and reservoir / booster stations at various locations throughout the City. This category will include work on all types of pumps, valves and process equipment common to water treatment and booster station facilities.

1.2 Wastewater Treatment and Lift Station Pump and Process Equipment Sales and Maintenance.

This work will take place at the City's Airport Water Reclamation Facility, Lone Butte Wastewater Facility, Ocotillo Water Reclamation Facility, Lift Stations and Wastewater Facilities at various locations throughout the City. This category will include work on all types of pumps, valves and process equipment common to wastewater treatment and lift station facilities.

1.3 Potable Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.

This work will take place at various well locations throughout the City. This category will include work on both Line shaft and Submersible type well pump systems, well maintenance, rehabilitation and repair, as well as work on all types of pumps, valves and process equipment common to potable, ASR and monitor well and leachate recovery facilities.

1.4 Chandler Reverse Osmosis Plant Pumps and Process Equipment Sales and Maintenance.

This work will take place at the City's Reverse Osmosis Facility. This category will include work on all types of pumps, valves and process equipment common to industrial reverse osmosis water treatment facilities.

1.5 Other City Facilities

This work will take place at the City's other facilities such as City owned buildings, parks, pools, and street storm water facilities. This category will include work on all types of pumps, motors and equipment common to these facilities.

1.6 OEM Parts and Service

This work will take place at any of the City Facilities. This category is for work to be performed by the authorized manufacturers' representative for the OEM products listed in Section 4 of the price page.

2. RESPONSE TIME

2.1. Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.

CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.



- 2.2. Wastewater Treatment and Lift Station Pump and Process Equipment Sales and Maintenance.  
CONTRACTOR shall commence work within 5 days of notification from CITY for all non-emergency calls.
- CONTRACTOR shall commence work within 24 hours of notification from CITY for all emergency calls.
- CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.
- 2.3. Potable Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.
- CONTRACTOR shall commence work within 10 days of notification from CITY for all non-emergency calls.
- CONTRACTOR shall commence work within 24 hours of notification from CITY for all emergency calls.
- CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.
- 2.4. Chandler Reverse Osmosis Plant Pumps and Process Equipment Sales and Maintenance.
- CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.
- CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.
- CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.
- 2.5. Other City Facilities  
CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.
- CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.
- CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.
- 2.6. OEM Parts and Service  
CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.
- CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.
- CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

3. WORK ESTIMATES AND COMPLETION TIME

Prior to CONTRACTOR performing any repair work, CONTRACTOR will be required to provide CITY a written report including condition of equipment, recommended repairs and cost of repairs. CONTRACTOR will be allowed to remove and disassemble the equipment prior to providing CITY written estimate. The written estimate will be required 72 hours after equipment has been removed.

CONTRACTOR will be required to repair and reinstall equipment within 10 working days from approval of the work. This requirement will be adjusted if parts delivery exceeds 10 days.

4. REPLACEMENT PARTS

CITY may purchase replacement pumps, motors, and other related equipment from CONTRACTOR. The price to be paid to CONTRACTOR by CITY will be billed at the invoice price multiplied by the factor listed on Exhibit C. The factor listed will be CONTRACTOR's compensation for handling. CONTRACTOR shall include invoices for any parts for which he is seeking reimbursement. All replacement parts supplied must meet all manufacturers' specifications.

CONTRACTOR may be required to provide pricing of repair parts for specific jobs prior to CITY authorizing purchase of the parts from CONTRACTOR. CITY reserves the right to purchase pumps, motors, and other related equipment directly from the manufacturer or from other vendors if it is in CITY's best interest.

5. SUPERVISION BY THE CONTRACTOR

CONTRACTOR will supervise and direct all work. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures performed. CONTRACTOR will employ and maintain on the work a qualified supervisor or superintendent, which shall be designated in writing by CONTRACTOR as CONTRACTOR's representative at the site. The supervisor shall have full authority to act on behalf of CONTRACTOR and all communications given to the supervisor shall be as binding as of given to CONTRACTOR. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the work.

6. INSPECTION

CITY Staff may monitor the work site and report to the Contract Administrator as to the progress of the Work, the manner in which it is being performed, and if material furnished and work performed by CONTRACTOR fails to fulfill the requirements of the Contract. CITY Staff may direct the attention of CONTRACTOR to such failure or infringement but such inspection shall not relieve CONTRACTOR from any obligation to furnish acceptable materials or to provide completed work that complies with the Contract.

In the case of any dispute arising between CITY staff and the CONTRACTOR as to material furnished or the manner of performing work, CITY Staff shall have the authority to reject materials or suspend the work until the question and issue can be resolved

7. VIBRATION ANALYSIS

Repairs performed under this contract will be subject to vibration analysis and must comply with manufacturers' specifications.

8. SAFETY PROCEDURES

CONTRACTOR will be responsible for coordinating their activities with CITY. Prior to the start of work, CONTRACTOR and CITY will perform a Pre-job briefing to discuss and plan for dealing with relevant safety issues such as lockout tag-out and confined space exposures. CONTRACTOR will be responsible to properly lockout tag- out electrical hazards and ensure there is a plan to deal with other work related hazards.

9. DISINFECTION  
CONTRACTOR will be responsible for disinfection of all potable water equipment with NSF approved products prior to and during installation in accordance with Maricopa County Health Code, Chapter V, Water Supply R9-8-266.
10. CLEANUP  
CONTRACTOR shall remove all debris and other materials from the work site after the completion of work.
11. PROTECTION OF FINISHED OR PARTIALLY FINISHED WORK  
CONTRACTOR shall properly secure the work site and protect all finished or partially finished work.
12. DISPOSAL OF WASTE  
CONTRACTOR will be responsible for disposal of all waste products including but not limited to oil baled from a well, debris, etc. at a legal off-site location. ANY DISPOSAL OF WASTE PRODUCTS OR UNUSED MATERIALS SHALL CONFORM TO APPLICABLE FEDERAL, STATE, AND LOCAL REGULATIONS. Copies of disposal documentation shall be provided to CITY upon request.
13. WRITTEN COMPLETION REPORTS  
CONTRACTOR shall submit a written completion report to CITY within 30 days of completion of work, which details work completed. The report for pump repair shall include depth of setting, bowl size and make, tube and shaft size and make, depth of well water level and other pertinent information. **The report shall include a daily log that accounts for all hours and materials billed to the job.** CITY will not make payment prior to receiving this report.

**Exhibit C**

<b>Work Categories</b>		<b>Included in Agreement</b>
1. Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.		Yes
2. Wastewater Facilities and Lift Station Pump and Process Equipment Sales and Maintenance.		Yes
3. Potable Well, Injection Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.		Yes
4. Chandler Reverse Osmosis Plant Pumps and Process Equipment Sales and Maintenance.		Yes
5. Other City Facilities		Yes
6. OEM parts and service provider		Yes
<b>Labor</b>	<b>UM</b>	
Electrician - Field	\$/Hour	\$ 65.00
Electrician - Shop	\$/Hour	\$ 60.00
Laborer - Field	\$/Hour	\$ 55.00
Laborer - Shop	\$/Hour	\$ 50.00
Machinist - Field	\$/Hour	\$ 65.00
Machinist - Shop	\$/Hour	\$ 60.00
Mechanic - Field	\$/Hour	\$ 65.00
Mechanic - Shop	\$/Hour	\$ 65.00
Welder - Field	\$/Hour	\$ 65.00
Welder - Shop	\$/Hour	\$ 60.00
Operator - Field	\$/Hour	\$ 65.00
Supervisor - Field	\$/Hour	\$ 65.00
Technician - Field	\$/Hour	\$ 65.00
Multiplier for Overtime, Weekend and Holiday Work	Multiplier	1.4
<b>Equipment</b>		

<b>Type 1 equipment</b>	<b>UM</b>	
Pickup Truck	\$/Hour	\$ 65.00
Crane Truck	\$/Hour	\$ 95.00
Pump Service Truck	\$/Hour	\$ 85.00
<b>Non OEM Parts and Equipment</b>	%	
Parts Mark-up for items with an invoiced cost of less than \$9,999 / ea	%	15%
Parts Mark-up for items with an invoiced cost of greater than \$10,000 / ea	%	12%
Subcontractor Mark-Up	%	10%
Rental Equipment Mark-Up	%	15%
<b>OEM Parts and Equipment</b>		
	% Discount From List	% Discount From List
<b><u>Pumps:</u></b>		
Flygt Submersible Pumps		22-36%
Peerless		20%
<b><u>Motors:</u></b>		
G.E.		25-38%
U.S.		25-38%
Baldor		25-38%
<b><u>Water Filters:</u></b>		
Tekleen		10%

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
PRECISION ELECTRIC COMPANY, INC.**

**EXHIBIT B  
Scope of Work**

**PROJECT**

Precision Electric Company, Inc. will provide equipment repair and maintenance for water and wastewater equipment throughout Glendale, Arizona.

**Exhibit B**  
**Scope of Work**

1. **SCOPE**

The purpose of this contract is to provide equipment repair for various City departments, which currently include Water Production, Wastewater Treatment, Wastewater Collection, Reverse Osmosis, Solid Waste and Streets. The contract is separated into six categories as indicated below.

1.1 **Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.**

This work will take place at the City's Pecos Water Treatment Facility and reservoir / booster stations at various locations throughout the City. This category will include work on all types of pumps, valves and process equipment common to water treatment and booster station facilities.

1.2 **Wastewater Treatment and Lift Station Pump and Process Equipment Sales and Maintenance.**

This work will take place at the City's Airport Water Reclamation Facility, Lone Butte Wastewater Facility, Ocotillo Water Reclamation Facility, Lift Stations and Wastewater Facilities at various locations throughout the City. This category will include work on all types of pumps, valves and process equipment common to wastewater treatment and lift station facilities.

1.3 **Potable Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.**

This work will take place at various well locations throughout the City. This category will include work on both Line shaft and Submersible type well pump systems, well maintenance, rehabilitation and repair, as well as work on all types of pumps, valves and process equipment common to potable, ASR and monitor well and leachate recovery facilities.

1.4 **Chandler Reverse Osmosis Plant Pumps and Process Equipment Sales and Maintenance.**

This work will take place at the City's Reverse Osmosis Facility. This category will include work on all types of pumps, valves and process equipment common to Industrial reverse osmosis water treatment facilities.

1.5 **Other City Facilities**

This work will take place at the City's other facilities such as City owned buildings, parks, pools, and street storm water facilities. This category will include work on all types of pumps, motors and equipment common to these facilities.

1.6 **OEM Parts and Service**

This work will take place at any of the City Facilities. This category is for work to be performed by the authorized manufacturers' representative for the OEM products listed in Section 4 of the price page.

2. **RESPONSE TIME**

2.1. **Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.**

CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

- 2.2. Wastewater Treatment and Lift Station Pump and Process Equipment Sales and Maintenance.  
CONTRACTOR shall commence work within 5 days of notification from CITY for all non-emergency calls.  
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3. WORK ESTIMATES AND COMPLETION TIME

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4. REPLACEMENT PARTS

CITY may purchase replacement pumps, motors, and other related equipment from CONTRACTOR. The price to be paid to CONTRACTOR by CITY will be billed at the invoice price multiplied by the factor listed on Exhibit C. The factor listed will be CONTRACTOR's compensation for handling. CONTRACTOR shall include invoices for any parts for which he is seeking reimbursement. All replacement parts supplied must meet all manufacturers' specifications.

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CONTRACTOR will supervise and direct all work. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures performed. CONTRACTOR will employ and maintain on the work a qualified supervisor or superintendent, which shall be designated in writing by CONTRACTOR as CONTRACTOR's representative at the site. The supervisor shall have full authority to act on behalf of CONTRACTOR and all communications given to the supervisor shall be as binding as of given to CONTRACTOR. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the work.

6. INSPECTION

CITY Staff may monitor the work site and report to the Contract Administrator as to the progress of the Work, the manner in which it is being performed, and if material furnished and work performed by CONTRACTOR fails to fulfill the requirements of the Contract. CITY Staff may direct the attention of CONTRACTOR to such failure or infringement but such inspection shall not relieve CONTRACTOR from any obligation to furnish acceptable materials or to provide completed work that complies with the Contract.

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Repairs performed under this contract will be subject to vibration analysis and must comply with manufacturers' specifications.

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CONTRACTOR will be responsible for coordinating their activities with CITY. Prior to the start of work, CONTRACTOR and CITY will perform a Pre-job briefing to discuss and plan for dealing with relevant safety issues such as lockout tag-out and confined space exposures. CONTRACTOR will be responsible to properly lockout tag- out electrical hazards and ensure there is a plan to deal with other work related hazards.

9. DISINFECTION  
CONTRACTOR will be responsible for disinfection of all potable water equipment with NSF approved products prior to and during installation in accordance with Maricopa County Health Code, Chapter V, Water Supply R9-8-266.
10. CLEANUP  
CONTRACTOR shall remove all debris and other materials from the work site after the completion of work.
11. PROTECTION OF FINISHED OR PARTIALLY FINISHED WORK  
CONTRACTOR shall properly secure the work site and protect all finished or partially finished work.
12. DISPOSAL OF WASTE  
CONTRACTOR will be responsible for disposal of all waste products including but not limited to oil baled from a well, debris, etc. at a legal off-site location. ANY DISPOSAL OF WASTE PRODUCTS OR UNUSED MATERIALS SHALL CONFORM TO APPLICABLE FEDERAL, STATE, AND LOCAL REGULATIONS. Copies of disposal documentation shall be provided to CITY upon request.
13. WRITTEN COMPLETION REPORTS  
CONTRACTOR shall submit a written completion report to CITY within 30 days of completion of work, which details work completed. The report for pump repair shall include depth of setting, bowl size and make, tube and shaft size and make, depth of well water level and other pertinent information. **The report shall include a daily log that accounts for all hours and materials billed to the job.** CITY will not make payment prior to receiving this report.

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
PRECISION ELECTRIC COMPANY, INC.**

**EXHIBIT C**

**METHOD AND AMOUNT OF COMPENSATION**

Method and amount of compensation is provided in the Water Wastewater Equipment Repair and Maintenance Agreement WA5-936-3480

**NOT TO EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project must not exceed \$50,000 annually or \$250,000 for the entire term of the Agreement.

**DETAILED PROJECT COMPENSATION**

See attached Exhibit C

**Exhibit C**

<b>Work Categories</b>		<b>Included in Agreement</b>
1. Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.		Yes
2. Wastewater Facilities and Lift Station Pump and Process Equipment Sales and Maintenance.		Yes
3. Potable Well, Injection Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.		Yes
4. Chandler Reverse Osmosis Plant Pumps and Process Equipment Sales and Maintenance.		Yes
5. Other City Facilities		Yes
6. OEM parts and service provider		Yes
<b>Labor</b>	<b>UM</b>	
Electrician - Field	\$/Hour	\$ 65.00
Electrician - Shop	\$/Hour	\$ 60.00
Laborer - Field	\$/Hour	\$ 55.00
Laborer - Shop	\$/Hour	\$ 50.00
Machinist - Field	\$/Hour	\$ 65.00
Machinist - Shop	\$/Hour	\$ 60.00
Mechanic - Field	\$/Hour	\$ 65.00
Mechanic - Shop	\$/Hour	\$ 65.00
Welder - Field	\$/Hour	\$ 65.00
Welder - Shop	\$/Hour	\$ 60.00
Operator - Field	\$/Hour	\$ 65.00
Supervisor - Field	\$/Hour	\$ 65.00
Technician - Field	\$/Hour	\$ 65.00
Multiplier for Overtime, Weekend and Holiday Work	Multiplier	1.4
<b>Equipment</b>		

<b>Type 1 equipment</b>	<b>UM</b>	
Pickup Truck	\$/Hour	\$ 65.00
Crane Truck	\$/Hour	\$ 95.00
Pump Service Truck	\$/Hour	\$ 85.00
<b>Non OEM Parts and Equipment</b>	%	
Parts Mark-up for items with an invoiced cost of less than \$9,999 / ea	%	15%
Parts Mark-up for items with an invoiced cost of greater than \$10,000 / ea	%	12%
Subcontractor Mark-Up	%	10%
Rental Equipment Mark-Up	%	15%
<b>OEM Parts and Equipment</b>		
-	% Discount From List	% Discount From List
<b><u>Pumps:</u></b>		
Flygt Submersible Pumps		22-36%
Peerless		20%
<b><u>Motors:</u></b>		
G.E.		25-38%
U.S.		25-38%
Baldor		25-38%
<b><u>Water Filters:</u></b>		
Tekleen		10%



## Legislation Description

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**File #: 16-588, Version: 1**

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**AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH FOSTER ELECTRIC MOTOR SERVICE, INC.,  
FOR EQUIPMENT REPAIR AND MAINTENANCE**

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 linking agreement with Foster Electric Motor Service, Inc., (Foster) for equipment repair and maintenance in an amount not to exceed \$50,000 for the initial term; and authorize the City Manager, at the City Manager's discretion, to extend the agreement for two (2) additional two-year terms, in an amount not to exceed \$250,000 for the entire term of the agreement. This cooperative purchase is available through an agreement between the City of Chandler and Foster, agreement no. WA5-936-3480, and can be extended through June 30, 2021.

**Background**

The City's water treatment and distribution; and wastewater collection and treatment systems include an array of pumps, mixers, processing and filtering equipment. From time to time, this equipment needs rehabilitating or replacing. Even though the system has redundant and backup equipment available, the loss of equipment reduces the service level capacity. So time is of the essence to get the equipment back in service. Having "on-call" repair contractors reduces the time equipment is out of service.

The City has contracted with multiple repair vendors as most vendors do not repair all brands or types of equipment and some have exclusive responsibilities for specific manufacturers. The City intends to contract with additional firms as they become available.

**Analysis**

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

On June 12, 2015, the City of Chandler entered into agreement no. WA5-936-3480, for the repair and maintenance of equipment. This agreement permits its cooperative use by other governmental agencies. The City of Glendale Materials Management and the City Attorney's Office have reviewed and approved the utilization of the agreement for the defined services, and concur the cooperative purchase is in the best

interest of the city.

**Previous Related Council Action**

On October 25, 2016, Council approved the linking agreement with Hennesy Mechanical Sales for equipment repair and maintenance at various water and wastewater facilities.

**Community Benefit/Public Involvement**

Maintained equipment ensures reliable and sufficient water and wastewater services for the community.

Cooperative purchasing typically produces the lowest possible volume prices and allows for the most effective use of available funding. The bids are publicly advertised and all Arizona firms have an opportunity to participate.

**Budget and Financial Impacts**

Funding is available in the FY2016-17 Water Services operating budget. Annual budget appropriation thereafter is contingent upon Council approval. The budget will be encumbered only as electrical parts are needed.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$50,000</b>	<b>2360-17160-523400, Arrowhead Water Reclamation Facility</b>
	<b>2360-17170-523400, West Area Water Reclamation Facility</b>
	<b>2400-17280-523400, Central System Maintenance</b>
	<b>2400-17250-523400, Pyramid Peak Water Treatment Plant</b>
	<b>2400-17260-523400, Cholla Water Treatment Plant</b>
	<b>2400-17290-523400, Water Distribution</b>
	<b>2400-17310-523400, Oasis Surface Water Treatment Plant</b>
	<b>2400-17320-523400, Oasis Groundwater Water Treatment Plant</b>

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
FOSTER ELECTRIC MOTOR SERVICE, INC.**

THIS LINKING AGREEMENT (this "Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the City of Glendale, an Arizona municipal corporation (the "City"), and Foster Electric Motor Service, Inc., an Arizona corporation ("Contractor"), collectively, the "Parties."

**RECITALS**

- A. On June 12, 2015, under the S.A.V.E. Cooperative Purchasing Agreement, the City of Chandler entered into a contract with Contractor to purchase the goods and services described in the Water Wastewater Equipment Repair and Maintenance Agreement, Agreement No. WA5-936-3480 ("Cooperative Purchasing Agreement"), which is attached hereto as Exhibit A. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the City.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

**AGREEMENT**

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

1. Term of Agreement. The City is purchasing supplies and/or services from Contractor pursuant to the Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement, purchases can be made by governmental entities from the date of award, which was July 1, 2015, until the date the contract expires on June 30, 2017, unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not be extended beyond June 30, 2021. The initial period of this Agreement, therefore, is the



period from the Effective Date of this Agreement until June 30, 2017. The City Manager or designee, however, may renew the term of this Agreement for two (2) two-year periods until the Cooperative Purchasing Agreement expires on June 30, 2021. Renewals are not automatic and shall only occur if the City gives the Contractor notice of its intent to renew. The City may give the Contractor notice of its intent to renew this Agreement 30 days prior to the anniversary of the Effective Date to effectuate such renewal.

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

- A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as Exhibit B.
- B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.

3. Compensation.

- A. City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit C.
- B. The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed fifty thousand dollars (\$50,000) annually or two hundred fifty thousand dollars (\$250,000) for the entire term of the Agreement (initial term plus any renewals).

4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.

5. Non-discrimination. 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.

6. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.

7. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.

8. No Boycott of Israel. The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.

9. Attestation of PCI Compliance. When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.
10. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

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

and

Foster Electric Motor Service, Inc.  
 c/o Susan Deignan  
 490 E Fry Road  
 Chandler, AZ 85225

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

“City”

City of Glendale, an Arizona  
 municipal corporation

By: \_\_\_\_\_

Kevin R. Phelps  
 City Manager

“Contractor”

Foster Electric Motor Service, Inc.,  
 an Arizona corporation

By: \_\_\_\_\_  
 Name: Jim Horne  
 Title: C.E.O.

ATTEST:

\_\_\_\_\_  
 Julie K. Bower (SEAL)  
 City Clerk

APPROVED AS TO FORM:

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

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
FOSTER ELECTRIC MOTOR SERVICE, INC.**

**EXHIBIT A**

Water Wastewater Equipment Repair and Maintenance Agreement #WA5-936-3480

18-330

**CITY OF CHANDLER SERVICES AGREEMENT  
WATER WASTEWATER EQUIPMENT REPAIR AND MAINTENANCE  
AGREEMENT NO.: WA5-936-3480**

THIS AGREEMENT is made and entered into this 12 day of June, 2015, by and between the City of Chandler, a municipal corporation of the State of Arizona, hereinafter referred to as "CITY", and Foster Electric Motor Service, Inc., a corporation of the State of Arizona, hereinafter referred to as "CONTRACTOR".

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

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

**1. CONTRACT ADMINISTRATOR:**

- 1.1. **Contract Administrator.** CONTRACTOR shall act under the authority and approval of the Cost Center Superintendent/ designee (Contract Administrator), to provide the services required by this Agreement.
- 1.2. **Key Staff.** This Contract has been awarded to CONTRACTOR based partially on the key personnel proposed to perform the services required herein. CONTRACTOR shall not change nor substitute any of these key staff for work on this Contract without prior written approval by CITY.
- 1.3. **Subcontractors.** During the performance of the Agreement, CONTRACTOR may engage such additional SUBCONTRACTORS as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with CONTRACTOR.
- 1.4. **Subcontracts.** CONTRACTOR shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of CITY. The subcontract shall incorporate by reference the terms and conditions of this Contract.

**2. SCOPE OF WORK:** CONTRACTOR shall Water and Wastewater Equipment Repair and maintenance all as more specifically set forth in the Scope of Work, labeled Exhibit B, attached hereto and made a part hereof by reference and as set forth in the Specifications and details included therein.

- 2.1. **Non-Discrimination.** The CONTRACTOR shall comply with State Executive Order No. 99-4 and all other applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.
- 2.2. **Licenses.** CONTRACTOR shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by the CONTRACTOR as applicable to this contract.
- 2.3. **Advertising, Publishing and Promotion of Contract.** The CONTRACTOR shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the CITY.
- 2.4. **Compliance With Applicable Laws.** CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable licenses and permit requirements.

- 2.4.1 Pursuant to the provisions of A.R.S. § 41-4401, the Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").
- 2.4.2 A breach of the Contractor Immigration Warranty (Exhibit A) shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.
- 2.4.3 The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.
- 2.4.4 The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verification.
- 2.4.5 The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.
- 2.4.6 In accordance with A.R.S. §35-393.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Iran.
- 2.4.7 In accordance with A.R.S. §35-391.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Sudan.

**2.5. Warranties.**

**2.6. One-Year Warranty.** CONTRACTOR must provide a one-year warranty on all work performed pursuant to this Contract.

**3. ACCEPTANCE AND DOCUMENTATION:** Each task shall be reviewed and approved by the Contract Administrator to determine acceptable completion.

**3.1. Records.** The CONTRACTOR shall retain and shall contractually require each SUBCONTRACTOR to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.

**3.2. Audit.** At any time during the term of this Contract and five (5) years thereafter, the CONTRACTOR'S or any SUBCONTRACTOR'S books and records shall be subject to audit by the City to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, the CONTRACTOR shall produce a legible copy of any or all such records.

**3.3. New/Current Products.** All equipment, materials, parts and other components incorporated in the work or services performed pursuant to this Contract shall be new, or the latest model and of the most suitable grade for the purpose intended. All work shall be performed in a skilled and workmanlike manner.

**3.4. Property of CITY.** Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of CITY. CONTRACTOR is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. CONTRACTOR shall not use or release these materials without the prior written consent of CITY.

**4. PRICE:**

- 4.1.** CONTRACTOR will charge hourly rates listed in Exhibit C for time spent performing services cope of work at the relevant work location. CONTRACTOR will charge partial hours spent performing services rounded up to the closest 5-minute increment of the hourly rate (1/12 of one hour rate) and shall detail time spent performing services and type of employee providing it in each monthly invoice. Parts or equipment used to perform services shall be itemized on monthly invoice and supported with CONTRACTOR'S invoice showing amount it paid. Any work on Saturdays, Sundays or holidays will require advance approval from Contract Administrator.
- 4.2. Taxes.** CONTRACTOR shall be solely legally responsible for any and all tax obligations, which may result out of CONTRACTOR'S performance of this Contract. CITY shall have no legal obligation to pay any amounts for taxes, of any type, incurred by CONTRACTOR. City agrees that Contractor may bill the City for applicable privilege license taxes which are paid for by Contractor and that the City will reimburse Contractor for privilege license taxes actually paid by Contractor. If Contractor obtains any refund of privilege license taxes paid, City will be entitled to a refund of such amounts.
- 4.3. Payment.** A separate invoice shall be issued for each shipment of material or service performed, and no payment will be issued prior to receipt of material and/or completion of specified services and receipt of a correct invoice.
- 4.4. IRS W9 Form.** In order to receive payment CONTRACTOR shall have a current I.R.S. W9 Form on file with CITY, unless not required by law.
- 4.5. Price Adjustment.** CITY may approve a fully documented request for a price increase only after the Contract has been in effect for two years. The requested increase shall be based upon a cost increase to CONTRACTOR that was clearly unpredictable at the time of the offer and is directly correlated to the price of the product concerned. CITY shall determine whether the requested price increase or an alternate option, is in the best interest of CITY. If a price increase is agreed upon a written Contract Amendment shall be approved and executed by the Parties.
- 4.6. Acceptance by City.** CITY reserves the right to accept or reject the request for a price increase. If CITY approves the price increase, the price shall remain firm for the renewal term for which it was requested. If a price increase is agreed upon a written Contract Amendment must be approved and executed by the Parties.
- 4.7. Price Reduction.** CONTRACTOR shall offer CITY a price reduction for its services concurrent with a published price reduction made to other customers.

**5. TERM:**

- 5.1.** The term of the Contract is two year(s), commencing on July 1, 2015 and terminating on June 30, 2017 unless sooner terminated in accordance with the provisions herein. The contract may be extended two additional terms of two years each with mutual agreement of the City and The Contractor.

**6 USE OF THIS CONTRACT:** The Contract is for the sole convenience of the City of Chandler. CITY reserves the rights to obtain like services from another source to secure significant cost savings or when timely completion cannot be met by CONTRACTOR.

- 6.1. Cooperative Use of Contract.** In addition to the City of Chandler and with approval of the CONTRACTOR, this Contract may be extended for use by other municipalities, school districts and government agencies of the State. A current listing of eligible entities may be found at [www.maricopa.gov/materials](http://www.maricopa.gov/materials) and then click on 'Contracts', 'S.A.V.E.' listing and 'ICPA'. Any such

usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.

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

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

- 6.2. Emergency Purchases:** CITY reserves the rights to purchase from other sources those items, which are required on an emergency basis and cannot be supplied immediately by the CONTRACTOR.

## **7 CITY'S CONTRACTUAL REMEDIES:**

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

**8. TERMINATION:**

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

**8.2 Termination for Cause:** City may terminate this Agreement for Cause upon the occurrence of any one or more of the following events:

- 1) If CONTRACTOR fails to perform pursuant to the terms of this Agreement
- 2) If CONTRACTOR is adjudged a bankrupt or insolvent;
- 3) If CONTRACTOR makes a general assignment for the benefit of creditors;
- 4) If a trustee or receiver is appointed for CONTRACTOR or for any of CONTRACTOR'S property;
- 5) If CONTRACTOR files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws;
- 6) If CONTRACTOR disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction;
- 7) Where Agreement has been so terminated by CITY, the termination shall not affect any rights of CITY against CONTRACTOR then existing or which may thereafter accrue.

**8.3. Cancellation for Conflict of Interest.** Pursuant to A.R.S. § 38-511, CITY may cancel this Contract after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.

**8.4. Gratuities.** CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by CONTRACTOR or a representative of CONTRACTOR to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by CONTRACTOR.

**8.5. Suspension or Debarment.** CITY may, by written notice to the CONTRACTOR, immediately terminate this Contract if CITY determines that CONTRACTOR has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a SUBCONTRACTOR of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the CONTRACTOR is not currently suspended or debarred. If CONTRACTOR becomes suspended or debarred, CONTRACTOR shall immediately notify CITY.

**8.6. Continuation of Performance Through Termination.** The CONTRACTOR shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.



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

The amount and type of insurance coverage requirements set forth in the Agreement will in no way be construed as limiting the scope of indemnity in this paragraph.

**12. INSURANCE:**

**1. General.**

- A. At the same time as execution of this Agreement, the CONTRACTOR shall furnish the City of Chandler a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY. Provided, however, the A.M. Best rating requirement shall not be deemed to apply to required Workers' Compensation coverage.
  - B. The CONTRACTOR and any of its subcontractors, subconsultants or sublicensees shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.
  - C. The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.
  - D. The City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect CONTRACTOR from liabilities that might arise out of the performance of the Agreement services under this Agreement by CONTRACTOR, its agents, representatives, employees, subcontractors, sublicensees or subconsultants and the CONTRACTOR is free to purchase any additional insurance as may be determined necessary.
  - E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve the CONTRACTOR from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.
  - F. Use of SubContractors: If any work is subcontracted in any way, the CONTRACTOR shall execute a written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the City requires of the CONTRACTOR in this Agreement. The CONTRACTOR is responsible for executing the Agreement with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.
- 2. Minimum Scope and Limits of Insurance.** The CONTRACTOR shall provide coverage with limits of liability not less than those stated below.
- A. *Commercial General Liability-Occurrence Form.* CONTRACTOR must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent contractors, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.
  - B. *Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles Vehicle Liability.* CONTRACTOR must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on CONTRACTOR owned, hired, and non-owned vehicles assigned to or used in the performance of the CONTRACTOR's work or services under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

C. *Workers Compensation and Employers Liability Insurance:* CONTRACTOR must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of CONTRACTOR employees engaged in the performance of work or services under this Agreement and must also maintain Employers' Liability insurance of not less than \$1,000,000 for each accident and \$1,000,000 disease for each employee.

D. ***Installation Floater***

*Coverage equal to the initial Contract Amount including labor and expenses, policy shall include the following provisions:*

- a. *The CITY, CONTRACTOR, subcontractor and any others with an insurable interest in the work shall be Insured's on the policy.*
- b. *Coverage shall be written on a Covered Cause of Loss-Special Form, replacement cost basis and shall include coverage for flood and earth movement as well as coverage for losses that may occur during equipment testing.*
- c. *Policy shall be maintained until whichever of the following shall first occur:*
  - i. *final payment has been made; or,*
  - ii. *Until no person or entity, other than the CITY has an insurable interest in the property required to be covered.*
- d. *Policy shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy by the CITY.*
- e. *The Installation Floater must provide coverage from the time the equipment/material becomes the responsibility of the CONTRACTOR and shall continue without interruption during the installation, including any time during which the equipment/material is being transported to the installation site, or awaiting installation, whether on or off site.*
- f. *CONTRACTOR is responsible for the payment of all deductibles under the Installation Floater policy waives all rights of recovery and subrogation against the City under the CONTRACTOR-provided Installation Floater coverage.*

3. **Additional Policy Provisions Required.**

- A. ***Self-Insured Retentions Or Deductibles.*** Any self-insured retentions and deductibles must be declared and approved by the City. If not approved, the City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to the City, its officers, officials, agents, employees, and volunteers.
- B. ***City as Additional Insured.*** The policies are to contain, or be endorsed to contain, the following provisions:
  1. The Commercial General Liability, Installation Floater, and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the CONTRACTOR including the City's general supervision of the CONTRACTOR; Products and Completed operations of the CONTRACTOR; and automobiles owned, leased, hired, or borrowed by the CONTRACTOR.
  2. The CONTRACTOR's insurance must contain broad form contractual liability coverage and must not exclude liability arising out of explosion, collapse, or underground property damage hazards ("XCU") coverage.
  3. The City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the CONTRACTOR even if those limits of liability are in excess of those required by this Agreement.

4. The CONTRACTOR's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, and employees shall be in excess of the coverage provided by the CONTRACTOR and must not contribute to it.
5. The CONTRACTOR's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
6. Coverage provided by the CONTRACTOR must not be limited to the liability assumed under the indemnification provisions of this Agreement.
7. The policies must contain a severability of interest clause and waiver of subrogation against the City, its officers, officials, agents, and employees, for losses arising from Work performed by the CONTRACTOR for the City.
8. The CONTRACTOR, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of 3 years following completion and acceptance of the Work. The CONTRACTOR must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this 3 year period containing all the Agreement insurance requirements, including naming the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insured as required.
9. If a Certificate of Insurance is submitted as verification of coverage, the City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the required policies expire during the life of this Agreement, the CONTRACTOR must forward renewal or replacement Certificates to the City within 10 days after the renewal date containing all the necessary insurance provisions.
13. **NOTICES:** All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

**In the case of the CITY**

Contract Administrator: Procurement Officer

Contact: Mike Mandt  
Mailing Address: PO Box 4008  
Physical Address: 175 S. Arizona Avenue  
City, State, Zip Chandler, AZ 85244-4008  
Phone: 480-782-2406

**In the case of the CONTRACTOR**

Firm Name: Foster Electric Motor Service, Inc.

Contact: Susan Deignan  
Address: 490 E Fry Road  
City, State, Zip Chandler, AZ 85225  
Phone: 480-963-5416  
susan@fe-azp.com

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

**14. CONFLICT OF INTEREST:**

- 14.1. **No Kickback.** CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in CONTRACTOR'S proposal to the CITY.

- 14.2. Kickback Termination.** CITY may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the CITY is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a CONTRACTOR to any other party to the Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when written notice from CITY is received by all other parties, unless the notice specifies a later time (A.R.S. §38-511).
- 14.3 No Conflict:** CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.
- 15. GENERAL TERMS:**
- 15.1. Ownership.** All deliverables and/or other products of the Contract (including but not limited to all software documentation, reports, records, summaries and other matter and materials prepared or developed by CONTRACTOR in performance of the Contract) shall be the sole, absolute and exclusive property of CITY, free from any claim or retention of right on the part of CONTRACTOR, its agents, sub-contractors, officers or employees.
- 15.2. Entire Agreement.** This Agreement, including all Exhibits attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.
- 15.3. Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 15.4. Assignment:** Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the CITY.
- 15.5. Amendments.** The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the CONTRACTOR are violations of the Contract. Any such changes, including unauthorized written Contract Amendments shall be void and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on such changes.
- 15.6. Independent CONTRACTOR.** The CONTRACTOR under this Contract is an independent CONTRACTOR. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 15.7. No Parole Evidence.** This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

15.8. **Authority:** Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this 12  
day of June, 2015.

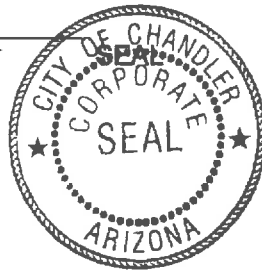
FOR THE CITY OF CHANDLER  
Jay Libbraery  
Mayor

FOR THE CONTRACTOR  
By: [Signature]  
Signature

APPROVED AS TO FORM:  
Cynthia Haglin for  
City Attorney

ATTEST: If Corporation  
[Signature]  
Secretary

ATTEST:  
Marb [Signature]  
City Clerk



**EXHIBIT A**

**Contractor Immigration Warranty  
To Be Completed by Contractor Prior to Execution of Contract**

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


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

<b>Contract Number:</b>		
<b>Name (as listed in the contract):</b> Foster Electric Motor Service		
<b>Street Name and Number:</b> 490 E. Frye Road		
<b>City:</b> Chandler	<b>State:</b> AZ	<b>Zip Code:</b> 85225

I hereby attest that:

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

**Signature of Contractor (Employer) or Authorized Designee:**

  
\_\_\_\_\_

**Printed Name:** Jill Horine

**Title:** Corporate Secretary

**Date (month/day/year):** \_\_\_\_\_

## **Exhibit B**

### **Scope of Work**

#### **1. SCOPE**

The purpose of this contract is to provide equipment repair for various City departments, which currently include Water Production, Wastewater Treatment, Wastewater Collection, Reverse Osmosis, Solid Waste and Streets. The contract is separated into six categories as indicated below.

##### **1.1 Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.**

This work will take place at the City's Pecos Water Treatment Facility and reservoir / booster stations at various locations throughout the City. This category will include work on all types of pumps, valves and process equipment common to water treatment and booster station facilities.

##### **1.2 Wastewater Treatment and Lift Station Pump and Process Equipment Sales and Maintenance.**

This work will take place at the City's Airport Water Reclamation Facility, Lone Butte Wastewater Facility, Ocotillo Water Reclamation Facility, Lift Stations and Wastewater Facilities at various locations throughout the City. This category will include work on all types of pumps, valves and process equipment common to wastewater treatment and lift station facilities.

##### **1.3 Potable Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.**

This work will take place at various well locations throughout the City. This category will include work on both Line shaft and Submersible type well pump systems, well maintenance, rehabilitation and repair, as well as work on all types of pumps, valves and process equipment common to potable, ASR and monitor well and leachate recovery facilities.

##### **1.4 Chandler Reverse Osmosis Plant Pumps and Process Equipment Sales and Maintenance.**

This work will take place at the City's Reverse Osmosis Facility. This category will include work on all types of pumps, valves and process equipment common to Industrial reverse osmosis water treatment facilities.

##### **1.5 Other City Facilities**

This work will take place at the City's other facilities such as City owned buildings, parks, pools, and street storm water facilities. This category will include work on all types of pumps, motors and equipment common to these facilities.

##### **1.6 OEM Parts and Service**

This work will take place at any of the City Facilities. This category is for work to be performed by the authorized manufacturer's representative for the OEM products listed in Section 4 of the price page.

#### **2. RESPONSE TIME**

##### **2.1. Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.**

CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.



- 2.2. Wastewater Treatment and Lift Station Pump and Process Equipment Sales and Maintenance.  
CONTRACTOR shall commence work within 5 days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 24 hours of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

- 2.3. Potable Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.

CONTRACTOR shall commence work within 10 days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 24 hours of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

- 2.4. Chandler Reverse Osmosis Plant Pumps and Process Equipment Sales and Maintenance.

CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

- 2.5. Other City Facilities

CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

- 2.6. OEM Parts and Service

CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

3. WORK ESTIMATES AND COMPLETION TIME

Prior to CONTRACTOR performing any repair work, CONTRACTOR will be required to provide CITY a written report including condition of equipment, recommended repairs and cost of repairs. CONTRACTOR will be allowed to remove and disassemble the equipment prior to providing CITY written estimate. The written estimate will be required 72 hours after equipment has been removed.

CONTRACTOR will be required to repair and reinstall equipment within 10 working days from approval of the work. This requirement will be adjusted if parts delivery exceeds 10 days.

4. REPLACEMENT PARTS

CITY may purchase replacement pumps, motors, and other related equipment from CONTRACTOR. The price to be paid to CONTRACTOR by CITY will be billed at the invoice price multiplied by the factor listed on Exhibit C. The factor listed will be CONTRACTOR's compensation for handling. CONTRACTOR shall include invoices for any parts for which he is seeking reimbursement. All replacement parts supplied must meet all manufacturer's specifications.

CONTRACTOR may be required to provide pricing of repair parts for specific jobs prior to CITY authorizing purchase of the parts from CONTRACTOR. CITY reserves the right to purchase pumps, motors, and other related equipment directly from the manufacturer or from other vendors if it is in CITY's best interest.

5. SUPERVISION BY THE CONTRACTOR

CONTRACTOR will supervise and direct all work. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures performed. CONTRACTOR will employ and maintain on the work a qualified supervisor or superintendent, which shall be designated in writing by CONTRACTOR as CONTRACTOR's representative at the site. The supervisor shall have full authority to act on behalf of CONTRACTOR and all communications given to the supervisor shall be as binding as of given to CONTRACTOR. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the work.

6. INSPECTION

CITY Staff may monitor the work site and report to the Contract Administrator as to the progress of the Work, the manner in which it is being performed, and if material furnished and work performed by CONTRACTOR fails to fulfill the requirements of the Contract. CITY Staff may direct the attention of CONTRACTOR to such failure or infringement but such inspection shall not relieve CONTRACTOR from any obligation to furnish acceptable materials or to provide completed work that complies with the Contract.

In the case of any dispute arising between CITY staff and the CONTRACTOR as to material furnished or the manner of performing work, CITY Staff shall have the authority to reject materials or suspend the work until the question and issue can be resolved

7. VIBRATION ANALYSIS

Repairs performed under this contract will be subject to vibration analysis and must comply with manufacturers' specifications.

8. SAFETY PROCEDURES

CONTRACTOR will be responsible for coordinating their activities with CITY. Prior to the start of work, CONTRACTOR and CITY will perform a Pre-job briefing to discuss and plan for dealing with relevant safety issues such as lockout tag-out and confined space exposures. CONTRACTOR will be responsible to properly lockout tag- out electrical hazards and ensure there is a plan to deal with other work related hazards.

9. **DISINFECTION**  
CONTRACTOR will be responsible for disinfection of all potable water equipment with NSF approved products prior to and during installation in accordance with Maricopa County Health Code, Chapter V, Water Supply R9-8-266.
10. **CLEANUP**  
CONTRACTOR shall remove all debris and other materials from the work site after the completion of work.
11. **PROTECTION OF FINISHED OR PARTIALLY FINISHED WORK**  
CONTRACTOR shall properly secure the work site and protect all finished or partially finished work.
12. **DISPOSAL OF WASTE**  
CONTRACTOR will be responsible for disposal of all waste products including but not limited to oil baled from a well, debris, etc. at a legal off-site location. ANY DISPOSAL OF WASTE PRODUCTS OR UNUSED MATERIALS SHALL CONFORM TO APPLICABLE FEDERAL, STATE, AND LOCAL REGULATIONS. Copies of disposal documentation shall be provided to CITY upon request.
13. **WRITTEN COMPLETION REPORTS**  
CONTRACTOR shall submit a written completion report to CITY within 30 days of completion of work, which details work completed. The report for pump repair shall include depth of setting, bowl size and make, tube and shaft size and make, depth of well water level and other pertinent information. **The report shall include a daily log that accounts for all hours and materials billed to the job.** CITY will not make payment prior to receiving this report.

**Exhibit C**

<b>Work Categories</b>		<b>Included In Agreement</b>
1. Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.		Yes
2. Wastewater Facilities and Lift Station Pump and Process Equipment Sales and Maintenance.		Yes
3. Potable Well, Injection Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.		Yes
4. Chandler Reverse Osmosis Plant Pumps and Process Equipment Sales and Maintenance.		Yes
5. Other City Facilities		Yes
6. OEM parts and service provider		Yes
<b>Labor</b>	<b>UM</b>	
Electrician – Field	\$/Hour	\$ 67.00
Electrician - Shop	\$/Hour	\$ 50.00
Laborer - Field	\$/Hour	\$ 50.00
Laborer – Shop	\$/Hour	\$ 40.00
Machinist – Field	\$/Hour	\$ 67.00
Machinist – Shop	\$/Hour	\$ 67.00
Mechanic – Field	\$/Hour	\$ 67.00
Mechanic – Shop	\$/Hour	\$ 50.00
Welder – Field	\$/Hour	\$ 67.00
Welder – Shop	\$/Hour	\$ 50.00
Operator – Field	\$/Hour	\$ 67.00
Supervisor - Field	\$/Hour	\$ 75.00
Technician – Field	\$/Hour	\$ 67.00
Multiplier for Overtime, Weekend and Holiday Work	Multiplier	\$ 1.00
Well Video Color w/ Sidescan (Includes equipment & labor - Written report and 2 copies of DVD)	per well	\$ 800.00
Confined Space work	\$/hr	300hr

One time Set Up charge for confined space (price per job including equipment and labor for set up of confined Space)	Each	\$ 500.00
<b>Equipment</b>		
Type 1 equipment	UM	
Pickup Truck	\$/Hour	\$ 20.00
Crane Truck	\$/Hour	\$ 160.00
Portable Steam Cleaner	\$/Hour	\$ 20.00
<b>Type 2 equipment</b>		
Pump Rig, 5 ton - 12 ton	\$/Hour	\$ 188.00
Pump Rig, 13 -29 ton	\$/Hour	\$ 188.00
<b>Non OEM Parts and Equipment</b>		
Parts Mark-up for items with an invoiced cost of less than \$9,999 / ea	%	14%
Parts Mark-up for items with an invoiced cost of greater than \$10,000 / ea	%	14%
Subcontractor Mark-Up	%	14%
Rental Equipment Mark-Up	%	14%
<b>OEM Parts and Equipment</b>		
<b>Blowers:</b>	% Discount From List	% Discount From List
Garden Denver		5%
Kaeser Co-Pak Plus		5%
Ingersoll Rand		5%
Roots Rotary Lobe Blower		5%
HIS		0%
<b>Pumps:</b>		
Flygt Submersible Pumps		0%
Grundfos Pumps		20%
Simflo Pumps		0%
Goulds Pumps		10%
Fairbanks Morse Pumps		10%
Gorman Rupp		5%
Wemco		0%
Peerless		0%
Paco Pumps		0%
Flowserve Pumps		0%
Sulzer		0%
Yamada		0%
Seepex		0%
<b>Motors:</b>		
G.E.		20%

U.S.		5%
Baldor		15%
<b><u>Valves &amp; Actuators:</u></b>		
Cla-Val		15%
DeZurick Valves		7%
Watts		10%
Keystone		5%
Techno		5%
Vaimen		5%
Baski		0%
Indelac actuators		0%
Koei actuators		0%
EIM		0%
Asahi		0%
Flowserve		0%
Asco		0%
<b><u>Mixers:</u></b>		
Philadelphia Mixers		5%
Chemineer		0%
<b><u>Water Filters:</u></b>		
Tekleen		5%
<b><u>Electrical Controls:</u></b>		
Alien Bradley		0%
Eaton Cutler Hammer		0%

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
FOSTER ELECTRIC MOTOR SERVICE, INC.**

**EXHIBIT B  
Scope of Work**

**PROJECT**

Foster Electric Motor Service, Inc. will provide equipment repair and maintenance for water and wastewater equipment throughout Glendale, Arizona.

**Exhibit B**  
**Scope of Work**

1. **SCOPE**

The purpose of this contract is to provide equipment repair for various City departments, which currently include Water Production, Wastewater Treatment, Wastewater Collection, Reverse Osmosis, Solid Waste and Streets. The contract is separated into six categories as indicated below.

1.1 **Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.**

This work will take place at the City's Pecos Water Treatment Facility and reservoir / booster stations at various locations throughout the City. This category will include work on all types of pumps, valves and process equipment common to water treatment and booster station facilities.

1.2 **Wastewater Treatment and Lift Station Pump and Process Equipment Sales and Maintenance.**

This work will take place at the City's Airport Water Reclamation Facility, Lone Butte Wastewater Facility, Ocotillo Water Reclamation Facility, Lift Stations and Wastewater Facilities at various locations throughout the City. This category will include work on all types of pumps, valves and process equipment common to wastewater treatment and lift station facilities.

1.3 **Potable Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.**

This work will take place at various well locations throughout the City. This category will include work on both Line shaft and Submersible type well pump systems, well maintenance, rehabilitation and repair, as well as work on all types of pumps, valves and process equipment common to potable, ASR and monitor well and leachate recovery facilities.

1.4 **Chandler Reverse Osmosis Plant Pumps and Process Equipment Sales and Maintenance.**

This work will take place at the City's Reverse Osmosis Facility. This category will include work on all types of pumps, valves and process equipment common to Industrial reverse osmosis water treatment facilities.

1.5 **Other City Facilities**

This work will take place at the City's other facilities such as City owned buildings, parks, pools, and street storm water facilities. This category will include work on all types of pumps, motors and equipment common to these facilities.

1.6 **OEM Parts and Service**

This work will take place at any of the City Facilities. This category is for work to be performed by the authorized manufacturer's representative for the OEM products listed in Section 4 of the price page.

2. **RESPONSE TIME**

2.1. **Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.**

CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.



2.2. Wastewater Treatment and Lift Station Pump and Process Equipment Sales and Maintenance.  
CONTRACTOR shall commence work within 5 days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 24 hours of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

2.3. Potable Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.

CONTRACTOR shall commence work within 10 days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 24 hours of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

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CONTRACTOR will supervise and direct all work. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures performed. CONTRACTOR will employ and maintain on the work a qualified supervisor or superintendent, which shall be designated in writing by CONTRACTOR as CONTRACTOR's representative at the site. The supervisor shall have full authority to act on behalf of CONTRACTOR and all communications given to the supervisor shall be as binding as of given to CONTRACTOR. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the work.

6. INSPECTION

CITY Staff may monitor the work site and report to the Contract Administrator as to the progress of the Work, the manner in which it is being performed, and if material furnished and work performed by CONTRACTOR fails to fulfill the requirements of the Contract. CITY Staff may direct the attention of CONTRACTOR to such failure or infringement but such inspection shall not relieve CONTRACTOR from any obligation to furnish acceptable materials or to provide completed work that complies with the Contract.

In the case of any dispute arising between CITY staff and the CONTRACTOR as to material furnished or the manner of performing work, CITY Staff shall have the authority to reject materials or suspend the work until the question and issue can be resolved

7. VIBRATION ANALYSIS

Repairs performed under this contract will be subject to vibration analysis and must comply with manufacturers' specifications.

8. SAFETY PROCEDURES

CONTRACTOR will be responsible for coordinating their activities with CITY. Prior to the start of work, CONTRACTOR and CITY will perform a Pre-job briefing to discuss and plan for dealing with relevant safety issues such as lockout tag-out and confined space exposures. CONTRACTOR will be responsible to properly lockout tag- out electrical hazards and ensure there is a plan to deal with other work related hazards.

9. **DISINFECTION**  
CONTRACTOR will be responsible for disinfection of all potable water equipment with NSF approved products prior to and during installation in accordance with Maricopa County Health Code, Chapter V, Water Supply R9-8-266.
10. **CLEANUP**  
CONTRACTOR shall remove all debris and other materials from the work site after the completion of work.
11. **PROTECTION OF FINISHED OR PARTIALLY FINISHED WORK**  
CONTRACTOR shall properly secure the work site and protect all finished or partially finished work.
12. **DISPOSAL OF WASTE**  
CONTRACTOR will be responsible for disposal of all waste products including but not limited to oil baled from a well, debris, etc. at a legal off-site location. ANY DISPOSAL OF WASTE PRODUCTS OR UNUSED MATERIALS SHALL CONFORM TO APPLICABLE FEDERAL, STATE, AND LOCAL REGULATIONS. Copies of disposal documentation shall be provided to CITY upon request.
13. **WRITTEN COMPLETION REPORTS**  
CONTRACTOR shall submit a written completion report to CITY within 30 days of completion of work, which details work completed. The report for pump repair shall include depth of setting, bowl size and make, tube and shaft size and make, depth of well water level and other pertinent information. The report shall include a daily log that accounts for all hours and materials billed to the job. CITY will not make payment prior to receiving this report.

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
FOSTER ELECTRIC MOTOR SERVICE, INC.**

**EXHIBIT C**

**METHOD AND AMOUNT OF COMPENSATION**

Method and amount of compensation is provided in the Water Wastewater Equipment Repair and Maintenance Agreement WA5-936-3480

**NOT TO EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project must not exceed \$50,000 annually or \$250,000 for the entire term of the Agreement.

**DETAILED PROJECT COMPENSATION**

See attached Exhibit C

**Exhibit C**

<b>Work Categories</b>		<b>Included In Agreement</b>
1. Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.		Yes
2. Wastewater Facilities and Lift Station Pump and Process Equipment Sales and Maintenance.		Yes
3. Potable Well, Injection Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.		Yes
4. Chandler Reverse Osmosis Plant Pumps and Process Equipment Sales and Maintenance.		Yes
5. Other City Facilities		Yes
6. OEM parts and service provider		Yes
<b>Labor</b>	<b>UM</b>	
Electrician – Field	\$/Hour	\$ 67.00
Electrician - Shop	\$/Hour	\$ 50.00
Laborer - Field	\$/Hour	\$ 50.00
Laborer – Shop	\$/Hour	\$ 40.00
Machinist – Field	\$/Hour	\$ 67.00
Machinist – Shop	\$/Hour	\$ 67.00
Mechanic – Field	\$/Hour	\$ 67.00
Mechanic – Shop	\$/Hour	\$ 50.00
Welder – Field	\$/Hour	\$ 67.00
Welder – Shop	\$/Hour	\$ 50.00
Operator – Field	\$/Hour	\$ 67.00
Supervisor - Field	\$/Hour	\$ 75.00
Technician – Field	\$/Hour	\$ 67.00
Multiplier for Overtime, Weekend and Holiday Work	Multiplier	\$ 1.00
Well Video Color w/ Sidescan (Includes equipment & labor - Written report and 2 copies of DVD)	per well	\$ 800.00
Confined Space work	\$/hr	300hr

One time Set Up charge for confined space (price per job including equipment and labor for set up of confined Space)	Each	\$ 500.00
<b>Equipment</b>		
<b>Type 1 equipment</b>	UM	
Pickup Truck	\$/Hour	\$ 20.00
Crane Truck	\$/Hour	\$ 160.00
Portable Steam Cleaner	\$/Hour	\$ 20.00
<b>Type 2 equipment</b>		
Pump Rig, 5 ton - 12 ton	\$/Hour	\$ 188.00
Pump Rig, 13 -29 ton	\$/Hour	\$ 188.00
<b>Non OEM Parts and Equipment</b>		
Parts Mark-up for items with an invoiced cost of less than \$9,999 / ea	%	14%
Parts Mark-up for items with an invoiced cost of greater than \$10,000 / ea	%	14%
Subcontractor Mark-Up	%	14%
Rental Equipment Mark-Up	%	14%
<b>OEM Parts and Equipment</b>		
<b>Blowers:</b>	% Discount From List	% Discount From List
Garden Denver		5%
Kaeser Co-Pak Plus		5%
Ingersoll Rand		5%
Roots Rotary Lobe Blower		5%
HIS		0%
<b>Pumps:</b>		
Flygt Submersible Pumps		0%
Grundfos Pumps		20%
Simflo Pumps		0%
Goulds Pumps		10%
Fairbanks Morse Pumps		10%
Gorman Rupp		5%
Wemco		0%
Peerless		0%
Paco Pumps		0%
Flowserve Pumps		0%
Sulzer		0%
Yamada		0%
Seepex		0%
<b>Motors:</b>		
G.E.		20%

U.S.		5%
Baldor		15%
<b><u>Valves &amp; Actuators:</u></b>		
Cla-Val		15%
DeZurick Valves		7%
Watts		10%
Keystone		5%
Techno		5%
Vaimen		5%
Baski		0%
Indelac actuators		0%
Koei actuators		0%
EIM		0%
Asahi		0%
Flowserve		0%
Asco		0%
<b><u>Mixers:</u></b>		
Philadelphia Mixers		5%
Chemineer		0%
<b><u>Water Filters:</u></b>		
Tekleen		5%
<b><u>Electrical Controls:</u></b>		
Allen Bradley		0%
Eaton Cutler Hammer		0%



## Legislation Description

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**File #:** 16-596, **Version:** 1

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**AUTHORIZATION TO ENTER INTO AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH BLACK & VEATCH CORPORATION FOR PHASE 2 DESIGN SERVICES FOR THE CHOLLA WATER TREATMENT PLANT IMPROVEMENTS**

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 Amendment No. 1 of the Professional Services Agreement C-9627 with Black & Veatch Corporation (B&V) for Phase 2 design services for Cholla Water Treatment Plant Improvements to increase the original agreement compensation of \$491,960 by \$1,298,140 for an amount not to exceed \$1,790,100; and extend the term of the agreement to December 31, 2019.

**Background**

The Cholla Water Treatment Plant (CWTP) was built in 1978 to treat raw water from the Salt River Project via the Arizona Canal. CWTP has a treatment capacity of 30 Million Gallons per Day (MGD) and supplies treated water to the city water zones 1 and 2. The plant has gone through several improvement and expansion projects over the years.

The project consists of the evaluation study (phase 1), design services (phase 2), and the construction services (phase 3).

Much of the original plant's equipment is still in operation and may be approaching the end of its useful life. Under phase 1 of this project, a facility assessment was performed which identified and recommended system optimizations as well as categorized asset improvements for rehabilitation or replacement into immediate, near and long term.

**Analysis**

From the March of 2014 Request for Proposal selection process, B&V was selected to perform an evaluation study of the facilities condition and the various function areas within the plant. This amendment for \$1,298,140 will include design services to implement the improvement recommendations. Amendment 2 for construction administration services (Phase 3) will be brought to the Council at a future date.

**Previous Related Council Action**

On August 25, 2015, Council approved a professional services agreement with HDR Engineering, Inc. to provide evaluations and assessments of the booster pump stations and administration building at the Cholla



Water Treatment Plant.

On January 13, 2015, Council authorized the City Manager to enter into an agreement with B&V to provide an evaluation of the Cholla Water Treatment Plant existing condition and recommend improvements.

On October 14, 2014, Council approved a professional services agreement with Ninyo and Moore Geotechnical Consultant, Inc. to develop solutions to improve soil conditions throughout the Cholla Water Treatment Plant.

**Community Benefit/Public Involvement**

This project will enable the City to ensure a continuous supply of reliable high quality water to residents and businesses to ensure public health and the vitality of the community.

**Budget and Financial Impacts**

Funding is available in the Water Services FY2016-17 capital budget.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$1,298,140</b>	<b>2400-61024-551200, Cholla Water Plant Process Imp</b>

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

AMENDMENT NO. 1  
Cholla Water Treatment Plant Improvements  
(City Project No. 131418, Contract No. C-9627)

This Amendment No. 1 (“Amendment”) to the Professional Services Agreement (“Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, (“Effective Date”), by and between the City of Glendale, an Arizona municipal corporation (“City”) and Black & Veatch Corporation, a Delaware corporation, authorized to do business in Arizona (“Contractor”).

RECITALS

- A. City and Black & Veatch Corporation (“Contractor”) previously entered into a Professional Service Agreement, Contract No. C-9627, dated January 13, 2015 (“Agreement”); and
- B. the initial study phase of the work has been completed with recommendations having been made on how to proceed in the near term for design of critical plant improvements.
- C. Expanding the Scope of Work (attached under Exhibit B) under the original Agreement will allow the improvements to be designed and ultimately implemented which will increase the efficiency and reliability of the Water Treatment Plant.
- D. City and Contractor wish to modify and amend the Agreement subject to and strictly in accordance with the terms of this Amendment.

AGREEMENT

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

- 1. **Recitals.** The recitals set forth above are not merely recitals, but form an integral part of this Amendment.
- 2. **Term.** The term of the Agreement is extended for a three-year period from January 1, 2017 through December 31, 2019, unless otherwise terminated or canceled as provided by the Agreement. All other provisions of the Agreement except as set forth in this Amendment shall remain in their entirety.
- 3. **Scope of Work.** This project will design selected improvements resulting from the Phase 1 plant assessment of the Cholla Water Treatment Plant - See Exhibit B. The scope of services for Phase 3 - Construction Administration Services will be finalized in separate contract ammendment at a later date.

4. **Compensation.** Phase 1 resulted in previous compensation of \$491,960. Phase 2 compensation will result in an additional increase in compensation of \$1,298,140 and as shown in the attached Exhibit D.
5. **Insurance Certificate.** Current certificate will expire on November 1, 2017 and a new certificate applying to the extended term must be provided prior to this date to Materials Management and the Contract Administrator.
6. **Non-discrimination.** 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.
7. **No Boycott of Israel.** The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.
8. **Attestation of PCI Compliance.** When applicable, the Contractor will provide the City annually with a PCI-DSS attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.
9. **Ratification of Agreement.** City and Contractor hereby agree that except as expressly provided herein, the provisions of the Agreement shall be, and remain in full force and effect and that if any provision of this Amendment conflicts with the Agreement, then the provisions of this Amendment shall prevail.

[Signatures on the following page.]

CITY OF GLENDALE, an Arizona  
municipal corporation

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Kevin R. Phelps, City Manager

ATTEST:

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Julie K. Bower, City Clerk (SEAL)

APPROVED AS TO FORM:

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Michael D. Bailey, City Attorney

Black & Veatch Corporation  
licensed to do business in Arizona

  
By: Dan. W. Meyer

Its: Vice President

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

**CHOLLA WATER TREATMENT PLANT PROCESS IMPROVEMENTS – PHASE II**

**Design Services – Phase 2 – Amendment 1**

**City Project No. 131418**

**DESCRIPTION OF PROJECT:**

The Cholla Water Treatment Plant began operations in 1978, treats Salt River Project (SRP) water from the Arizona Canal, and has a current design capacity of 30 million gallons per day (mgd) after having undergone multiple expansion and modification projects.

Phase 1 of the project has been completed and included water treatment plant's (WTP) existing condition evaluation and recommendations for improvement. Phase 2 includes design of the selected recommended improvements. Phase 3 includes construction administration services for the improvements. The Scope of Services for Phase 3 will be finalized at a later date.

Requested services could include assisting City staff with Council presentations, public meetings, and other related public involvement activities. The City may or may not utilize the services of a Construction Manager at Risk (CMAR). This optional delivery method will be decided at a later time. The engineering firm (Consultant) will be a member of a project team that includes, but is not limited to, city staff and possibly a construction manager at risk contractor.

## EXHIBIT B

### SCOPE OF SERVICES FOR CITY OF GLENDALE

#### CHOLLA WATER TREATMENT PLANT IMPROVEMENTS – PHASE II DESIGN SERVICES – Phase 2 – Amendment 1 CITY PROJECT NO. 131418

#### BACKGROUND

The City of Glendale's (City's) Cholla Water Treatment Plant (WTP) was built in 1978 after the Cholla 1 finished water reservoir and booster station were built in 1972. Various modification & improvement projects have been implemented since then, including the recent addition of two filters and relocation of the filter backwash pump station in 2006. Other improvements included an off-site finished water reservoir and solids handling facility. Much of the original plant's equipment is still in operation and may be approaching the end of its useful life. Under the first phase of this project, a facility assessment was performed which identified and recommended system optimizations as well as categorized asset improvements for rehabilitation or replacement into immediate, near and long term groups.

#### PURPOSE

Black & Veatch (Consultant) has completed Phase 1 work which included an evaluation of the facility's existing conditions and recommendations for improvements. Phase 2 includes detailed design of recommended Group 1 improvements. Phase 3 includes construction administration services for the Phase 2 improvements. The Scope of Services and compensation for Phase 3 will be performed under a separate contract or amendment to this contract at a later date.

#### SCOPE

The Cholla WTP Improvements – Phase 2 project is comprised of the following tasks.

##### **Group 100: Project Management**

###### Task 110: General Management & Administration

The Consultant will provide general coordination of the project with the City staff including Water Services, Engineering, Plant Operations and other departments as necessary to facilitate the project.

Consultant will develop the Phase 2 project schedule, and perform other administrative functions including, maintaining project data files, tracking project progress and invoicing throughout Phase 2.

Phase 2 project management documentation consists of monthly progress reports and schedule updates. The monthly project reports will summarize the work progress, project issues, and project schedule status. Consultant will also submit quarterly cash flow schedule and quarterly updates regarding future funds needed to complete the project.

###### Task 120: Project Meetings & Workshops

Consultant will prepare meeting documentation and conduct monthly meetings and up to two workshops to discuss the progress, direction and technical aspects of the project. Project documentation will consist of preparing and distributing meeting agendas and minutes. Meeting minutes will summarize key discussions, comments, decisions, and any action items required. Ten

progress project meetings, including two Electrical and I&C discipline specific meetings are anticipated as part of the work scope tasks. Consultant will provide draft meeting minutes to the City for review and final minutes incorporating comments from the City on the draft minutes, as required.

Group 100 Deliverables:

- Project Schedule
- Meeting Agenda and Minutes, with Action Items
- Monthly Progress Reports and Schedule Updates
- Document and Data Request Log
- Action Items and Decision Log
- Quarterly cash flow projections

**Task 200: Preliminary Evaluations & Basis of Design Report**

Preliminary Evaluations will be completed to support the Basis of Design (BOD) as described herein.

Task 201 – Data Collection and Site Investigations

The following information and plant facility records will be obtained and reviewed:

- Three years of digital data (Excel or other database) for the following parameters:
  - Oasis and Cholla Zone 1 and 2 hourly flow and pressure data
  - WTP production (low lift pump station) hourly flow
  - Chemical feed rates
  - WTP Facility and Cholla 2 AutoCAD files
  - Cholla Zone 1A/1B and 2 pump curves

Site investigations will include visual observations and inspection of equipment for confirming results of system evaluation and planned modifications.

Task 202 – Cholla WTP Plant Production and Zone Demand Evaluation

Provide distribution system operational flexibility by operating Cholla WTP at reduced demand. The task involves minimum plant production, Cholla Zones 1 and 2, and Oasis Zone 1 Booster Pump Station Demand Evaluation.

- A. B&V will review historic water demand (metered sales data) and production supply (SCADA data) for each month for the last five years. A workshop with the City will be held to establish desired production / operational plan during minimum demand months (groundwater versus surface water) to develop minimum Cholla WTP production.
- B. Minimum Cholla WTP production will also be determined to support sizing of raw water pump station recirculation and chemical feed modifications as described herein.
- C. Maximum Zone 1 and Zone 2 required demands to support sizing of the emergency generator as described herein.
- D. Up to five (5) system operating scenarios will be run to determine the best Zone 2 pumping efficiency point for energy conservation.
- E. Minimum plant production, Zone demands, and diurnal curves will be provided to the City to be used by Others for analysis of Cholla Zones 1A, 1B, and 2 minimum pumping requirements as well as its interaction with the Oasis Zone 1 pumping. B&V to support the City answer questions by Others.

#### Task 203 – Raw Water Pump Station Modification

Assess and confirm Cholla WTP Raw Water Pump Station (RWPS) turn down capacity and modify the pump station to accommodate plant production < 8 mgd identified in Task 202 to facilitate the following tasks:

- A. Recirculation pipeline and control valve sizing from the RWPS discharge to the Pre-sedimentation Splitter Box. When existing pump is operated at lowest turndown capacity, the pipeline will recirculate excess flow to meet lower plant production rate.
- B. Develop associated control description and electrical/I&C for the control valve.

#### Task 204 – Chemical Feed Metering Pump Modifications

Identified plant minimum production rate in Task 202 will drive assessment of chemical feed equipment capacity to achieve required turndown to meet plant production flow and dosage rates. The following chemical feed systems:

- Aluminum Sulfate
- Coagulant Aid Polymer
- Sodium Hydroxide
- Hydrofluosilicic Acid

This task will assess and update:

- A. Chemical metering pumps resizing to meet minimum maximum plant flow / chemical dosage based on required minimum plant production rate. Pumps will either be peristaltic or diaphragm metering.
- B. Review existing unutilized plant control system automatic control strategy and update the control description to allow the new chemical metering pumps to operating in local manual, remote manual, and remote automatic.

#### Task 205 - Carbon Dioxide Strainer Replacement

Site inspection carried out during the facilities condition assessment indicated clogging of the existing simplex basket strainer. This task will involve:

- A. Replacement of the existing simplex basket strainer will be replaced with a duplex basket strainer with appropriate materials of construction.
- B. Piping modifications as required to accommodate the new strainer.
- C. Modify / replace existing discharge diffuser to reduce plugging while meeting manufacturer backpressure requirements

#### Task 206 - Zone 2 Booster Pump Station Standby Generator & Switchgear Shade Structure

A vulnerable condition for the Cholla WTP is its potential inability to support Zone 2 and 3 if Pyramid Peak WTP is out of service and the Cholla WTP loses utility power. This task includes:

- A. Consultant will design a new diesel fueled, standby, engine generator with 24-hour sub-base fuel tank will be installed and connected to a new Automatic Transfer System (ATS) designed by City's Consultant (Others). The new engine generator will be sized as required to support the required Zone 2 booster pumps as identified in Task 202. Design will include conduit and cabling from the new generator to Zone 2 Electrical Building.
- B. Consultant will review the existing Zone 1A/1B electrical switchgear and how the existing standby generator is fed and identify means to connect new generator to the existing Zone 1A/1B electrical gear. Operation of new generator with Zone 1A/1B pumps will be designed to be done manually. Automation of feeding both Zone 1A/1B and Zone 2 from the same new generator through an ATS can be performed as an allowance.



- C. Consultant (B&V) will coordinate with the City’s Consultant as required for locating new generator, gear location inside the Zone 2 Electrical Building, conduit and cables.
- D. The City’s Consultant as part of another project will provide Consultant (B&V) with their electrical/control single line diagrams of the new Zone 2 Motor Control Center that will be modified to 480 volts from its current medium voltage. The City’s Consultant’s other design project includes complete modification to the Zone 2 Motor Control Equipment with an integral ATS for connection to the standby generator designed by the Consultant (B&V). The City’s Consultant will coordinate the exchange of external input/output signals from the new generator to the ATS and to the City’s PLC.
- E. Up to two options for a switchgear shade structure to provide UV protection to the existing switchgear.

Task 207 - Programmable Logic Controller (PLC) Replacement

Assess non-Ethernet compatible PLCs and evaluate available platforms to provide long-term product support. This task includes:

- A. Chemical Building (Chem). Replace existing Compaq Chem PLC, Momentum Presed RIO, Compaq Low Lift PLC, Quantum Ammonia PLC and Quantum CO2 RIO with new redundant Modicon M580 PLC with remote IO. The CO2 is currently part of the existing Filter PLC RIO network but will be modified and moved to new Chem PLC RIO. The existing operator interface terminals (OITs) at the Chem PLC and Ammonia PLC will not be replaced however provisions for local iFix workstations will be provided in both locations. The existing Low Lift variable frequency drives (VFDs) are not currently on the network but will be added to the Ethernet network if compatible communication module can be added.
- B. Filter Area. Replace existing Quantum Filter Master PLC and four Quantum Filter RIO with redundant Modicon M580 PLC with remote IO. As noted in Chem Area. The CO2 RIO will be removed from the Filter remote IO loop. The UF PLC will not be upgraded as part of this project. Replace Modbus Plus network with Ethernet network which will include replacement of existing OITs at the Filter Master PLC and at each of three filter consoles and addition of serial to Ethernet convertors for existing backwash pump VFDs.
- C. Finished Water Area. The Zone 1A, Zone 1B and Zone 2 PLCs are being upgraded as part of a separate project. As part of this project, provide coordinate with that design team to maintain design philosophy consistency.
- D. Dewatering System. Replace existing Quantum PLC-SHF with Modicon M580 redundant PLC and replace the associated existing Quantum RIO with M580/M340 RIO. Coordinate with centrifuge manufacturer for replacement of existing centrifuge control panel PLCs with M340/M580 PLCs. Replace existing Modbus Plus network with Ethernet compatible devices which will include replacement of the existing OITs at PLC-SHF, the polymer feed system RIO and both centrifuge control panels plus addition of serial to Ethernet convertors for centrifuge VFDs.
- E. Miscellaneous Network Upgrades. Coordinate with finished water area design team the possible addition of new fiber from Administration Building to Zone 2 pump station and from Zone 1B pump station to the Filter Electrical Building. Provide new fiber from the Chem Area to the Dewatering Area for communication redundancy to the Dewatering Area.
- F. Administration Building. The existing Quantum PLC Admin are being upgraded as part of a separate project by the City. The Remote Facility redundant Quantum PLCs will not be replaced as part of this project but rather as part of a future Remote Facility PLC upgrade project.

Task 208 - Uninterruptible Power Supply (UPS) Replacement

Assess existing Uninterruptible Power Systems based on the recommended improvements during facilities condition assessment. This task will provide:

- A. A new, centralized Uninterruptible Power Supply (UPS) unit will be installed with a dedicated electrical distribution panel to refeed UPS loads at the Chemical Building and Filter Buildings. A maintenance bypass switch to the UPS will be provided.
- B. The UPS unit(s) at the Zone 1A, 1B and 2 Booster Pump Stations are being upgraded as part of a separate project by City.

Task 209 - Site Lighting Upgrades

Under this task, Consultant will perform existing site lighting upgrades consisting of:

- A. Review of the existing site lighting will be performed to determine current level of lighting and confirm whether areas with low lighting are intended / acceptable.
- B. Based on lighting study results, identify whether existing poles are sufficient, and provide up to two (2) options for conversion of existing lighting to energy-efficient LED lighting fixtures.
- C. Level of effort described herein assumes the existing lighting system controls and power supply and voltage will remain unchanged. Lighting associated with structure interiors is not included. Change of lighting controls, power source, or voltage, or conversion for lighting internal to structures may be accommodated under the allowance.

Task 210 - Cholla 1 Bypass Pipeline / Cholla 2 Reservoir Return to Service

Existing Cholla 2 reservoir is currently out of service, while the 48-inch bypass pipeline is abandoned in place. In addition, means to bypass Cholla 1 reservoir is not available and the reservoir can be operated only in series to route filtered water to offsite Cholla 2 reservoir. This task involves:

- A. Bypass of the Cholla 1 reservoir utilizing the majority of the existing on-site pipeline. Level of effort is based on interception of the 48-inch bypass pipeline east of the existing Splitter Box and routing it south and west to the existing elbow of the original 48-inch Cholla 2 reservoir inlet which is currently abandoned. It is assumed abandoned portion of 48-inch pipeline not inspected is in a condition similar to that of the other piping inspected.
  - 48-inch portion of Cholla 1 inlet piping was not investigated due to damaged valve actuator. If additional investigation of this portion of piping is desired, a subconsultant will be selected for additional manned investigation of the pipeline after valve repair which will include safety planning and coordination with plant and distribution personnel.
- B. Based on initial investigation of existing bypass piping between Cholla 1 and Cholla 2 reservoirs, improvements anticipated to only consist of internal joint seals and mortar repair specifications. Cholla 2 inlet (66-inch section) and outlet (66-inch pipeline) based on Phase 1 findings for bypass pipeline connecting existing Cholla 1 bypass to Cholla 2 inlet pipeline.
- C. Improvements associated with bringing Cholla 2 back on-line. Note: this task is anticipated to entail notes and specifications for crack repairs, baffle curtain angle repair/replacement, and existing chemical piping demolition only; re-design of existing reservoir (i.e. addition of overflow) is not included in this scope of work. Leakage testing of the Cholla 2 reservoir is anticipated prior to recommissioning.
- D. Cholla 1 investigation and rehabilitation will be completed as part of Task 212.

Task 211 - Cholla Plant Entrance Gates, Fence, & Parking Improvements

Based on the evaluation of the existing chain link fence during the facilities condition assessment, this task involves:

- A. Replacement of existing chain link perimeter fencing with masonry block wall and tubular steel fencing to match existing while maintaining security needs along the north side of the plant site. Conduit will be designed for lighting and/or security; security design / upgrades by Others.
- B. Replace existing main plant entrance gate on W. Cholla Street with tubular steel rolling gate. Upgrades to existing call-box will be included to maintain gate control, access control, audio only intercom, and Glendale Fire Department access & knox box.
- C. Replace southwest entrance gate on N. 49<sup>th</sup> Avenue with tubular steel rolling gate. Existing fence will be modified to allow 18-wheeled trucks to pull completely off of 49<sup>th</sup> Avenue before gate is opened with masonry block wall and tubular steel fencing. New call-box will be included to provide gate control, access control, audio only intercom, and Glendale Fire Department access & knox box.
- D. Utilizing the existing spaces, include 10-16 parking spaces on the south side of the existing Administration Building. Existing plantings will be relocated to elsewhere in the WTP, if feasible.
- E. Demolish existing landscape island north of the Administration Building. Include up to two options for paving and grading and drainage improvements as a result of the island demolition. Saguaro cactus and other plantings in the island will be relocated elsewhere in the WTP, if feasible. Stormdrain improvements are not anticipated or included.
- F. Existing renderings will be reviewed and updated if needed; additional views / renderings are not anticipated. Coordination of renderings for submittal to Glendale Planning Design Review will be completed under Task 251.

**Task 212 - Cholla 1 Reservoir Rehabilitation**

Cholla 1 rehabilitation tasks described below are currently anticipated based on previous reservoir investigations and age of the structure.

- A. Upon completion of the Cholla 1 bypass pipeline construction, the Cholla 1 reservoir will be isolated and drained for internal inspection. Level of effort described herein assumes structural foundation and columns are sound. Geotechnical investigation and other reservoir improvements not identified herein are included as an allowance.
- B. Demolish the existing standing seam metal roof, which has reached the end of its useful life, and replace in kind. Details will include new anchorage details to existing support beams and potential structural improvements / replacement of beams. Consultant will include design of polyurethane foam for reduced thermal expansion.
- C. Review up to two venting options (passive vs. active) for inclusion in design. Demolish the existing geo-membrane liner. Consultant will present up to two (2) options for liner replacement will be evaluated, for initial capital costs, longevity and life cycle costs.
- D. Provide up to two (2) options for baffling of reservoir to increase baffling factor for reduced TTHM formation. Consultant will review the City’s existing baffling factor used for disinfection CT calculations and confirm desired baffling factor. Reservoir baffle wall configuration (load bearing cast-in-place concrete baffles as well as non-load bearing baffles constructed of cast-in-place concrete, FRP, aluminum material) will be evaluated, for initial capital costs, longevity and life cycle costs.  
Up to three (3) potential baffle wall configurations will be evaluated using computational flow dynamic modeling to meet the desired level effective detention time based on most conservative water quality used to calculate disinfection contact time and discussed with the City and CMAR for constructability.
- E. City will provide existing reports from recent inspections and design reports / studies by Others for review.

### Task 250 – Basis of Design Report

A Basis of Design Report (BOD) will be prepared for the Cholla WTP Improvements – Phase 2 project. The BOD will summarize and update the selected alternatives and design information developed from Phase 1 investigations and documented in Technical Memorandum 2 (TM2). The BOD will be used to document the information needed to prepare the detailed design drawings and specifications. The BOD will generally include the following items.

- General project scope and background references
- Process design criteria
- Applicable codes and standards, including fire and safety codes
- Equipment tagging / Asset Management information management
- Local building, planning, and zoning department requirements
- Site considerations, including subsurface conditions and drainage
- Preliminary site plan, layouts, and architectural renderings
- Structural and Electrical design criteria

Survey and geotechnical information will be based on existing record drawings and reports. Survey, geotechnical investigation, and potholing are included as an allowance. A Draft BOD will be issued to City for review; comments received will be incorporated as mutually agreed upon and a Final BOD will be issued.

### Task 251 – Agency Coordination

Initial coordination will be performed with review agencies to review the scope and schedule of the work and the requirements of each agency. These agencies include the following:

- Maricopa County Environmental Services Department (MCESD)
- Glendale Planning
- Glendale Development Services

Required permits will be identified and coordinated with the respective agency. It is anticipated that up to 4 separate meetings with the regulatory agencies may be required.

### Group 200 Deliverables

- Design Review Submittal for Gate / Fence Modifications
- Architectural elevations
- Draft Basis of Design – electronically
- Final Basis of Design – electronically and six (6) hard copies

### **Group 300: Design**

Group 300 includes the detailed design of the Cholla WTP Improvements.

The final deliverable from this phase of the project is a single complete set of contract documents. The drawings will be provided on 22 by 34 inch sheets using AutoCAD and assume use of conformed to construction record base files as starting point provided by the City. The contract documents will include the following:

- Glendale’s “boiler plate” front-end specifications
- B&V special provisions
- B&V standard technical specifications
- Contract drawings utilizing B&V Drafting Standards on Glendale title block
- Glendale cover sheet

The facilities identified in this scope of services as basic components are included in the final design of the Cholla WTP Improvements. Consultant's quality control and design will be in accordance with the Consultant's Quality Management Plan. The scope of work is based on coordination with a CMAR Contractor to bid and construct the facilities. If the City decides on a traditional design-bid-build approach, adjustments will be made as required to reallocate CMAR related services for a traditional design-bid-build approach.

The Consultant will identify new assets as part of the project for entry into the City's asset management system. City will provide the Consultant with the City's asset tagging convention Excel file template. Upon completion of the detailed design, the asset file template will have been completed for City review for design-related information only (name, location, tag number, etc.). Completion of final asset file will be performed during construction phase services under a separate amendment.

Any additional improvements that are not presented herein may be incorporated as an allowance described below or as an amendment to this Agreement upon written approval of Glendale.

The City standard SCADA template will be utilized and provided by Others. Control descriptions will be provided for new equipment only. Control descriptions of existing equipment / processes will be developed by B&V as part of the B&V-provided programming task associated with Engineering Services during Construction (Phase 3).

**Task 310: Preliminary Design (30% Design)**

The Final Basis of Design will be utilized to create a 30% preliminary design set of plans for City and CMAR Contractor review and facilitate CMAR's budget pricing. The Preliminary Design package will include preliminary layout drawings, typical details, and construction and demolition notes for the identified improvements.

An internal quality assurance / quality control (QA/QC) review will be performed and QC/QC comments incorporated prior to issuance of the documents to the City for distribution to the CMAR.

30% design includes:

- a. General
  - Abbreviations, general notes, typical details
- b. Civil / Site
  - Site plan with structures, drives, and grading
  - Initial yard piping layouts
- c. Civil / Mechanical / Structural / Architectural
  - Plans and major sections with equipment, piping and valve layouts including:
    - Cholla 1 roof & linear replacement
    - Cholla 1 bypass pipeline
    - Raw water pump station recirculation pipe and CO<sub>2</sub> feed system equipment
    - Chemical feed system equipment
    - Main plant and SW entrance gates upgrades
  - Major draft specifications
  - Initial major equipment added to asset management template

- d. Electrical
  - Layout space requirements for major electrical equipment
  - Zone 2 booster pumps standby generator
  - Initial power single line diagrams, lighting fixture schedule
- e. Instrumentation and Control
  - Initial control system block diagrams
  - Chemical feed systems P&IDs
  - Cholla 1 & 2 Reservoir P&ID
  - Initial PLC & UPS system specifications

The level of effort for the design is based on the below drawing and specification lists. Existing AutoCAD drawings of the existing Cholla WTP facility are not readily available and will require creation of new 2015 AutoCAD drawings. Consultant will provide the City with recommended additional Supplemental Conditions to the City standard front end documents. The City will provide the CMAR with all necessary City front end documents.

#### Task 311 - CMAR Cost Model Review & Coordination

Consultant will review the CMAR's initial construction cost model and provide input to the City. It is anticipated after the initial review comments are provided by the Consultant, a follow up review of the updated model and comments resulting from the second review will also be provided. Consultant's review shall be made on the basis of experience and qualifications as a professional engineer.

The CMAR will attend regularly scheduled design team meetings with Consultant and Glendale. The CMAR coordination will include:

- Constructability review meeting with the CMAR.
- Up to two meetings with the CMAR will be held to clarify preliminary design elements and potential value engineering option discussions.
- Incorporate the agreed upon CMAR's comments by Glendale and Consultant into the construction documents.
- Construction cost estimates will be prepared by the CMAR.

An overall Project Schedule will be developed by the CMAR. Consultant will provide input into the schedule by identifying key milestones with Glendale.

#### Task 312 – Agency Coordination

Review agencies will be contacted to discuss the project status and coordinate the design of the project. The requirements of each agency (MCESD, Glendale Planning, and Glendale Development Services) will be identified and incorporated into the project.

#### Group 310 Deliverables

- One PDF copy of the 30% drawing set
- Comments on CMAR cost model

#### Task 320: Detailed Design – 60% Design

Consultant will review and summarize comments received from the City and/or CMAR from the Preliminary (30%) Design and provide responses. Comment resolution documentation will be provided

to the City for review and follow on discussions at project meetings if required. Consultant will incorporate agreed upon City / CMAR comments into the Detailed (60%) Design documents along with additional details. Consultant will perform an internal QA/QC review and incorporate QA/QC comments into the Detailed (60%) Design documents prior to issuance of the documents to the City for distribution to the CMAR Contractor.

60% design includes:

- a. General
  - Abbreviations, general notes, typical details
- b. Civil / Site
  - Site plan with structures, drives, and grading
  - Yard piping layouts
- c. Civil / Mechanical / Structural / Architectural
  - Plans and major sections with equipment, piping and valve layouts for treatment systems including:
    - Updated Cholla 1 roof, liner, and baffle details
    - Updated Cholla 1 bypass pipeline layout and details
    - Updated raw water pump station recirculation pipe and CO<sub>2</sub> feed system equipment details
    - Updated chemical feed system equipment layout and details
    - Updated Main plant and SW entrance gates layout and details
  - Remaining draft specifications
  - Update additional equipment to asset management template
- d. Electrical
  - Updated Layout space requirements for major electrical equipment
  - Updated Zone 2 booster pumps standby generator
  - Updated power and initial control single line diagrams, lighting fixture schedule
- e. Instrumentation and Control
  - Updated control system block diagrams
  - Updated chemical feed systems P&IDs
  - Updated Cholla 1 & 2 Reservoir P&ID
  - Updated PLC & UPS system specifications

#### Task 321 - CMAR Cost Model Review and Coordination

Consultant will review the CMAR's construction cost model and provide input to the City. It is anticipated after the initial review comments are provided by the Consultant, a follow up review of the updated model and comments resulting from the second review will also be provided. Consultant's review shall be made on the basis of experience and qualifications as a professional engineer.

The CMAR will attend regularly scheduled design team meetings with Consultant and Glendale. The CMAR coordination will include:

- Constructability review meeting with the CMAR.

- Up to two meetings with the CMAR will be held to clarify preliminary design elements and potential value engineering option discussions.
- Incorporate the agreed upon CMAR's comments by Glendale and Consultant into the construction documents.
- Construction cost estimates will be prepared by the CMAR.

An overall Project Schedule will be developed by the CMAR. Consultant will provide input into the schedule by identifying key milestones with Glendale.

Task 322 – Agency Coordination

Review agencies will be contacted to update the project status and coordinate the design of the project. The requirements of each agency (MCESD, Glendale Planning, and Glendale Development Services) will be identified and incorporated into the project.

Group 320 Deliverables

- One PDF copy of the 60% drawing set
- Comments on CMAR cost model

Task 330: Final Design (Agency Review)

Consultant will review and summarize comments received from the City and/or CMAR from the Detailed (60%) Design and provide responses required to finalize the design documents. Comment resolution documentation will be provided to the City for review and follow on discussions at project meetings.

Consultant will incorporate agreed upon City / CMAR comments into the Final Design documents and perform a final internal QA/QC review. QA/QC comments will be incorporated into the Final Design documents which will then be signed and sealed for Agency Review. The Consultant will submit the Agency Review documents to the City Development Services Department and Maricopa County Environmental Services Department (MCESD) for approval.

Agency review fees will be paid by the Consultant and reimbursed by the City.

The 100% design includes:

- a. General
  - Final abbreviations, general notes, typical details
- f. Civil / Site
  - Site plan with structures, drives, and grading
  - Yard piping layouts
- g. Civil / Mechanical / Structural / Architectural
  - Plans and major sections with equipment, piping and valve layouts for treatment systems including:
    - Final Cholla 1 roof, liner, and baffle details
    - Final Cholla 1 bypass pipeline layout and details
    - Final raw water pump station recirculation pipe and CO<sub>2</sub> feed system equipment details
    - Final chemical feed system equipment layout and details
    - Final Main plant and SW entrance gates layout and details
  - Final specifications
  - Final additional equipment to asset management template



h. Electrical

- Final Layout space requirements for major electrical equipment
- Final Zone 2 booster pumps standby generator
- Final power and control single line diagrams
- Final duct bank sections and schematics
- Final lighting fixture schedule

i. Instrumentation and Control

- Final control system block diagrams
- Final chemical feed systems P&IDs
- Final Cholla 1 & 2 Reservoir P&ID
- Final PLC & UPS system specifications

**Task 331: For Construction Plans (100% Design)**

Revisions to drawings or specifications will be completed to satisfy Agency review comments. Copies of Final 100% plans will be provided to City and CMAR in electronic and hard copy formats.

**Task 332 - CMAR GMP Review**

Consultant will review the CMAR's Guaranteed Maximum Price (GMP) proposal and provide input to the City. It is anticipated after the initial review comments are provided by the Consultant, a follow up review of the updated model and comments resulting from the second review will also be provided. Consultant's review shall be made on the basis of experience and qualifications as a professional engineer.

**Group 330 Deliverables**

- Final Design (Agency Review) – One PDF copy of drawing set to the City and CMAR.
- For Construction – Four (4) bond and one PDF copy of drawing sets to the City and one bond and PDF to the CMAR after Agency approvals.
- Comments on CMAR GMP

**Task 400: Bid Phase Services**

Consultant will coordinate with City-selected CMAR Contractor at each deliverable answer up to ten (10) CMAR Contractor RFIs at each deliverable to facilitate CMAR's final GMP based on Agency Review document set. Consultant will assist to resolve any modifications made as a result of Agency comments. Responses to additional RFIs will be provided as a supplemental service.

CMAR to provide City and Consultant their anticipated comprehensive MOPO plan for review based on CMAR's anticipated construction schedule. Consultant will review and provide feedback on the plan.

**Task 500: Engineering Services During Construction**

This task will be performed under a separate amendment scoped at a later date.

## SUPPLEMENTAL SERVICES ALLOWANCES

All allowances described below cannot be performed until authorized by the City.

### Allowance A: Fiber Optic Availability Evaluation

This allowance includes an evaluation of the available existing fiber optic cabling between the Cholla WTP and Oasis WTP. Consultant would confirm whether a pathway between the WTPs exists within the City’s existing fiber optic network, and whether spare strands are available. Consultant will coordinate with various City departments as required.

### Allowance B: Smart Analytics

As part of the allowance, the Consultant will meet with the City regarding use of smart data analytics to optimize operations and streamline monitoring and reporting. Discussion will include specifications for the server required and who supplies it, determination of Key Result Areas (KRAs) with Key Performance Indicators (KPIs) that provide real-time trending and data analytics, making previous KRAs/KPIs “live,” preparation of a Performance Summary Report documenting results of the full-scale demonstration, providing training to City employees on how the platform can be used, on-going monitoring, or other related tasks.

### Allowance C: Subconsultant Services

An allowance for various subconsultant services including, but not limited to, the following:

- Survey
- Geotechnical services
- Potholing
- Manned inspection of Cholla 2 reservoir 48-inch piping
- Inspection / repair of Cholla 2 reservoir inlet isolation valve actuator
- Public relations

### Allowance D: Owner’s Allowance

An additional allowance is provided for miscellaneous tasks at the City’s discretion. Such tasks could include, but are not limited to:

- Chemical storage capacity evaluation
- Design of new generator automatic transfer system for Zone 1A/1B pump station.
- Air Scour Blower design
- Assistance with inspection of underdrains for corrosion
- Review / update of plant electronic O&M manual
- Group 2 or 3 tasks from Phase 1 – TM2
- Other miscellaneous improvements

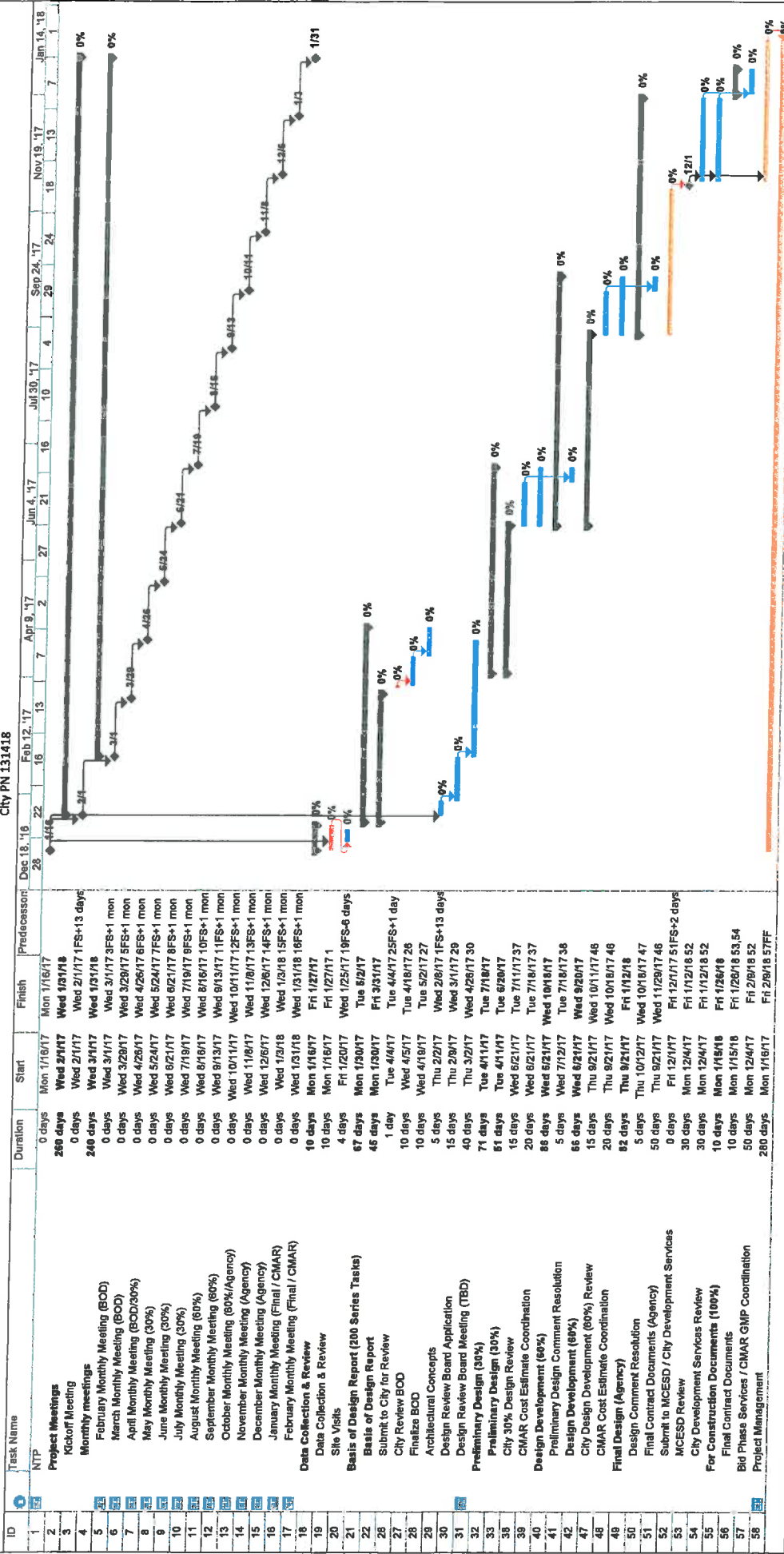
## SCHEDULE

See attached Schedule Exhibit C.

## BUDGET

See attached Level of Effort Exhibit D.

**EXHIBIT C**  
**Cholla WTP Improvements Design Services - Phase 2 - Amendment 1**  
**City PN 131418**



**Task Progress**  
■ Critical  
■ Critical Split  
■ Critical Progress  
■ Task  
■ Split

**Summary Progress**  
■ Summary  
■ Project Summary  
■ External Tasks  
■ External Milestone

**Inactive Task**  
■ Inactive Milestone  
■ Inactive Summary  
■ Duration-only

**Manual Summary Rollup**  
■ Manual Summary  
■ Start-only  
■ Finish-only  
■ Deadline

Project: Cholla WTP Improvements Pr  
 Date: 11.02.2016

Page 1



**BLACK & VEATCH**

**Exhibit D Compensation  
City of Glendale  
Cholla WTP Design Services Phase 2 - Amendment 1  
City PN 131418**

Phase	Description	Total Hours	Total Fee
100	PHASE 100 - PROJECT MANAGEMENT	268	\$41,884
200	PHASE 200 - PRELIMINARY EVALUATIONS & BASIS OF DESIGN REPORT	1,276	\$200,248
300	PHASE 300 - DESIGN (Preliminary, Detailed & Final)	3,906	\$577,018
400	PHASE 400 - BID PHASE SERVICES	186	\$30,990
500	PHASE 500 - ENGINEERING SERVICES DURING CONSTRUCTION	-	\$0
	REIMBURSIBLE EXPENSES	-	\$18,000
	<b>BLACK &amp; VEATCH PHASE 2 SUBTOTAL w/o ALLOWANCES</b>	<b>5,636</b>	<b>\$868,140</b>
	SUPPLEMENTAL SERVICES ALLOWANCES		
A	Allowance A - Fiber Optic Availability Evaluation	-	\$50,000
B	Allowance B - Smart Analytics	-	\$50,000
C	Allowance C - Subconsultant Services	-	\$80,000
D	Allowance D - Owner's Allowance	-	\$250,000
	<b>Subtotal</b>	<b>-</b>	<b>\$430,000</b>
	<b>BLACK &amp; VEATCH PHASE 2 TOTAL w/ ALLOWANCES</b>	<b>5,636</b>	<b>\$1,298,140</b>
	The level of effort for Phase 500 tasks will be estimated at a later date.		

**Notes:**

- Expenses include delivery such as Courier, Fed Exp and UPS, travel costs, including meals, lodging, and travel mileage at IRS approved rates, for any required subconsultants or reproduction (printing, reproduction of deliverable).
- The level of effort estimate is based on data currently provided by the City. Unforeseen conditions which require additional Engineer and subconsultant services will be considered as supplemental services that will be performed following scopes of services and level of effort negotiations as required and approval by the City.

**DETAILED PROJECT COMPENSATION**

Original Study (Phase 1)	\$491,960
Amendment No. 1 (Phase 2 - Preliminary, Detailed and Final Design) (Includes City Allowances)	\$1,298,140
<b>Total Professional Services Fee</b>	<b>\$1,790,100</b>



## Legislation Description

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**File #: 16-599, Version: 1**

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**AUTHORIZATION TO ENTER INTO AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING, INC., FOR PHASE 2 DESIGN SERVICES FOR THE BOOSTER PUMP STATIONS AND ADMINISTRATION BUILDING IMPROVEMENTS AT THE CHOLLA WATER TREATMENT PLANT**

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 Amendment No. 1 of the Professional Services Agreement C-10224 with HDR Engineering, Inc., (HDR) for Phase 2 design services for the Booster Pump Stations and Administration Building Improvements at the Cholla Water Treatment Plant; to increase the original agreement compensation of \$211,739 by \$779,183 for an amount not to exceed \$990,922; and extend the term of the agreement to December 31, 2018.

### **Background**

The Cholla Water Treatment Plant (CWTP), which includes the booster pump stations and administration building, were built in 1978 and expanded in 1988. The administration building consists of a lobby, control room, laboratory, instrument shop, conference room, offices, bathrooms, and miscellaneous storage.

The CWTP provides potable water to Zones 1 and 2 of the City. There are three booster pump stations that pump the water through the distribution system. The Zone 2 station was built in 1972 and expanded in 1982. Zone 1A was built in 1981 and upgraded 2000. Zone 1B was constructed in 2000.

The project consists of an evaluation study (phase 1), design services (phase 2) and finally construction services (phase 3).

As with all water treatment facilities, there is periodic need to evaluate and rehabilitate current treatment systems to ensure the infrastructure is reliable and in good working condition. Improvements to major components require separate evaluation and design phases prior to the construction.

### **Analysis**

From the November of 2014 Request for Proposal selection process, HDR was selected to perform an evaluation study of the processes and equipment condition at the booster pump stations and the various function areas within the administration building. This amendment for \$779,183 will include design services to implement the improvement recommendations. Amendment 2 for construction administration services will be brought to the Council at a future date.

### **Previous Related Council Action**

On August 25, 2015, Council approved a professional services agreement with HDR Engineering, Inc. to provide evaluations and assessments of the booster pump stations and administration building at the Cholla Water Treatment Plant.

On January 13, 2015, Council approved a professional services agreement with Black & Veatch Corporation to provide process and equipment evaluations at Cholla Water Treatment Plant.

On October 14, 2014, Council approved a professional services agreement with Ninyo and Moore Geotechnical Consultant, Inc. to develop solutions to improve soil conditions throughout the Cholla Water Treatment Plant.

**Community Benefit/Public Involvement**

This project will enable the City to ensure a continuous supply of reliable high quality water to residents and businesses to ensure public health and the vitality of the community.

**Budget and Financial Impacts**

Funding is available in the Water Services FY2016-17 capital budget.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$779,183</b>	<b>2400-61024-551200, Cholla Water Plant Process Imp</b>

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

AMENDMENT NO. 1  
Cholla WTP Booster Pump Station and Administration Building Improvements  
(City Project No. 141504, Contract No. C-10224)

This Amendment No. 1 (“Amendment”) to the Professional Services Agreement (“Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, (“Effective Date”), by and between the City of Glendale, an Arizona municipal corporation (“City”) and HDR Engineering, Inc., a Nebraska corporation authorized to do business in Arizona (“Contractor”).

RECITALS

- A. City and HDR Engineering, Inc. (“Contractor”) previously entered into a Professional Services Agreement, Contract No. C-10224, dated August 28, 2015 (“Agreement”); and
- B. The initial study phase, Phase I identified improvements and recommendations to the booster pump stations and the Administration Building that should be implemented to maintain the functionality and serviceability of these assets.
- C. Design documents need to be developed to implement the recommended improvements and recommendations, which will be prepared under Phase II - Design Services of the project, and are included in this Amendment 1 to the Professional Services Agreement.
- D. City and Contractor wish to modify and amend the Agreement subject to and strictly in accordance with the terms of this Amendment.

AGREEMENT

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

1. **Recitals.** The recitals set forth above are not merely recitals, but form an integral part of this Amendment.
2. **Term.** The term of the Agreement is extended for a two-year period from January 1, 2017 through December 31, 2018, unless otherwise terminated or canceled as provided by the Agreement. All other provisions of the Agreement except as set forth in this Amendment shall remain in their entirety.
3. **Scope of Work.** This project will design selected improvements resulting from the Phase 1 Booster Stations and Administration Building assessments - See Exhibit B. The scope of services for Phase 3 - Construction Administration Services will be finalized in a separate contract amendment at a later date.

4. **Compensation.** Phase 1 resulted in a previous compensation of \$211,739.00. Phase 2 compensation will result in an additional increase in compensation of \$779,183.00 and as shown in Exhibit D
5. **Insurance Certificate.** Current certificate will expire on June 1, 2017 and a new certificate applying to the extended term must be provided prior to this date to Materials Management and the Contract Administrator.
6. **Non-discrimination.** 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.
7. **No Boycott of Israel.** The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.
8. **Attestation of PCI Compliance.** When applicable, the Contractor will provide the City annually with a PCI-DSS attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.
9. **Ratification of Agreement.** City and Contractor hereby agree that except as expressly provided herein, the provisions of the Agreement shall be, and remain in full force and effect and that if any provision of this Amendment conflicts with the Agreement, then the provisions of this Amendment shall prevail.

[Signatures on the following page.]



CITY OF GLENDALE, an Arizona  
municipal corporation

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Kevin R. Phelps, City Manager

ATTEST:

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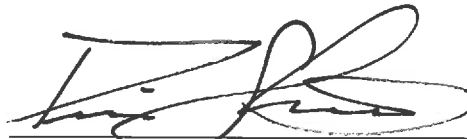
Julie K. Bower, City Clerk (SEAL)

APPROVED AS TO FORM:

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Michael D. Bailey, City Attorney

HDR Engineering, Inc.  
a Nebraska corporation



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By: David R. Skinner, P.E.  
Its: Vice President, Managing Principal

**EXHIBIT B  
CHOLLA WATER TREATMENT PLANT  
BOOSTER PUMP STATION & ADMINISTRATION BUILDING  
IMPROVEMENTS  
PHASE II – DESIGN SERVICES  
(AMENDMENT 1)**

**CITY OF GLENDALE  
PROJECT NO. 141504**

**PROPOSAL FOR ENGINEERING SERVICES  
HDR Engineering, Inc.  
November 1, 2016**

The Cholla Water Treatment Plant (WTP) provides potable water to Zones 1 and 2 of the City of Glendale (City) distribution system. Treated water from the WTP is pumped into the system by three pump stations. The Zone 1A and 1B Booster Pump Stations (BPSs) deliver water into Zone 1. The Zone 1A BPS, originally constructed in 1981 and upgraded in 2000, has six vertical turbine pumps, each with a capacity of 3,850 gallons per minute (gpm) at 170 feet of total dynamic head (TDH). The Zone 1B BPS, constructed in 2000, has four vertical turbine pumps, each with a capacity of 5,600 gpm at 170 feet TDH. These two stations have a mix of constant speed and variable speed pumps, and the variable speed drive units are obsolete and need to be replaced.

The Zone 2 BPS, originally constructed in 1972 and subsequently expanded in 1982, delivers water into Zone 2. The Zone 2 BPS has four constant speed pumps, each with a capacity of approximately 5,700 gpm at 255 feet TDH. To better meet demand within the Zone 2 distribution system and the possible future needs of the Zone 3 distribution system, the constant speed pumps need to be replaced with variable speed drive units.

The Cholla WTP Administration Building was originally constructed in 1978, and was expanded in 1988. The building consists of a lobby, control room, laboratory, instrument shop, conference room, offices, bathrooms, and miscellaneous storage. Due to the age of this facility, a building assessment was conducted to establish and prioritize required improvements.

HDR completed the Phase I Evaluation Study to identify the preferred alternatives for the upgrades to each pump station and the prioritized improvements for the Administration Building. The BPS improvements are summarized in the Booster Pump Station Evaluation Technical Memorandum dated October 2016. The Administration Building improvements are summarized in the Administration Building Assessment Draft Technical Memorandum dated April 2016. The City intends to proceed with Phase II of the project, and has requested HDR to prepare the design documents for the BPS upgrades and the Administration Building improvements. HDR has prepared this proposal for engineering services associated with preparing design documents (plans and specifications) for installation of the recommended improvements to these facilities.

## **SCOPE OF SERVICES**

This scope of services describes the work to be performed by HDR for this project on behalf of the City. The work includes project management, design services, and bid assistance services as defined below. Allowance tasks for additional work items and specialty subconsultant services are also included.

### ***TASK 1 - PROJECT MANAGEMENT***

#### **Objective:**

Perform overall project management of the work effort and facilitate City staff understanding, input, and decisions regarding project issues.

#### **Services Provided by HDR:**

- Set up and maintain project filing system.
- Update project guide to outline project procedures for the team and the City.
- Prepare and review project correspondence.
- Prepare the design schedule.
- Prepare quarterly cash flow projections.
- Prepare and manage subcontracts and monitor subconsultant work progress.
- Prepare monthly project invoices, progress reports, and schedule updates.
- Conduct periodic management reviews to track schedule and budget compliance.
- Conduct regular internal project team meetings to track project status, identify information needs, and provide overall coordination of the work effort.
- Conduct project meetings/workshops, including kickoff meeting, SCADA network and control strategy workshops, and milestone review meetings.

#### **Deliverables:**

- Monthly invoices, progress reports, and schedule updates.
- Meeting minutes

#### **Meetings:**

- Up to twelve (12) meetings/workshops, defined as follows:
  - Kickoff meeting
  - Existing Network Review workshop
  - Two (2) Control Strategies workshops
  - 60% milestone submittal review meeting
  - 90% milestone submittal review meeting
  - Up to six (6) additional project status meetings.

#### **Subconsultant Participation:**

- ARCADIS (Instrumentation and Control (I&C)) - attend progress meetings and conduct I&C workshops as required.

#### **Key Understandings:**

- Notice to Proceed is assumed to be issued in January 2017.
- Estimated project duration is 12 months.
- Basic Services (Tasks 1-3) will be invoiced on an hourly rate, not to exceed fee basis.

- Use of Allowance Tasks will be at the direction of the City.

## ***TASK 2 - FINAL DESIGN***

### **Objective:**

To prepare final design documents for construction of the following recommended improvements:

#### **Zone 1A BPS:**

- Remove existing constant speed starters and replace with one shared variable frequency drive (VFD) for Pumps 4-6. The shared VFD design will be based on only one of the pumps running while the other two pumps are disabled.
- Expand the capacity of the fiber optic network with new cables, connecting to the Zone 1B and Zone 2 BPSs

#### **Zone 1B BPS:**

- Remove existing constant speed starters and replace with one shared VFD for Pumps 3 and 4. The shared VFD design will be based on only one of the pumps running while the other pump is disabled.
- Expand the capacity of the fiber optic network with new cables, connecting to the Zone 1A BPS

#### **Zone 2 BPS:**

- Convert station from 4160V to 480V power to include redundant feeds from the medium voltage switchgear to a 480V switchboard in a Main-Tie-Main configuration with an auto transfer controller between the existing utility source and a standby generator (designed by others).
- Provide four new VFDs for pump operation
- Replace motors on Pumps 1 and 2 (convert to 480V units)
- Replace pumps and motors for Pumps 3 and 4 (replace aging pumps and convert to 480V motors)
- Replacement of existing building HVAC unit with new equipment
- Expand the capacity of the fiber optic network with new cables, connecting the Zone 2 BPS to the Administration Building and to the Zone 1A and 1B BPSs

### **Services Provided by HDR:**

- Assess pump hydraulic characteristics for Cholla WTP Zone 1 BPSs, based on updated distribution system modeling results (provided by Black & Veatch (B&V)) which define flow and pressure requirements for various Zone supply/demand scenarios, and Cholla WTP flow production information provided by B&V, and incorporate pump modifications (i.e., de-staging, or replacement of up to two (2) existing pumps and motors with new, smaller capacity pumps) into the design, if applicable.
- Review existing control system network and develop control strategies for Cholla WTP Zone 1 pump station operation, coordinating with Oasis WTP Zone 1 pump station operation strategies developed by others to avoid double pumping.
- Prepare general, civil, structural, mechanical (process), electrical, and instrumentation drawings for construction of the project.

- Prepare proposed sequence of construction.
- Prepare technical specifications for construction.
- Update the Opinion of Probable Construction Cost (OPCC) from the Booster Pump Station Evaluation Technical Memorandum
- Prepare the application to the Maricopa County Environmental Services Department (MCESD) for an Approval to Construct (ATC) Permit.
- Prepare the application for submittal to the City of Glendale Building Safety Department

**Deliverables:**

- Meeting agendas and minutes
- Draft and final control strategies
- At the 60 percent submittal milestone:
  - Six (6) half size (11x17) copies of the drawings, one (1) full size copy of the drawings, and six (6) copies of the specifications furnished for City staff review.
  - One (1) soft copy of the specifications (with edits), one (1) copy of AutoCAD files, and one (1) copy of the drawings in PDF format, on CD, will be furnished for City staff review.
  - Updated OPCC.
- At the 90 percent (Agency Review) milestone:
  - Six (6) half size (11x17) copies of the drawings, one (1) full size copy of the drawings, and six (6) copies of the specifications furnished for City staff review.
  - One (1) soft copy of the specifications (with edits), one (1) copy of AutoCAD files, and one (1) copy of the drawings in PDF format, on CD, will be furnished for City staff review.
  - Two (2) copies of the drawings (full size) and specifications furnished to MCESD for review, including ATC Permit application.
  - Updated OPCC.
- Final Submittal:
  - Four (4) full size reproducible copies (on bond), and one (1) electronic copy of the final drawings (in AutoCAD and PDF format) on CD will be furnished to the City.
  - Four (4) reproducible copies of the specifications and one (1) electronic copy (in MS Word and PDF format) on CD will be furnished to the City.
  - Update OPCC

**Meetings:**

- A total of two (2) meetings will be conducted, one each following the City staff review of the 60 and 90 percent submittals to review City comments. (Note: These meetings are budgeted under Task 1, Project Management)
- A total of three (3) workshops will be conducted to define the network requirements and develop the control strategies for operation of the pump stations. (Note: These workshops are budgeted under Task 1, Project Management)

**Subconsultant Participation:**

- ARCADIS - I&C design.

**Key Understandings:**

- The level of effort for design is based on the drawing list provided as an attachment to this scope of work.
- The City intends to replace the VFDs for Zone 1A Pumps 1-3 and Zone 1B Pumps 1-2 with their own forces because the VFDs are failing and the replacement needs to be expedited.
- The City will provide to HDR manufacturer's data on the proposed VFDs for up to three (3) manufacturers for HDR's review. HDR will assess the proposed VFDs as it coordinates the design of the new shared VFDs.
- A 480V stand-by generator will be designed by B&V for feeding the proposed Zone 2 switchboard. Scope of generator installation by B&V shall include generator sizing and siting, and conduit and cable from generator set to main switchboard in the electrical room. Auto transfer device will be located in the Zone 2 electrical room and will be furnished as a part of this contract.
- Zone 1 hydraulic modeling will be provided by B&V, and model results provided to HDR will include future required pump station capacities and operating pressures for various supply/demand scenarios. This information will be used to determine if the existing pump hydraulics (head, flow, horsepower) should remain the same or be modified.
- Zone 2 hydraulic modeling will be provided by B&V, and model results provided to HDR will include future required pump station capacities and operating pressures for various supply/demand scenarios. This information will be used to determine if the existing pump hydraulics (head, flow, horsepower) should remain the same or be modified.
- Future Cholla WTP minimum production levels will be provided to HDR by B&V. This information will be used to determine if minimum flows can be met by existing pumps using VFDs, or if smaller capacity pumps need to be provided.
- The design includes replacement of existing Zone 1 and Zone 2 insertion flow meters with new insertion flow meters in the existing meter vaults.
- No structural modifications to the BPS buildings are included in this scope of services.
- New PLCs will be M580 units.
- PLC Panel design and installation, PLC and HMI programming for the VFD replacements, VFD to PLC network design and configuration and any required loop drawings will be done by others prior to construction of this project.
- Based on the timing of this project with respect to the upcoming PLC and VFD replacements at the Cholla BPS by others, the City would like to implement PLC programming standards, if possible. If the timing is not possible to incorporate into the programming for the PLC and VFD replacements installed by others, HDR/ARCADIS will revise the BPS PLC programming to incorporate the PLC programming standards
- The City's standard SCADA template, to be provided by the City's consultant, will be used for the project.

- The I&C design effort includes the following:
  - Control system network design (up to 4 drawings) to incorporate City network standards and include an equipment layout, bill of materials, and modifications to the existing Cholla WTP control systems network for integration of the three BPSs.
  - Integration of shared VFDs assumes the use of a manual selector switch to assign VFD to the desired pump.
- HDR will provide the City with Excel files of asset tags for the new assets installed during the project. The City will provide the standard asset template to be completed.
- Technical specifications will include proposed construction sequencing to minimize station outages and service interruptions.
- HDR will prepare Technical Specifications, Divisions 1 through 46
- Contract Documents (Division 0) will be prepared by the City. City will prepare boiler plate special provisions tailored to this project and provide to HDR for review.
- HDR standard guide specifications (6-digit format) will be utilized, and will include relevant sections from the City of Glendale Engineering Design Standards and Details obtained from the internet, using the revision in effect as of the date of HDR's Notice to Proceed. Any changes to standards after this date will only be incorporated through an amendment to the Contract.
- The Bid Schedule will be based on a lump sum bid format.
- The project will be prepared using the current City CADD standards in effect as of the date of Notice to Proceed.
- Plans and specifications prepared for future submittal to MCESD and the Glendale Building Safety Department will be sealed by a registered engineer, and noted as "Agency Review" in the revision block.
- Full size plans to be 22-inches by 34-inches.
- Meetings to review City comments will be held within two (2) weeks following each submittal.
- HDR will prepare applications and associated document copies (plans and specifications, Booster Pump Station Evaluation Technical Memorandum) for submittal to review agencies (MCESD and Glendale Building Safety Department. Preparation of other agency applications or coordination with other City departments is not included in this scope of services.
- Glendale Building Safety Department review requires no application fee.
- Agency review period is estimated at twenty (20) business days (four (4) weeks).
- The final submittal will be made to the City after receipt of the ATC permit from MCESD, and the Building Permit from the City of Glendale.

### ***TASK 3 – BID PHASE***

#### **Objective:**

- To assist the City in establishing the construction contract price for the booster pump station improvements. Construction price will be determined either by bid through a Design-Bid-Build (DBB) project delivery method, or a Guaranteed Maximum Price (GMP) based on a Construction Manager at Risk (CMAR) project delivery method.

**Services Provided by HDR:**

- For DBB:
  - Attend one (1) pre-bid meeting with City staff to answer potential bidder questions.
  - Respond to questions raised, evaluate requests for substitutions, and issue addenda accordingly.
  
- For CMAR:
  - Solicit CMAR input during design development through progress and milestone review meetings. (Note: These meetings are budgeted under Task 1, Project Management.
  - Provide information for cost estimating.
  - Provide input to construction management plan and schedule.
  - Provide assistance with long-lead procurement activities, if applicable.
  - Evaluate alternative systems suggested by CMAR.
  - Respond to constructability review comments.
  - Attend subcontractor pre-selection meeting conduct by CMAR.
  - Prepare addenda.
  - Assist and review during GMP development.
  - Perform GMP proposal review and prepare recommendation to City.
  - Assist City with review of the subcontractor/supplier bid and selection process.

**Deliverables:**

- Copies of addendum materials for distribution by others (City or CMAR)
- Recommendation to award correspondence.

**Meetings:**

- One (1) pre-bid meeting.

**Subconsultant Participation:**

- ARCADIS

**Key Understandings:**

- For DBB:
  - Printing of bidding documents will be arranged and paid for by the City.
  - The City will distribute bidding documents to bidders.
  - The City will maintain and update a plan holders list.
  - The City will issue all addenda to plan holders.
  - The City will tabulate the bids, and review the bids submitted for compliance with the technical requirements of the bid documents.
  
- For CMAR:
  - Preparation of early procurement packages is not included in this scope of work.
  - Printing of GMP bid documents will be arranged and paid for by the City/CMAR.
  - CMAR is responsible for distributing GMP bid documents to subcontractors.
  - CMAR will tabulate subcontractor bids and provide a summary to HDR.
  
- The level of effort for this task is based on the preparation of two (2) addenda.
  
- Bid sets will be provided to HDR as needed for use by HDR during the bid period.



## ***ALLOWANCE TASKS***

### **Task A.1 Administration Building Improvements**

An allowance to prepare design documents (plans and specifications) for improvements to the Cholla WTP Administration Building. The allowance will consist of final design and bid assistance services. Project management costs, including meetings, are already included in Task 1, Basic Services, based on the 12 month project timeframe.

The improvements are defined in the Administration Building Assessment Draft Technical Memorandum dated April 2016, prepared by HDR. The estimated Opinion of Probable Construction Cost for all improvements (near-term, mid-term, and long-term) totaled \$1,973,000. A task scope and fee, including an anticipated list of drawings, will be prepared by HDR prior to authorization of this task by the City.

### **Task A.2 VFD Procurement Assistance**

The City will be replacing the existing VFDs with new VFDs in the Zone 1A and Zone 1B BPSs as a separate, maintenance-related project. This allowance task provides for as-needed technical assistance to the City to define VFD requirements and vendor selection criteria.

### **Task A.3 Subconsultant Services**

An allowance for various subconsultant services including, but not limited to, the following:

- Survey
- Geotechnical services
- Potholing
- Public relations

### **Task A.4 Owner's Allowance**

An allowance is provided for additional miscellaneous tasks to be defined between the City and HDR, for use at the City's discretion.

**EXHIBIT D**  
**Professional Services Agreement – Amendment 1**

**COMPENSATION**

**METHOD AND AMOUNT OF COMPENSATION**

Compensation shall be based on an hourly billing rate plus reimbursable expenses for Consultant and all Subconsultants. Documentation for reimbursable expenses must be included with each Payment Application.

**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 \$779,183.

**DETAILED PROJECT COMPENSATION**

Phase II – Design Services

Task 1 – Project Management	\$50,588
Task 2 – Final Design	\$229,651
Task 3 – Bid Assistance	\$25,992
Direct Expenses (Reimbursables)	\$7,200
Subcontract Allowance	
ARCADIS	\$145,752
Allowance Tasks	
A.1 Administration Building Improvements	\$200,000
A.2 VFD Procurement Assistance	\$10,000
A.3 Subconsultant Services	\$35,000
A.4 Owner’s Allowance	\$75,000

**AMENDMENT NO. 1 (PHASE II – DESIGN)** **\$779,183**

Original Contract (Phase I – Study Services) \$211,739

Amendment No. 1 (Phase II – Design Services) \$779,183

**TOTAL PROFESSIONAL SERVICES FEE** **\$990,922**



## Legislation Description

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**File #: 16-619, Version: 1**

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### **AUTHORIZATION TO ELIMINATE POSITIONS IN THE COMMUNITY SERVICES DEPARTMENT AND CREATE POSITIONS IN THE PUBLIC WORKS DEPARTMENT**

Staff Contact: Jack Friedline, Director, Public Works

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

This is a request for City Council to eliminate two positions currently authorized in Community Services, Community Housing and create two positions in the Public Works, Engineering Division to assist in managing the projects in the Water Services Department Capital Improvement Plan (CIP).

#### **Background**

The most recently approved Capital Improvement Plan (CIP) for Fiscal Year (FY) 2016-17 through FY 2025-26 includes \$339.1 million for Water and Sewer projects with \$225.8 million in the first five years of the CIP. Included in this CIP are four notable projects totaling \$105.7 million over the next three Fiscal Years listed below:

- Arrowhead Water Treatment Plant Improvements - \$32.0 million
- Cholla Water Treatment Plant Improvements - \$14.7 million
- Pyramid Peak Water Treatment Plant Improvements - \$8.2 million
- Pyramid Peak Water Treatment Plant Expansion - \$50.8 million

These four projects make up roughly 47% of the Water Services CIP appropriation for the next five fiscal years. An engineering firm has been selected for the identified projects and city staff is in the early stages of planning and scoping the projects which are all scheduled to be in the design phase this fiscal year.

#### **Analysis**

Engineering staff, through a team effort, currently manage 42 Water Services Projects including the four listed above. Of the 42 projects, 11 are anticipated to be completed this fiscal year and six new projects are programmed to be added to the CIP in FY16-17. According to the projected CIP, at the end of FY 2016-17, the Water Services CIP will consist of 37 projects.

Once the four projects listed above enter the design phase the Engineering work load will increase significantly and current staffing levels will not be able to support the increase. Through analysis of best Engineering practices, conversations with other valley cities, and City of Glendale experience, staff anticipates that each Engineer/Project Manager can effectively manage 8-12 projects depending on the size, scope, and complexity of the project. Presently the staff assigned for these projects is the equivalent to 1.5 full time employees (0.5 Principal Engineer, 0.5 Temp. Principal Engineer, 0.5 Project Manager). This is the equivalent of 24 projects per Engineer/Project Manager.

Current Engineering Division staffing allocation does not allow for effective management of the programmed water and sewer CIP projects. Through discussions with the Community Services Department, staff identified two authorized FY 2016-17 Federally funded positions, that have not been nor are expected to be ultimately funded with federal dollars.

Staff is requesting the elimination of the following two Community Services, Community Housing positions.

- One Community Services Representative (Position Number 00000785)
- One Neighborhood Services Coordinator (Position Number 00001448)

Staff is requesting the creation of the following Public Works, Engineering Division positions. If this request is approved, position numbers will then be assigned to the following positions.

- One Principal Engineer
- One Senior Civil Engineer

The additional staff and a slight reorganization within the Engineering Division will allow the 37 identified projects to be managed by the equivalent of 3.5 full time employees (1.5 Principal Engineers, 1.0 Sr. Civil Engineer, 1.0 Sr. Engineer) for a ratio of 10.6 projects per Engineer.

Overall, total authorized FTE's does not change if this item is approved. While positions are typically identified through the annual budget process, staff is requesting Council approve a transfer of positions immediately to ensure the projects can proceed in a timely manner without delay.

Staff from Public Works, Water Services, and the Budget and Finance Department have been working on a funding model to improve the process whereby the Capital Improvement Projects legitimately fund the engineering positions responsible for these projects. This is a common practice among cities and towns; however, the model the city currently uses to allocate the internal engineering costs to projects is outdated. Currently, the Budget and Finance Department is engaging a consultant to develop a cost allocation model. It is anticipated that the cost allocation model will be developed within the next three to six months.

Although the recruitment process will begin based on Council approval of this item, hiring of these positions will not occur until such time as the cost allocation model has been completed and the CIP projects can properly fund the positions.

### **Previous Related Council Action**

On June 14, 2016, the final FY 2016-17 budget was adopted.

On May 24, 2016, the tentative budget was adopted.

On March 15, 2016, the proposed ten-year Capital Improvement Plan was presented at Council Budget Workshop.

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

Proper maintenance of infrastructure and investment of capital into assets assures a reliable water and sewer enterprise operation.

**Budget and Financial Impacts**

The Budget and Finance Department is engaging a consultant to develop a cost allocation model. The results of this model will be to determine a reasonable cost allocation methodology for the CIP projects to properly fund the requested positions.



## Legislation Description

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**File #: 16-597, Version: 1**

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**AUTHORIZATION TO ENTER INTO A SERVICES AGREEMENT WITH THE PENCHANT GROUP, LLC AND APPROVE THE EXPENDITURE OF FUNDS**

Staff Contact: Rick St. John, Police Chief

**Purpose and Recommended Action**

This is a request for City Council to authorize the City Manager to enter into a new Services Agreement with The Penchant Group, LLC (Penchant) and authorize the expenditure of funds in an amount not to exceed \$40,000 over the life of the new agreement. The expenditure request for the new agreement, combined with payments of \$82,265 made to Penchant to date under the current agreement, will bring the total estimated expenditures to \$122,265 for these services.

**Background**

In the process of implementing the Records Management System (RMS), the Glendale Police Department identified the need for a second Police Systems Analyst and an associated full-time employee (FTE). This position would allow for a Police Systems Analyst to be on-call 24/7, 365 days a year, and would provide more capacity to support the 28 applications currently supported by one (1) Police Systems Analyst. A temporary full-time contract employee was recruited and hired for the position utilizing The Penchant Group, a local staffing and recruitment service. The initial Contractor Agreement with Penchant (C-10038) was in effect until June 16, 2016. On March 22, 2016, Council approved an amendment, extending the agreement through December 31, 2016, with the intention of the full-time contract employee carrying the Glendale Police Department through the RMS go-live and data conversion of historical data.

Though a request for the permanent FTE was included and approved in the current fiscal year budget, due to the highly specialized nature of the Glendale Police Department systems, steep learning curve, and lengthy background check process, a qualified candidate to fill the approved permanent FTE has not yet been identified. The RMS go-live timeline has been extended and because a suitable candidate for the permanent Police Systems Analyst position has not yet been located, a new Services Agreement with Penchant is necessary to maintain the full-time contract employee currently in place. This will provide support of the RMS go-live, as well as to provide additional time to hire a qualified candidate for the permanent FTE and bring the new-hire up to speed on various Glendale Police Department systems.

**Analysis**

As of the date of this Council request, the City has already paid \$82,265 to Penchant under the current contract. The new contract compensation shall not exceed \$40,000, for a combined estimated expenditure of \$122,265 to Penchant for these services. If approved, the term of this new agreement commences upon the effective date and continues for a one (1) year period. The City agrees to pay the rate of \$35.00 an hour for

the full-time contract employee from Penchant. Staff is requesting Council authorize the City Manager to enter into a new Services Agreement with Penchant and authorize the expenditure of funds in an amount not to exceed \$40,000 over the life of the new agreement.

**Previous Related Council Action**

On March 22, 2016, Council authorized the City manager to enter an amendment to the Contractor Agreement between the City of Glendale and Penchant for \$56,800, bringing the total authorization under the previous contract to \$105,000.

**Budget and Financial Impacts**

A budget transfer has been requested to support the expenditure of funds. Salary savings from the position which was approved in the current fiscal year budget, for the permanent Police Systems Analyst position not yet hired, will support the budget transfer.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$40,000</b>	<b>1000-12180-500400, Police Support Services - Temporary Pay</b>

Capital Expense? No

Budgeted? No

Requesting Budget or Appropriation Transfer? Yes

If yes, where will the transfer be taken from? Salary Savings from 1000-12180-500200

**SERVICES AGREEMENT  
(Not Construction Related)  
THE PENCHANT GROUP, LLC**

This Services Agreement ("Agreement") is entered into and effective between the CITY OF GLENDALE, an Arizona municipal corporation ("City") and The Penchant Group, an Arizona LLC, ("Consultant") as of the \_\_\_\_\_ day of \_\_\_\_\_, 2016 ("Effective Date").

**RECITALS**

- A. City intends to undertake a project as set forth in the attached **Exhibit A** for the benefit of the public and with public funds (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 A**, Project Scope of Work ("Scope");
- C. Consultant desires to provide City with services ("Services") consistent with industry-best 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 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.

**2. Schedule.** The Services will be undertaken in a manner that ensures the Project is completed timely and efficiently in accordance with the Project. Nevertheless, this Agreement terminates one year from the effective date.

**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 currently holds all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of Services ("Approvals"); and
  - b. Neither Consultant nor any Subconsultant 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.

- a. 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.
- b. Consultant 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. 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 Work Product.

- a. Ownership. Upon receipt of payment for Services furnished, Consultant grants to City 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 \$40,000.00 as specifically detailed in **Exhibit B** ("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 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 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.

**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
    - (2) Unconditional waivers and releases on final payment from all Subconsultants 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 provisions 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. 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. **E-verify, Records and Audits.** To the extent applicable under A.R.S. § 41-4401, the Consultant warrants its compliance and that of its Subconsultants with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). The Consultant or Subconsultant's breach of this warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by the City under the terms of this Agreement. The City retains the legal right to randomly inspect the papers and records of the other party to ensure that the other party is complying with the above-mentioned warranty. The Consultant and Subconsultant warrant to keep their respective papers and records open for random inspection during normal business hours by the other party. The Consultant and Subconsultant shall cooperate with the City's random inspections, including granting the City entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.
10. **No Boycott of Israel.** The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.
11. **Attestation of PCI Compliance.** When applicable, the Consultant will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Consultant with oversight responsibility.
12. **Agreement Non-Exclusive.** Consultant agrees that this Agreement is non-exclusive and that nothing in this contract shall be interpreted as a restriction on City's right to procure personnel services from any other vendor or through its own auspices.

13. **Confidentiality** City agrees not to disclose information provided by Consultant about applicants to anyone outside of City's organization who needs to have the information to evaluate the applicant or evaluate Consultant's performance.

14. **Notices.**

14.1 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.

14.2 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:

The Penchant Group  
c/o Jake Bracamonte  
7000 N. 16<sup>th</sup> Street, Suite 120, #174  
Phoenix, Arizona 85020

- 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 Chief of Police  
6835 N. 57<sup>th</sup> Drive  
Glendale Police Department  
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.

**15. Entire Agreement; Survival; Counterparts; Signatures.**

- 15.1 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, if any,, and this Agreement, will be resolved by the terms and conditions stated in this Agreement.
- 15.2 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.
- 15.3 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.
- 15.4 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.
- 15.5 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.
- 15.6 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.
- 15.7 Counterparts. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

**15. Term.** The term of this Agreement commences upon the effective date and continues for a one year period. There are no automatic renewals.

**16. Dispute Resolution.** Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered according to the American Arbitration Association's Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

**17. Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A	Project/ Scope of Work
Exhibit B	Compensation

[SIGNATURES ON 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:

\_\_\_\_\_  
Julie K. Bower  
City Clerk (SEAL)

APPROVED AS TO FORM:

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

The Penchant Group,  
an Arizona LLC

  
\_\_\_\_\_  
By: Jake Bracamonte  
Its: Talent Resource Manager



**EXHIBIT A**  
**Services Agreement**  
**Project/Scope of Work**

**Services**

Recruiter provides search and placement recruitment services, including providing its clients with information concerning applicants whom Client agrees to consider for employment. The applicants we present are located through our reputation, recruiting partners, and effective recruiting tools. Client agrees to keep confidential the identities and related information we present concerning applicants and to use this information solely for the purpose of Client's consideration of these applicants.

**Contingency Recruitment**

Client understands that we work on a contingency basis. Each order we receive must be balanced against all other orders currently available to us and, because the relationship is nonexclusive, the applicants we contact may be presented to more than one client. The fee for our services if an applicant presented by us to the Client, and which the Client has not already received an application, is hired by Client or any of its affiliates on a permanent, part-time, contract, consulting or any other basis at any time within one year of the date the applicant is submitted to Client by Recruiter.

**Warranty/Cost**

If the applicant voluntarily leaves or is discharged by the Client within 90 days from the date of employment or commencement of contract work, we will make every effort to find a suitable replacement applicant at no cost, provided that Client has paid our Fee in full in accordance with the net terms of this Agreement. This warranty does not apply if:

- Client does not give Recruiter the exclusive opportunity to replace the applicant within a reasonable length of time.
- The applicant is discharged by Client following a layoff, downsizing or reorganization of the position.
- The applicant is discharged following the Client's involvement in a sale or merger.

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

COMPENSATION

**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 \$40,000.

**DETAILED PROJECT COMPENSATION**

**Rate and Fee**

**Contract/Consulting.** For each applicant engaged by Client on a contract or consulting basis, Client agrees to pay Recruiter a rate of \$35.00 an hour for the requested resource as stated in Exhibit A for an undetermined period of days. The total amount of that may be charged under this contract shall not exceed \$40,000.00

**Permanent Hire.** For each applicant hired by Client as an employee, rather than on a contractor or consultant basis, Client agrees to pay Recruiter a fee equal to twenty five percent (25%) of the first year's base salary and sign on bonus, if applicable, (the "Fee") for each applicant hired by Client. This Permanent Hire fee applies if applicants were first engaged through Recruiter on a contract or consulting basis. This provision shall apply during the term of this agreement and for one year after its termination.

**Terms and Procedure**

Client agrees to notify Recruiter as promptly as practicable when it issues an employment offer letter to an applicant and again when the applicant accepts an offer. Client will provide Recruiter by fax, email, or other convenient means, copies of the offer letter and written acceptance. Recruiter understands and acknowledges that a job offer by Client is contingent upon a number of additional steps in the employment process including, but not limited to, background and reference checking. The Fee will be considered fully earned when an offer has been extended and accepted, and Recruiter will issue an invoice at that time. The Fee is payable in full by Client within thirty (30) days of the applicant's starting date.



## Legislation Description

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**File #:** 16-526, **Version:** 1

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### **RESOLUTION NO. 5185 NEW SERIES**

#### **A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF A DELEGATION AGREEMENT WITH THE COUNTY OF MARICOPA.**

Staff Contact: Elaine Adamczyk, Interim Community Services Director

#### **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 a delegation agreement with Maricopa County Human Services Department as the lead agency for the Maricopa HOME Consortium. The agreement will allow the City to accept responsibility for the State Historic Preservation Office (SHPO) consultation as part of an existing programmatic agreement, to continue the use of HOME funds for the acquisition, rehabilitation and resale of homes in Glendale.

#### **Background**

The Maricopa HOME Consortium was established in 1993 for the purpose of receiving HOME funds from the Human and Urban Development Department (HUD). Current Consortium members include Maricopa County as the lead agency, and the cities of Chandler, Glendale, Surprise, Avondale, Peoria, Scottsdale, Tempe and the Town of Gilbert.

The City of Glendale and SHPO entered into a programmatic agreement on April 14, 2009; which allowed the City's local Historic Preservation Office to clear HOME-assisted projects as part of the federally required environmental clearance process. This delegation agreement would clarify the County's role in this process.

Utilizing HOME funds, the City of Glendale has been able to rehabilitate or reconstruct over 2000 homes within the City through our internal programs and partners, such as with Habitat for Humanity Central Arizona.

#### **Analysis**

HOME funds are provided to help cities address identified community needs in the area of housing. By approving this delegation agreement, the City will continue to acquire and renovate homes which become available and provide affordable homebuyer opportunities to low-to-moderate income families in our community.

#### **Previous Related Council Action**

On April 14, 2009, Council approved the programmatic agreement between the City and SHPO.

**Community Benefit/Public Involvement**

The objective of the HOME program is to expand the supply of decent, safe, sanitary and affordable housing for low-to-moderate income households. The acquisition, rehabilitation and resale of single-family homes continue to help stabilize neighborhoods and improve the quality of life for the existing homeowners. The use of federal funds to rehabilitate older homes and construct new infill homes by partnering with a non-profit organization is cost effective and central to neighborhood revitalization and the provision of affordable housing.

**Budget and Financial Impacts**

Since this is a federally-funded program, there are no costs associated with this item and no fiscal impact on the City. No General Funds will be used for this agreement.

RESOLUTION NO. 5185 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF A DELEGATION AGREEMENT WITH THE COUNTY OF MARICOPA.

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

SECTION 1. That it is deemed in the best interest of the City of Glendale and the citizens thereof that the Delegation Agreement with the County of Maricopa 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 any and all documents necessary to effectuate 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 6th day of December, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

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

APPROVED AS TO FORM:

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

REVIEWED BY:

\_\_\_\_\_  
City Manager

## Delegation Agreement

**THIS AGREEMENT**, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the City of \_\_\_\_\_ (“City”) and County of Maricopa (“County”). The City and the County may be referred to individually as “Party” and collectively as “Parties.”

- A. WHEREAS**, the City and the County cooperate in performing environmental reviews within the geographic boundaries of the City for HOME-funded HUD projects in accordance with the National Environmental Policy Act (NEPA), 24 CFR Part 58 and the related laws and authorities, listed at sections 58.5 and 58.6, including responsibilities under Section 106 of the NEPA; and
- B. WHEREAS**, the Parties agree that the County is responsible as the lead agency for implementation of HOME funded HUD programs including determination of whether properties are included in or eligible for inclusion in the National Register of Historic Places (National Register) pursuant to Section 800.14 of 56 CFR Part 800 and implementation of Section 106 of the National Historic Preservation Act, 16 U.S.C 470f; and
- C. WHEREAS** the City serves as lead agency and Responsible Entity pursuant to 24 CFR Part 58 for CDBG programs; and
- D. WHEREAS**, the State Historic Preservation Office (SHPO) assists Federal Agencies and their agents in fulfilling the Section 106 responsibilities pursuant to 36 CFR Part 8; and
- E. WHEREAS** the City of SHPO have entered into a Programmatic Agreement on \_\_\_\_, 20\_\_

**NOW THEREFORE**, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

- A.** The purpose of this agreement is to define the responsibilities of the parties as it relates to environmental reviews of HOME- funded HUD projects.
- B.** The County delegates and the City agrees to assume all Section 106 responsibility as required by 24 CFR Part 58.1 for all undertakings HOME-funded HUD projects. Consistent with this delegation the City agrees to consult with the State Historic Preservation Office in fulfilling its Section 106 responsibilities and to comply with all terms of its Programmatic Agreement with SHPO.
- C.** Notwithstanding this delegation, the County remains the lead agency and will have ultimate responsibility, in concurrence with SHPO, for determining whether projects have or do not have a potential effect on historic properties in the environmental review for projects funded by HOME funds.
- D.** The term of this Agreement is \_\_\_\_, 2016 until \_\_\_\_, 2021. The Agreement is effective when executed by all parties. The Agreement may be renewed for an additional (5) five year term. Either party, with the mutual consent of the other, may extend this Agreement in writing.
- E.** The Parties may terminate this Agreement for convenience, with or without cause, by delivering a 60 day written termination notice stating the effective termination date.

**Delegation Agreement**

- F. This Agreement is subject to and incorporates by reference the statutory language of A.R.S. §38-511.
- G. By entering into this Agreement, the Parties agree that to the extent permitted by law, each Party will indemnify and save the other Party harmless, including any of the Party's departments, agencies officers, employees, elected officials or agents, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the performance or nonperformance by the indemnifying Party of any of the provisions of this Agreement. By entering into this Agreement, each Party indemnifies the other against all liability (including, but not limited to, vicarious liability), losses and damages of any nature for or on account of any injuries or death of persons or damages to or destruction of property arising out of or in any way connected with the performance or nonperformance of this Agreement, except such injury or damage as shall have been occasioned by the negligence of that other Party. The damages which are the subject of this indemnity shall include but not be limited to the damages incurred by any Party, its departments, agencies, officers, employees, elected officials or agents. In the event of an action, the damages which are the subject of this indemnity shall include costs, expenses of litigation and reasonable attorney's fees. Notwithstanding any other term of this Agreement, this Section shall survive the expiration and/or termination of this Agreement.

*(Intentionally left blank, signatures to follow)*

IN WITNESS WHEREOF, the parties have caused this Agreement to be made on the date above written.

BY CITY OF GLENDALE:

BY MARICOPA COUNTY:

\_\_\_\_\_  
Kevin R. Phelps  
CITY MANAGER

\_\_\_\_\_  
Clint L. Hickman, Chair  
Maricopa County Board of Supervisors

ATTESTED TO BY:

ATTESTED TO BY:

\_\_\_\_\_  
CITY/TOWN CLERK

\_\_\_\_\_  
Fran McCarroll, Clerk of the Board

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

\_\_\_\_\_  
DEPUTY COUNTY ATTORNEY



## Legislation Description

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**File #:** 16-592, **Version:** 1

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### **RESOLUTION NO. 5186 NEW SERIES**

#### **A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND ENTERING INTO AMENDMENT NO. TWO (2) TO THE FY 2016-17 INDEPENDENT CONTRACTOR AGREEMENT WITH ARIZONA COMMUNITY ACTION ASSOCIATION.**

Staff Contact: Elaine Adamczyk, Interim Director, Community Services

#### **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 No. 2 to the Independent Contractor Agreement with the Arizona Community Action Association (ACAA) to accept Southwest Gas Energy Share assistance funding.

#### **Background**

The CAP provides direct services to low and moderate income Glendale residents. Services include energy assistance payments and crisis assistance for families, which includes homeless assistance, rent and mortgage subsidies.

Currently, CAP is being operated through an agreement with the State of Arizona Department of Economic Security (DES). This ongoing agreement with the State of Arizona enables the city to contract for funds from other statewide organizations working to provide direct assistance to low and moderate-income residents. Under this agreement, DES provides approximately \$1 million each year for the provision of CAP services while the city provides a general fund "match" of \$16,720 and various in-kind contributions such as office space, related utilities and custodial services.

The Glendale CAP is also associated with ACAA, which is a non-profit, state-wide organization of community action programs that supports and promotes the well-being and self-sufficiency of all Arizonans. It works collaboratively with partners across the state to ensure fair and affordable energy costs; access to emergency utility assistance; financial assistance programs and food security programs. To accomplish this, ACAA partners with utility companies, individual donors and foundation grants to provide CAP agencies with additional money to provide general utility assistance to qualified individuals.

#### **Analysis**

On average, the City of Glendale CAP provides direct assistance to approximately 4,017 persons each year. The individuals are all in the "low" to "extremely low" income category and typically use CAP services at their most urgent moment of need (i.e. - food, shelter, medical emergency). If not for the assistance of CAP, many of these individuals would be vulnerable to becoming homeless and/or have no opportunity to receive local



assistance.

If approved by Council, the ACAA Amendment No. 2 will provide Southwest Gas Energy Share - Bill Assistance funds in the amount of \$7,147 (total allocation) for utility bill and deposit assistance. This increase in funding will allow CAP staff to assist approximately 25 more Glendale residents with direct utility assistance. The acceptance of this agreement will apply to the July 1, 2016 - June 30, 2017 period.

**Previous Related Council Action**

The City Council has previously approved similar agreements for CAP operations with the ACAA on August 12, 2014; August 11, 2015; August 9, 2016; and on October 25, 2016.

**Community Benefit/Public Involvement**

The CAP is designed to provide responsible and efficient support services that foster self-sufficiency and emotional stability when individuals or families are experiencing a financial hardship or major life crisis.

Acceptance of this amendment No. 2 from the ACAA will ensure that Glendale residents have additional opportunities to access crisis services that promote financial stability, enhance the quality of life in Glendale, and allow the city to better meet high public demand for this type of direct assistance.

**Budget and Financial Impacts**

With the exception of the annual General Fund Match and minor in-kind services, the CAP program is entirely funded through an annual entitlement grant from DES. No additional city funds are required for the acceptance of this amendment.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$7,147</b>	<b>Fund 1820, Departments 32069, 32070, 32071, 32072, 32073, 32074 various expenditure accounts</b>

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

RESOLUTION NO. 5186 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND ENTERING INTO AMENDMENT NO. TWO (2) TO THE FY 2016-17 INDEPENDENT CONTRACTOR AGREEMENT WITH ARIZONA COMMUNITY ACTION ASSOCIATION.

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. Two (2) to the FY 2016-17 Independent Contractor Agreement with Arizona Community Action Association, to conduct application intake and eligibility determination for utility bill assistance and deposits be entered into, which amendment 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 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 6th day of December, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

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

APPROVED AS TO FORM:

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

REVIEWED BY:

\_\_\_\_\_  
City Manager



Arizona Community Action Association

**Amendment No. Two (2) to the 2016-2017  
Independent Contractor Agreement  
Contract No. 07012016-17**

The Independent Contract Agreement dated July 1, 2016, between Arizona Community Action Association (ACAA) and **City of Glendale, an Arizona municipal corporation, through its Community Action Program** (hereinafter “City”) to conduct application intake and eligibility determination for utility bill assistance and deposits is hereby amended as follows:

**Purpose of the Amendment:**

1. To disburse Southwest Gas Energy Share – Bill Assistance funds in the amount of **\$7,147.00** (Total Allocation).

**Amendment to:**

Section I. Services and Programs – 1.2 Fund Sources:

Southwest Gas Energy Share – Bill Assistance funds: To disburse a Direct Service amount of **\$6,497.27** and a Program Delivery amount of **\$649.73**. The total allocation of Southwest Gas Energy Share – Bill Assistance will be **\$7,147.00** (Direct Service + Program Delivery).

**Whole Agreement:**

Unless otherwise noted herein, all other provisions of the original Agreement will remain in place for the duration of the original Agreement.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have executed this Amendment No. Two (2), effective as of the effective date.

**“CITY”**

City of Glendale, an Arizona municipal corporation acting through its Community Action Program

\_\_\_\_\_  
Kevin R. Phelps, City Manager      Date

**ATTEST:**

\_\_\_\_\_  
Julie Bower, City Clerk      Date

**APPROVED AS TO FORM:**

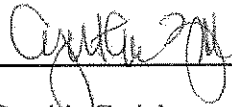
\_\_\_\_\_  
Glendale City Attorney      Date

**Address:**  
Kevin R Phelps, City Manager  
CITY OF GLENDALE  
5850 West Glendale Avenue  
Glendale, Arizona 85301

**With a copy to:**  
Glendale City Attorney  
CITY OF GLENDALE  
5850 West Glendale Avenue  
Glendale, Arizona 85301

**“ACAA”**

Arizona Community Action Association, an Arizona nonprofit corporation

By: 

Name: Cynthia Zwick

Title: Executive Director

Date: 9.23.16

**Address:**  
2700 North 3<sup>rd</sup> Street, Suite 3040  
Phoenix, Arizona 85004  
Fax No.: 602-604-0644  
E-mail: [czwick@azcaa.org](mailto:czwick@azcaa.org)

**List of Attached Exhibits:**

Exhibit A      Southwest Gas Energy Share – Bill Assistance Program Summary

## SOUTHWEST GAS ENERGY SHARE – BILL ASSISTANCE PROGRAM SUMMARY

CAN PAY:	<p>Current and past due charges, including deposits, late charges, reestablishment fees, and other related costs or fees.</p> <p>A client may receive a credit under circumstances where the case manager determines that the funds are necessary for the financial stability of the client.</p> <p>This may include assisting customers who have historically disconnected their gas in the summer, only to have a reconnection fee in the fall that they might have trouble paying. Providing a credit in the spring/summer months can allow them to avoid such fees.</p> <p>Credits must be given only to clients whose circumstances truly warrant them. In these situations, case notes should outline the details of the decision-making process.</p>
MAXIMUM GRANT AMOUNT:	\$400.00
ELIGIBILITY CRITERIA	<p>Household income must be at or below 200% of the federal poverty guidelines.</p> <p>Client must be the customer of record or a household member.</p>
CITIZENSHIP REQUIREMENT	None
CRISIS:	An acceptable crisis reason must be documented on the application.
PAYMENT GUARANTEE:	<p>Email: <a href="mailto:SCA-SWGAgencies@swgas.com">SCA-SWGAgencies@swgas.com</a></p> <p>Phone: (877) 967-9427</p> <p>Fax: (866) 997-9427</p>



## Legislation Description

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**File #:** 16-593, **Version:** 1

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### **RESOLUTION NO. 5187 NEW SERIES**

#### **A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AMENDMENT NO. 5 TO THE INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF ECONOMIC SECURITY FOR COMMUNITY ACTION PROGRAM FUNDING.**

Staff Contact: Elaine Adamczyk, Interim Community Services Director

#### **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 No. 5 to the Intergovernmental Agreement (IGA) for Community Action Program (CAP) funding and operations.

#### **Background**

The CAP provides direct services to low and moderate income Glendale residents. Services include energy assistance payments and crisis assistance for families, which includes homeless assistance, rent and mortgage subsidies.

Currently, CAP is being operated through an intergovernmental agreement with the State of Arizona Department of Economic Security (DES). This has been in effect since July 1, 2010 when the State of Arizona designated the City of Glendale, as an official Community Action Agency, enabling the City to provide direct assistance to low and moderate-income residents. The purpose of the amendment is to revise the Community Services Budget for the period of July 1, 2016 through June 30, 2017. Under this agreement, DES provides approximately \$1.1 million in FY 16-17 for the provision of CAP services while the City will provide a general fund "match" of \$16,720 and various in-kind contributions such as office space, related utilities and custodial services.

If approved, this amendment will provide an increase in the annual funding to the current DES contract revising the Community Services budget. This is an increase of \$11,714 in administrative funds to support CAP services. Based on the terms of the new contract amendment, the allocation to the City from DES for CAP services is \$1,127,281 for the contract period of July 1, 2016 through June 30, 2017.

#### **Analysis**

On average, the City of Glendale CAP provides direct assistance to approximately 4,017 persons each year. The individuals are all in the "low" to "extremely low" income category and typically use CAP services at their most urgent moment of need (i.e. - food, shelter, medical emergency). If not for the assistance of the CAP, many of these individuals would be vulnerable to becoming homeless and/or have no opportunity to receive

local assistance. If approved by Council, the DES Amendment No. 5 will allow the City to continue contracting with DES and provide CAP services to Glendale residents.

**Previous Related Council Action**

On May 26, 2015 the five year IGA between the City and DES for CAP operations was approved by City Council, in addition to approving the annual operating budget of CAP for the same time period. On September 22, 2015, City Council approved entering into amendment No. 1 to the IGA with DES for CAP funding and operations. On November 24, 2015, City Council approved amendment No. 2 to the IGA for CAP funding and operations. On January 14, 2016, amendment No. 3 to the IGA with DES was approved administratively based on a small funding change to the IGA, which was an increase of \$2,400 to the Case Management service budget. On May 24, 2016, the most recent amendment No. 4 to the IGA with DES was approved for annual CAP funding and operations.

**Community Benefit/Public Involvement**

The CAP is designed to provide responsible and efficient support services that foster self-sufficiency and emotional stability when individuals or families are experiencing a financial hardship or major life crisis. These programs and services are reviewed on an ongoing basis by the 13-member Community Development Advisory Committee (CDAC), which is appointed by City Council. The CAP Annual Plan FY2016-17 was reviewed and unanimously recommended for approval by CDAC at the May 19, 2016 regular meeting.

**Budget and Financial Impacts**

With the exception of the annual General Fund Match and minor in-kind services, the CAP program is entirely funded through an annual entitlement grant from DES. No additional City funds are required.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$1,127,281</b>	<b>Fund 1820, Departments 32050, 32055, 32056, 32057, 32060, various expenditure accounts</b>

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?



RESOLUTION NO. 5187 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AMENDMENT NO. 5 TO THE INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF ECONOMIC SECURITY FOR COMMUNITY ACTION PROGRAM FUNDING.

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. 5 to the Intergovernmental Agreement (Contract ID Number ADES15-089114) between the City of Glendale and the Arizona Department of Economic Security for Community Action Program funding be entered into, which amendment 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 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 6th day of December, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

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

APPROVED AS TO FORM:

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

REVIEWED BY:

\_\_\_\_\_  
City Manager



DEPARTMENT OF ECONOMIC SECURITY

Your Partner For A Stronger Arizona

Intergovernmental Agreement
CONTRACT AMENDMENT

Form containing contract details: 1. CONTRACTOR (Name and address) - City of Glendale, 5850 W. Glendale Ave., Glendale, Arizona 85301; 2. CONTRACT ID NUMBER - ADES15-089114; 3. AMENDMENT NUMBER - Five (5); 4. THE PARTIES AGREE TO THE FOLLOWING AMENDMENT - The purpose of this Amendment is to revise the Community Services Service Budget for the period of July 1, 2016 through June 30, 2017. Pursuant to the Terms and Conditions, Section 32.0 Levels of Service, this Amendment revises the Community Services Service Budget as follows: Per Alert issued September 7, 2016 the Community Services contract reimbursement ceiling for the period of July 1, 2016 through June 30, 2017 is revised from \$190,479 to \$202,193. Therefore, the Community Services Service Budget for the period beginning July 1, 2016 through June 30, 2017 is revised and attached.; 5. EXCEPT AS PROVIDED HEREIN, ALL TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AS HERETOFORE CHANGED AND/OR AMENDED REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT. THE AMENDMENT SHALL BECOME EFFECTIVE ON THE DATE OF LAST SIGNATURE UNLESS OTHERWISE SPECIFIED HEREIN. BY SIGNING THIS FORM ON BEHALF OF THE CONTRACTOR, THE SIGNATORY CERTIFIES HE/SHE HAS THE AUTHORITY TO BIND THE CONTRACTOR TO THIS CONTRACT.; 6. ARIZONA DEPARTMENT OF ECONOMIC SECURITY; 7. NAME OF CONTRACTOR - City of Glendale; SIGNATURE OF AUTHORIZED INDIVIDUAL; TYPED NAME; TITLE; DATE; IN ACCORDANCE WITH ARS §11-952 THIS CONTRACT AMENDMENT HAS BEEN REVIEWED BY THE UNDERSIGNED WHO HAVE DETERMINED THAT THIS CONTRACT AMENDMENT IS IN APPROPRIATE FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED TO EACH RESPECTIVE PUBLIC BODY.; ARIZONA ATTORNEY GENERAL'S OFFICE; BY: ASSISTANT ATTORNEY GENERAL; PUBLIC AGENCY LEGAL COUNSEL; DATE;

# ITEMIZED SERVICE BUDGET

**CONTRACT SERVICE:** Community Services (CSV-CAP)

**Agency:** City of Glendale Community Action Program

**Contract Period:** 07/01/2016- 06/30/2017

**1. PERSONNEL**

Number of Positions	FTE Level	Position Title	Total Salary for the Contract Period	TOTAL SERVICE COST	DES COST
1	1.00	*CAP Administrator	\$77,541	\$77,541	\$77,541
1	1.00	Comm. Elig. Rep.	\$35,141	\$35,141	\$35,141
1	0.50	Gen. Clerical	\$25,000	\$25,000	\$25,000
			*Pay increase (5%)	\$3,877	\$3,877
<b>TOTAL PERSONNEL</b>				<b>\$141,559</b>	<b>\$141,559</b>

**2. EMPLOYEE RELATED EXPENSES**

ITEM	BASIS	TOTAL COST	DES COST
Various fringe benefits	(Average: 33.2716% of \$141,559)	\$47,099	\$47,099
<b>TOTAL EMPLOYEE RELATED EXPENSES</b>		<b>\$47,099</b>	<b>\$47,099</b>

**3. PROFESSIONAL AND OUTSIDE SERVICES**

ITEM	BASIS	TOTAL COST	DES COST
Temporary Employment Charges	Temporary staff support with outside vendor	\$11,714	\$11,714
<b>TOTAL PROFESSIONAL AND OUTSIDE SERVICES</b>		<b>\$11,714</b>	<b>\$11,714</b>

**4. TRAVEL**

ITEM	BASIS	TOTAL COST	DES COST
N/A		\$0	\$0
<b>TOTAL TRAVEL</b>		<b>\$0</b>	<b>\$0</b>

**5. SPACE**

ITEM	BASIS	TOTAL COST	DES COST
N/A		\$0	\$0
<b>TOTAL SPACE</b>		<b>\$0</b>	<b>\$0</b>

**6. EQUIPMENT**

ITEM	BASIS	TOTAL COST	DES COST
N/A		\$0	\$0
<b>TOTAL EQUIPMENT</b>		<b>\$0</b>	<b>\$0</b>

**7. MATERIALS AND SUPPLIES**

ITEM	BASIS	TOTAL COST	DES COST
General Office Supplies	\$83.33/month 12 mos.	\$1,821	\$1,821
<b>TOTAL MATERIALS AND SUPPLIES</b>		<b>\$1,821</b>	<b>\$1,821</b>

**8. OPERATING SERVICES**

ITEM	BASIS	TOTAL COST	DES COST
N/A		\$0	\$0
<b>TOTAL OPERATING EXPENSES</b>		<b>\$0</b>	<b>\$0</b>

9		<u>INDIRECT COSTS</u>		TOTAL	DES
	ITEM	BASIS		COST	COST
	N/A				
TOTAL INDIRECT COSTS				\$0	\$0
10	SUBTOTAL ADMIN COST			\$202,193	\$202,193

11.		<u>VOUCHERS</u>		TOTAL	DES
	ITEM			COST	COST
	CSBG Eviction Prevention			\$0	\$0
TOTAL VOUCHERS				\$0	\$0
12.	TOTAL SERVICE COST/DES TOTAL COST:			\$202,193	\$202,193

<u>REVENUE SOURCES:</u>		
DES - DAAS	\$202,193	\$202,193
City of Glendale	\$0	
TOTAL REVENUE:	\$202,193	\$202,193



## Legislation Description

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**File #:** 16-602, **Version:** 1

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### **RESOLUTION NO. 5188 NEW SERIES**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO EXECUTE A LICENSE AGREEMENT WITH ARIZONA HISTORICAL SOCIETY FOR THE USE OF CITY PROPERTY LOCATED AT 9802 NORTH 59TH AVENUE, GLENDALE, ARIZONA.**

Staff Contact: Erik Strunk, Director, Public Facilities, Recreation and Special Events

### **Purpose and Recommended Action**

This is a request for the City Council to waive reading beyond the title and adopt a resolution authorizing the City Manager to enter into a five-year license agreement with the Glendale Arizona Historical Society for the use of the Historic Guest House as its administrative headquarters and museum, in addition to the use of the historic rose garden lawn for weddings.

### **Background**

Sahuaro Ranch Park was purchased by the City of Glendale in 1977. Of the 80 total acres of this public park, approximately 17 acres and 13 original buildings, a rose garden, barnyard and historic orchards are currently registered on the National Register of Historic Places. Located at 9802 N. 59<sup>th</sup> Avenue, the Sahuaro Ranch Park Historic Area (SRPHA) is open year-round to the public and has become a destination for large cultural events, tours, tractor shows, and wedding ceremonies. It has become so because of the City and community's effort to preserve its historic significance - the SRPHA is one of the Valley's oldest and most treasured cultural assets.

The SRPHA presently functions under the direction of the Department of Public Facilities, Recreation and Special Events - Parks Maintenance Division. This stewardship has occurred since the City's acquisition of the property in 1977. At the same time, a large part of the success of the SRPHA can be attributed to the non-profit Glendale Arizona Historical Society (GAHS). For the past 30 years, it has assisted with historic tours, historical displays and educational outreach, has hosted wedding ceremonies in the historic rose garden, and has used the Historic Guest House as its headquarters. This organization is integral to the cultural and historical operations of the SRPHA. It has the background, resources and knowledge to showcase, preserve and maintain the history and rich culture of SRPHA through site tours and educational seminars.

As the result of a recent review of existing contracts and agreements with various partners to operate many of Glendale's recreation facilities, it was discovered that the City has no formal agreement with the GAHS for its current presence and activities at SRPHA. This is a request to enter into a five-year agreement with the GAHS to formalize a needed license agreement to allow it to continue its efforts to preserve and promote historical preservation at the SRPHA and throughout Glendale.

## **Analysis**

Outside of a 1995 Memo of Understanding between the City and the unrelated Sahuaro Ranch Foundation that expired June 30, 2006, a search of city records failed to produce any official documentation indicating a formal relationship between the City and GAHS since that time for either the use of the Guest House building and/or the ability to conduct and collect all Rose Garden wedding revenue. Even so, the GAHS had a sustained presence at the SRPHA for over 30 years.

The 1995 agreement with the Sahuaro Ranch Foundation was established with the hope of having a non-profit operate and maintain the SRPHA at little to no-cost of the City. However after eleven years of operation, the Sahuaro Ranch Foundation indicated that it had been unable to obtain its objective of establishing a true, self-sustaining operation and agreed to close at the end of the operating agreement. When the Foundation ceased its operations, the GAHS continued its presence at the site, without any formal agreement with the property owner - the City of Glendale.

If approved, the key terms of this license agreement include:

- The Historic Society will be provided dedicated office space in the Historic Guest House and it will continue as a public museum. The GAHS will be considered the “curator” of the Historic Guest House Museum.
- GAHS will pay the City \$10/year for this Agreement.
- The GAHS will also use the rose garden lawn area for weddings and ceremonies. These funds are used to operate the GAHS and help it fulfill its mission of promoting historic preservation throughout Glendale.
- The Historic Guest House will be open to the public October - May, Monday through Friday 10 a.m. - 2 p.m. and Sunday, 1 p.m. - 3:30 p.m.; June - September to be determined. Additional public hours would be discretionary.
- The GAHS will continue to coordinate visits by Glendale schools (these tours will be in addition to the above-listed tour hours).
- The GAHS will provide and maintain all required City liability insurance and will remain in “good standing” with the state of Arizona Corporation Commission and maintain its non-profit status at all times throughout this multi-year agreement.
- The City will continue to provide utility services no cost and all necessary maintenance for the historic buildings at SRPHA (as provided for within the City’s annual budget process). The City also agrees to partner with GAHS to promote the historic nature of the SRPHA and market its use to prospective clients.

## **Community Benefit/Public Involvement**

The City is dedicated to the preservation of its rich history and stewardship of historic properties and will continue to be so for future generations. To this end, this item has been publicly reviewed and discussed by the Glendale Arizona Historical Society at its August 20, 2016 retreat; reviewed and unanimously approved by the City Historic Preservation Commission on September 29, 2016; reviewed and unanimously approved by the Glendale Arizona Historical Society at its October 4, 2016 board meeting; and unanimously approved by the

Parks and Recreation Advisory Commission at its November 9, 2016 regular meeting.

**Budget and Financial Impacts**

There are no budget impacts associated with the request as all projected expenses for the City to maintain and operate the SRPHA are a part of the existing FY 16-17 Parks Maintenance Division Budget.

RESOLUTION NO. 5188 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO EXECUTE A LICENSE AGREEMENT WITH ARIZONA HISTORICAL SOCIETY FOR THE USE OF CITY PROPERTY LOCATED AT 9802 NORTH 59<sup>TH</sup> AVENUE, GLENDALE, ARIZONA.

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

SECTION 1. That the City Council authorizes the City Manager or designee and the City Clerk to enter into a License Agreement with Arizona Historical Society for the use of city property located at 9802 North 59<sup>th</sup> Avenue, Glendale, Arizona. A copy of said agreement is on file in the office of the City Clerk.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 6th day of December, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

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

APPROVED AS TO FORM:

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

REVIEWED BY:

\_\_\_\_\_  
City Manager



## LICENSE AGREEMENT

This LICENSE AGREEMENT (“**Agreement**”) is made and entered into by and between the City of Glendale, an Arizona Municipal Corporation (“**City**”) and Glendale, Arizona Historical Society, an Arizona non-profit corporation (“**Licensee**”) (collectively “**Parties**”) to be effective on the date it is fully executed by all Parties.

### RECITALS

A. The City is the owner of certain real property located at 9802 North 59<sup>th</sup> Avenue, Glendale, Arizona, (“**License Area**”) more fully depicted in Exhibit A attached hereto and will be licensed for use pursuant to this Agreement.

B. Licensee and City desire for Licensee to use the License Area to provide clerical functions for weddings and ceremonies in a portion of the historic rose garden area and to curate the Historic Guest House Museum in accordance with the terms set forth below.

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

### AGREEMENT

In consideration of the mutual covenants and conditions set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. **INCORPORATION OF RECITALS.** The above recitals are true and correct and are incorporated into and shall constitute a part of this Agreement.
2. **LICENSE.** The City hereby grants to Licensee the right to use the License Area only for clerical functions and historical purposes to operate the Historic Guest House Museum and to use and occupy a portion of the historic rose garden area for weddings and ceremonies and as otherwise described in § 2.3.d, below (“**Permitted Use**”) and §5.2a-c below and no other use; and, subject to the provisions and conditions of this Agreement:
  - 2.1. **Use.** During the Term of this Agreement, Licensee will have non-exclusive access to the License Area only as described in § 5, “Licensee’s Operations” for the Permitted Use. This Agreement will not prevent the City from conducting additional business and educational activities, events, programs, concerts and rentals at the Historic Sahuaro Ranch Park. Licensee will be notified of any pending activity.
  - 2.2. **Project Manager.** Upon execution of this Agreement, City and Licensee will each designate a project manager to coordinate the parties’ performance under this Agreement. Each project manager will devote such time and effort to the project as may be necessary for timely, good faith and convenient coordination among all persons involved with the project and compliance with this Agreement. The City’s project manager will not be exclusively assigned to this Agreement or to work related to the Licensee’s use.
  - 2.3. **Rights, Use Requirements, and Restrictions.**
    - a. Licensee’s rights under this Agreement are subject to all covenants, restrictions, easements, agreements, reservations and encumbrances upon, and all other conditions of title to, the License Area.
    - b. Licensee’s rights under this Agreement are subject to all present and future building restrictions, regulations, zoning laws, ordinances, resolutions and orders of any local, state or federal agency, now or hereafter having jurisdiction over the License Area or the Licensee’s use

of the License Area.

- c. Licensee may use the License Area only for the Permitted Use and no other use.
  - d. Licensee's Permitted Use includes the following:
    - 1. Office space, clerical functions and historical purposes at the Guest House at Sahuaro Ranch Historic Area.
    - 2. Occupy a portion of the historic rose garden area for weddings and ceremonies. In the event the historic rose garden is unavailable or with prior approval from city staff, GAHS may also use the Guest House Porch Lawn.
    - 3. Non-exclusive right to access parking spaces, as appropriate.
    - 4. Oversee visits and tours by Glendale school students.
    - 5. All other uses directly related to operating Historic Guest House Museum.
  - e. Except for enforcement authority vested in the Glendale Police Department or other governmental authority, Licensee shall have the right to set and enforce appropriate rules and guidelines for use of the License Area during the Term.
- 2.4. "AS-IS" Acceptance. Licensee warrants that it has studied and inspected the License Area, obtained any information and professional advice the Licensee has determined to be necessary related to this Agreement, and therefore accepts the same "AS IS" without any express or implied warranties of any kind, other than those warranties contained in § 12, including any warranties or representations by the City as to its condition or fitness for any use. Licensee's acceptance of the License Area "as is" shall not include the acceptance of any latent dangerous or hazardous condition that is not discoverable upon inspection.
- 2.5. Limitation on Grant. The Parties do not by this instrument intend to create a lease, easement, or other real property interest or vest with Licensee any real property interest in the License Area and nothing express or implied in this Agreement grants Licensee any right or authority to enter, occupy, or use any property that is not solely owned by the City and fully described herein.
- 2.6. Rights Reserved.
- a. Licensee acknowledges that its use of the License Area is subject and subordinate to the City's use of the License Area, including use of the License Area for Sahuaro Ranch Historic Area.
  - b. City may, at all times, enter upon the License Area for any lawful purpose, provided the action does not unreasonably interfere with the Licensee's use or occupancy of the License Area.
3. TERM.
- 3.1. License Period. This Agreement shall commence on \_\_\_\_\_, 20\_\_\_\_ ("Commencement Date") and end on \_\_\_\_\_, 20\_\_\_\_ ("Term"), unless terminated earlier as provided in this Agreement. The Effective Date of the License Agreement shall be the date it is fully executed by all Parties. The Term of this Agreement commences on the Effective Date and shall not exceed five (5) years.
- 3.2. Surrender of Possession.
- a. Upon the expiration or termination of this Agreement, the Licensee's right to occupy the

License Area and to exercise the privileges and rights granted by this Agreement cease, and it must surrender and leave the License Area in as good condition as it was provided to Licensee, including removal of personal property from the License Area, and removal of any paper, litter or trash.

- b. If Licensee fails to remove any of its property upon expiration or termination of this Agreement, it will have a grace period of 90 days in order to cause such removal, after which such property will become a part of the License Area and ownership will vest in the City. Alternatively, the City may, at the Licensee's expense, have the property removed after such 90-day period.

3.3. Hold-Over. In the event Licensee continues to occupy the License Area after the expiration or termination of this Agreement, such hold-over does not constitute a renewal or extension of this Agreement and in no case may the hold-over exceed ten (10) business days.

4. LICENSE FEES. For its right to use the License Area, the City accepts the following consideration as full remuneration for the Licensee's use in accordance with the License Agreement to be paid on or before the Commencement Date of this agreement:

4.1. Licensee shall pay a sum of ten USD annually (\$10.00) for use of the License Area.

5. LICENSEE'S OPERATIONS.

5.1. Generally.

- a. Licensee must at all times have on-call and at the City's access an active, qualified and experienced representative to supervise the Permitted Use and who is authorized to act for the Licensee in matters pertaining to all emergencies and the operation of the Permitted Use. Licensee will provide the City with the name and 24-hour telephone number for the Licensee Project Manager.
- b. Licensee, at all times during the Term of this Agreement, must operate and maintain the License Area in a clean and orderly condition, including providing custodial service at the Guest House, and use commercially reasonable care in the use of the License Area so as not to constitute a nuisance, jeopardize the public safety, sell or distribute alcohol or illegal drugs, permit nudity, or allow any other unlawful activity.
- c. The City will provide the License Area with electricity, water, and sewer services at no cost to the Licensee. However, the City will not be liable, in damages or otherwise, for any discontinuance, failure or interruption of electric, water or sewer service to the License Area.
- d. The City agrees to maintain and repair all major exterior and internal portions and systems of the License Area as provided for within the City's annual budget process.
- e. The City will assist Licensee in promoting the historic nature of the Sahuaro Ranch Historic Area and market its use to prospective clients.
- f. Licensee shall remain in "good standing" with the State of Arizona Corporation Commission and maintain its non-profit status at all times throughout this Agreement.
- g. Licensee will procure, at its sole cost, any license, permit or approval of any governmental agency having jurisdiction over the License Area necessary for the Permitted Use of the License Area ("**Governmental Approvals**"). Licensee's obligations under this Agreement shall be subject to receipt of all Governmental Approvals. Each Party will cooperate with the other in good faith to obtain the Government Approvals, and City will promptly execute all

applications and other documentation necessary for Licensee to obtain the Governmental Approvals. Licensee shall reimburse City within ten (10) days for any penalties or fines resulting from Licensee's failure to comply with any Governmental Approvals.

5.2. Improvements and Services.

- a. Hours of Operation. Licensee agrees to maintain Guest House Museum open to the public and staffed either with employees or volunteers, October-May, Monday-Friday, 10 a.m.-2 p.m. and Sundays, 1 p.m.-3:30 p.m. Licensee will maintain operating hours June-September, at its discretion. Licensee may open Guest House Museum for additional hours, at its discretion.
- b. School Tours. Licensee will coordinate visits by Glendale schools. These tours are in addition to the above-listed hours and must be coordinated with City Staff.
- c. Additional Functions. Additional programs or functions outside of the License Area or Permitted Use must receive prior City approval.
- d. Licensee's Contractors

Licensee may use contractors and suppliers in its reasonable discretion, with prior review and approval of City, in the performance of Improvements and Services. Licensee shall ensure that the Licensee's contractor/s performing work at the License Area maintain the minimum insurance requirements identified in this License Agreement. The insurance policies shall be endorsed to contain the City of Glendale, its officers, officials, employees, and volunteers as an additional insured in connection with its Permitted Use and Improvements and any other work or operations.

1. Licensee's Improvements must be designed and materials and labor purchased at the Licensee's sole expense. In the event Licensee or its Contractors cause damage to City owned property, the Licensee is responsible for reporting the claim to the applicable insurance company.
2. In no event is the City obligated to compensate Licensee or any contractor or supplier in any manner for any of the Licensee's Improvements or other work performed by Licensee or any contractor in connection with the Permitted Use or during or related to this Agreement.
3. Licensee must timely pay for all labor, materials, and work, and all professional and other services related to its operations within the License Area, and will defend, indemnify and hold harmless the City against all related claims caused, in whole or in part, by Licensee and no liens against the License Area shall be permitted.
4. All work performed on the License Area by Licensee or any sub-contractors must be performed in a workmanlike manner, as reasonably determined by the City, and will be diligently pursued to completion and in conformance with all building codes and similar rules.

5.3. Insurance.

- a. Licensee and any and all Contractors shall procure and maintain until all obligations have been discharged the minimum insurance requirements as outlined below in connection with its Permitted Use and Improvements and any other work or operations in the License Area. The insurance requirements contained herein are minimum requirements and in no way limit the indemnity covenants contained in the License. The City in no way warrants that the minimums are sufficient to protect Licensee or its Contractors as they are free to purchase additional insurance as they deem necessary.

## Minimum Insurance Requirements

1. Workers' Compensation Insurance as required by the State of Arizona with Statutory Limits. This policy shall include Employer's Liability insurance with limits no less than \$100,000 per accident for bodily injury or disease.
  2. Commercial General Liability Insurance on an occurrence basis that includes property damage, fire damage legal liability, bodily injury, personal and advertising injury, products and completed operations and contractual liability with limits not less than \$1,000,000 per occurrence, \$2,000,000 aggregate and \$100,000 fire damage liability.
  3. Automobile Liability Insurance that includes bodily injury and property damage for any owned, hired and non-owned vehicles with a combined single limit not less than \$1,000,000.
- b. Insurance is to be placed with insurers duly licensed or authorized to do business in the State of Arizona with an AM Best rating not less than A-, VII by AM Best.
  - c. The General and Automobile liability policies shall contain or be endorsed to contain the City of Glendale, its officers, officials, and employees as additional insureds with respect to liability arising out of Licensee's Permitted Use and Improvements and any other work or operations in the License Area. To the extent that City volunteers are utilized to perform work or operations in the License Area, with the prior consent and agreement of Licensee, then Licensee will name such volunteers as additional insured with respect to the General and Automobile liability policies.
  - d. Licensee's insurance coverage shall be primary insurance with respect to the City, its officers, officials, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, or employees shall be excess of the Licensee's insurance and shall not contribute with it.
  - e. As commercially reasonable and at any time, City's Risk Manager may alter the requirements above or determine additional insurance is necessary for Licensee's operations.
  - f. Notice of Cancellation. Each insurance policy shall be endorsed to state that coverage shall not be canceled except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the City.
  - g. Licensee and any and all Contractors shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language providing the required insurance coverage. All certificates and endorsements are to be received by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Licensee's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.
  - h. Waiver of Subrogation. Licensee hereby grants to City a waiver of any right to subrogation which any insurer of said Licensee may acquire against the City by virtue of the payment of any loss under such insurance. Licensee agrees to make reasonable efforts to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.
  - i. Notices to the City. The Licensee will provide the City, without request, copies of any petition

or application related to any filing by the Licensee of bankruptcy, receivership or trusteeship and any notices received from regulatory agencies pertaining to the operations.

6. **DAMAGE OR DESTRUCTION.** The City has no obligation to reimburse the Licensee for the loss of or damage to fixtures, equipment or other personal property of Licensee, except for such loss or damage as is caused by the sole negligence or fault of the City or its officers, employees or agents.

7. **INDEMNIFICATION AND LIMITATION OF LIABILITY.**

7.1. Licensee will defend, indemnify and hold harmless the City, its officers, officials, and employees, and agents (collectively, the "City") from and against any and all losses, damages, claims, actions, liabilities for bodily injury or personal injury (including death) or loss or damage to tangible or intangible property (collectively, "Claims") of whatever nature, including reasonable attorney's fees, court costs, expert witness fees, costs of litigation or expenses, cost of claim processing and investigation, caused in whole or in part that arise out of any act or omission of Licensee or its agents, employees and invitees (collectively, "Licensee") in connection with Licensee's, or related to Licensee's owners, officers, directors, agents or contractors, Permitted Use and operations in the License Area and that result directly or indirectly in any type of injury to or death of any person or the damage to or loss of any property, or that arise out of Licensee's use, activities or operations, including the failure of the Licensee to comply with any provision of this Agreement (collectively "Licensee's Conduct").

- a. City will in all instances, except for loss, damages or claims resulting from the sole negligence or fault or gross negligence of City, be defended and indemnified by Licensee against any and all Claims arising out of Licensee's Conduct. Licensee will be responsible for primary loss investigation, defense and judgment costs where the indemnification is applicable. City will give the Licensee prompt notice of any claim made or suit instituted that may subject the Licensee to liability under this section, although timing of such notice will not diminish Licensee's duty to defend and indemnify unless such timing actually prejudices Licensee's ability to defend or Licensee's legal rights and remedies thereunder, and the Licensee will have the right to compromise and defend the same to the extent of its own interest.
- b. City shall cooperate with Licensee and its counsel in such defense.
- c. City may, but does not have the duty to, participate in the defense of any Claim with attorneys of the City's selection and at the City's sole cost without relieving the Licensee of any obligations hereunder.
- d. Licensee's obligations under this Agreement survive any termination of this Agreement or the Licensee's use or activities in the License Area.
- e. In consideration for the use of the premises, the Licensee agrees to waive all rights of subrogation against the City, its officers, officials, employees, and agents arising from Licensee's use, activities, operations or occupancy of the premises.

7.2. **Limitation of Liability.** In no event is either party liable or obligated to the other party or any third party for any special, incidental, exemplary, consequential, punitive or indirect damages regardless of the form of action, whether under theory of contract, tort (including negligence), strict liability or otherwise, even if informed of the possibility of any such damages in advance. The foregoing limitation on liability shall not apply to claims for which a party is obligated to provide indemnity under this Agreement, claims arising from fraud, gross negligence or willful misconduct of a party, claims for breach of confidentiality, or claims of infringement of intellectual property rights.

7.3. The indemnity obligations in this section shall survive expiration or termination of this Agreement.

8. **TAXES AND LICENSES.**

- 8.1. Licensee must pay any leasehold tax, possessory-interest tax, sales tax, personal property tax, transaction privilege tax or other exaction assessed or assessable as a result of its occupancy of the License Area under authority of this Agreement, including any such tax assessable on the City.
- 8.2. Licensee must, at its own cost, obtain and maintain in full force and effect during the Term of this Agreement all licenses and permits required for all activities authorized by this Agreement.

9. **RULES AND REGULATIONS.** Licensee must at all times comply with all federal, state and local laws, ordinances, rules and regulations which are applicable to its use and construction activity or operations on the License Area, including all laws, ordinances, rules and regulations adopted after the Effective Date. Licensee must display to the City, upon request, any permits, licenses or other evidence of compliance with all laws.

10. **TERMINATION.**

10.1. **For Cause.**

- a. Either party may terminate this Agreement in the event that the other party breaches this Agreement and fails to promptly remedy such breach within forty-eight (48) hours after receipt of notice from the other party. Notice must be made to either party's Project Manager, which notice may be verbal if provided on-site at the License Area to the other party's representative but must be followed up with an email to the other party's Project Manager documenting the deficiency.
- b. In the event either party fails to perform any of its obligations under this Agreement and such failure continues for forty-eight (48) hours and will impair the Permitted Use of the License Area, either party shall, in addition to all other rights and remedies available, have the right, but not the obligation, to perform the obligations of the offending party and collect from such, or set-off against amounts otherwise due, all sums actually expended to effect such cure.
- c. Licensee may terminate this Agreement in the event of any of the following and, if such an event occurs, the City will process a refund for the amount of the License Fee paid, but will not be liable for any other damages:
  1. Prior to the use of the License Area Licensee reasonably determines that the License Area is no longer technically compatible for its use or that it does not intend to use the License Area for its intended purposes.
  2. Issuance by a court of competent jurisdiction of an injunction in any way preventing or restraining the Licensee's use of any portion of the License Area.
  3. The License Area becomes unusable as a result of inclement weather or other Act of God.
  4. Licensee cannot obtain the required licenses or permits or it becomes, in Licensee's sole and reasonable discretion, unduly burdensome or cost prohibitive to obtain such licenses or permits.
- d. The City may terminate this Agreement and seek damages in the event of any of the following:
  1. The failure of Licensee to perform any of its obligations under this Agreement, provided that Licensee fails to remedy this failure within forty-eight hours of receiving written notice from the City of said failure.

2. The filing of any lien against the License Area because of any act or omission of the Licensee that is not discharged or fully bonded within 30 days of receipt of actual notice by the Licensee.
  3. If the Licensee at any time and for any reason fails to maintain all insurance coverage required by this Agreement, alternatively, and at its sole discretion, the City may secure the required insurance at the Licensee's expense which will be immediately due and payable.
- 10.2. For Convenience. Either Party may terminate this Agreement for its convenience at any time upon providing ninety (90) days written notice. In such case, Licensee shall be entitled to prorated refund of the License Fee. Refund of the License Fee is the sole and exclusive remedy of the Licensee for termination of this Agreement by City hereunder and Licensee shall not be entitled to, and waives, all claims for damages and expenses.
11. **DEFAULT.** Failure by a Party to take any authorized action upon default by the other party of any of the other party's breach of a term, covenant, condition or obligation of this Agreement, or the failure to declare any default or breach immediately upon occurrence thereof or delay in taking any action in connection therewith, shall not waive such default or breach or such covenant, term, or condition or any subsequent default or breach thereof.
12. **CITY'S REPRESENTATIONS AND WARRANTIES.** The City represents and warrants to the Licensee that:
- 12.1. It has the full right, power, and authority to execute this Agreement;
  - 12.2. The City's execution and performance of this Agreement will not violate any laws, ordinances, covenants, mortgages, licenses or other agreements binding on the City.
  - 12.3. The City shall deliver the License Area to Licensee on the Commencement Date free and clear of any equipment, personal property, trash, plant material and debris.
  - 12.4. The City will not take any action inconsistent with Licensee's use of the License Area during the Term of this Agreement.
  - 12.5. The City has not and will not contract with, authorize or permit any vendors, merchants, lessees or other third parties to have access to or make any use of the License Area during the Term of this Agreement
13. **HAZARDOUS WASTE.**
- 13.1. Licensee must not produce, dispose, transport, treat, use or store any hazardous waste or toxic substance upon or about the License Area subject to regulation under the Arizona Hazardous Waste Management Act, A.R.S. § 49-901 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., the Toxic Substances Control Act, 15 U.S.C. 2601 et seq., or any other federal, state or local law pertaining to hazardous waste or toxic substances.
  - 13.2. Licensee must not use the License Area in a manner inconsistent with any regulations, permits or approvals issued by the Arizona Department of Health Services.
  - 13.3. Licensee must defend, indemnify and hold the City harmless against any loss or liability incurred by reason of any hazardous waste or toxic substance on or affecting the License Area attributable to or caused in any way by the Licensee, and immediately notify the City of any hazardous waste or toxic substance at any time discovered or existing upon the License Area.



- 13.4. Licensee must promptly and without a request by the City provide the City's Environmental Program Manager with copies of all written communications between the Licensee and any governmental agency concerning environmental inquiries, reports or problems on the License Area.
14. **PARTIES' PERSONNEL.** Each party's personnel are, and shall at all times remain, employees or contractors of such party, and each party shall exercise control over the conduct of their personnel and shall pay all wages, employee benefits and related expenses to the full extent required by law including, without limitation, all governmental employment taxes and unemployment insurance.
15. **INDEPENDENT CONTRACTOR.** Nothing herein shall be deemed or construed to create a partnership, joint venture or agency relationship between the parties. Licensee is strictly an independent contractor subject to no control by City other than as expressly provided herein.
16. **NOTICES.** Except as otherwise provided, all notices required or permitted to be given under this Agreement may be personally delivered or mailed by certified mail, return receipt requested, postage prepaid, to the following addresses:

To City: City of Glendale  
 Attn: Kevin Phelps, City Manager  
 5850 W Glendale Avenue  
 Glendale, AZ 85301  
 Email: [Citymanager@glendaleaz.com](mailto:Citymanager@glendaleaz.com)

with copy to: City of Glendale  
 Attn: Michael D. Bailey, City Attorney  
 5850 West Glendale Avenue  
 Glendale, AZ 85301  
 Email: [m Bailey@glendaleaz.com](mailto:m Bailey@glendaleaz.com)

To Licensee: Glendale Arizona Historical Society  
 Attn: Ronald N. Short, President  
 P.O. Box 5606  
 Glendale, AZ 85312-5606

with copy to: City of Glendale  
 Attn: Erik Strunk, Public Facilities, Recreation and Special Events  
 Director  
 5959 W. Brown St.  
 Glendale, AZ 85302

- 16.1. Either party may designate in writing a different address for notice purposes pursuant to this section.
- 16.2. Any notice or other communication directed to a party to this Agreement shall become effective upon the earliest of the following: (a) actual receipt by that party; (b) delivery to the address of the party, addressed to the party; or (c) if given by certified or registered U.S. Mail, return receipt requested, 72 hours after deposit with the United States Postal Service, addressed to the party.
17. **ASSIGNMENT.** Neither Party may assign or sublease any of its interest, rights, or obligations of this Agreement hereunder without the prior written consent of the other Party. Any attempted assignment, delegation, or transfer without the necessary consent will be void.
18. **SEVERABILITY.** If any provision of this Agreement is declared invalid by a court of competent

jurisdiction, the remaining terms remain effective, provided that elimination of the invalid provision does not materially prejudice either party with regard to its respective rights and obligations; in the event of material prejudice, then the adversely affected party may terminate this Agreement.

19. **E-VERIFY, RECORDS AND AUDITS.** To the extent applicable under A.R.S. § 41-4401, the Contractor warrant their compliance and that of its subcontractor with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). The Contractor or subcontractor's breach of this warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by the City under the terms of this Agreement. The City retains the legal right to randomly inspect the papers and records of the other party to ensure that the other party is complying with the above-mentioned warranty. The Contractor and subcontractor warrant to keep their respective papers and records open for random inspection during normal business hours by the other party. The parties shall cooperate with the City's random inspections, including granting the inspecting party entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.
20. **NO BOYCOTT OF ISRAEL.** The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.
21. **CONFLICTS.** This Agreement is subject to cancellation for conflicts of interest under the provisions of A.R.S. § 38-511.
22. **GOVERNING LAW; CHOICE OF FORUM.** This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the internal, substantive laws of the State of Arizona (without reference to conflict of law principles). Any action brought to interpret, enforce or construe any provision of this Agreement shall be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Maricopa (or, as may be appropriate, in the Justice Courts of Maricopa County or in the United States District Court for the District of Arizona, if, but only if, the Superior Court lacks or declines jurisdiction over such action). The Parties irrevocably consent to jurisdiction and venue in such courts for such purposes and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Section. If any litigation or arbitration between the City and the Licensee arises under this Agreement, the successful party is entitled to recover its reasonable attorney's fees, expert witness fees and other costs incurred in connection with the litigation or arbitration.
23. **MISCELLANEOUS.**
  - 23.1. This Agreement, together with all exhibits hereto, constitutes the entire agreement between the parties, and supersedes all representations, statements or prior agreements and understandings both written and oral with respect to the matters contained in this Agreement and exhibits hereto. No person has been authorized to give any information or make any representation not contained in this Agreement.
  - 23.2. The parties have participated jointly in the drafting of this Agreement, and agree that it shall be interpreted, applied, and enforced according to the fair meaning of its terms and not be construed strictly in favor or against either party, regardless of which party may have drafted any of its provisions. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect.
  - 23.3. No provision of this Agreement may be waived or modified except by a written agreement signed by the party against whom such waiver or modification is sought to be enforced. The terms of this Agreement shall be binding upon and inure to the benefit of each party, and its successors and assigns.

24. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which, taken together, shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement by facsimile (or other commonly-used electronic means (e.g., PDF) shall be effective as delivery of a manually executed counterpart of this Agreement.

[Signatures on the following page.]

EXECUTED to be effective on the date the agreement is fully executed by all Parties.

CITY OF GLENDALE, an Arizona municipal corporation

\_\_\_\_\_  
Kevin Phelps, City Manager

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Julie K. Bower, City Clerk (SEAL)

APPROVED AS TO FORM:

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

GLENDALE ARIZONA HISTORICAL SOCIETY, a not-for-profit corporation



By: Ronald N. Short,  
Its: President

Date: 11/15/16

STATE OF \_\_\_\_\_ )

) ss.

County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ in his/her capacity as authorized representative of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

EXHIBIT A  
LICENSE AREA

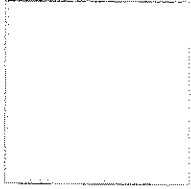
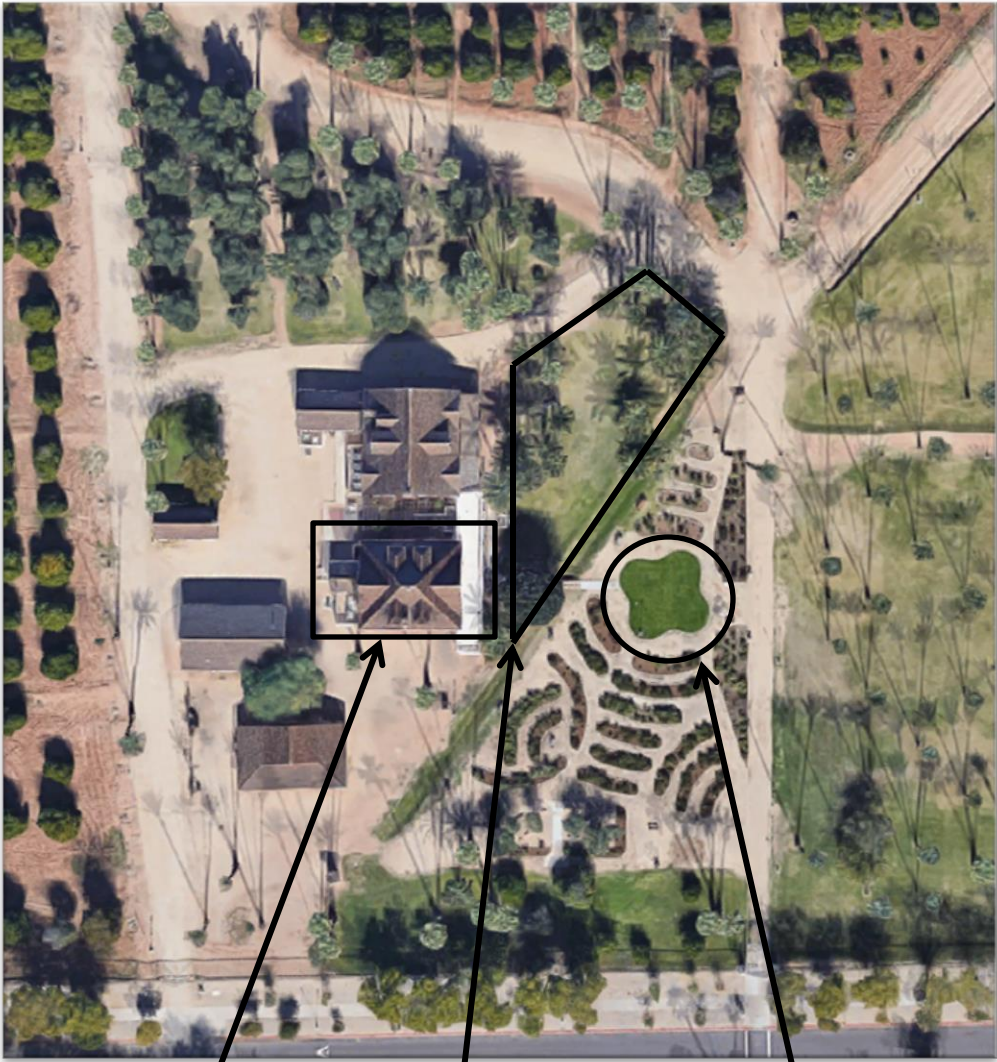


EXHIBIT A  
LICENSE AREA

Exhibit A – GAHS License Area  
Historic Sahuaro Ranch Park



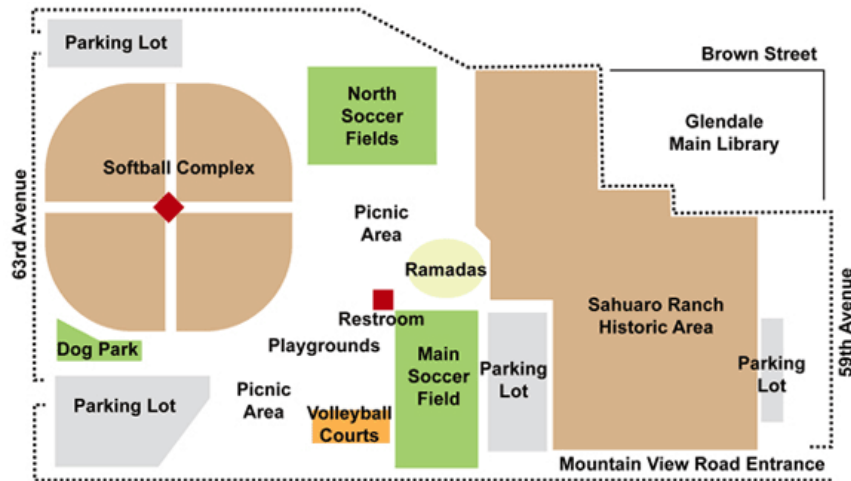
#1 – Guest House    #2 – Guest House Porch Lawn    #3 – Historic Rose Garden Lawn

# **Attachments for GAHS License Agreement at Historic Sahuaro Ranch Park**

- Summary of GAHS Background @ Sahuaro Ranch
- City Fact Sheet on Historic Sahuaro Ranch Revenue/Expenses
- September 29, 2016 Historic Preservation Agenda Item
- September 29, 2016 Historic Preservation Commission PowerPoint Presentation
- August 20, 2016 GAHS Retreat Agenda
- Summary of Key Items in License Agreement
- Certificate of Good Standing from Arizona Corporation Commission
- Certification of current 501c3 status from the IRS

## **Summary of GAHS Background @ Sahuaro Ranch**

Sahuaro Ranch Park was purchased by the City of Glendale in 1977. Of the 80 total acres of this public park, approximately 17 acres and 13 original buildings, a rose garden, barnyard and historic orchards are currently registered on the National Register of Historic Places. Located at 9802 N. 59<sup>th</sup> Avenue, the Sahuaro Ranch Park Historic Area (SRPHA) is open year-round to the public and has become a destination for large cultural events, tours, tractor shows, and wedding ceremonies. It is a destination for families and friends to visit and because of the City and community's effort to preserve its historic significance; the SRPHA is one of the Valley's oldest and most treasured cultural assets.



The SRPHA presently functions under the direction of the Department of Public Facilities, Recreation and Special Events. Although the area is managed directly by a Senior Recreation Coordinator, there is one “on-site,” part-time staff who directly manages the facility to ensure all guest expectations are met. The actual routine landscape maintenance is overseen by the Parks Maintenance staff. The City has done so since its acquisition of the property in 1977. Additionally, the non-profit Glendale Arizona Historical Society (GAHS) assists with tours and wedding ceremonies, and currently uses the Guest House as its headquarters. This organization is integral to the cultural and historical operations of the SRPHA. It has the background, resources and knowledge to showcase, preserve and maintain the history and rich culture of SRPHA through site tours and educational seminars. It is important to nurture this relationship as the GAHS has the knowledge and resources to engage guests and visitors so they understand the history Sahuaro Ranch Park Historic Area and enjoy the amenities for years to come.

Outside of a 1995 Memo of Understanding between the City and the unrelated Sahuaro Ranch Foundation that expired June 30, 2006, a search of city records has failed to produce any official documentation indicating a formal relationship between the City and GAHS since that time for either the use of the Guest House building and/or the ability to conduct and collect all Rose Garden wedding revenue. Even so, the GAHS had a sustained presence at the SRPHA for over 30 years.

The 1995 agreement with the Sahuaro Ranch Foundation was established with the hope of having a non-profit operate and maintain the SRPHA at little to no-cost of the City. However after eleven years of operation, the Sahuaro Ranch Foundation indicated that it had been unable to obtain its objective of establishing a true, self-sustaining operation and agreed to close at the end of the operating agreement. When the Foundation ceased its operations, the GAHS continued its presence at the site, without any formal agreement with the property owner – the City of Glendale. The GAHS does not pay the City any rent for the facility, electric or other utility expenses.

In total, the 2015 operating expenses of the GAHS amounted to \$35,370.92. The expenditures primarily consist of personnel expenses related to a part-time secretary who meets with prospective clients, generate rental agreements, accept payments, and provide information regarding the facility. Additionally, the expenditures are used to pay a part-time handyman who is used to make minor repairs to the premises.



# Sahuaro Ranch Park Historic Area Fact Sheet

Mission: To preserve a historic site for the community to participate in the ongoing development of educational and social experiences that connects Glendale residents and visitors to the past and to each other.

Staffing Level: 0 FTE 6 Temp

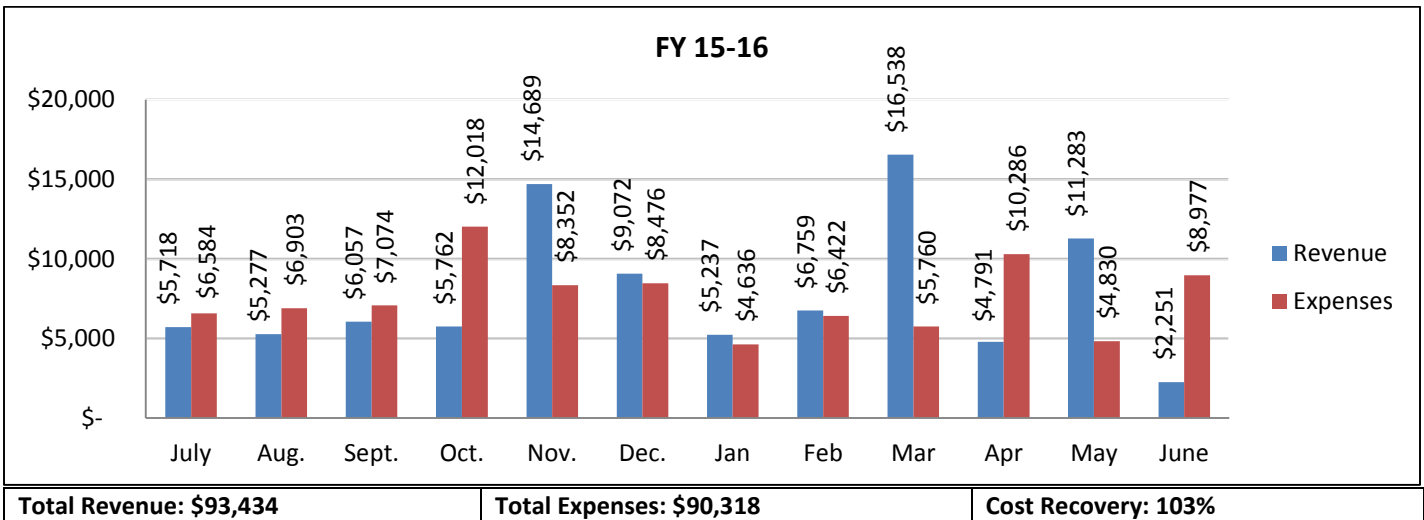
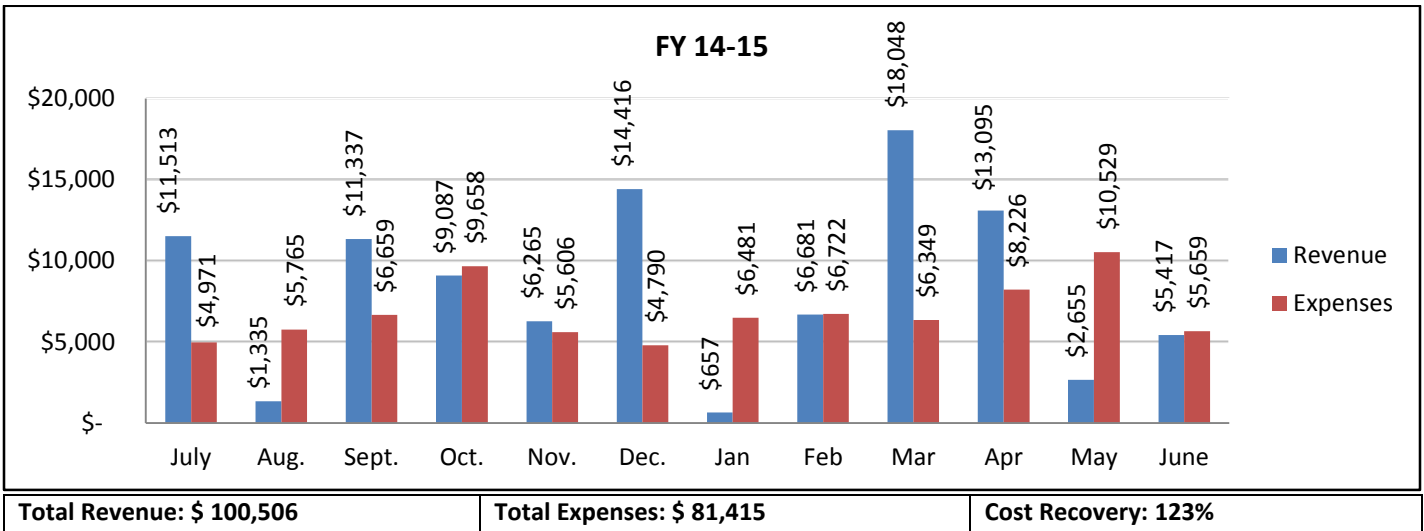
Total FY 15-16 Budget: \$ 70,341 (14860)

**Hours of Operation:**

Grounds are open daily from 6 a.m. to sunset.  
Main House is open September through May, Thursday - Saturday 10 a.m. – 2 p.m. and Sunday 1 p.m. – 4 p.m.

**Key Services Provided:**

- Educational programs through Main House tours, site tours, school field trips, etc.
- Rental space for private functions including wedding receptions and birthday parties
- Host multiple large scale events such as the award-winning Glendale Folk and Heritage Festival
- Preservation of the 17-acre site listed in the National Register of Historic Places



	FY 15-16	FY 14-15	FY 13-14	FY 12-13	FY 11-12
Revenue	\$93,434	\$100,506	\$98,838	\$79,862	\$51,453
Expenses	\$90,318	\$81,415	\$87,420	\$64,492	\$61,357

	FY 15-16	FY 14-15	FY 13-14	FY 12-13	FY 11-12
Main House Visitors	4,693	5,450	4,797	4,059	\$5,970
Rentals	72	74	68	58	56



# Historic Preservation Commission Agenda

**THURSDAY, SEPTEMBER 29, 2016**

**4:00 P.M.**

**GLENDALE CITY HALL**

**5850 WEST GLENDALE AVENUE, CONFERENCE ROOM 2A**

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*One or more members of the Historic Preservation Commission may be unable to attend the meeting in person and may participate telephonically, pursuant to A.R.S. § 38-431(4).*

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF MINUTES May 26, 2016
- IV. BUSINESS FROM THE FLOOR
- V. WITHDRAWALS AND CONTINUANCES
- VI. PUBLIC HEARING ITEMS
- VII. OTHER BUSINESS
  1. **SAHUARO RANCH PARK HISTORIC AREA MASTER PLAN UPDATE**  
The Commission will hear a presentation from the Public Facilities, Recreation and Special Events Department regarding the Master Plan Update for the Sahuaro Ranch Park Historic Area. (Barrel District).
  2. **SAHUARO RANCH PARK AND GLENDALE ARIZONA HISTORICAL SOCIETY USE AGREEMENT**  
The Commission will hear a presentation from the Public Facilities, Recreation and Special Events Department regarding the use of the guest house at Sahuaro Ranch Park. (Barrel District).
- VIII. STAFF REPORT
- IX. COMMISSION COMMENTS AND SUGGESTIONS
- X. ADJOURNMENT

NEXT MEETING January 26, 2017

FOR SPECIAL ACCOMMODATIONS



Please contact Diana Figueroa at (623) 930-2808 at least three working days prior to the meeting if you require special accommodations due to a disability. Hearing impaired persons should call (623) 930-2197.



# Historic Preservation Staff Report

**DATE:** September 29, 2016

**TO:** Historic Preservation Commission

**AGENDA ITEM NO: 2**

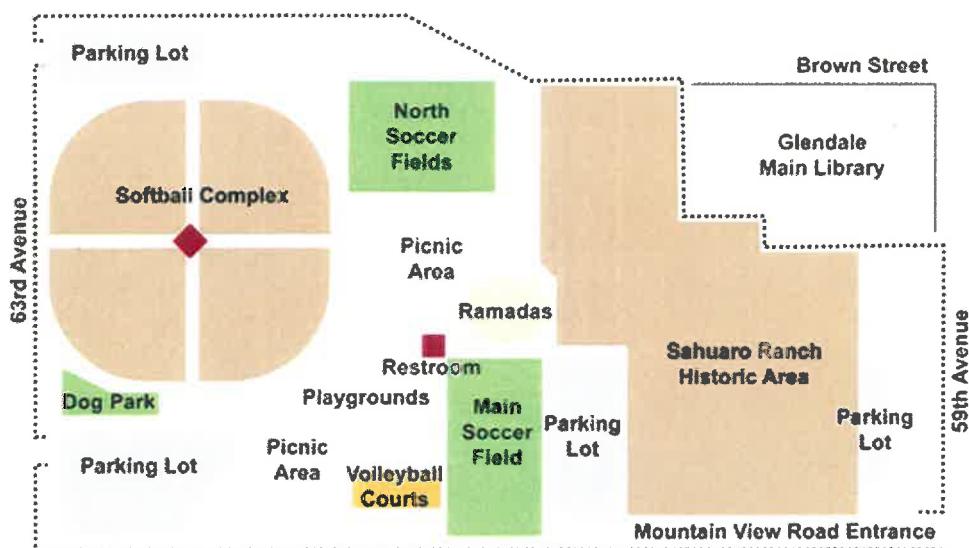
**FROM:** Erik Strunk, Director  
Public Facilities, Recreation and Special Events Department

**THROUGH:** Jon M. Froke, AICP, Planning Director  
Historic Preservation Officer

**SUBJECT:** Update on Historic Sahuaro Ranch and Glendale Arizona Historic Society Use Agreement

## DISCUSSION:

The Sahuaro Ranch Park was purchased by the City of Glendale in 1977. Of the 80 total acres of this public park, approximately 17 acres and 13 original buildings, a rose garden, barnyard and historic orchards are currently registered on the National Register of Historic Places. Located at 9802 North 59<sup>th</sup> Avenue, the Sahuaro Ranch Park Historic Area (SRPHA) is open year-round to the public and has become a destination for large cultural events, tours, tractor shows, and wedding ceremonies. It is a destination for families and friends to visit and because of the City and community's effort to preserve its historic significance; the SRPHA is one of the Valley's oldest and most treasured cultural assets.



The SRPHA presently functions under the direction of the Public Facilities, Recreation and Special Events Department. The area is managed directly by Senior Recreation Coordinator, a part-time, "on-site" staff-member who directly manages the facility to ensure all guest expectations are met, and Parks Maintenance staff to ensure the routine landscape maintenance needs are met. Additionally, the non-profit Glendale Arizona Historic Society (GAHS) assists with tours and wedding ceremonies, and currently uses the Guest House as its headquarters.

As of 2016, the GAHS offices are located in the Guest House of SRPHA, which provides the organization with the ability to plan and coordinate facility tours on-site and to conduct its historic preservation initiatives throughout Glendale. For FY13-14, the non-profit organization coordinated and provided 2700 hours of tours at the ranch at no cost to visitors and guests. The availability of these tours can vary, as the GAHS does rely on an all-volunteer force to conduct the tours. At the same time, the GAHS coordinated 48 wedding ceremonies at the Rose Garden Site as a primary source of funding for its historic preservation efforts.

Recently, the City identified a need to enter into a formal agreement with the GAHS to memorialize its use of the Guest House to ensure its continued presence and efforts to preserve the historical significance of the SRPHA. The City wishes to retain its partnership with the GAHS as it has the background, resources and knowledge to showcase, preserve and maintain the history and rich culture of SRPHA through site tours and educational seminars.

Doing so will allow for a new business plan with the following considerations:

1. A multi-year agreement with the GHS for its continued use of the site.
2. Delineation of specific responsibilities between both parties.
3. A guarantee to ensure a continuation of revenue via weddings in the Rose Garden area
4. Further consolidation of City resources for more efficient SRPHA operations.
5. Solidification of a partnership to ensure the SRPHA continues its primary mission as an educational experience dedicated to profiling the historic significance of ranching and farming as to the origins of Glendale and Arizona.

The purpose of this item is to brief the Historic Preservation Commission on the key elements of a new license use agreement the City hopes to enter into with the GAHS for the continued use of the Guest House at the SRPHA.

**RECOMMENDATION:**

Staff is seeking feedback and input from the Historic Preservation Commission in preparation of advancing this item to the Council for formal consideration.

**REQUIRED ACTION:**

Conduct a discussion and review the draft key concepts and provide input to staff.

**ATTACHMENTS:** Draft Concepts.

**PROJECT MANAGER:** Erik Strunk, Director  
Public Facilities, Recreation and Special Events Department  
(623) 930-2728 or [Strunk@Glendaleaz.com](mailto:Strunk@Glendaleaz.com)

**REVIEWED BY:**

  
\_\_\_\_\_  
Planning Director

JMF/ES/df

  
\_\_\_\_\_  
Development Services Director

**Presentation to Historic Preservation Commission:  
Proposed Agreement with Glendale Arizona Historic Society  
September 29, 2016**

**Public Facilities, Recreation and Special Events Department**



# Overview

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- GAHS at Sahuaro Ranch Park since 1980's - no formal agreement w/ City
- 1995 - Sahuaro Ranch Foundation - formal agreement (GAHS permitted to be in Guest House)
- 2006 - Foundation Agreement expired
- GAHS continues operations in Guest House & use of Rose Garden for wedding ceremonies
- Need for formal agreement with City
- GAHS briefed at August 20, 2016 Retreat



# Draft Proposal

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GAHS would agree to -

- Maintain regular hours of operation
- Allow City use of Guest House for events
- Conduct tours
- Advise on future historic preservation activities
- Host public school visitations
- Maintain all insurance & non-profit status requirements
- Rent the facility from City for \$10/year





# Draft Proposal

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City would agree to -

- Enter in to a five-year contract with GAHS
- Provide on-going maintenance of the historic grounds
- Provide ongoing capital repair efforts of historic structures
- Provide power and cover the cost of utility expenses
- Cross-promote and market the Historic Sahuaro Ranch and the GAHS



# Summary

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- Plan will allow GAHS to focus on community-based education, preservation efforts throughout the City
- Partnership will enable both City and GAHS to continue preservation of Glendale's history at the Ranch
- City Capital Funds will be used for a preservation fund
- Plan will enable a more seamless guest experience

## Next Steps

- HPC to review and discuss
- Awaiting formal approval by GAHS Board
- Formal Council approval date pending





## **2016 GLENDALE ARIZONA HISTORICAL SOCIETY RETREAT**

**August 20, 2016 Saturday 9:00 AM – 12:00 PM**  
**Historic Manistee Ranch House 5127 W. Northern Avenue**  
**(enter off of 51<sup>st</sup> Avenue) Glendale, Arizona**

### Agenda

1. **Sahuaro Ranch User Agreement 9:00 AM – 9:30 AM 30 minutes**

**Presenter: Erik Strunk, Public Facilities, Recreation and Special Events  
Department Director; City staff Tim Barnard, Mike Gregory, Jon Froke, AICP**

City staff will present a revised user agreement for Board and staff discussion.

2. **Sahuaro Ranch Master Plan and Capital Improvement Program 9:30 AM –  
10:00 AM 30 minutes**

**Presenter: Erik Strunk, Public Facilities, Recreation and Special Events  
Department Director; City Staff Tim Barnard, Mike Gregory and Jon Froke, AICP**

City staff will discuss the upcoming Master Plan and how GAHS can be an active participant. Staff will also discuss the multi-year capital improvement funding to help restore this critical historic resource for the community.

**BREAK 10:00 AM – 10:10 AM 10 minutes**

**3. Current Plans and Programs for Sahuaro Ranch**

**Presenter: Paul King, Park Administrator**

City Staff will explain the recent changes made at Sahuaro Ranch, plans and programs for the historic park for the coming year.

**4. Manistee Ranch – Ron Short**

- A. Current and future use of the facility
- B. Long Range future of Manistee Ranch

**5. GAHS Topics for discussion-**

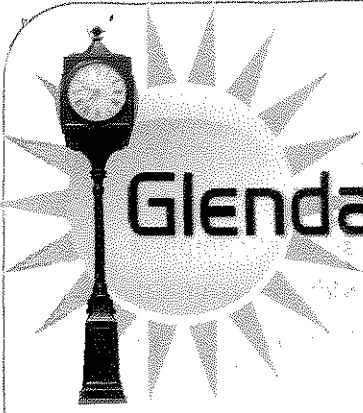
- A. Membership
- B. Weddings
- C. Tours and exhibits
- D. Marketing
- E. Library
- F. Museum
- G. Volunteers
- H. Donations/gifts
- I. Future meeting programs for 2016-2017

**6. Other topics not listed for discussion**

**7. Adjournment**

**Refreshments will be served**

**YOU'ALL COME NOW**



# Glendale Arizona Historical Society

*"preservation of the past"*

October 6, 2016

Erik Strunk  
Director  
Public Facilities, Recreation and Special Events Department  
5959 W. Brown Avenue  
Glendale, AZ 85302

Dear Erik:

The Glendale Arizona Historical Society Board of Directors met on October 4, 2016 and unanimously approved the attached "Key Terms with Glendale Arizona Historical Society for Pending Agreement" with a few revisions. The Board made changes to the hours of operation section to accommodate the Society's normal schedule. The "Public" was removed from school tours since schools would include private, charter and public schools as well as students from other communities.

Please advise the Board as to progress with the agreement. The Board looks forward in working with you and staff to assure historic Sahuaro Ranch remains as an important asset to the City of Glendale and its residents.

Sincerely,

Ronald N. Short  
President

Attachment: Key Terms with Glendale Arizona Historical Society for Pending Agreement

**CITY OF GLENDALE, ARIZONA**  
**KEY TERMS WITH GLENDALE ARIZONA HISTORICAL SOCIETY**

- **Term.** The terms of this proposed license agreement will be valid for a five-year period. The agreement will require approval by the Glendale City Council. Once approved, any change to any of the terms will require the approval of the Glendale City Manager and his/her designee.
- **Office.** The Historic Society will be provided dedicated office space as mutually agreed upon. The Guest House at Sahuaro Ranch Historic Area will continue as a public museum. In partnership with the City, GHSA will be considered the “curator of the Historic Guest House Museum. GAHS will pay the City \$10/year for this Agreement.
- **License Areas.** Subject to the terms and conditions of the final agreement, the GAHS will be granted a license to use and occupy the Guest House for its clerical functions and for historical purposes and to use and occupy a portion of the rose garden area for weddings and ceremonies. In addition to and together with the License Area, the City will grant a non-exclusive right of access parking spaces, as appropriate.
- **Hours of Operation.** The GAHS agrees to be open to the public, and staffed either with employees or volunteers, in the Guest House, October – May, Monday through Friday 10 a.m. – 2 p.m. and Sunday, 1 p.m. – 3:30 p.m.; June - July, August and September to be determined. Licensee may be open in the Guest House for additional hours, at its discretion.
- **School Tours.** The GAHS will coordinate visits by Glendale schools. These tours are in addition to the above-listed tour hours and must be coordinated with City staff.
- **Insurance.** GAHS, at its expense, will procure and maintain during the term a policy of commercial general liability insurance in an amount required by the City against claims for bodily injury, death and property damage occurring in connection with GAH’s use of the Facilities, The policy and insurer shall be acceptable to the City.

- **Non- Profit Status.** The GAHS shall remain in “good standing” with the state of Arizona Corporation Commission and maintain its non-profit status at all times throughout this multi-year agreement.
- **Maintenance.** The GAHS will be responsible for securing all permits and licenses necessary to use the License Areas for Permitted Use, including without limitation any business licenses required by the City of Glendale and/or County of Maricopa, Arizona; and maintaining the License Area in a neat and clean condition including custodial service of the Guest House).
- **Utilities.** The City will make available to GAHS the delivery of electricity, water and sewer services to the License Areas at no cost. However, the City will not be liable, in damages or otherwise, for any discontinuance, failure or interruption of electric, water or sewer service to the License Areas.
- **City In-Kind Services.** The City will provide all necessary maintenance for the historic buildings at SRHA as provided for within the City’s annual budget process. The City also agrees to partner with GAHS to promote the historic nature of the SRHA and market its use to prospective clients.
- **Additional Functions.** Any GAHS additional programs of functions outside of agreed upon areas must receive prior City approval.
- **Non-Exclusivity.** The agreement will not prevent the City from exploring additional business and educational models to promote and/or preserve the Historic Sahuaro Ranch Park. This will include events, activities, programs, concerts, rentals, etc. The GAHS will be notified of any such pending activity.
- **Termination.** 90 days notification and with cause (breach of contract)

Search Time:

10/26/2016 9:27:15 AM

File Number:

01106506

Corporation Name:

GLENDALE, ARIZONA HISTORICAL SOCIETY

Corporate Status Inquiry

## This Corporation is in Good Standing

This information is provided as a courtesy and does not constitute legally binding information regarding the status of the entity listed above. To obtain an official Certificate indicating that the entity is in good standing click on Print Certificate and follow printing instructions. To re-print a previously generated Certificate of Good Standing click Reprint Certificate.

[Print Certificate \(/GoodStanding/PrintInstructions?corpId=%2001106506\)](/GoodStanding/PrintInstructions?corpId=%2001106506)[Reprint Certificate \(/GoodStanding/Reprint?corpId=%2001106506\)](/GoodStanding/Reprint?corpId=%2001106506)[Return to Corporate Details \(/Details/Corp?corpId=%2001106506\)](/Details/Corp?corpId=%2001106506)

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## Exempt Organizations Select Check

[Exempt Organizations Select Check Home](#)

Organizations Eligible to Receive Tax-Deductible Charitable Contributions (1997-2013 data) - Search Results

The following list includes tax-exempt organizations that are eligible to receive tax-deductible charitable contributions. Click on the "Deductibility Status" column for an explanation of limitations on the deductibility of contributions made to different types of tax-exempt organizations.

Results are sorted by EIN. To sort results by another category, click on the icon next to the column heading for that category. Clicking on that icon a second time will reverse the sort order. Click on a column heading for an explanation of information in that column.

76-82 of 82 results

Results Per Page:

[« Prev | 76-82 | Next »](#)

<a href="#">EIN ▲</a>	<a href="#">Legal Name (Doing Business As) ▲</a>	<a href="#">City ▲</a>	<a href="#">State ▲</a>	<a href="#">Country ▲</a>	<a href="#">Deductibility Status ▲</a>
86-6050845	Veterans of Foreign Wars of the United States Dept of Arizona	Glendale	AZ	United States	EO
86-6053588	Gfwc Glendale Womans Club	Glendale	AZ	United States	PC
87-0799132	Akita Advocates Relocation Team Arizona	Glendale	AZ	United States	PC
90-0665693	Arizona Alternative Education Consortium	Glendale	AZ	United States	PC
94-2464030	Beacon Bible Church of Phoenix Arizona	Glendale	AZ	United States	PC
94-2894991	Glendale Arizona Historical Society	Glendale	AZ	United States	PC
95-3733671	Arizona-Nevada Academy of Science	Glendale	AZ	United States	PC

[Return to Search](#)

[« Prev | 76-82 | Next »](#)



## Legislation Description

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**File #:** 16-601, **Version:** 1

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### **ORDINANCE NO. 3023 NEW SERIES**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF A REAL PROPERTY EXCHANGE AGREEMENT WITH FARM 101, LLC, FOR THE EXCHANGE OF REAL PROPERTY LOCATED AT THE SOUTHWEST CORNER OF 91ST AVENUE AND BETHANY HOME ROAD FOR REAL PROPERTY LOCATED AT THE NORTHWEST CORNER OF 95TH AVENUE AND THE MISSOURI AVENUE ALIGNMENT; AND ORDERING THAT A CERTIFIED COPY OF THIS ORDINANCE BE RECORDED.**

Staff Contact: Kevin R. Phelps, City Manager

### **Purpose and Recommended Action**

This is a request for City Council to waive reading beyond the title and adopt an ordinance authorizing the City Manager to enter into a land exchange agreement with Farm 101 LLC, for the exchange of real property located at the southwest corner of 91<sup>st</sup> Avenue and Bethany Home Road for real property located at the northwest corner of 95<sup>th</sup> Avenue and the Missouri Avenue alignment.

### **Background**

The Real Property Exchange Agreement was approved by City Council as part of the Settlement Agreement between the City of Glendale and the Arizona Sports and Tourism Authority and the Arizona Cardinals on November 14, 2016.

Consistent with the requirements of State law (A.R.S. §9-407), the city has determined that the parcels of real property it intends to exchange are of substantially equal value and the exchange meets the terms and conditions prescribed in the ordinance. The city has published a notice of its intent to enter into a Real Property Exchange Agreement with Farm 101 once a week for two consecutive weeks in a weekly newspaper. The requisite notice was also posted at Glendale City Hall for 12 consecutive days prior to Council action.

### **Previous Related Council Action**

As referenced in the Stadium Parking Settlement Agreement between the City of Glendale and the Arizona Sports and Tourism Authority and the Arizona Cardinals section 10, PS Land Swap, the City of Glendale agreed to enter into a Land Swap Agreement with Farm 101 LLC.

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

The Real Property Exchange Agreement, in part, aides in settling the \$66.7 million claim and the issues surrounding the claim.

**Budget and Financial Impacts**

There are no costs incurred by the city for this action. There will be no impact on city departments, staff or service levels as a result of this action.

ORDINANCE NO. 3023 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF A REAL PROPERTY EXCHANGE AGREEMENT WITH FARM 101, LLC, FOR THE EXCHANGE OF REAL PROPERTY LOCATED AT THE SOUTHWEST CORNER OF 91<sup>ST</sup> AVENUE AND BETHANY HOME ROAD FOR REAL PROPERTY LOCATED AT THE NORTHWEST CORNER OF 95<sup>TH</sup> AVENUE AND THE MISSOURI AVENUE ALIGNMENT; AND ORDERING THAT A CERTIFIED COPY OF THIS ORDINANCE BE RECORDED.

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

SECTION 1. That the City Manager is authorized to enter into the Real Property Exchange Agreement with Farm 101, LLC, for the exchange of real property located at the southwest corner of 91<sup>st</sup> Avenue and Bethany Home Road for real property located at the northwest corner of 95<sup>th</sup> Avenue and the Missouri Avenue alignment. A copy of the 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 are authorized and directed to execute and deliver any documents necessary for the exchange of said properties.

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

SECTION 4. That the provisions of this ordinance shall become effective thirty (30) days after passage of this ordinance by the Glendale City Council.

[Signatures on the following page.]

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 6th day of December, 2016.

\_\_\_\_\_  
M A Y O R

ATTEST:

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

APPROVED AS TO FORM:

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

REVIEWED BY:

\_\_\_\_\_  
City Manager

**REAL PROPERTY EXCHANGE AGREEMENT  
(INCLUDING ESCROW INSTRUCTIONS)**

THIS REAL PROPERTY EXCHANGE AGREEMENT (INCLUDING ESCROW INSTRUCTIONS), is entered into this \_\_\_\_ day of \_\_\_\_\_, 2016 (the "Effective Date"), by and between **FARM 101 LLC**, a Delaware limited liability company ("Farm 101"), and **CITY OF GLENDALE**, an Arizona municipal corporation (the "City"), and together with the Exhibits referenced herein, shall constitute a binding contract (collectively, the "Agreement") on the part of Farm 101 and the City to exchange certain real property subject to the terms and conditions contained in this Agreement, and shall create an escrow (the "Escrow") with First American Title Insurance Company, 2425 E. Camelback Road, Suite 300, Phoenix, Arizona 85016, Attn: Kristin Brown ("Escrow Agent") as escrow agent. This Agreement shall constitute the sole escrow instructions to Escrow Agent with respect to the transaction contemplated herein. Farm 101 and the City may be referred to individually as a "Party" and collectively as the "Parties".

**RECITALS**

A. The City, Arizona Tourism and Sports Authority, d/b/a Arizona Sports and Tourism Authority ("AZSTA"), Arizona Cardinals Football Club LLC (the "Club"), New Cardinals Stadium LLC ("NCS"), and Stadium Development LLC ("SD" and together with the Club and NCS, the "Cardinals") entered into that certain Stadium Parking Settlement Agreement (the "Settlement Agreement") pursuant to which the City, AZSTA and the Cardinals settled certain claims made by AZSTA and the Cardinals concerning a notice of a claim by AZSTA and the Cardinals alleging that the City had repudiated certain contractual obligations relating to the provision of parking for events at University of Phoenix Stadium in Glendale, Arizona.

B. The Settlement Agreement contemplates that the City and Farm 101 (as an affiliate of the Cardinals) will enter into an agreement in substantially the form of this Agreement, which provides for the exchange of certain real properties owned by the City and Farm 101.

C. The transaction contemplated by this Agreement is authorized and governed by Glendale City Code, Chapter 2, Article V, Division 3, and A.R.S. § 9-407.

D. Pursuant to A.R.S. § 9-407, the City adopted Ordinance No. \_\_\_\_\_ on \_\_\_\_\_, 2016, approving the transaction contemplated by this Agreement, and published, or will publish, notice of the transaction contemplated by this Agreement pursuant to, and in accordance with A.R.S. § 39-204.

E. The City and Farm 101 now desire to exchange certain real properties owned by them in furtherance of the terms of the Settlement Agreement, and pursuant to the terms set forth herein.

## AGREEMENT

For and in consideration of the mutual undertakings hereunder, and each Party intending to be legally bound, the Parties agree as follows:

### 1. Subject Properties.

(a) 95th Avenue Property. The real property (the “95th Avenue Property”) that is owned by Farm 101 and that is to be conveyed to the City in accordance with this Agreement is more particularly described in Exhibit “A” attached hereto and incorporated herein by reference.

(b) PS Development Property. The real property (the “PS Development Property”) that is owned by the City and that is to be conveyed to Farm 101 in accordance with this Agreement is more particularly described and depicted in Exhibit “B” attached hereto and incorporated herein by reference. As of the Effective Date, the PS Development Property is not a separate legal parcel (or parcels) of real estate. Commencing on the Effective Date, the City shall, at its sole cost and expense, take all actions required to legally subdivide the PS Development Property so the PS Development Property is a separate legal parcel, or separate legal parcels, at Closing, including without limitation, recording a Plat or similar lot split document in the Official Records of Maricopa County, Arizona (the “Subdivision”). The City shall diligently pursue the Subdivision. The Subdivision shall be in form and substance acceptable to Farm 101, in Farm 101’s sole and absolute discretion. The Subdivision shall not be recorded in the Official Records of Maricopa County, Arizona without Farm 101’s prior written consent. Within ten (10) days after the Effective Date, Farm 101 and the City shall agree upon the configuration and form and content of the Plat or similar lot split instrument to be recorded in the Official Records of Maricopa County, Arizona. The Subdivision shall be a condition to Farm 101’s obligation to close the transaction contemplated by this Agreement.

(c) Property; Properties. The 95th Avenue Property and PS Development Property may be referred to individually as a “Property” and collectively as the “Properties”.

(d) Acreage; Value. The Properties are of approximately equal acreage, and the Properties are of approximately equal value.

### 2. Exchange Terms.

(a) Exchange of Real Properties. At Closing (defined herein), Farm 101 shall convey the 95th Avenue Property to the City and the City shall convey the PS Development Property to Farm 101.

(b) Publication. Within one (1) day after of the Effective Date, the City shall publish notice of the transaction contemplated by this Agreement pursuant to, and in accordance with, Glendale City Code, A.R.S. § 9-407 and A.R.S. § 39-204.

3. Escrow. The Parties shall open the Escrow within three (3) days after this Agreement has been executed by both Parties, and Escrow Agent shall sign and date this Agreement on the space provided at the end of this Agreement, indicating that Escrow has been

opened as of such date (“Opening of Escrow”). The date set for conveyance of title to the Properties and the performance of all conditions (except those conditions expressly required to be performed earlier pursuant to this Agreement) relating thereto (“Close of Escrow”, “Closing” or “Close Escrow”) shall be the later of (i) ten (10) days after the City has fully complied with the publication requirements of A.R.S. § 9-407, and Glendale City Code with respect to posting the notice of the transaction contemplated in this Agreement in Glendale City Hall, or (ii) three (3) days after recordation of the Subdivision, subject to extension as described in Section 12.

4. Owner’s Title Policy; Closing Costs.

(a) Farm 101 Title Policy. At Close of Escrow, the City shall pay for and cause First American Title Insurance Company to furnish Farm 101 with a standard coverage owner’s policy of title insurance (2006 ALTA form) in an amount equal to such amount of coverage Farm 101 elects (in Farm 101’s reasonable discretion), insuring Farm 101’s title to the PS Development Property, subject only to the usual printed exceptions contained in such title insurance policies, those matters which appear as exceptions in Schedule B of the PS Development Title Report described in Section 5(a) herein and which are not objected to or are waived in the manner described in said Section, and any other matters approved in writing by Farm 101. If Farm 101 desires an ALTA extended coverage policy or any title policy endorsements, Farm 101 shall pay the difference in cost between an ALTA extended coverage policy and a standard owner’s policy, plus the premiums for any title policy endorsements desired by Farm 101.

(b) City Title Policy. At Close of Escrow, Farm 101 shall pay for and shall cause First American Title Insurance to furnish the City with a standard coverage owner’s policy of title insurance (2006 ALTA form) in an amount equal to such amount of coverage the City elects (in the City’s reasonable discretion), insuring the City’s title to the 95th Avenue Property, subject only to the usual printed exceptions contained in such title insurance policies, those matters which appear as exceptions in Schedule B of the 95th Avenue Title Report described in Section 6(a) herein and which are not objected to or are waived in the manner described in said Section, and any other matters approved in writing by the City. If the City desires an ALTA extended coverage policy or any title policy endorsements, the City shall pay the difference in cost between an ALTA extended coverage policy and a standard owner’s policy, plus the premiums for any title policy endorsements desired by the City.

(c) City’s Payment of Property Taxes and Closing Costs. At Close of Escrow, the City shall pay the recording fees with respect to the City Deed and any releases of encumbrances, all delinquent real property taxes and homeowners’ association assessments, all fees which are due or will be due relating to water and sewer buy-in charges, all general and special assessments pertaining to the PS Development Property, including but not limited to improvement district assessments, whether or not payable in installments, and one-half of the Escrow fees. All non-delinquent real property taxes reflected on the PS Development Title Report shall be prorated as of Close of Escrow based upon the most recent assessments. If taxes must be paid before Maricopa County tax records reflect the PS Development Property as a separate tax parcel(s), taxes shall be allocated on the basis of acreage, except that any taxes attributable to improvements shall be allocated to the property on which the improvements are located. All existing liability, hazard and other insurance on the PS Development Property shall



be cancelled as of Close of Escrow, any such insurance desired by Farm 101 shall be provided new by Farm 101. Except as provided herein, any other fees or charges relating to the PS Development Property shall be paid as is customary in Maricopa County, Arizona. All prorrations shall be final at Closing.

(d) Farm 101's Payment of Property Taxes and Closing Costs. At Close of Escrow, Farm 101 additionally shall pay the recording fees with respect to the Farm 101 Deed and any releases of encumbrances, all delinquent real property taxes and homeowners' association assessments, all fees which are due or will be due relating to water and sewer buy-in charges, all general and special assessments pertaining to the 95th Avenue Property, including but not limited to improvement district assessments, whether or not payable in installments, and one-half of the Escrow fees. All non-delinquent real property taxes reflected on the 95th Avenue Title Report shall be prorated as of Close of Escrow based upon the most recent assessments. All existing hazard and other insurance on the 95th Avenue Property shall be cancelled as of Close of Escrow, and any such insurance desired by the City shall be provided new by the City. Except as provided herein, any other fees or charges relating to the 95th Avenue Property shall be paid as is customary in Maricopa County, Arizona. All prorrations shall be final at Closing.

5. Farm 101's Feasibility Approval.

(a) Status of City Title. Farm 101 acknowledges that it has received and reviewed a current commitment for title insurance (the "PS Development Title Report") for the PS Development Property, disclosing all matters of record and other matters of which Escrow Agent has knowledge which relate to the title to the PS Development Property, and a legible copy of each of the instruments and documents referred to in the PS Development Title Report. The City acknowledges and confirms it has reviewed the PS Development Title Report and that the City will satisfy the requirements (including those to be met by releasing or satisfying monetary encumbrances, but not those to be met solely by Farm 101) applicable to the City on or before the date set for Close of Escrow. Notwithstanding anything herein to the contrary, in the event that an amendment to the PS Development Title Report is issued shortly before Close of Escrow, and the amendment reveals an exception that can be objected to, Close of Escrow shall be extended if (and to the minimum extent) necessary: (i) to provide Farm 101 the period contemplated herein to object; and (ii) to provide the City the period contemplated herein to respond, if Farm 101 objects. Notwithstanding anything herein to the contrary, on or before Close of Escrow the City shall satisfy and remove all monetary liens from the PS Development Property evidencing the payment of private debts (including any lien for property owner association ("HOA") assessments, but excluding any lien for current taxes and assessments) and the City shall cure and cause to be removed all exceptions for rights of Parties or entities in possession or Parties or entities holding lease or option rights; and Farm 101 need not expressly object to any such liens or exceptions as may be disclosed on the PS Development Title Report or any amendment thereto.

(b) Examination of PS Development Property. Farm 101 acknowledges that it has had the right to survey and examine and conduct a feasibility analysis of the PS Development Property and any improvements thereon, and acknowledges that Farm 101 is satisfied with its feasibility analysis of the PS Development Property, and hereby waives any right to terminate or

rescind this Agreement based on Farm 101's feasibility analysis of the PS Development Property.

6. The City's Feasibility Approval. The City's obligation to consummate the transaction contemplated hereby or fulfill its obligations under this Agreement is subject to satisfaction of the conditions precedent (which the City may elect to waive, in whole or in part, in its sole and absolute discretion) contained in this Section 6.

(a) Status of Farm 101 Title. The City acknowledges that it has received and reviewed a current commitment for title insurance (the "95th Avenue Title Report") for the PS Development Property, disclosing all matters of record and other matters of which Escrow Agent has knowledge which relate to the title to the PS Development Property, and a legible copy of each of the instruments and documents referred to in the PS Development Title Report. Farm 101 acknowledges and confirms it has reviewed the 95th Avenue Title Report and that Farm 101 will satisfy the requirements (including those to be met by releasing or satisfying monetary encumbrances, but not those to be met solely by the City) applicable to Farm 101 on or before the date set for Close of Escrow. Notwithstanding anything herein to the contrary, in the event that an amendment to the 95th Avenue Title Report is issued shortly before Close of Escrow, and the amendment reveals an exception that can be objected to, Close of Escrow shall be extended if (and to the minimum extent) necessary: (i) to provide the City the period contemplated herein to object; and (ii) to provide Farm 101 the period contemplated herein to respond, if the City objects. Notwithstanding anything herein to the contrary, on or before Close of Escrow Farm 101 shall satisfy and remove all monetary liens from the 95th Avenue Property evidencing the payment of private debts (including any lien for HOA assessments, but excluding any lien for current taxes and assessments) and Farm 101 shall cure and cause to be removed all exceptions for rights of Parties or entities in possession or Parties or entities holding lease or option rights; and the City need not expressly object to any such liens or exceptions as may be disclosed on the 95th Avenue Title Report or any amendment thereto.

(b) Examination of 95th Avenue Property. The City acknowledges that it has had the right to survey and examine and conduct a feasibility analysis of the 95th Avenue Property and any improvements thereon, and acknowledges that the City is satisfied with its feasibility analysis of the 95th Avenue Property, and hereby waives any right to terminate or rescind this Agreement based on the City's feasibility analysis of the 95th Avenue Property.

7. Closing; Conveyances. At Closing, the City shall deliver the City Deed (as hereinafter defined) and all funds required to be paid by the City pursuant to this Agreement to Escrow Agent, and Farm 101 shall deliver the Farm 101 (as hereinafter defined) and all funds required to be paid by Farm 101 pursuant to this Agreement to Escrow Agent. Escrow Agent and the Parties shall close the transaction contemplated by this Agreement upon: (i) Escrow Agent's receipt all funds required to be paid by the Parties, (ii) Escrow Agent's receipt of the City Deed duly executed and acknowledged by the City, (iii) Escrow Agent's receipt of the Farm 101 Deed duly executed and acknowledged by Farm 101, and (iv) the satisfaction of each Party's express conditions closing set forth herein. The Properties shall be conveyed in pursuant to and subject to the following (as applicable):

(a) City Deed. The PS Development Property, including any and all rights, easements and privileges appurtenant thereto, shall be conveyed to Farm 101, upon Close of Escrow, by special warranty deed (the "City Deed") in the form of Exhibit "C" attached hereto and incorporated herein by reference, and any other instruments of assignment or transfer that may be necessary or appropriate, free and clear of all liens, restrictions, reservations, encumbrances and exceptions to title whatsoever, except only those matters that have been previously approved by Farm 101 pursuant to Section 5(a). Said City Deed, duly executed by the City and appropriately acknowledged, shall be deposited with Escrow Agent (together with the Affidavit of Value required by Arizona law) on or before the date on which Escrow is to close, with said City Deed to be recorded upon the fulfillment of Farm 101's obligations under this Agreement. The PS Development Property shall be conveyed "AS IS" and "WHERE IS," with no express or implied warranties or representations whatsoever, except as contained in this Agreement and in the City Deed.

(b) Farm 101 Deed. The 95th Avenue Property, including any and all rights, easements and privileges appurtenant thereto, shall be conveyed to the City, upon Close of Escrow, by special warranty deed (the "Farm 101 Deed") in the form of Exhibit "D" attached hereto and incorporated herein by reference, and any other instruments of assignment or transfer that may be necessary or appropriate, free and clear of all liens, restrictions, reservations, encumbrances and exceptions to title whatsoever, except only those matters that have been previously approved by the City pursuant to Section 6(a). Said Farm 101 Deed, duly executed by Farm 101 and appropriately acknowledged, shall be deposited with Escrow Agent (together with the Affidavit of Value required by Arizona law) on or before the date on which Escrow is to close, with said Farm 101 Deed to be recorded upon the fulfillment of the City's obligations under this Agreement. The 95th Avenue Property shall be conveyed "AS IS" and "WHERE IS," with no express or implied warranties or representations whatsoever, except as contained in this Agreement and in the Farm 101 Deed.

8. Non-Performance. In the event of a default by a Party under this Agreement, including the failure of any of the representations, warranties or covenants of such Party described herein, the non-defaulting Party as its sole remedy may (i) waive such default and Close Escrow, or (ii) institute an action for specific performance. Each Party hereby acknowledges that its Property is unique and that, accordingly, it would be equitable for any court of competent jurisdiction to order the specific performance by such Party of such Party's obligations hereunder.

9. Reserved.

10. City's Representations, Warranties and Additional Covenants. The City hereby represents, warrants and covenants (with the understanding that Farm 101 is relying on said representations, warranties and covenants) that:

(a) There are no claims, actions, suits, condemnation actions, or other proceedings pending or, to the knowledge of the City, threatened by any person or entity that may materially and adversely affect the PS Development Property.

(b) The City shall not sell, convey, assign, lease or otherwise transfer all or any part of the PS Development Property, or cause or permit any new liability, encumbrance or obligation to be placed or imposed upon all or any part of the PS Development Property from the date hereof until Close of Escrow and recordation of the City Deed.

(c) During the course of Escrow, the City shall maintain the PS Development Property at least as good a state of repair as of the date hereof.

(d) Except as may be disclosed by the PS Development Title Report, there exist no adverse claims by any person or entity (including but not limited to adjoining property owners) and no encroachments with respect to the PS Development Property.

(e) The City has full power and authority to enter into and perform this Agreement in accordance with its terms, and has complied with the provisions of A.R.S. § 9-407 and A.R.S. § 39-204.

(f) The individual executing this Agreement on behalf of the City is authorized to do so and, upon his executing this Agreement, this Agreement shall be binding and enforceable upon the City in accordance with its terms.

(g) To the City's knowledge, and except as may be disclosed by any environmental report for the PS Development Property provided to or obtained by Farm 101, there does not exist, and the City itself has not caused any generation, production, location, transportation, storage, treatment, discharge, disposal, release or threatened release upon or under the PS Development Property of (i) any toxic or hazardous substance or "pollutant" (as that term is defined in A.R.S. §49-201(23)) subject to regulation under the Resource Conservation and Recovery Act (as amended by the Hazardous and Solid Waste Amendments of 1984), 42 U.S.C. §6901, et seq.; the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (as amended by the Superfund Amendments and Reauthorization Act of 1986), 42 U.S.C. §9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq.; the Toxic Substances Control Act, 15 U.S.C. §2601, et seq.; the Clean Air Act, 42 U.S.C. §7401, et seq.; the Safe Drinking Water Act, 42 U.S.C. §300h, et seq.; the Clean Water Act, 33 U.S.C. §1251, et seq.; the Arizona Environmental Quality Act, A.R.S. §49-201, et seq.; the Arizona "State Superfund" provisions, A.R.S. §49-281, et seq.; the Arizona Solid Waste Management provisions, A.R.S. §49-701, et seq.; the Arizona Hazardous Waste Management Act, A.R.S. §49-921, et seq.; and the Arizona Underground Storage Tank provisions, A.R.S. §49-1001, et seq., or any other applicable State or Federal environmental protection law or regulation; or (ii) any product, material or substance existing or used in any manner inconsistent with the regulations issued by or so as to require a permit or approval from the Arizona Department of Health Services pursuant to the Maricopa County Health Code. To the City's knowledge, and except as may be disclosed any other environmental or other report provided to or obtained by Farm 101, no storage tanks (either above or below the ground) or septic tanks exist or have existed on the PS Development Property.

(h) The City has no knowledge of any Native American site located on the Property, whether such site is publicly known or not, including but not limited to sites that are or

may be subject to laws or regulations imposing limitations on the disclosure of information regarding such sites.

(i) The City shall timely satisfy, discharge or bond over any and all obligations relating to work performed on or conducted at the PS Development Property or materials delivered to the PS Development Property in order to prevent the filing before or after Close of Escrow of any claim or mechanic's lien with respect thereto.

The foregoing representations, warranties and covenants shall be true as of the date hereof and, except as expressly set forth herein, for one (1) year following Close of Escrow. The phrases "to the City's knowledge", "the knowledge of the City" or words of similar import shall mean the actual knowledge of the most knowledge City staff member as it pertains to the PS Development Property, without any duty of inquiry, investigation or verification.

11. Farm 101's Representations, Warranties and Additional Covenants. Farm 101 hereby represents, warrants and covenants (with the understanding that the City is relying on said representations, warranties and covenants) that:

(a) There are no claims, actions, suits, condemnation actions, or other proceedings pending or, to the knowledge of Farm 101, threatened by any person or entity that may materially and adversely affect the 95th Avenue Property.

(b) Farm 101 shall not sell, convey, assign, lease or otherwise transfer all or any part of the 95th Avenue Property, or cause or permit any new liability, encumbrance or obligation to be placed or imposed upon all or any part of the 95th Avenue Property from the date hereof until Close of Escrow and recordation of the Farm 101 Deed.

(c) During the course of Escrow, Farm 101 shall maintain the 95th Avenue Property at least as good a state of repair as of the date hereof.

(d) To the knowledge of Farm 101, and except as may be disclosed by the 95th Avenue Title Report, there exist no adverse claims by any person or entity (including but not limited to adjoining property owners) and no encroachments with respect to the 95th Avenue Property.

(e) Farm 101 has full power and authority to enter into and perform this Agreement in accordance with its terms.

(f) The individual executing this Agreement on behalf of Farm 101 is authorized to do so and, upon his executing this Agreement, this Agreement shall be binding and enforceable upon Farm 101 in accordance with its terms.

(g) To Farm 101's knowledge, and except as may be disclosed by any other environmental report for the 95th Avenue Property provided to or obtained by the City, there does not exist, and Farm 101 itself has not caused any generation, production, location, transportation, storage, treatment, discharge, disposal, release or threatened release upon or under the 95th Avenue Property of (i) any toxic or hazardous substance or "pollutant" (as that term is defined in A.R.S. §49-201(23)) subject to regulation under the Resource Conservation and

Recovery Act (as amended by the Hazardous and Solid Waste Amendments of 1984), 42 U.S.C. §6901, et seq.; the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (as amended by the Superfund Amendments and Reauthorization Act of 1986), 42 U.S.C. §9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq.; the Toxic Substances Control Act, 15 U.S.C. §2601, et seq.; the Clean Air Act, 42 U.S.C. §7401, et seq.; the Safe Drinking Water Act, 42 U.S.C. §300h, et seq.; the Clean Water Act, 33 U.S.C. §1251, et seq.; the Arizona Environmental Quality Act, A.R.S. §49-201, et seq.; the Arizona "State Superfund" provisions, A.R.S. §49-281, et seq.; the Arizona Solid Waste Management provisions, A.R.S. §49-701, et seq.; the Arizona Hazardous Waste Management Act, A.R.S. §49-921, et seq.; and the Arizona Underground Storage Tank provisions, A.R.S. §49-1001, et seq., or any other applicable State or Federal environmental protection law or regulation; or (ii) any product, material or substance existing or used in any manner inconsistent with the regulations issued by or so as to require a permit or approval from the Arizona Department of Health Services pursuant to the Maricopa County Health Code. To Farm 101's knowledge, and except as may be disclosed in any other environmental or other report provided to or obtained by the City, no storage tanks (either above or below the ground) or septic tanks exist or have existed on the 95th Avenue Property.

(h) Farm 101 has no knowledge of any Native American site located on the Property, whether such site is publicly known or not, including but not limited to sites that are or may be subject to laws or regulations imposing limitations on the disclosure of information regarding such sites.

(i) Farm 101 shall timely satisfy, discharge or bond over any and all obligations relating to work performed on or conducted at the 95th Avenue Property or materials delivered to the 95th Avenue Property in order to prevent the filing before or after Close of Escrow of any claim or mechanic's lien with respect thereto.

The foregoing representations, warranties and covenants shall be true as of the date hereof and, except as expressly set forth herein, for one (1) year following Close of Escrow. The phrases "to Farm 101's knowledge", "the knowledge of Farm 101" or words of similar import shall mean the actual knowledge of Timothy Bidwill, without any duty of inquiry, investigation or verification.

12. Closing Conditions. Each of the Parties is bound by the following Closing conditions:

(a) Farm 101 Conditions. The obligation of Farm 101 to consummate and close the transaction contemplated by this Agreement is subject to the conditions (which may be waived in writing by Farm 101 in its sole discretion) that (i) the City is not in default of this Agreement, (ii) the Subdivision has been completed, and (iii) that all of the City's representations and warranties are true and correct as of the date of Closing. If any of the foregoing conditions is not satisfied or waived in writing by Farm 101 due to any reason other than a breach or default hereunder by Farm 101, the Closing shall be extended in order to allow the City to satisfy each of the foregoing conditions.

(b) City Conditions. The obligation of the City to consummate and close the transaction contemplated by this Agreement is subject to the conditions (which may be waived in writing by the City in its sole discretion) that (i) Farm 101 is not in default of this Agreement, and (ii) that all of Farm 101's representations and warranties are true and correct as of the date of Closing. If any of the foregoing conditions is not satisfied or waived in writing by the City due to any reason other than a breach or default hereunder by the City, the Closing shall be extended in order to allow Farm 101 to satisfy each of the foregoing conditions.

13. Notices. Any and all notices, demands or requests required or permitted hereunder shall be in writing and shall be effective upon personal delivery or two (2) business days after being deposited in the U. S. Mail, registered or certified, return receipt requested, postage prepaid, or one (1) business day after being deposited with any commercial air courier or express service, addressed as follows:

To Farm 101:	Farm 101 LLC 8701 South Hardy Drive Tempe, AZ 85284  Attn: David M. Koeninger, General Counsel
To the City:	City of Glendale 5850 West Glendale Avenue Glendale, AZ 85301 Attn: City Manager
With a copy to:	City of Glendale 5850 West Glendale Avenue Glendale, AZ 85301 Attn: City Attorney
To Escrow Agent:	First American Title Insurance Company 2425 East Camelback Road, Suite 300 Phoenix, AZ 85016 Attn: Kristin Brown

or at any other address designated by Farm 101, the City or Escrow Agent, in the manner provided above. The inability to deliver because of a changed address of which no notice was given, or rejection or other refusal to accept any notice, shall be deemed to be the receipt of the notice as of the date of such inability to deliver or rejection or refusal to accept. Any telephone numbers or e-mail addresses provided in this Agreement are for aiding informal communications only and notices shall not be effective if provided orally or if sent only by e-mail.

14. Brokers. No real estate commissions are payable in connection with this transaction. Farm 101 and the City mutually agree to indemnify, defend and hold harmless the other of, from and against any real estate commission that may be asserted to be payable as a result of any action or inaction of Farm 101 or the City respectively.

15. Time of the Essence. Time is of the essence of this Agreement, and Farm 101 and the City hereby agree to perform each and every obligation hereunder in a prompt and timely manner; provided, however, that if the date for the performance of any action or the giving of any notice which is required hereunder, occurs on a Saturday, Sunday or legal holiday, the date for performance or giving of notice shall be the next succeeding business day.

16. Severability. If any portion, part, term, or provision of this Agreement or the application thereof is held invalid, such invalidity shall not affect the other portions, parts, terms, or provisions, or applications of this Agreement that can be given effect without the invalid portions, parts, terms, provisions, or applications, and also shall not affect the Settlement Agreement any of the other agreements entered into in connection with the Settlement Agreement; and, to this end, the provisions of this Agreement and the other agreements referenced in this Section are declared to be severable.

17. Waiver. The waiver by either Party hereto of any right granted to it hereunder shall not be deemed to be a waiver of any other right granted herein, nor shall same be deemed to be a waiver of a subsequent right obtained by reason of the continuation of any matter previously waived.

18. Legal Fees. In the event of any litigation arising out of or relating to this Agreement, the prevailing Party shall be entitled to recover, in addition to all other remedies it may have, its attorneys' fees and other reasonable costs and expenses incurred in such litigation.

19. Entire Agreement. This Agreement contains the entire agreement of the Parties hereto with respect to the matters covered hereby, and supersedes all prior agreements, arrangements and understandings between the Parties, and no other agreement, statement or promise made by either Party hereto that is not contained herein shall be binding or valid.

20. Amendments. This Agreement may be amended only by written document signed by each of the Parties hereto.

21. Further Performance. Each Party shall, whenever and as often as it shall be requested by the other Party, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further instruments and documents, including supplemental escrow instructions, as may be necessary in order to complete the sale, conveyance and transfer herein provided and to do any and all things as may be requested in order to carry out the intent and purpose of this Agreement.

22. Counterparts. This Agreement shall be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

23. Assignment. Neither Party shall assign any of its rights or obligations under this Agreement; provided, that upon written notice by Farm 101 to the City at least three (3) business days prior to the Close of Escrow, Farm 101 may assign all of its rights and obligations under this Agreement to an assignee controlled by, controlling or under common control with Farm 101, but such assignment shall not relieve Farm 101 of liability for its obligations hereunder.



24. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, devisees, personal and legal representatives, successors and assigns.

25. Governing Law; Forum. This Agreement is made in, and is to be construed according to the laws of, the State of Arizona, without regard to the conflicts of law or choice of law doctrines of the State of Arizona or any other jurisdiction. If any lawsuit, claim, cause, charge, or action is brought arising out of or relating to this Agreement, it shall be brought in Maricopa County Superior Court.

26. Headings and Construction. The headings set forth in this Agreement are inserted only for convenience and are not in any way to be construed as part of this Agreement or a limitation on the scope of the particular Section to which it refers. Where the context requires herein, the singular shall be construed as the plural, and neuter pronouns shall be construed as masculine and feminine pronouns, and vice versa. This Agreement shall be construed according to its fair meaning and neither for nor against either Party hereto. Wherever the term “including” is used in this Agreement, the term shall mean “including, without limitation.”

27. Survival. The representations, warranties and covenants set forth herein shall survive the close of the Escrow and the recordation of the Farm 101 Deed and the City Deed (collectively, the “Deeds”).

28. Subsequent Acts. The terms and provisions of this Agreement shall not merge with, be extinguished by or otherwise be affected by any subsequent conveyance or instrument by or between the Parties hereto unless such instrument shall specifically so state and be signed by the Parties hereto.

29. Risk of Loss. The risk of any loss or destruction of all or any part of a Party’s Property prior to Close of Escrow is upon that Party. If, prior to Close of Escrow, the Property is partially damaged or destroyed as a result of flood, fire or other casualty, including a taking by eminent domain or as a result of an eminent domain action threatened by any governmental entity, the other Party shall accept an assignment at Close of Escrow of all proceeds of insurance from insurance policies or amounts due from any governmental entity covering the damage or destruction of the Property or the taking thereof, the Party that is the former owner then being obligated to assist the Party that is the new owner in collecting said proceeds.

30. Non-Foreign Person. Each Party represents and warrants to the other Party that it is not a “foreign person,” as that term is defined in Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended (the “Code”). Prior to Close of Escrow, each Party shall furnish to Escrow Agent such Party’s United States taxpayer identification number and such affidavit and other information as Escrow Agent may determine to be necessary or reasonable under Section 1445(b)(2) of the Code, or otherwise, to confirm that such Party is not a “disregarded entity,” and to assure that the other Party shall not be subject to United States federal income tax withholding liability under Section 1445 of the Code.

31. Tax Reporting. Escrow Agent, as the Party responsible for closing the transaction contemplated hereby within the meaning of Section 6045(e) of the Code, shall file all necessary

information, reports, returns and statements (collectively, the "Tax Reports") regarding this transaction as required by the Code, including, without limitation, the Tax Reports required pursuant to Section 6045 of the Code. Escrow Agent further agrees to indemnify and hold the Parties and their respective attorneys and brokers, harmless for, from and against all claims costs, liabilities, penalties, or expenses resulting from Escrow Agent's failure to file the Tax Reports which Escrow Agent is required to file pursuant to this Section.

32. A.R.S. §38-511. The Parties acknowledge and agree that they have been notified of the provisions contained in A.R.S. §38-511 (cancellation of contracts with state or political subdivision for conflict of interest).

33. Recitals. The recitals set forth above are incorporated into this Agreement and are made a part of this Agreement by reference.

34. Fully Informed Parties. Each Party has been represented in the negotiations for and the preparation of this Agreement by counsel of its respective choosing; has reviewed and understands the provisions of this Agreement; has had this Agreement fully explained to them by its counsel; and is fully aware of and understand this Agreement's contents and its legal effect and consequences.

35. Additional Escrow Instructions.

(a) Escrow Agent is authorized to take all appropriate action necessary to comply with this Agreement.

(b) All money payable shall be paid to Escrow Agent, unless otherwise specified. Disbursement of any funds may be made by check of Escrow Agent. Unless otherwise specified, all funds received by Escrow Agent shall be deposited by Escrow Agent in any State or National Bank (FDIC insured), or as otherwise directed in writing by the City and Farm 101. Escrow Agent shall be under no obligation to disburse any funds represented by check or draft and no check or draft shall be payment to Escrow Agent in compliance with any of the requirements hereof until it is advised by the bank in which it is deposited that such check or draft has been honored.

(c) Farm 101 and the City shall deposit with Escrow Agent all documents necessary to complete the sale as established by the terms of this Agreement.

(d) When this Agreement and all title requirements have been complied with (including without limitation all conditions set forth in any closing instructions agreed to by Escrow Agent), Escrow Agent shall deliver, file or record in the appropriate public office all necessary documents, disburse all funds and instruct the title company to issue the appropriate title insurance policy(ies).

(e) Escrow Agent may at its election, in the event of any conflicting demands made upon it concerning this Agreement, hold any money and documents deposited hereunder until it receives mutual instructions by all Parties or until a civil action shall have been concluded in a court of competent jurisdiction, determining the rights of the Parties. In the alternative,

Escrow Agent may at any time, at its discretion, commence a civil action to interplead any conflicting demands to a court of competent jurisdiction.

IN WITNESS WHEREOF, Farm 101 and the City have executed this Agreement as of the Effective Date.

[Signatures of Parties are on next page]

**FARM 101:**

**FARM 101 LLC**, a Delaware limited liability company

By \_\_\_\_\_  
Name \_\_\_\_\_  
Its \_\_\_\_\_

**CITY:**

**CITY OF GLENDALE**, an Arizona municipal corporation

By \_\_\_\_\_  
Name \_\_\_\_\_  
Its \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
City Clerk

**Approved as to form**

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

First American Title Insurance Company hereby acknowledges receipt of the foregoing instructions and agrees to act as Escrow Agent in accordance with the terms and conditions thereof. By its execution below, Escrow Agent confirms that the Opening of Escrow is \_\_\_\_\_, 2016.

Dated: \_\_\_\_\_

FIRST AMERICAN TITLE INSURANCE  
COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT "A"**

**95th Avenue Property**

PARCEL B OF THAT CERTAIN MINOR LAND DIVISION FOR BETHANY LAND PARTNERS LLC RECORDED IN BOOK 989 OF MAPS, PAGE 24 OF THE OFFICIAL RECORDS OF THE MARICOPA COUNTY RECORDED AS DOCUMENT 2008-458532 OF OFFICIAL RECORDS.

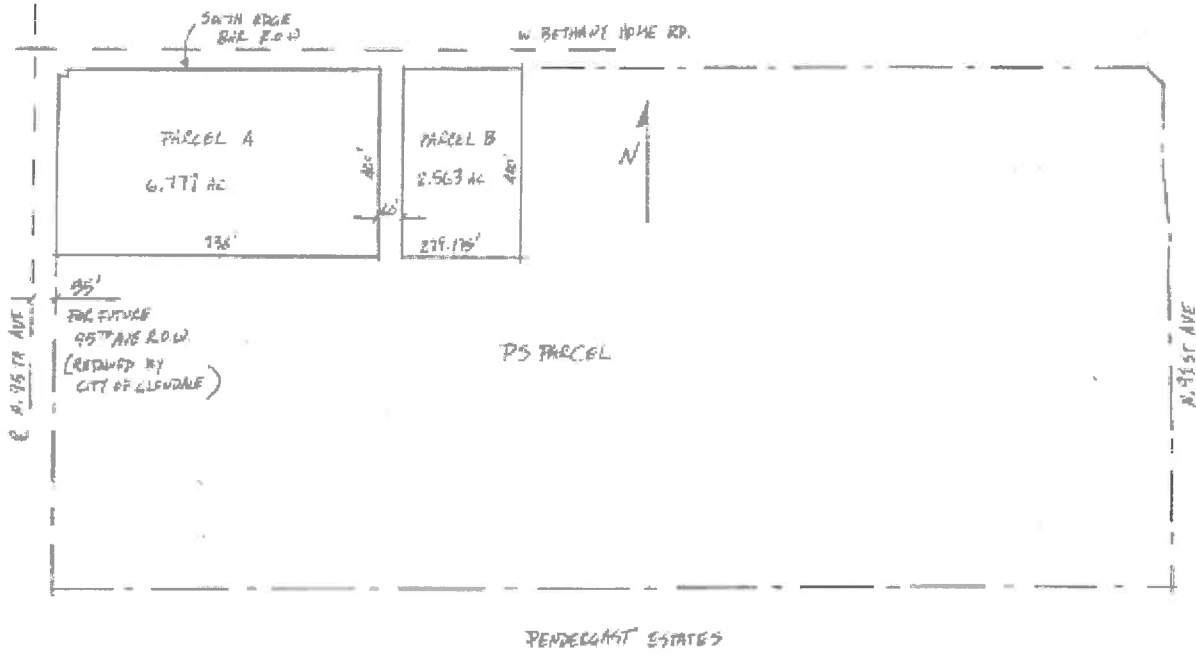
Less and except the following described real property:

THE EAST 20 FEET OF PARCEL B OF THAT CERTAIN MINOR LAND DIVISION FOR BETHANY LAND PARTNERS LLC RECORDED IN BOOK 989 OF MAPS, PAGE 24 OF THE OFFICIAL RECORDS OF THE MARICOPA COUNTY RECORDED AS DOCUMENT 2008-458532 OF OFFICIAL RECORDS, AS CONVEYED TO THE UNITED STATES, U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION, PURSUANT TO THAT CERTAIN GENERAL WARRANTY DEED RECORDED AS INSTRUMENT NO. 20160138367 IN THE OFFICIAL RECORDS OF THE MARICOPA COUNTY RECORDER.

EXHIBIT "B"

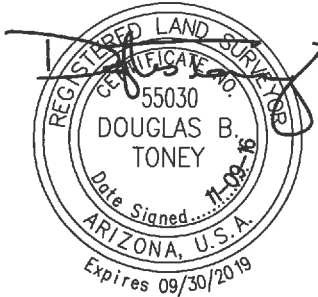
PS Development Property

Depiction of PS Development Property:



The legal description of the PS Development Property to be attached.

November 9, 2016  
PROJECT # 9656-01-007



## LEGAL DESCRIPTION PS DEVELOPMENT PARCEL A

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 2 NORTH, RANGE 1 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE NORTH QUARTER CORNER OF SAID SECTION 16, BEING A CALCULATED POSITION DETERMINED FROM REFERENCE POINTS ACCORDING TO BOOK 699 OF MAPS, PAGE 26, MARICOPA COUNTY RECORDS, FROM WHICH POINT THE NORTHEAST CORNER OF SAID SECTION 16, BEING MARKED BY A MARICOPA COUNTY BRASS CAP FLUSH, BEARS NORTH 89°44'53" EAST, A DISTANCE OF 2646.39 FEET;

**THENCE** SOUTH 00°38'45" WEST ALONG THE NORTH-SOUTH MID SECTION LINE OF SAID SECTION 16, A DISTANCE OF 150.00 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF BETHANY HOME ROAD, ACCORDING TO DOCUMENT NO. 2005-1626085, MARICOPA COUNTY RECORDS;

**THENCE** NORTH 89°27'43" EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 60.01 FEET TO THE EAST LINE OF THE WEST 60 FEET OF THE NORTHEAST QUARTER OF SAID SECTION 16, SAID POINT BEING **THE POINT OF BEGINNING**;

**THENCE** CONTINUING NORTH 89°27'43" EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 18.61 FEET;

**THENCE** NORTH 00°32'17" WEST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 7.00 FEET;

**THENCE** NORTH 89°27'43" EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 706.27 FEET;

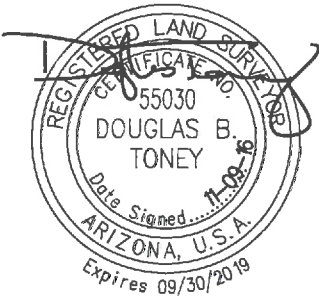
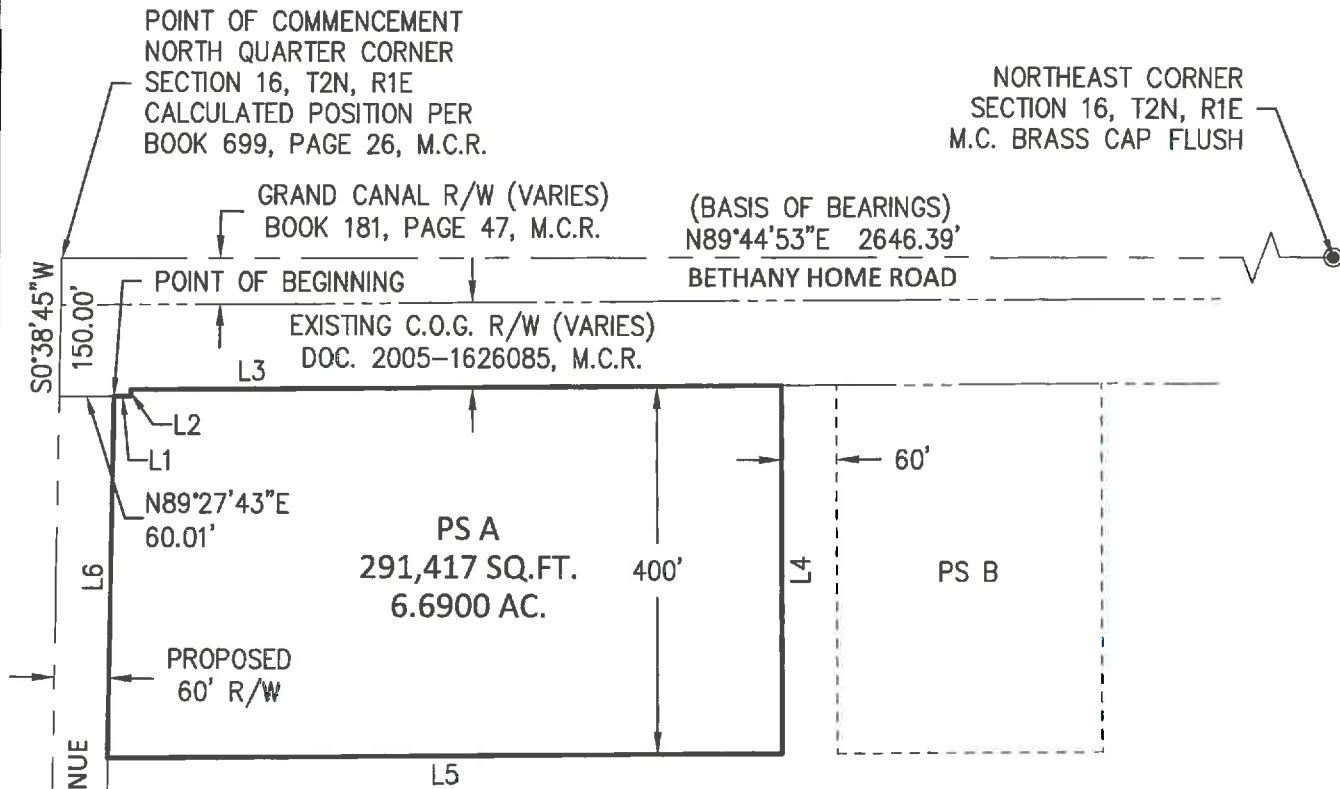
**THENCE** DEPARTING SAID SOUTHERLY RIGHT OF WAY LINE, SOUTH 00°32'17" EAST, A DISTANCE OF 400.00 FEET TO A POINT ON A LINE BEING PARALLEL WITH AND 400 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES, SAID SOUTHERLY RIGHT OF WAY LINE;

**THENCE** SOUTH 89°27'43" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 733.00 FEET TO A POINT ON THE SAID EAST LINE OF THE WEST 60 FEET OF THE NORTHEAST QUARTER OF SAID SECTION 16;

**THENCE** NORTH 00°38'45" EAST ALONG SAID EAST LINE, A DISTANCE OF 393.08 FEET TO **THE POINT OF BEGINNING**.

CONTAINING 291,417 SQ.FT. OR 6.6900 ACRES, MORE OR LESS.





LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	18.61'	N89°27'43"E
L2	7.00'	N00°32'17"W
L3	706.27'	N89°27'43"E
L4	400.00'	S00°32'17"E
L5	733.00'	S89°27'43"W
L6	393.08'	N00°38'45"E

NOTE: THIS EXHIBIT IS MEANT SOLELY AS A REFERENCE TO THE LEGAL DESCRIPTION TO WHICH IT IS ATTACHED. IT IS NOT TO BE CONSIDERED A STAND ALONE DOCUMENT, NOR THE RESULT OF A FIELD SURVEY.



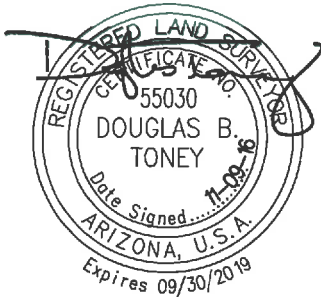
SHEET 1 OF 1  
DATE: 11-09-16

PS DEVELOPMENT PARCEL A			
BY: DT	CHK:	QC:	
BCG PROJECT NO: 9656-01		TASK: 007	
CLIENT REF NO:			

**Bowman**  
CONSULTING

1295 W Washington St, #108  
Tempe, AZ 85281  
Phone: (480) 629-8830  
Fax: (480) 629-8841  
www.bowmanconsulting.com

November 9, 2016  
PROJECT # 9656-01-007



**LEGAL DESCRIPTION  
PS DEVELOPMENT PARCEL B**

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 2 NORTH, RANGE 1 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE NORTH QUARTER CORNER OF SAID SECTION 16, BEING A CALCULATED POSITION DETERMINED FROM REFERENCE POINTS ACCORDING TO BOOK 699 OF MAPS, PAGE 26, MARICOPA COUNTY RECORDS, FROM WHICH POINT THE NORTHEAST CORNER OF SAID SECTION 16, BEING MARKED BY A MARICOPA COUNTY BRASS CAP FLUSH, BEARS NORTH 89°44'53" EAST, A DISTANCE OF 2646.39 FEET;

**THENCE** SOUTH 00°38'45" WEST ALONG THE NORTH-SOUTH MID SECTION LINE OF SAID SECTION 16, A DISTANCE OF 150.00 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF BETHANY HOME ROAD, ACCORDING TO DOCUMENT NO. 2005-1626085, MARICOPA COUNTY RECORDS;

**THENCE** NORTH 89°27'43" EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 60.01 FEET TO THE EAST LINE OF THE WEST 60 FEET OF THE NORTHEAST QUARTER OF SAID SECTION 16;

**THENCE** CONTINUING NORTH 89°27'43" EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 18.61 FEET;

**THENCE** NORTH 00°32'17" WEST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 7.00 FEET;

**THENCE** NORTH 89°27'43" EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 766.27 FEET TO THE **POINT OF BEGINNING**;

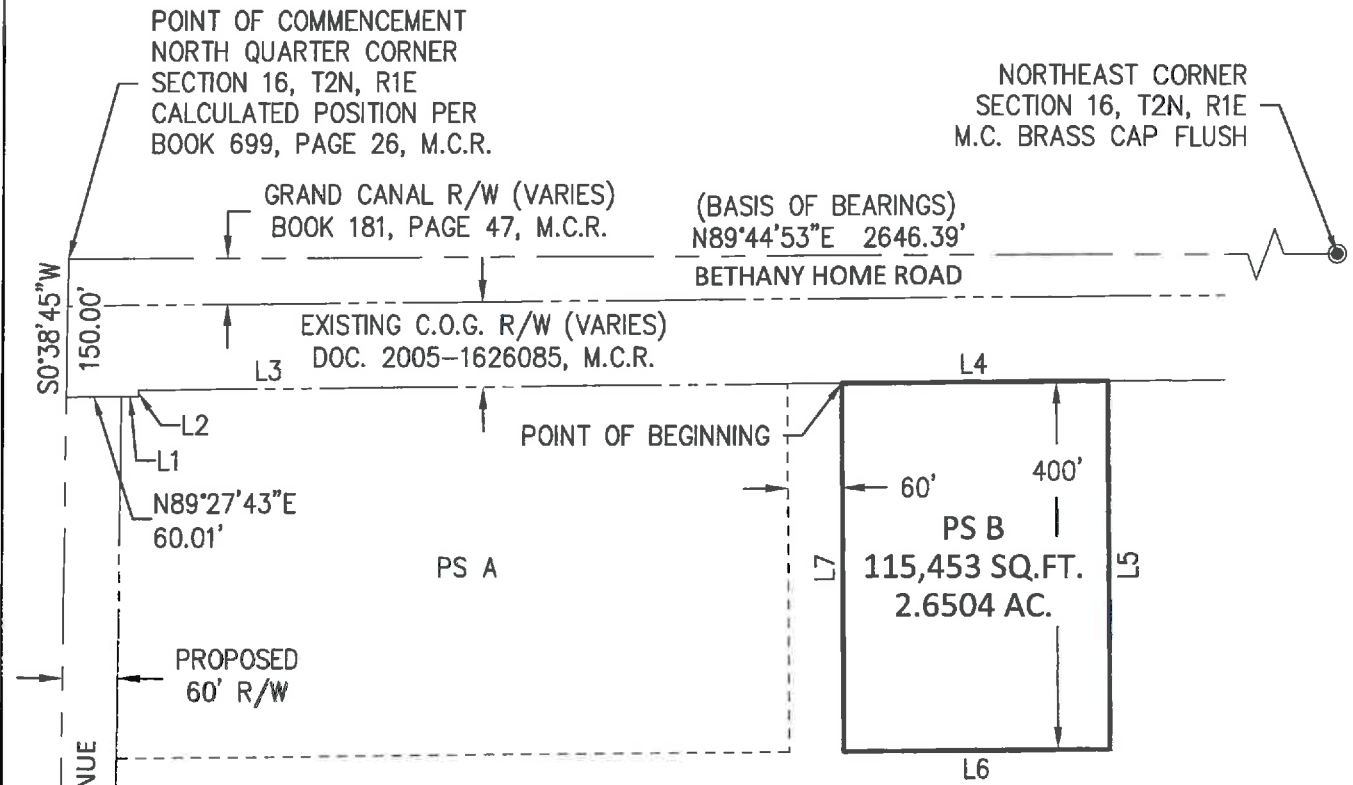
**THENCE** CONTINUING NORTH 89°27'43" EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 288.63 FEET;

**THENCE** DEPARTING SAID SOUTHERLY RIGHT OF WAY LINE, SOUTH 00°32'17" EAST, A DISTANCE OF 400.00 FEET TO A POINT ON A LINE BEING PARALLEL WITH AND 400 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES, SAID SOUTHERLY RIGHT OF WAY LINE;

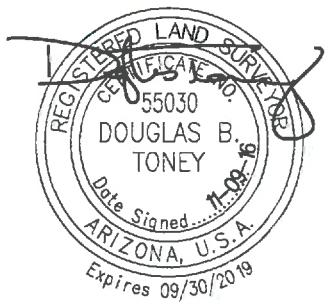
**THENCE** SOUTH 89°27'43" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 288.63 FEET;

**THENCE** NORTH 00°32'17" WEST, A DISTANCE OF 400.00 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 115,453 SQ.FT. OR 2.6504 ACRES, MORE OR LESS.



LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	18.61'	N89°27'43"E
L2	7.00'	N00°32'17"W
L3	766.27'	N89°27'43"E
L4	288.63'	N89°27'43"E
L5	400.00'	S00°32'17"E
L6	288.63'	S89°27'43"W
L7	400.00'	N00°32'17"W



NOTE: THIS EXHIBIT IS MEANT SOLELY AS A REFERENCE TO THE LEGAL DESCRIPTION TO WHICH IT IS ATTACHED. IT IS NOT TO BE CONSIDERED A STAND ALONE DOCUMENT, NOR THE RESULT OF A FIELD SURVEY.



SHEET 1 OF 1 DATE: 11-09-16	PS DEVELOPMENT PARCEL B				1295 W Washington St, #108	
	BY: DT	CHK:	QC:		Tempe, AZ 85281	
	BCG PROJECT NO: 9656-01 TASK: 007				Phone: (480) 629-8830	
CLIENT REF NO:			Fax: (480) 629-8841		www.bowmanconsulting.com	

**EXHIBIT "C"**

When Recorded Return to:

Farm 101 LLC  
8701 South Hardy Drive  
Tempe, AZ 85284  
Attn: General Counsel

---

**SPECIAL WARRANTY DEED**

FOR THE CONSIDERATION of Ten Dollars (\$10.00), and other valuable consideration, CITY OF GLENDALE, an Arizona municipal corporation ("Grantor"), hereby conveys to FARM 101 LLC, a Delaware limited liability company ("Grantee"), the real property ("Property") situated in Maricopa County, Arizona, and more particularly described on Exhibit "A" attached hereto and made a part hereof, together with all rights and privileges appurtenant thereto.

SUBJECT to current taxes and assessments, reservations in patents, all easements, rights-of-way, encumbrances, liens, covenants, conditions, restrictions, obligations, and liabilities as may appear of record, and to all matters which an accurate survey or visual inspection of the Property would disclose.

And Grantor hereby binds itself and its successors to warrant and defend the title, as against all acts of Grantor herein and none other, subject to the matters above set forth.

Dated this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

CITY OF GLENDALE, an Arizona municipal  
corporation

By \_\_\_\_\_  
Its \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
City Clerk

**Approved as to form**

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

STATE OF ARIZONA     )  
  ) ss.  
County of MARICOPA     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of CITY OF GLENDALE, an Arizona municipal corporation, on behalf of the municipal corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

**EXHIBIT "D"**

When Recorded Return to:

City of Glendale  
5840 W. Glendale Ave.  
Glendale, AZ 85301  
Attn: City Manager

---

**SPECIAL WARRANTY DEED**

FOR THE CONSIDERATION of Ten Dollars (\$10.00), and other valuable consideration, FARM 101 LLC, a Delaware limited liability company ("Grantor"), hereby conveys to CITY OF GLENDALE, an Arizona municipal corporation ("Grantee"), the real property ("Property") situated in Maricopa County, Arizona, and more particularly described on Exhibit "A" attached hereto and made a part hereof, together with all rights and privileges appurtenant thereto.

SUBJECT to current taxes and assessments, reservations in patents, all easements, rights-of-way, encumbrances, liens, covenants, conditions, restrictions, obligations, and liabilities as may appear of record, and to all matters which an accurate survey or visual inspection of the Property would disclose.

And Grantor hereby binds itself and its successors to warrant and defend the title, as against all acts of Grantor herein and none other, subject to the matters above set forth.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

FARM 101 LLC, a Delaware limited liability  
company

By \_\_\_\_\_  
Name \_\_\_\_\_  
Its \_\_\_\_\_

STATE OF ARIZONA        )  
  ) ss.  
County of MARICOPA        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of FARM 101 LLC, a Delaware limited liability company, on behalf of the limited liability company.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_



Legislation Description

---

**File #: 16-595, Version: 1**

---

**ORDINANCE NO. 3024 NEW SERIES**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A FOOD BANK LEASE AGREEMENT WITH HOPE FOR HUNGER CORPORATION, FOR THE PURPOSE OF WAREHOUSING AND DISTRIBUTING FOOD TO LOW AND MODERATE INCOME PERSONS; AND ORDERING THAT A CERTIFIED COPY OF THE FOOD BANK LEASE AGREEMENT AND THIS ORDINANCE BE RECORDED.**

Staff Contact: Elaine Adamczyk, Interim Community Services Director

**Purpose and Recommended Action**

This is a request for City Council to waive reading beyond the title and adopt an ordinance authorizing the City Manager to enter into a lease agreement with Hope for Hunger Corporation, for the city-owned facility located at 5605 North 55<sup>th</sup> Avenue, for the purpose of warehousing and distributing food to low and moderate income persons. The lease agreement is for a five-year period.

**Background**

The Hope For Hunger Corporation is a registered Arizona non-profit 501c (3) and was founded by a Glendale firefighter with a mission to provide supplemental and emergency food through a coalition of partners from both the corporate and private sectors, community groups and individuals. Along with its partners, the organization focuses on providing nutritional assistance with the dignity and respect to each person it serves. On December 13, 2011, the organization entered into a five-year lease agreement with the City after a previous tenant (the Westside Food Bank/St. Mary's Food Bank) closed the facility. This was approved by City Council after a competitive Request for Proposals (RFP).

The food bank officially opened its doors in May 2012 and is now completing its fifth year of operation. The food bank continues to serve disadvantaged residents in Glendale with emergency assistance food boxes, which can be received once a month and contain a three-day supply of nutrition and nourishment for those in a crisis situation.

As the end of the current contract will occur in December, 2016 and because of the sole-source nature of the Hope for Hunger food bank, staff is now requesting Council approval of a new, five-year lease agreement with the organization.

**Analysis**

In 2016, the food bank distributed approximately 1,500 metric tons of food to 31,000 families utilizing 18,000 volunteer hours while being funded by grants, individual and business/corporation donations and fundraisers.



The facility continues to address a need in our community for local access to emergency food distribution services. It has continued to serve as a very important presence in the Glendale community after the St. Mary's Food Bank consolidated and relocated its services to the Thomas Road location in 2010, after almost 20 years of service in Glendale at the site.

In order to continue this important service to Glendale residents, Council is requested to renew the lease agreement for the facility to Hope for Hunger for \$1.00 each year, for an additional five year period.

Hope for Hunger will continue to be responsible for all utilities and operating expenses of the facility, while the City will continue to be responsible to maintain and repair all major exterior portions and systems on the premises including the roof, electrical service panel, HVAC system and the plumbing system. Any future maintenance costs associated with the building shall be handled through Facilities Management Department and funded by the Building Maintenance Reserve.

### **Previous Related Council Action**

One December 13, 2011, Council approved the first three-year lease agreement with Hope for Hunger with Ordinance No. 2790. One June 9, 2015, Council approved the two-year renewal option with a retroactive date of December 13, 2014 with Ordinance No. 2914. The organization has also been previously recommended for funding by the Community Development Advisory Committee (CDAC).

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

The former fire station at 5605 North 55<sup>th</sup> Avenue has been a food bank for the Glendale community since 1990. The food bank's presence in our community is very important and provides excellent service and community benefit. Currently, Hope for Hunger provides over 700 supplemental and emergency food boxes a week to low-to-moderate income persons. The organization also provides referrals to other social service programs in our community.

### **Budget and Financial Impacts**

The lease agreement has no impact on General Fund Budget for Fiscal Year 2016-2017.

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

ORDINANCE NO. 3024 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A FOOD BANK LEASE AGREEMENT WITH HOPE FOR HUNGER CORPORATION, FOR THE PURPOSE OF WAREHOUSING AND DISTRIBUTING FOOD TO LOW AND MODERATE INCOME PERSONS; AND ORDERING THAT A CERTIFIED COPY OF THE FOOD BANK LEASE AGREEMENT AND THIS ORDINANCE BE RECORDED.

WHEREAS, the City desires that the property located at 5605 North 55<sup>th</sup> Avenue, owned by the City of Glendale, be leased to Hope for Hunger Corporation; and

WHEREAS, the Charter of the City of Glendale requires the lease of public property to be accomplished by ordinance.

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

SECTION 1. That the City Manager and the City Clerk be authorized and directed to execute the Food Bank Lease Agreement with Hope for Hunger Corporation, for the property located at 5605 North 55<sup>th</sup> Avenue, for a five year period. No substantive changes shall be made to the Food Lease Bank Agreement without further Council approval. A copy of said lease is on file with the Clerk of the City of Glendale.

SECTION 2. That the City Clerk be instructed and authorized to forward a certified copy of this ordinance along with the Food Bank Lease Agreement for recording to the Maricopa County Recorder's Office.

SECTION 3. That the provisions of this ordinance shall become effective December 13, 2016.

[Signatures on the following page.]

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 6th day of December, 2016.

\_\_\_\_\_  
M A Y O R

ATTEST:

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

APPROVED AS TO FORM:

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

REVIEWED BY:

\_\_\_\_\_  
City Manager

When recorded return to:

City Clerk  
CITY OF GLENDALE  
5850 West Glendale Avenue  
Glendale, Arizona 85301

### **Food Bank Lease Agreement**

This Food Bank Lease Agreement (“Lease”) is executed to be effective January 7, 2017, between the City of Glendale, an Arizona municipal corporation (“City”), and Hope for Hunger Corporation, an Arizona non-profit corporation (“Lessee”).

#### **RECITALS**

- A. The City is the owner of the real property, at 4,700 square foot building and certain equipment, located at 5605 North 55<sup>th</sup> Avenue, Glendale, Arizona 85301, as described in **Exhibit A** (“Premises”);
- B. Lessee desires to enter into a Lease with the City for the Premises; and
- C. The City recognizes the importance of the use of the Premises for the distribution of food to low and moderate income persons as described in **Exhibit A**.

#### **AGREEMENT**

In consideration of the following mutual covenants and conditions, the parties agree as follows:

1. **Leases; Privileges; Restrictions.** The Premises will be used by the Lessee for the operation of a food bank distribution center and referral office for social service activities to low and moderate income persons residing in the City, which purposes are consistent with the nature of the facility and its location.
2. **Term.** The term of the Lease shall be for a period of five (5) years commencing January 7, 2017 and expiring January 6, 2022, unless terminated sooner under these Lease provisions.
3. **Rent.** The Lessee shall pay the City rent in the amount of one dollar and no cents (\$1.00) per year during the term of this Lease for the Premises. Lessee shall pay rent due on a yearly basis in advance of the Lease commencement date and each annual anniversary thereafter. Payments should be remitted to the City’s finance and accounting office at 5850 West Glendale Avenue, Glendale, Arizona 85301.
4. **Utilities.** The Lessee shall pay, before delinquency, all charges for water, sewer, gas, electric, telephone, and any other utility service used on or serving the Premises during the Lease term. The failure to maintain all utilities on the Premises shall constitute a breach of the Lease and will place Lessee in default.
5. **Operation.** The Lessee agrees to provide and pay for all the operation of the Premises, including all programs, supervision, supplies, maintenance, and insurance.
6. **Services to Be Rendered; Additional Lessee Obligations.**

- 6.1 Management: The Lessee agrees to operate and manage the services provided on the Premises effectively and efficiently and agrees to provide adequate supervision during open hours.
- 6.2 Hours of Operation: The Lessee agrees to conduct activities on the Premises to conform with the hours and days of operation identified in **Exhibit A**. The hours may be modified with prior notice to the City. Any reduction in total hours per week must be approved by the City.
- 6.3 Employees of Lessee: The Lessee will ensure that its officers, agents, employees, staff, volunteers and invitees shall conduct themselves in a professional manner. Upon objection from the City concerning the conduct or demeanor of any such person, Lessee shall immediately take all lawful steps necessary to remove the cause of the objection. The Lessee shall make every effort to maintain staffing adequate to administer the operations specified above and to provide adequate supervision for all activities that take place on the Premises. The lessee will ensure that the Premises is adequately staffed to provide on-site referral services to any first-time clients who come to the Premises without a referral.
- 6.4 Continue Occupancy: The Lessee agrees to continuously and uninterrupted, during the terms of the Lease, occupy and use the Premises for the purposes specified above, unless the Premises are untenable by reason of fire, floor, or unavoidable casualty.
- 6.5 Inspections; Right of Entry: The City may at all reasonable times enter upon the Premises for any lawful purpose if the action does not unreasonably interfere with Lessee's use, occupancy or security of the Premises. The City may also enter upon the Premises at any reasonable time for the purpose of making any inspection it may deem appropriate for the proper enforcement of any of the covenants or conditions of this Lease. City reserves the right to make inspections of the Premises. Except in unusual circumstances, these inspections will be made after notification and during normal business hours.
- 6.6 Use Restriction: Without the prior approval of City, Lessee shall not use the Premises for any use other than for the purposes described in **Exhibit A**.
- 6.7 Establishing Rules: Except for enforcement authority vested in the Glendale Police Department or other governmental authority, Lessee shall have the right to set and enforce appropriate rules and guidelines for use of the Premises during the Term.
- 6.8 Damage, Destruction or Interference: The City has no obligation to reimburse the Lessee for the loss of or damage to fixtures, equipment or other personal property of the Lessee. Lessee will not commit nor permit to be done anything which may result in the commission of a nuisance, waste or injury on the Premises. Further, Lessee will not, nor permit to be done, anything which may interfere with the effectiveness or accessibility of the drainage system, sewerage system, fire protection system, sprinkler system, alarm system and fire hydrants, if any, installed or located on the Premises.

## 7. Insurance.

- 7.1 Lessee shall procure and at all times maintain the following types and minimum insurance requirements for its operations on the Premises. The insurance requirements contained herein are minimum requirements and in no way limit the indemnity covenants contained in the Lease. The City in no way warrants that

the minimums are sufficient to protect Lessee as they are free to purchase additional insurance as they deem necessary.

**Minimum Insurance Requirements:**

- a. Commercial General Liability Insurance on an occurrence basis that includes property damage, fire damage legal liability, bodily injury, personal and advertising injury, products and completed operations and contractual liability with limits not less than \$1,000,000 per occurrence, \$2,000,000 aggregate and \$100,000 fire damage liability.
  - b. Workers' Compensation Insurance as required by the State of Arizona with Statutory Limits. This policy shall include Employer's Liability insurance with limits no less than \$1,000,000 per accident for bodily injury or disease.
  - c. Insurance must be in a form satisfactory to and from a company acceptable to the City's Risk Manager, name the City as an additional insured and require thirty (30) days written notice to the City before modification or termination. The insurance must also include contractual liability coverage for the obligation of indemnity assumed in this Lease.
  - d. Property coverage for all improvement and fixtures on the Premises in an amount not less than the full replacement value thereof, to the extent such coverage is available to Lessee.
  - e. Automobile Liability Insurance that includes bodily injury and property damage for any owned, hired and non-owned vehicles with a combined single limit not less than \$1,000,000.
- 7.2 Insurance is to be placed with insurers duly licensed or authorized to do business in the State of Arizona with an AM Best rating not less than A-, VII.
- 7.3 The General and Automobile liability policies shall contain or be endorsed to contain the City of Glendale, its officers, officials, and employees as additional insureds with respect to liability arising out of Lessee's Permitted Use and Improvements and any other work or operations in the Premises.
- 7.4 Lessee's insurance coverage shall be primary insurance with respect to the City, its officers, officials, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, or employees shall be excess of the Lessee's insurance and shall not contribute with it.
- 7.5 As commercially reasonable and at any time, City's Risk Manager may alter the requirements above or determine additional insurance is necessary for Lessee's operations.
- 7.6 Notice of Cancellation. Each insurance policy shall be endorsed to state that coverage shall not be canceled except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the City.
- 7.7 Waiver of Subrogation. Lessee hereby grants to City a waiver of any right to subrogation which any insurer of said Lessee may acquire against the City by virtue of the payment of any loss under such insurance. Lessee agrees to make reasonable efforts to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.
- 7.8 Lessee and any and all Contractors shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language providing the required insurance coverage. All certificates and endorsements are to be received by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Lessee's

obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

8. **Quiet Enjoyment.** So long as Lessee timely pays the rent required under this Lease and perform all other obligations under this Lease, Lessee may peaceably have and enjoy the exclusive use of the Premises and all the privileges granted under this Lease.

9. **Repairs and Maintenance.**

9.1 Lessee shall maintain the Premises and keep it at all times, in a clean, orderly and safe condition and appearance, including any personal property or fixtures of the Lessee. Lessee is responsible for regular and routine janitorial and landscaping services on the Premises.

9.2 The City agrees to maintain and repair all major exterior or external portions and systems of the Premises, including the roof, electrical service panel, any external electrical system issues, HVAC units and systems, evaporative cooler, and plumbing. Upon request, the City agrees to respond to any problems within two (2) working days. The Lessee agrees to maintain and repair all other portions and systems in the Premises, including plumbing, heating, and air conditioning ducts, walls, windows, doors, floors, and cabinets. The Lessee also agrees to maintain exterior walls, trim and paint, sidewalks, exterior landscaping, and will also maintain the refrigeration and freezer units. More specifically, the Lessee agrees to paint and to replace broken glass within forty-eight hours after receipt of notice of each occurrence in order to maintain an attractive Premises.

9.2 Except as herein provided, the Lessee acknowledges that it is leasing the Premises and equipment solely in reliance on its own investigation thereof, that no representations, warranties, or statements have been made by the City concerning the condition or fitness thereof, and that by taking possession of the Premises and equipment, the Lessee accepts the same in their present conditions "as is."

9.3 Should the Lessee fail to make repairs to keep facility in a clean, sanitary and safe condition, the City reserved the right to enter the Premises for the purpose of making emergency repairs and to charge the cost of repairs to the Lessee.

10. **Additions and Alterations.** The Lessee shall not permit or install any sign on the Premises without prior written approval of the City. The Lessee shall not make additions or alternations to the Premises without prior written approval of the City. Any alternations which become a fixed part of the Premises will be considered part of the real property and shall not be removed when the Lease is terminated, unless prior written approval is received from the City. Such permanent alternations would include, but not be limited to, attached recreational equipment, carpeting, wall-hung cabinets, draperies, porches, and awnings.

11. **Lease Expiration.** Within thirty (30) days of expiration of the term of this Lease, the Lessee will transfer to the City all real property in the same condition as it was received, excepting normal wear and tear.

12. **Termination for Convenience.** City may terminate this Lease 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.

13. **Termination for Default.** If the Lessee fails to perform any act required herein, the Lessee shall have a period of fifteen (15) days after receipt of notice thereof from the City to cure such default, provided that if the nature of the nonmonetary default is such that it can be fully cured within said fifteen (15) days period. Lessee shall request in writing such additional time as may be reasonably necessary to cure such default and the City may honor such request so long as the Lessee proceeds promptly after service of the City notice and proceeds diligently at all times to complete said cure. If the Lessee fails to comply with any provisions of this Lease, Lessee shall be deemed to be in breach of this Lease with or without further notice or demand of any kind and City may terminate the Lessee's right to the possession of the Premises because of such breach and recover from the Lessee all damages which may have accrued to the Premises. Notice of default shall be deemed received by the Lessee when actually received or three (3) days after such notice is mailed to the Lessee, whichever occurs first.

14. **Notice.**

13.1 All rents or other sums, notices, demands, or requests required or permitted to be given under this Lease may be personally delivered or mailed by certified mail, return receipt requested, postage prepaid, to the following addresses:

TO THE CITY: City of Glendale  
Attention: Community Revitalization Administrator  
5850 West Glendale Avenue, Suite 107  
Glendale, Arizona 85301

WITH A COPY TO: City of Glendale  
Attention: City Attorney  
5850 West Glendale Avenue  
Glendale, Arizona 85301

TO THE LESSEE: Hope for Hunger Corporation  
Attention: Randy Rodriguez, President  
5605 North 55<sup>th</sup> Avenue  
Glendale, Arizona 85301

13.2 Each party shall have the right from time to time to designate a different address by notice given in conformity with this section.

15. **Severability.** If any provision of this lease is declared invalid by a court of competent jurisdiction, the remaining terms shall remain effective, provided that elimination of the invalid provision does not materially prejudice either party with regard to respective rights and obligations.

16. **Litigation.** This Lease is governed by the laws of the state of Arizona. If litigation or arbitration between the City and Lessee arises under this Lease, the successful party is entitled to recover its reasonable attorney's fees and expert witness fees and other costs



- incurred in connection with any claim, litigation, arbitration, or mediation. Both parties waive any right to a jury trial and consent to a trial to the court.
17. **Alcoholic Beverages.** The Lessee shall not provide, or allow to be provided, any alcoholic beverages on this facility throughout the course of this Lease.
  18. **Discrimination.** The Lessee shall not discriminate against any employee, volunteer, applicant for employment, or applicant for service because of race, color, national origin, sex, sexual orientation, marital status, familial status, U.S. military veteran status, religion, age, or any disability.
  19. **Requirements Made by the U.S. Department of Housing and Urban Development (“HUD”).** The Premises has been rehabilitated with Community Development Block Grant funds from HUD. Lessee agrees to comply with any requirements made by HUD to the City concerning the Premises.
  20. **Assignment.** Lessee may not assign or sublease any of its interests, rights, or obligations under this Lease, nor permit any other person to occupy the Premises, without the prior written consent of the City. Any attempted assignment, delegation, or transfer without the necessary consent will be void.
  21. **Conflicts.** This Lease is subject to cancellation for conflicts of interest under the provisions of A.R.S. §38-511.
  22. **E-Verify, Records and Audits.** To the extent applicable under A.R.S. § 41-4401, Lessee warrants its compliance with all federal immigration laws and regulations that relate to its employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). The Lessee’s breach of this warranty shall be deemed a material breach of the Lease and may result in the termination of the Lease by the City. The City retains the legal right to randomly inspect the papers and records of the Lessee to ensure that the Lessee is complying with the above-mentioned warranty. The Lessee warrants to keep its respective papers and records open for random inspection during normal business hours by the other party. The Lessee shall cooperate with the City’s random inspections, including granting the City entry rights onto their respective properties to perform the random inspections and waiving its respective rights to keep such papers and records confidential.
  23. **No Boycott of Israel.** The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.
  24. **Sale of Premises by City.** In the event of any sale of the Premises, the building or the land, or any assignment of this Lease by City (or a successor in title), if the assignee or purchaser assumes the obligations of City herein in writing, City (or such successor) shall automatically be entirely freed and relieved of all liability under any and all of City's covenants and obligations contained in or derived from this Lease or arising out of any act, occurrence, or omission occurring after such sale or assignment; and the assignee or purchaser shall be deemed, without any further agreement between the parties, to have assumed and agreed to carry out any and all of the covenants and obligations of City under this Lease, and shall be substituted as City for all purposes from and after the sale or assignment.

25. **Indemnity.** Lessee shall indemnify, defend and hold City harmless from and against any and all claims, suits, actions, proceedings, liability, damages, costs or expenses, including attorneys' and experts' fees and court costs arising (a) from any act, omission, or negligence of Lessee or its officers, contractors, licensees, agents, employees, guests, invitees, or visitors in or about the Premises, (b) from Lessee's use or occupancy of the Premises or the business conducted by Lessee therein; (c) from any breach or default under this Lease by Lessee, or (d) from or relating to the enforcement by City of the provision of this Lease as against Lessee. This provision shall not be construed to make Lessee responsible for loss, damage, liability or expense resulting from the injuries to third parties caused solely and directly by the negligence, acts or omissions of City or its officers, contractors, licensees, agents, employees or invitees. The provisions of this section shall survive the expiration or termination of this Lease.
26. **Miscellaneous.** This Lease constitutes the entire agreement between the parties and supersedes all prior negotiations, understandings and agreements between the parties concerning the matters. This Lease shall be interpreted, applied and enforced according to the fair meaning of its terms and not construed strictly in favor of or against either party, regardless of which party may have drafted any of its provisions. No provision of this Lease may be waived or modified except by a writing signed by the party against whom such waiver or modification is sought to be enforced. The terms of this Lease are binding upon and inure to the benefit of the parties' successors and assigns.

*(Remainder of this page is intentionally left blank)*

EXECUTED to be effective as of the date stated above.

CITY OF GLENDALE,  
An Arizona municipal corporation

By: Kevin Phelps  
Its: City Manager

ATTEST:

Julie Bowers, City Clerk (SEAL)

APPROVED AS TO FORM:

Michael Bailey, City Attorney

HOPE FOR HUNGER CORPORATION,  
An Arizona non-profit corporation

*Randy Rodriguez*  
By: Randy Rodriguez  
Its: President

State of Arizona )  
  ) ss.  
County of Maricopa )

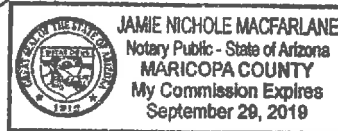
On this the 22 day of November, 2016, before me, the undersigned Notary Public, personally appeared Randy Rodriguez, who acknowledged himself to be the President of Hope for Hunger Corporation, and that he as such official, being authorized to do so, executed the foregoing Lease for and on behalf of said corporation for the purposed and consideration therein expressed.

IN WITNESS WHEREOF, I hereunder to set my hand and official seal.

*Jamie Nichole MacFarlane*  
Notary Public

My Commission Expires:

Sept 29, 2019



**EXHIBIT A**  
**Food Bank Facility and Operating Information**

**1. Facility Information and Description**

- 1.1 The City of Glendale ("City") is the owner of the real property located at 5605 North 55<sup>th</sup> Avenue, Glendale, Arizona 85301, legally described as the South 320 feet of the West 136.125 feet of the Northwest quarter of the Southwest quarter of the Northeast quarter of Section 17, Township 2 North, Ranch 2 East of the Gila and Salt River Base and Meridian, EXCEPT the East 50 feet of the North 50 feet thereof ("Premises").
- 1.2 A 4,7000 square foot building located on the Premises contains the following rooms"
- a. Lobby and reception area, 18'x23' with a 11'x30" countertop
  - b. Front office near lobby, 14'x10' with four desk units
  - c. Lobby restroom, ADA compliant
  - d. Administrative/Storage area, 19'x37', includes a staff kitchen with refrigerator and cabinets, two ADA-compliant restrooms and storage closet
  - e. Main food storage area, 70'x29', with five metal shelving units that measure 3'x10' and bay door truck access
  - f. Refrigeration room, 22'x12' with large track door
  - g. Freezer room, 22'x12' with large track door
  - h. Rear storage area, 21'x10'
  - i. Two rear offices, 12'x7' each
  - j. Parking lot is paved and striped

**2. Hope for Hunger Operating Information**

- 2.1 Hope for Hunger Corporation, an Arizona non-profit corporation ("Lessee"), will be responsible for the operations of the Premises. Initially, only dry foods distribution will be offered at the location. At such time that Lessee has the capacity to handle refrigerated or frozen foods, such food services will be added. As the Lessee for the Premises, Lessee will determine the days and hours of operation for food distribution. At a minimum, Lessee will be open and distribute dry food four (4) days per week during regular working hours, from 8:00am until 12:00pm. Operating hours will be posted on the Premises and on-line as reasonably possible.
- 2.2 In order to ensure the successful distribution of dry food goods, Lessee has partnered with St. Mary's Food Bank, who has agreed to provide the dry food goods needed for distribution. Lessee will offer food distribution based on capacity and available resources to successfully do so. At a minimum, Lessee will provide 200 dry food boxes per week.
- 2.3 Food distribution services at the Premises will be referral based. Lessee has also partnered with the Glendale Community Action Program and several faith-based organizations to give referrals for individuals in need for food services, as well as from St. Mary's Food Bank. Eligibility requirements will be determined by the referring agency using guidelines from St. Mary's Food Bank for their food services. If individuals in need come to the food bank seeking food services without a referral, Lessee will, based on capacity and resources, provide one time assistance and refer those individuals to the partners for further assistance.
- 2.4 Lessee will coordinate all staffing needs for the food bank through volunteers from Lessee, faith-based organizations, and other members and groups in the community.



## Legislation Description

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**File #:** 16-609, **Version:** 1

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### **ORDINANCE NO. 3025 NEW SERIES**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A WATER LINE EASEMENT LOCATED AT WESTGATE HEALTHCARE CAMPUS; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.**

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 an ordinance accepting a new water line easement at the Westgate Healthcare Campus located at 9950 West Glendale Avenue; and declaring an emergency to provide for the changes to be effective December 7, 2016.

### **Background**

A new public waterline has been constructed and approved by the City at 9950 West Glendale Avenue, west of 99th Avenue. The new water line will meet the domestic water demands and fire protection requirements of the City Code for the facility. 101 W Healthcare, LLC, is granting the City an easement for the new water line to allow the City to access, maintain, operate, replace and repair the new water line consistent with City Code.

### **Analysis**

Staff recommends acceptance of the new water line easement. There will be little or no impact on City departments, staff or service levels as a result of this action. Minimal costs may be incurred by the City in the future for maintenance, repair, replacement and operation of this waterline.

ORDINANCE NO. 3025 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A WATER LINE EASEMENT LOCATED AT WESTGATE HEALTHCARE CAMPUS; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

WHEREAS, construction of the new water line has been completed and approved by the City on the real property as depicted in the attached map and legally described in Exhibit A; and

WHEREAS, 101 Healthcare, LLC the current owner and developer the of the property has agreed to grant a new water line easement to the City; and

WHEREAS, a new water line would benefit the City by allowing for future development at the intersection of 99<sup>th</sup> Avenue and Glendale Avenue and meet the domestic water demands and fire protection requirements of City Code.

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

SECTION 1. That the City is hereby accepting an easement for the location of a new water line pursuant to the Conveyance of Easement, which is attached as Exhibit B. Upon the execution of the Conveyance of Easement and recordation of the same with the Maricopa County Recorder, the City will have legal title to an easement for the purpose of operating, repairing, replacing, maintaining and removing water lines consistent with the City Code.

SECTION 2. That the City Clerk is instructed and authorized to forward a certified copy of this ordinance and executed Conveyance of Easement to the Maricopa County Recorder's Office for recording.

SECTION 3. Whereas the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, and safety of the City of Glendale, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Mayor and Council of the City of Glendale, and it is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

[Signatures on the following page]

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 6th day of December, 2016.

\_\_\_\_\_  
M A Y O R

ATTEST:

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

APPROVED AS TO FORM:

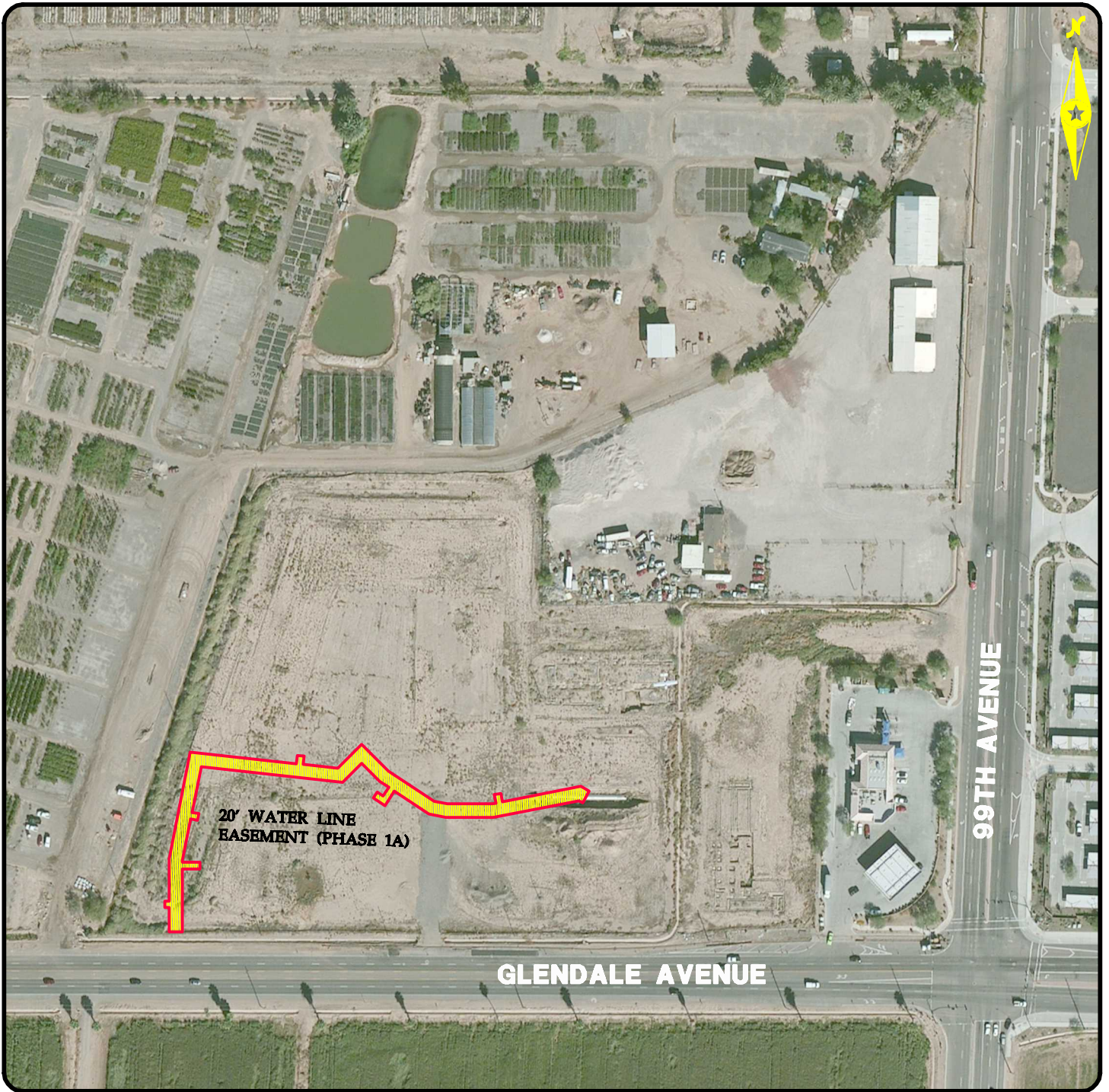
\_\_\_\_\_  
City Attorney

REVIEWED BY:

\_\_\_\_\_  
City Manager

## EXHIBIT A





**99TH AVENUE & GLENDALE  
20' WATER LINE EASEMENT (PHASE 1A)**



## EXHIBIT B

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

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For Ten Dollars and other valuable consideration, I or We, 101 W Healthcare, LLC, an Arizona limited liability company (“Grantor”), do hereby convey to the City of Glendale, an Arizona municipal corporation (“Grantee”), an easement to install, repair, replace, operate, maintain and remove a water line and appurtenances (“facilities”) upon, over and under the surface of the following described property:

**See Attached Description, “Exhibit A”**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

By: \_\_\_\_\_  
By: Howard John Simon  
Its: Manager

**Exempt Pursuant to A.R.S. §11-1134(A) (2),11-1134(A) (3)**

STATE OF ARIZONA     )  
County of Maricopa    ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016  
by Howard John Simon, Manager, who acknowledged that he executed this instrument for the purposes  
therein contained.

\_\_\_\_\_  
Notary Public

My commission expires:

9950 West Glendale Avenue

20' WATER-LINE EASEMENT  
LEGAL DESCRIPTION  
EXHIBIT 'A'

A PART OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5 MONUMENTED BY AN MCDOT BRASS CAP IN FLUSH AT THE INTERSECTION OF GLENDALE AVENUE AND 99th AVENUE;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF SAID SECTION 5 AND THE CENTERLINE OF GLENDALE AVENUE, 1193.41 FEET;

THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 68.00 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 35.55 FEET;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 6.00 FEET;

THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 10.00 FEET;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 6.00 FEET;

THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 61.90 FEET;

THENCE NORTH 11 DEGREES 15 MINUTES 00 SECONDS EAST, 160.47 FEET;

THENCE SOUTH 83 DEGREES 44 MINUTES 03 SECONDS EAST, 157.25 FEET;

THENCE NORTH 06 DEGREES 15 MINUTES 57 SECONDS EAST, 12.00 FEET;

THENCE SOUTH 83 DEGREES 44 MINUTES 03 SECONDS EAST, 10.00 FEET;

THENCE SOUTH 06 DEGREES 15 MINUTES 57 SECONDS WEST, 12.00 FEET;

THENCE SOUTH 83 DEGREES 44 MINUTES 03 SECONDS EAST, 50.99 FEET;

THENCE NORTH 45 DEGREES 00 MINUTES 01 SECONDS EAST, 49.93 FEET;

THENCE SOUTH 44 DEGREES 59 MINUTES 59 SECONDS EAST, 55.77 FEET;

THENCE SOUTH 56 DEGREES 14 MINUTES 59 SECONDS EAST, 80.66 FEET;

THENCE SOUTH 78 DEGREES 44 MINUTES 59 SECONDS EAST, 19.67 FEET;

CONTINUED PAGE 2

**Site Consultants, Inc.**

113 S. Rockford Drive, Tempe Arizona 85281

Tele: 480-894-2820 Fax: 480-894-2847

SCI #2030 SCALE: N.T.S. DATE: 1-7-2016

PAGE 1 OF 7

20' WATER-LINE EASEMENT  
EXHIBIT 'A'

CONTINUED FROM PAGE 1

THENCE SOUTH 89 DEGREES 59 MINUTES 59 SECONDS EAST, 65.91 FEET;  
THENCE NORTH 78 DEGREES 45 MINUTES 01 SECONDS EAST, 5.76 FEET;  
THENCE NORTH 11 DEGREES 14 MINUTES 59 SECONDS WEST, 12.81 FEET;  
THENCE NORTH 78 DEGREES 45 MINUTES 01 SECONDS EAST, 10.00 FEET;  
THENCE SOUTH 11 DEGREES 14 MINUTES 59 SECONDS EAST, 12.81 FEET;  
THENCE NORTH 78 DEGREES 45 MINUTES 01 SECONDS EAST, 80.41 FEET;  
THENCE NORTH 56 DEGREES 15 MINUTES 01 SECONDS EAST, 26.75 FEET;  
THENCE SOUTH 61 DEGREES 32 MINUTES 14 SECONDS EAST, 30.20 FEET;  
THENCE SOUTH 29 DEGREES 30 MINUTES 39 SECONDS WEST, 20.01 FEET;  
THENCE NORTH 61 DEGREES 31 MINUTES 17 SECONDS WEST, 17.76 FEET;  
THENCE SOUTH 56 DEGREES 15 MINUTES 01 SECONDS WEST, 18.65 FEET;  
THENCE SOUTH 78 DEGREES 45 MINUTES 01 SECONDS WEST, 102.12 FEET;  
THENCE NORTH 89 DEGREES 59 MINUTES 59 SECONDS WEST, 69.85 FEET;  
THENCE NORTH 78 DEGREES 44 MINUTES 59 SECONDS WEST, 25.62 FEET;  
THENCE NORTH 56 DEGREES 14 MINUTES 59 SECONDS WEST, 60.90 FEET;  
THENCE SOUTH 33 DEGREES 45 MINUTES 01 SECONDS WEST, 25.34 FEET;  
THENCE NORTH 56 DEGREES 14 MINUTES 59 SECONDS WEST, 19.99 FEET;  
THENCE NORTH 33 DEGREES 45 MINUTES 01 SECONDS EAST, 10.00 FEET;  
THENCE SOUTH 56 DEGREES 14 MINUTES 59 SECONDS EAST, 9.99 FEET;  
THENCE NORTH 33 DEGREES 45 MINUTES 01 SECONDS EAST, 15.34 FEET;  
THENCE NORTH 56 DEGREES 14 MINUTES 59 SECONDS WEST, 15.70 FEET;  
THENCE NORTH 44 DEGREES 59 MINUTES 59 SECONDS WEST, 37.74 FEET;  
THENCE SOUTH 45 DEGREES 00 MINUTES 01 SECONDS WEST, 39.53 FEET;

CONTINUED PAGE 3

**Site Consultants, Inc.**  
113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: N.T.S. DATE: 1-7-2016  
PAGE 2 OF 7

20' WATER-LINE EASEMENT  
EXHIBIT 'A'

CONTINUED FROM PAGE 2

THENCE NORTH 83 DEGREES 44 MINUTES 03 SECONDS WEST, 209.51 FEET;  
THENCE SOUTH 11 DEGREES 15 MINUTES 00 SECONDS WEST, 68.40 FEET;  
THENCE SOUTH 78 DEGREES 45 MINUTES 00 SECONDS EAST, 10.00 FEET;  
THENCE SOUTH 11 DEGREES 15 MINUTES 00 SECONDS WEST, 10.00 FEET;  
THENCE NORTH 78 DEGREES 45 MINUTES 00 SECONDS WEST, 10.00 FEET;  
THENCE SOUTH 11 DEGREES 15 MINUTES 00 SECONDS WEST, 61.77 FEET;  
THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 3.12 FEET;  
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 25.29 FEET;  
THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 10.00 FEET;  
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 25.29 FEET;  
THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 92.36 FEET;  
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 20.00 FEET TO THE  
POINT OF BEGINNING.



EXPIRES 6-30-2016

**Site Consultants, Inc.**  
113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: N.T.S. DATE: 1-7-2016  
PAGE 3 OF 7

# 20' WATER-LINE EASEMENT EXHIBIT 'A'

Site Consultants, Inc.

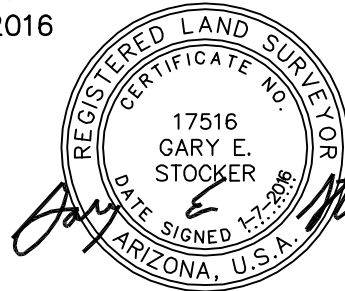
113 S. Rockford Drive, Tempe Arizona 85281

Tele: 480-894-2820 Fax: 480-894-2847

SCI #2030 SCALE: 1" = 250' DATE: 1-7-2016

PAGE 4 OF 7

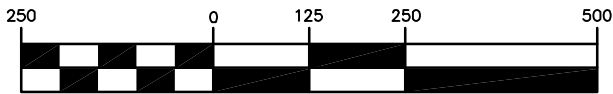
E. 1/4 COR, SEC 5,  
T2N, R1E, G&SRB&M,  
FND. 1/2" REBAR  
POINT OF COMMENCEMENT



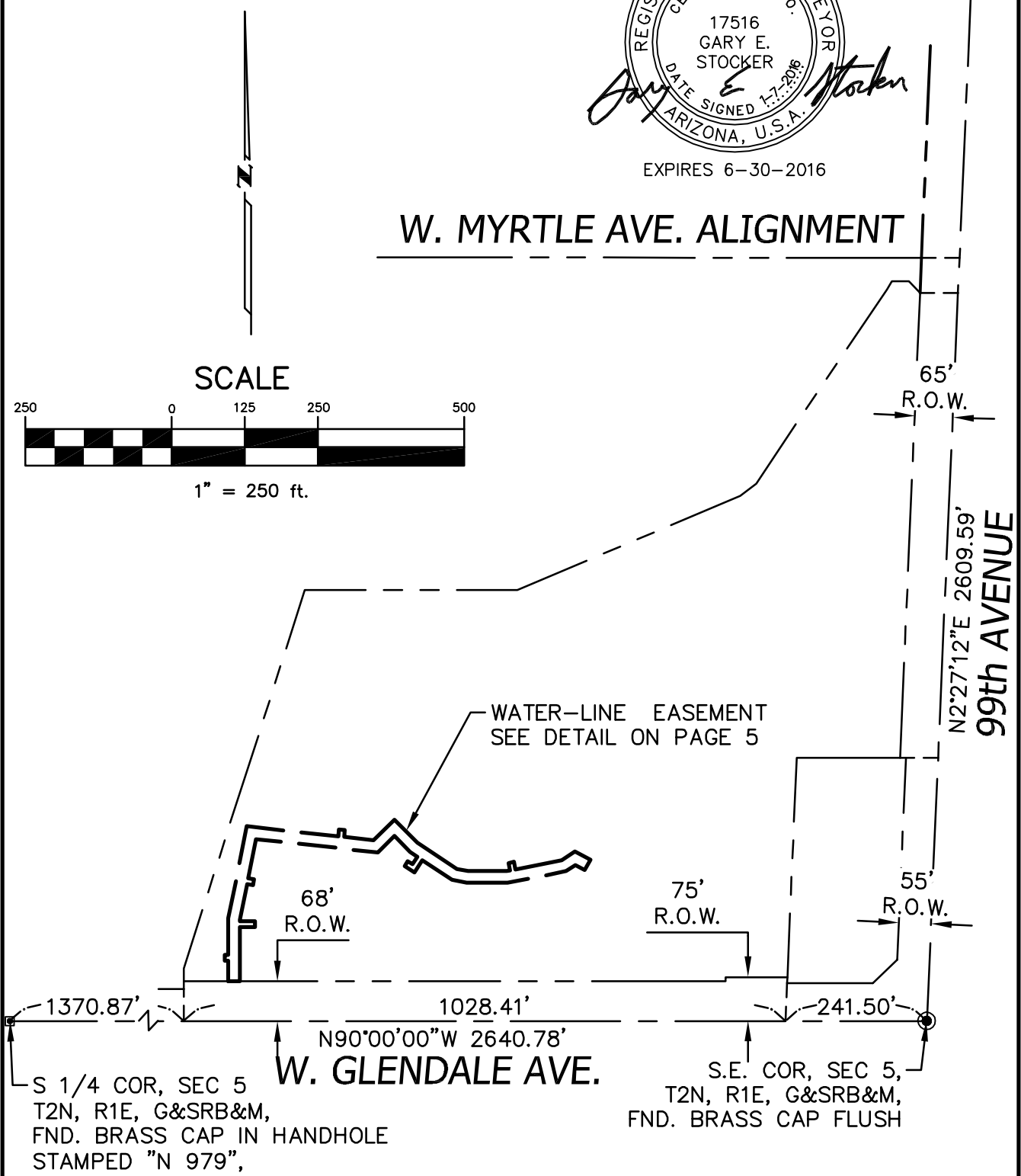
EXPIRES 6-30-2016

## W. MYRTLE AVE. ALIGNMENT

SCALE



1" = 250 ft.



**20' WATER-LINE EASEMENT**

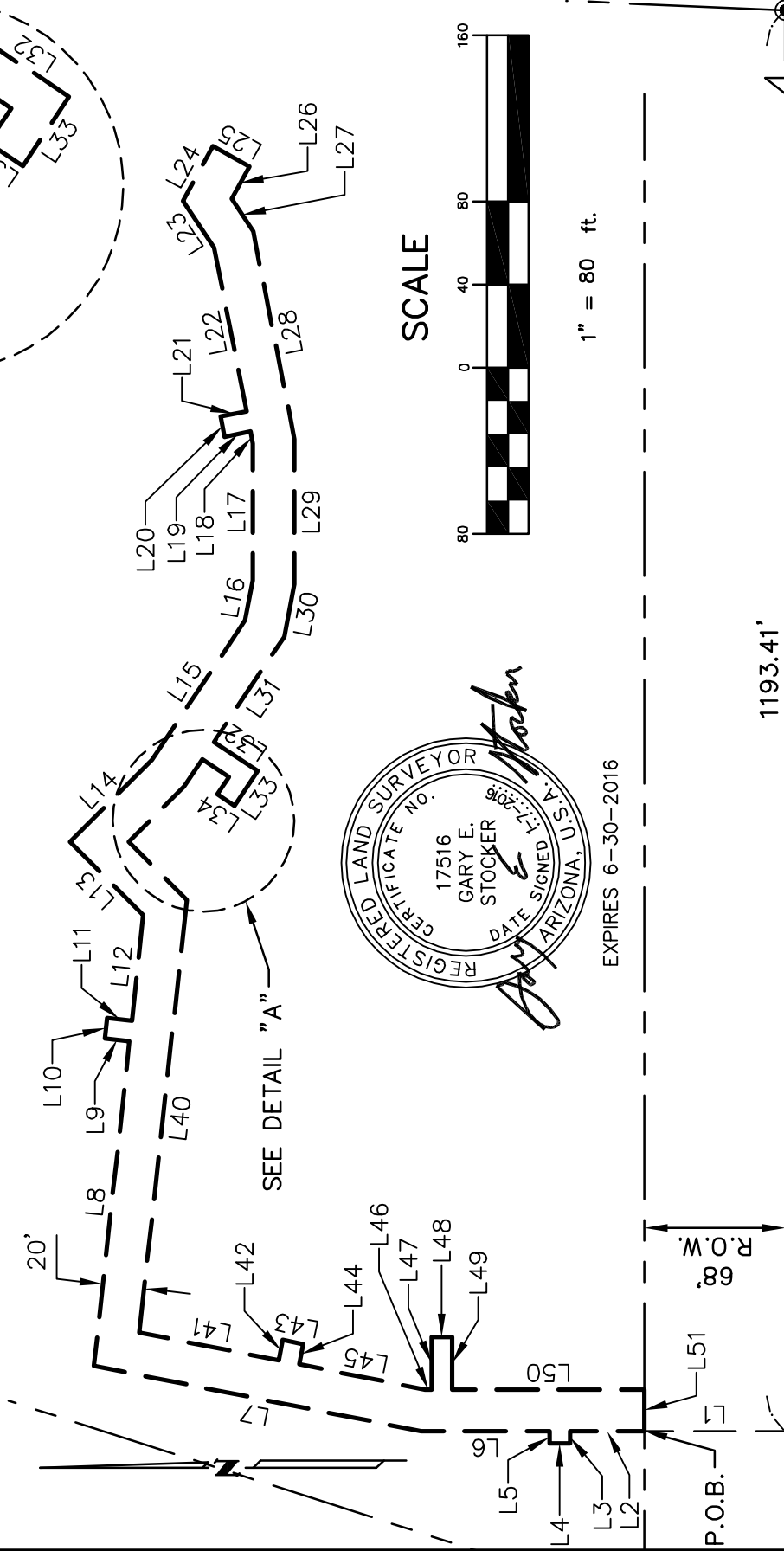
**EXHIBIT 'A'**

**Site Consultants, Inc.**

113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847

SCI #2030 SCALE: 1" = 80' DATE: 1-7-2016

PAGE 5 OF 7



1193.41'  
N90°00'00"W 2640.78'

**W. GLENDALE AVE.**

S.E. COR, SEC 5,  
T2N, R1E, G&SRB&M,  
FND. BRASS CAP FLUSH



**20' WATER-LINE EASEMENT**  
**EXHIBIT 'A'**

LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	N0°00'00"E	68.00'
L2	N0°00'00"E	35.55'
L3	N90°00'00"W	6.00'
L4	N0°00'00"E	10.00'
L5	N90°00'00"E	6.00'
L6	N0°00'00"E	61.90'
L7	N11°15'00"E	160.47'
L8	S83°44'03"E	157.25'
L9	N6°15'57"E	12.00'
L10	S83°44'03"E	10.00'
L11	S6°15'57"W	12.00'
L12	S83°44'03"E	50.99'
L13	N45°00'01"E	49.93'
L14	S44°59'59"E	55.77'
L15	S56°14'59"E	80.66'
L16	S78°44'59"E	19.67'
L17	S89°59'59"E	65.91'
L18	N78°45'01"E	5.76'
L19	N11°14'59"W	12.81'
L20	N78°45'01"E	10.00'
L21	S11°14'59"E	12.81'
L22	N78°45'01"E	80.41'
L23	N56°15'01"E	26.75'
L24	S61°32'14"E	30.20'
L25	S29°30'39"W	20.01'
L26	N61°31'17"W	17.76'

**LEGEND**

----- PROPOSED W.L.E.  
 \_\_\_\_\_ LOT LINE  
 \_\_\_\_\_ CENTER LINE

FND.      FOUND  
 P.O.B.    POINT OF BEGINNING  
 R/W      RIGHT OF WAY  
 M.C.R.    MARICOPA COUNTY RECORDER  
 BCHH     BRASS CAP IN HANDHOLE  
 W.L.E.    WATER-LINE EASEMENT

**Site Consultants, Inc.**  
 113 S. Rockford Drive, Tempe Arizona 85281  
 Tele: 480-894-2820    Fax: 480-894-2847  
 SCI #2030    SCALE: N.T.S.    DATE: 1-7-2016  
 PAGE 6 OF 7

**20' WATER-LINE EASEMENT**  
**EXHIBIT 'A'**

LINE TABLE		
LINE	DIRECTION	DISTANCE
L27	S56°15'01"W	18.65'
L28	S78°45'01"W	102.12'
L29	N89°59'59"W	69.85'
L30	N78°44'59"W	25.62'
L31	N56°14'59"W	60.90'
L32	S33°45'01"W	25.34'
L33	N56°14'59"W	19.99'
L34	N33°45'01"E	10.00'
L35	S56°14'59"E	9.99'
L36	N33°45'01"E	15.34'
L37	N56°14'59"W	15.70'
L38	N44°59'59"W	37.74'
L39	S45°00'01"W	39.53'
L40	N83°44'03"W	209.51'
L41	S11°15'00"W	68.40'
L42	S78°45'00"E	10.00'
L43	S11°15'00"W	10.00'
L44	N78°45'00"W	10.00'
L45	S11°15'00"W	61.77'
L46	S0°00'00"E	3.12'
L47	N90°00'00"E	25.29'
L48	S0°00'00"E	10.00'
L49	N90°00'00"W	25.29'
L50	S0°00'00"E	92.36'
L51	N90°00'00"W	20.00'

**LEGEND**

----- PROPOSED W.L.E.  
 - - - - - LOT LINE  
 \_\_\_\_\_ CENTER LINE

FND.      FOUND  
 P.O.B.    POINT OF BEGINNING  
 R/W      RIGHT OF WAY  
 M.C.R.    MARICOPA COUNTY RECORDER  
 BCHH     BRASS CAP IN HANDHOLE  
 W.L.E.    WATER-LINE EASEMENT

**Site Consultants, Inc.**  
 113 S. Rockford Drive, Tempe Arizona 85281  
 Tele: 480-894-2820    Fax: 480-894-2847  
 SCI #2030    SCALE: N.T.S.    DATE: 1-7-2016  
 PAGE 7 OF 7



## Legislation Description

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**File #: 16-611, Version: 1**

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### **ORDINANCE NO. 3026 NEW SERIES**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A WATER LINE AND SEWERLINE EASEMENT LOCATED AT WESTGATE HEALTHCARE CAMPUS; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.**

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 an ordinance accepting a new water and sewerline easement at the Westgate Healthcare Campus located at 9950 West Glendale Avenue; and declaring an emergency to provide for the changes to be effective December 7, 2016.

### **Background**

A new public waterline and sewerline has been constructed and approved by the City at 9950 West Glendale Avenue, west of 99th Avenue. The new waterline and sewerline will meet the domestic water demands, fire protection requirements and sewer requirements of the City Code for the facility. 101 W Healthcare, LLC, is granting the City an easement for the new waterline and sewerline to allow the City to access, maintain, operate, replace and repair the new water line consistent with City Code.

### **Analysis**

Staff recommends acceptance of the new water line easement. There will be little or no impact on City departments, staff or service levels as a result of this action. Minimal costs may be incurred by the City in the future for maintenance, repair, replacement and operation of this waterline.

ORDINANCE NO. 3026 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A WATER LINE AND SEWERLINE EASEMENT LOCATED AT WESTGATE HEALTHCARE CAMPUS; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

WHEREAS, construction of the new water line and sewer line has been completed and approved by the City on the real property as depicted in the attached map and legally described in Exhibit A, and

WHEREAS, 101 Healthcare, LLC the current owner and developer of the property has agreed to grant a new water line and sewer line easement to the City; and

WHEREAS, a new water line and sewer line would benefit THE City by allowing for future development at the intersection of 99<sup>th</sup> Avenue and Glendale Avenue and meet the domestic water demands and fire protection requirements and sewer requirements of City Code.

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

SECTION 1. That the City is hereby accepting an easement for the location of a new water line and sewer line pursuant to the Conveyance of Easement, which is attached as Exhibit B. Upon the execution of the Conveyance of Easement and recordation of the same with the Maricopa County Recorder, the City will have legal title to an easement for the purpose of operating, repairing, replacing, maintaining and removing water lines and sewer lines consistent with the City Code.

SECTION 2. The City Clerk is instructed and authorized to forward a certified copy of this ordinance and executed Conveyance of Easement to the Maricopa County Recorder's Office for recording.

SECTION 3. Whereas the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, and safety of the City of Glendale, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Mayor and Council of the City of Glendale, and it is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

[Signatures on the following page]

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 6th day of December, 2016.

\_\_\_\_\_  
M A Y O R

ATTEST:

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

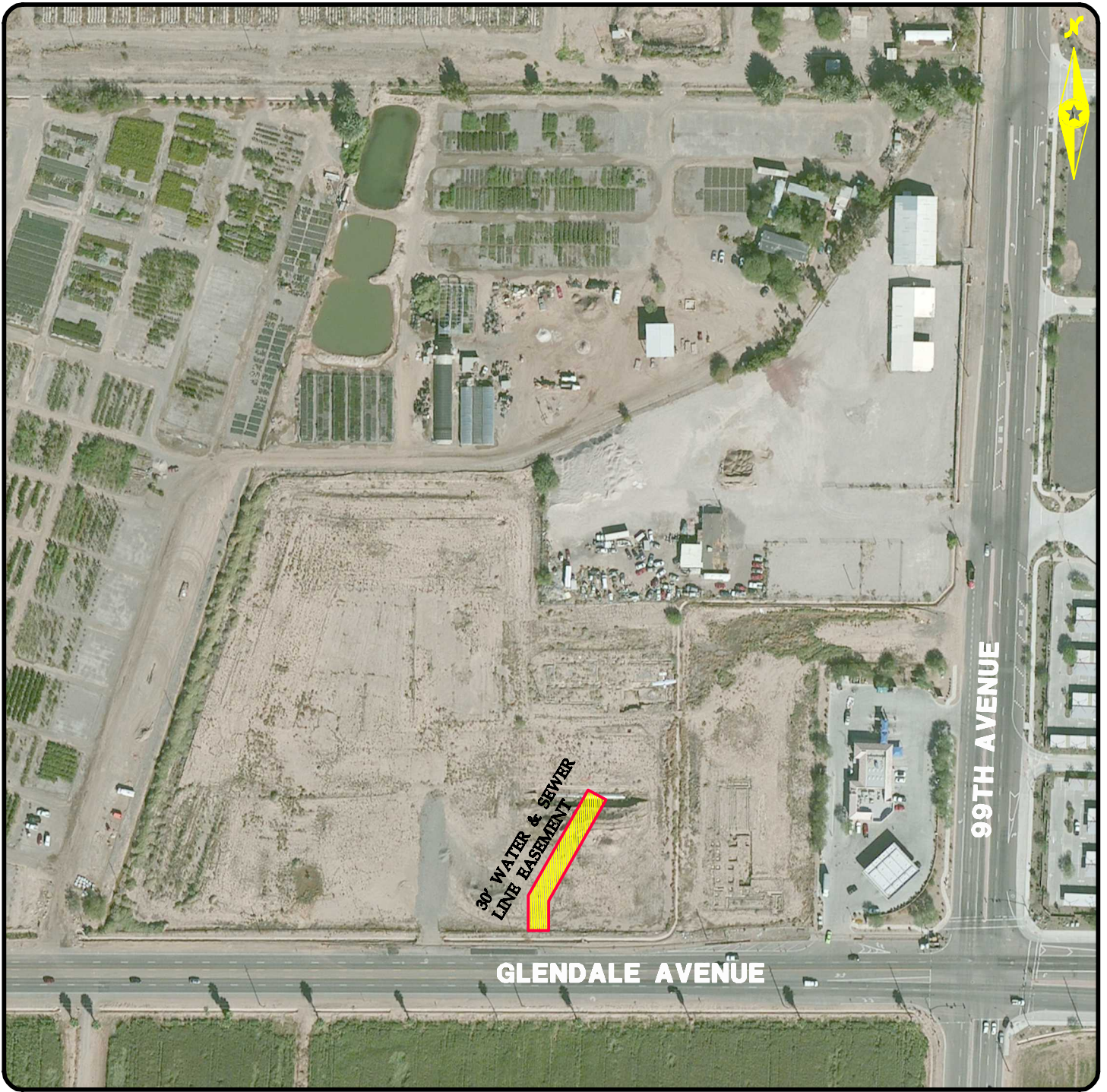
APPROVED AS TO FORM:

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

REVIEWED BY:

\_\_\_\_\_  
City Manager

## EXHIBIT A



**99TH AVENUE & GLENDALE  
30' WATER & SEWER LINE EASEMENT**



## EXHIBIT B



When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, I or We, 101 W Healthcare, LLC, an Arizona limited liability company ("Grantor"), do hereby convey to the City of Glendale, an Arizona municipal corporation ("Grantee"), an easement to install, repair, replace, operate, maintain and remove a water line and sewer line and appurtenances ("facilities") upon, over and under the surface of the following described property:

**See Attached Description, "Exhibit A"**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2016.

By: \_\_\_\_\_  
By: Howard John Simon  
Its: Manager

**Exempt Pursuant to A.R.S. §11-1134(A) (2),11-1134(A) (3)**

STATE OF ARIZONA     )  
                                  ) ss.  
County of Maricopa    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016 by Howard John Simon, Manager, who acknowledged that he executed this instrument for the purposes therein contained.

\_\_\_\_\_  
Notary Public

My commission expires:

9950 West Glendale Avenue

30' WATER & SEWER EASEMENT  
LEGAL DESCRIPTION  
EXHIBIT 'A'

A PART OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5 MONUMENTED BY AN MCDOT BRASS CAP IN FLUSH AT THE INTERSECTION OF GLENDALE AVENUE AND 99th AVENUE;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF SAID SECTION 5 AND THE CENTERLINE OF GLENDALE AVENUE, 663.41' FEET;

THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 68.00 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 68 FEET OF SAID SECTION 5, THE POINT OF BEGINNING;

THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 51.37 FEET;

THENCE NORTH 29 DEGREES 30 MINUTES 39 SECONDS EAST, 179.39 FEET;

THENCE SOUTH 60 DEGREES 29 MINUTES 21 SECONDS EAST, 30.00 FEET;

THENCE SOUTH 29 DEGREES 30 MINUTES 39 SECONDS WEST, 171.48 FEET;

THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 43.46 FEET;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 30.00 FEET TO THE POINT OF BEGINNING.



EXPIRES 6-30-2016

**Site Consultants, Inc.**

113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: N.T.S. DATE: 5-12-2016  
PAGE 1 OF 4

# 30' WATER & SEWER EASEMENT

## EXHIBIT 'A'

Site Consultants, Inc.

113 S. Rockford Drive, Tempe Arizona 85281

Tele: 480-894-2820 Fax: 480-894-2847

SCI #2030 SCALE: 1" = 250' DATE: 5-12-2016

PAGE 2 OF 4

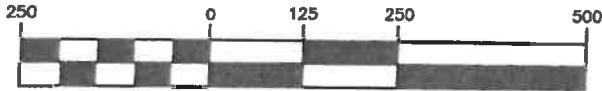
E. 1/4 COR, SEC 5,  
T2N, R1E, G&SRB&M,  
FND. 1/2" REBAR  
POINT OF COMMENCEMENT



EXPIRES 6-30-2016

### W. MYRTLE AVE. ALIGNMENT

SCALE



1" = 250 ft.

WATER & SEWER EASEMENT  
SEE DETAIL ON PAGE 3

68'  
R.O.W.

75'  
R.O.W.

55'  
R.O.W.

65'  
R.O.W.

N2°27'12"E 2609.59'  
99th AVENUE

1370.87'

1028.41'

241.50'

N90°00'00"W 2640.78'

### W. GLENDALE AVE.

S 1/4 COR, SEC 5  
T2N, R1E, G&SRB&M,  
FND. BRASS CAP IN HANDHOLE  
STAMPED "N 979",

S.E. COR, SEC 5,  
T2N, R1E, G&SRB&M,  
FND. BRASS CAP FLUSH

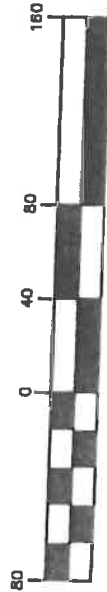
# 30' WATER & SEWER EASEMENT

## EXHIBIT 'A'

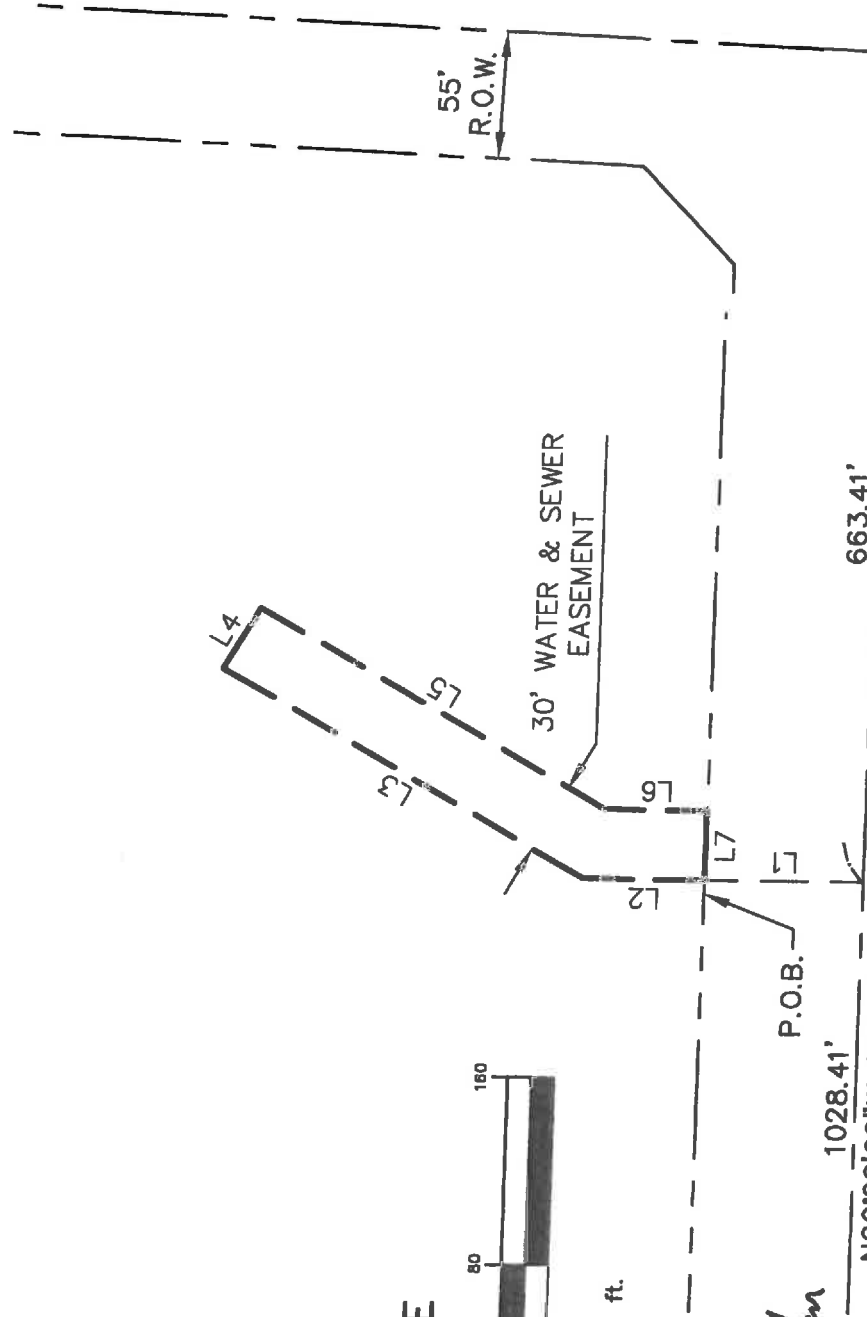
Site Consultants, Inc.  
113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: 1" = 80' DATE: 5-12-2016  
PAGE 3 OF 4



SCALE



1" = 80 ft.



W. GLENDALE AVE.

EXPIRES 6-30-2016

S.E. COR, SEC 5,  
T2N, R1E, G&SRB&M,  
FND. BRASS CAP FLUSH

**30' WATER & SEWER EASEMENT**  
**EXHIBIT 'A'**

LINE TABLE

LINE	DIRECTION	DISTANCE
L1	N0°00'00"W	68.00'
L2	N0°00'00"E	51.37'
L3	N29°30'39"E	179.39'
L4	S60°29'21"E	30.00'
L5	S29°30'39"W	171.48'
L6	S0°00'00"E	43.46'
L7	N90°00'00"W	30.00'

**LEGEND**

- PROPOSED WATER & SEWER EASEMENT
- LOT LINE
- CENTER LINE

- FND.      FOUND
- P.O.B.    POINT OF BEGINNING
- R/W      RIGHT OF WAY
- M.C.R.    MARICOPA COUNTY RECORDER
- BCHH     BRASS CAP IN HANDHOLE

**Site Consultants, Inc.**  
 113 S. Rockford Drive, Tempe Arizona 85281  
 Tele: 480-894-2820    Fax: 480-894-2847  
 SCI #2030    SCALE: N.T.S.    DATE: 5-12-2016  
 PAGE 4 OF 4



## Legislation Description

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**File #:** 16-612, **Version:** 1

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### **ORDINANCE NO. 3027 NEW SERIES**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A SIDEWALK EASEMENT LOCATED AT WESTGATE HEALTHCARE CAMPUS; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.**

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 an ordinance accepting a sidewalk easement at Westgate Healthcare Campus located at 99th Avenue and Glendale Avenue; and declaring an emergency to provide for the changes to be effective December 7, 2016.

### **Background**

Westgate Healthcare Campus, a new medical campus, is being constructed at 9950 West Glendale Avenue. 101 W Healthcare, LLC, is granting the City a sidewalk easement so that the public can access the facility from the right-of-way. Upon acceptance of the easement, the City will be responsible for the maintenance, operation, repair, and, if necessary, replacement of the sidewalk.

### **Analysis**

Staff recommends acceptance of the new sidewalk easement. There will be no impact on City departments, staff or service levels as a result of this action. There are no costs incurred to the City for this action at this time, but the City may incur minimal future costs in the maintenance and repair of the concrete in the easement. Such costs are estimated to be \$250 a year.

ORDINANCE NO. 3027 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A SIDEWALK EASEMENT LOCATED AT WESTGATE HEALTHCARE CAMPUS; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

WHEREAS, construction of the sidewalk has been completed and approved by the City on the real property as depicted in the attached map and legally described in Exhibit A; and

WHEREAS, 101 Healthcare, LLC the current owner and developer the of the property has agreed to grant a new sidewalk easement to the City; and

WHEREAS, a new sidewalk would benefit the City by allowing for future development at the intersection of 99<sup>th</sup> Avenue and Glendale Avenue and meet the public access requirements of City Code.

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

SECTION 1. That the City is hereby accepting an easement for the location of a new sidewalk pursuant to the Conveyance of Easement, which is attached as Exhibit B. Upon the execution of the Conveyance of Easement and recordation of the same with the Maricopa County Recorder, the City will have legal title to an easement for the purpose of operating, repairing, replacing, maintaining and removing the sidewalk consistent with the City Code.

SECTION 2. The City Clerk is instructed and authorized to forward a certified copy of this ordinance and executed Conveyance of Easement to the Maricopa County Recorder's Office for recording.

SECTION 3. Whereas the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, and safety of the City of Glendale, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Mayor and Council of the City of Glendale, and it is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

[Signatures on the following page.]

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 6th day of December, 2016.

\_\_\_\_\_  
M A Y O R

ATTEST:

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

APPROVED AS TO FORM:

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

REVIEWED BY:

\_\_\_\_\_  
City Manager



## EXHIBIT A



**99TH AVENUE & GLENDALE  
GLENDALE AVENUE SIDEWALK EASEMENT**



## EXHIBIT B

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

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For Ten Dollars and other valuable consideration, I or We, 101 W Healthcare, LLC, an Arizona limited liability company (“Grantor”), do hereby convey to the City of Glendale, an Arizona municipal corporation (“Grantee”), an easement to install, repair, replace, operate, maintain and remove a sidewalk and appurtenances (“facilities”) upon, over and under the surface of the following described property:

**See Attached Description, “Exhibit A”**

Together with the right of ingress and egress to, from, across and along the Grantor's property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

By: \_\_\_\_\_  
By: Howard John Simon  
Its: Manager

**Exempt Pursuant to A.R.S. §11-1134(A) (2),11-1134(A) (3)**

STATE OF ARIZONA    )  
                                  ) ss.  
County of Maricopa    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by Howard John Simon, Manager, who acknowledged that he executed this instrument for the purposes therein contained.

\_\_\_\_\_  
Notary Public

My commission expires:

9950 West Glendale Avenue

**GLENDALE AVENUE SIDEWALK EASEMENT**  
**LEGAL DESCRIPTION**  
**EXHIBIT 'A'**

A PART OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5 MONUMENTED BY AN MCDOT BRASS CAP FLUSH AT THE INTERSECTION OF GLENDALE AVENUE AND 99th AVENUE;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF SAID SECTION 5 AND THE CENTERLINE OF GLENDALE AVENUE, 752.45 FEET;

THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 68.00 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 68 FEET OF SAID SECTION 5, THE POINT OF BEGINNING;

THENCE ALONG SAID NORTH LINE, NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 89.74 FEET;

THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 16.00 FEET;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 73.74 FEET;

THENCE SOUTH 45 DEGREES 00 MINUTES 00 SECONDS EAST, 22.62 FEET TO THE POINT OF BEGINNING.



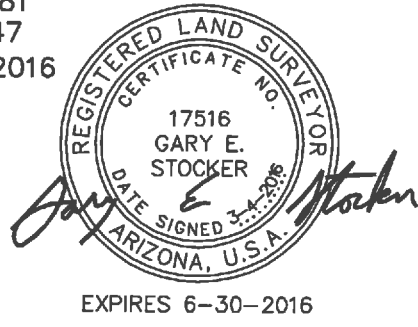
EXPIRES 6-30-2016

**Site Consultants, Inc.**  
113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: N.T.S. DATE: 3-4-2016  
PAGE 1 OF 3

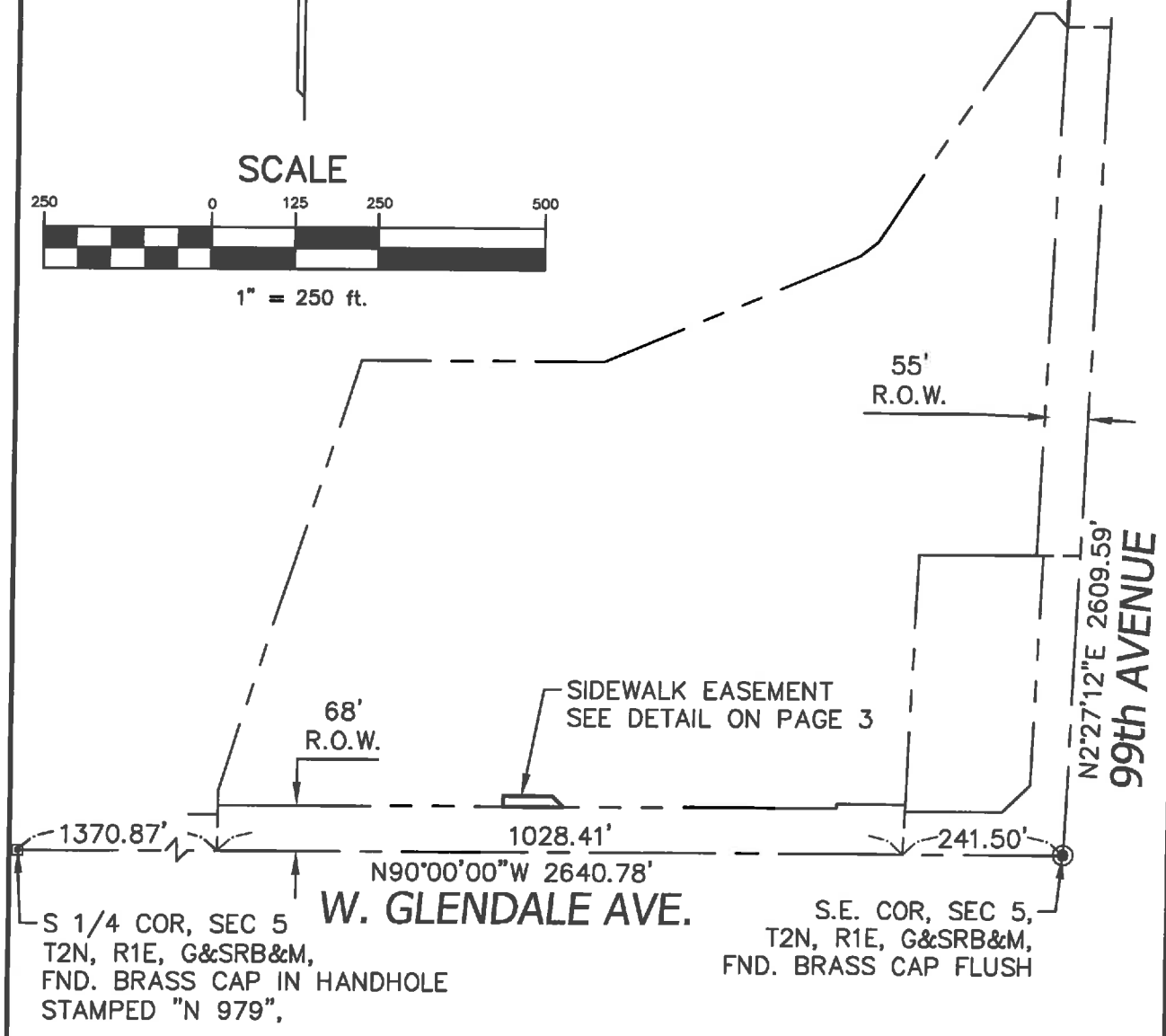
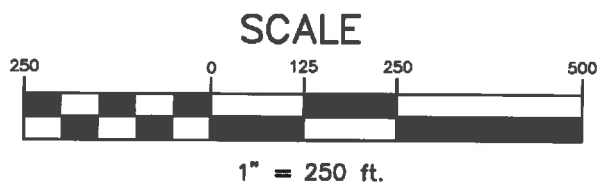
**GLENDALE AVENUE  
SIDEWALK EASEMENT  
EXHIBIT 'A'**

**Site Consultants, Inc.**  
113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: 1" = 250' DATE: 3-4-2016  
PAGE 2 OF 3

E. 1/4 COR, SEC 5,  
T2N, R1E, G&SRB&M,  
FND. 1/2" REBAR  
POINT OF COMMENCEMENT



**W. MYRTLE AVE. ALIGNMENT**



**GLENDALE AVENUE  
SIDEWALK EASEMENT  
EXHIBIT 'A'**

**Site Consultants, Inc.**  
113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: 1" = 150' DATE: 3-4-2016  
PAGE 3 OF 3

**LEGEND**

- PROPOSED SIDEWALK EASEMENT
- LOT/RIGHT OF WAY LINE
- CENTER LINE

- FND. FOUND
- P.O.B. POINT OF BEGINNING
- R.O.W. RIGHT OF WAY



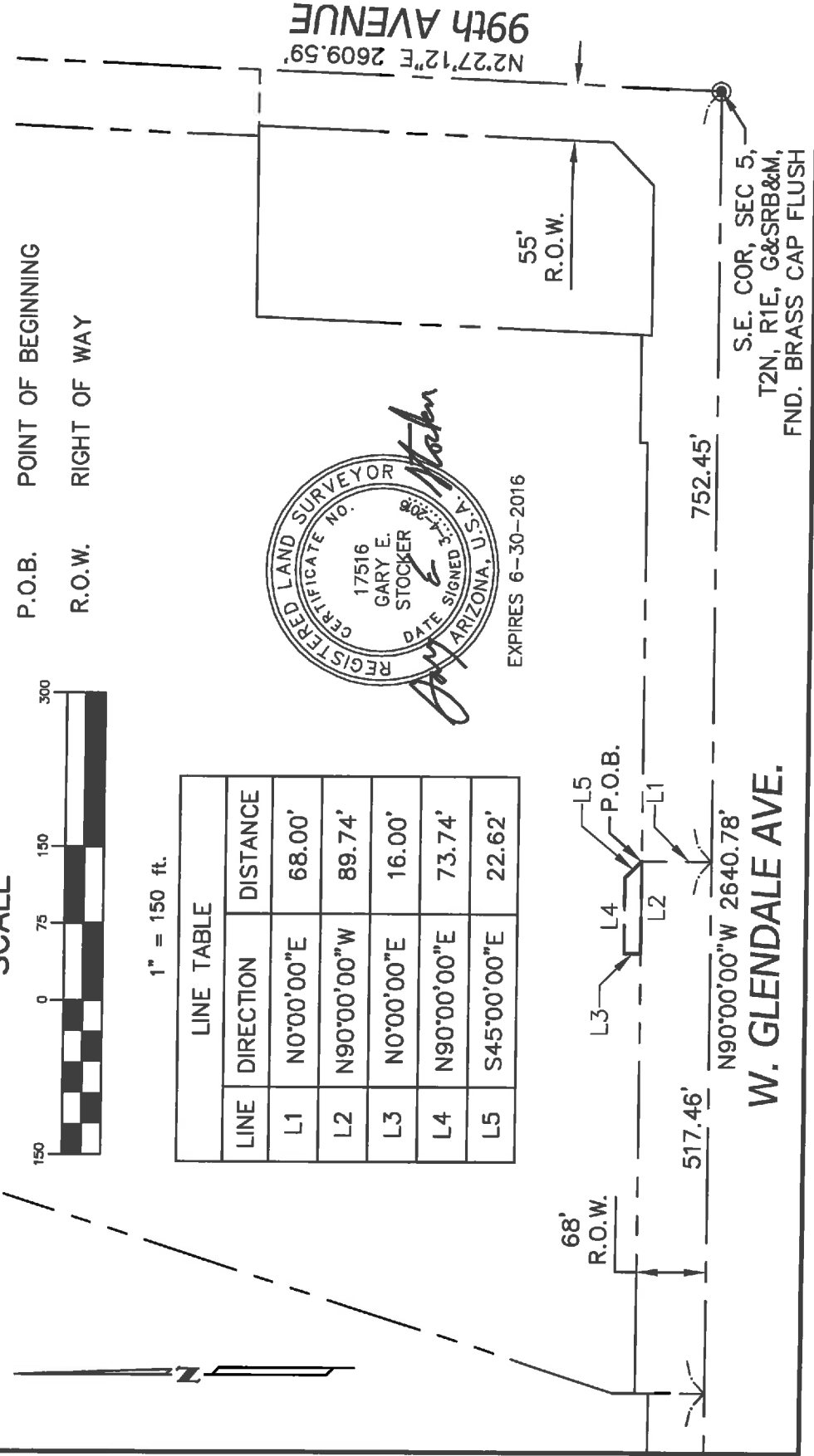
**SCALE**

1" = 150 ft.

LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	N0°00'00"E	68.00'
L2	N90°00'00"W	89.74'
L3	N0°00'00"E	16.00'
L4	N90°00'00"E	73.74'
L5	S45°00'00"E	22.62'



EXPIRES 6-30-2016



S.E. COR, SEC 5,  
T2N, R1E, G&SRB&M,  
FND. BRASS CAP FLUSH

**W. GLENDALE AVE.**



## Legislation Description

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**File #: 16-614, Version: 1**

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### **ORDINANCE NO. 3028 NEW SERIES**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF AN IRRIGATION EASEMENT IN FAVOR OF SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT LOCATED ON WESTBOUND GLENDALE AVENUE 571 FEET WEST OF 99TH AVENUE; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.**

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 an ordinance granting a new irrigation easement in favor of Salt River Project Agricultural Improvement and Power District (SRP) at westbound Glendale Avenue west of 99th Avenue; and declaring an emergency to provide for the changes to be effective December 7, 2016.

### **Background**

101 W Healthcare LLC, the owner of the new medical office facility currently under construction at 9950 West Glendale Avenue, is constructing a parking lot and right of way improvements providing access to Glendale Avenue. As a condition to construct these improvements and access, Salt River Project Agricultural Improvement and Power District (SRP) is requiring the owner to provide access to an existing irrigation facility at approximately 571 feet west of 99th Avenue at Glendale Avenue. SRP is requesting a new irrigation easement to protect its facilities.

### **Analysis**

Staff recommends granting the irrigation easement. There will be no impact on city departments, staff, or service levels as a result of this action.

### **Budget and Financial Impacts**

There are no costs incurred to the city for this action.



ORDINANCE NO. 3028 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF AN IRRIGATION EASEMENT IN FAVOR OF SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT LOCATED ON WESTBOUND GLENDALE AVENUE 571 FEET WEST OF 99TH AVENUE; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

WHEREAS, 101 Healthcare, LLC is the current owner and developer the real property located at 99<sup>th</sup> Avenue and Glendale Avenue; and

WHEREAS, incidental to 101 W Healthcare's redevelopment of said property, an irrigation pipeline owned and/or operated by the United States and managed by the Salt River Project ("SRP") must be relocated to property owned by the City, as depicted in the attached map and legally described in Exhibit A; and

WHEREAS, the City is willing to provide SRP with the Irrigation Easement to relocate its irrigation pipeline and related facilities as attached hereto as Exhibit B.

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

SECTION 1. That the City Council hereby approves entering into the Irrigation Easement attached hereto and directs that the City Manager to execute said Easement on behalf of the City.

SECTION 2. That the City Council authorizes the City Manager to execute and deliver the same to SRP so that SRP may record the Irrigation Easement with the Maricopa County Recorder's Office. SRP shall provide a copy of the recorded Irrigation Easement to the City Clerk once it is filed with the Maricopa County Recorder.

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

SECTION 4. Whereas the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, and safety of the City of Glendale, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Mayor and Council of the City of Glendale, and it is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 6th day of December, 2016.

\_\_\_\_\_  
M A Y O R

ATTEST:

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

APPROVED AS TO FORM:

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

REVIEWED BY:

\_\_\_\_\_  
City Manager

## EXHIBIT A



**99TH AVENUE & GLENDALE  
GLENDALE AVENUE SRP IRRIGATION  
EASEMENT-EAST**



## EXHIBIT B

**WHEN RECORDED MAIL TO:**

**SALT RIVER PROJECT**  
Land Department/PAB348  
P. O. Box 52025  
Phoenix, Arizona 85072-2025

---

**IRRIGATION EASEMENT**

---

Maricopa County

R/W # 4    Agt. PJH  
Job # L151858  
W- PJH C \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS:

That

**CITY OF GLENDALE**, ("Grantor"),  
an Arizona municipal corporation

FOR AND IN CONSIDERATION OF THE SUM of One Dollar, and other valuable consideration, receipt of which is hereby acknowledged, does hereby grant to the **SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**, ("Grantee"), an agricultural improvement district organized and existing under the laws of the State of Arizona, its successors and assigns, for itself and on behalf of the United States of America and as manager of the federal Salt River Reclamation Project, the right, easement and privilege to construct, reconstruct, operate and maintain an irrigation pipeline and irrigation turnout structure together with all the necessary and appurtenant facilities through, over, under and across the following described property:

Exhibit "A" attached hereto and made by reference a part hereof.

Grantor shall not convey any easements or grant any permits within the easement areas in which the facilities do not comply with the specifications shown in Exhibit B attached hereto and by this reference made a part hereof.

Grantor shall not erect, construct or permit to be erected or constructed any building or other structure, plant any trees, drill any well, install swimming pools, or alter ground level by cut or fill, within the limits of said rights of way, which do not comply with said Exhibit B.

Grantee shall have the right, but not the obligation, to erect, maintain and use gates in all fences which now cross said rights of way and to trim, cut and clear away trees or brush whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights hereby granted.

The Grantee shall at all times have the right of full and free ingress and egress to said easement for the purpose heretofore specified.

Grantor and Grantee acknowledge that from time to time Grantee may find it necessary to construct, reconstruct, operate and maintain irrigation facilities and appurtenant conveniences lying within the easement areas.

Grantor shall pay Grantee all costs and expenses of any relocation of the irrigation facilities requested by Grantor, including but not limited to, the relocation of the facilities into the easement area described above.

In the event the right, privilege and easement herein granted shall be abandoned and permanently cease to be used for the purpose herein granted, all rights herein granted shall cease and revert to the Grantors, their heirs or assigns.

The covenants and agreements herein set forth shall extend and inure in favor and to the benefit of and shall be binding on the heirs, successors in ownership and estate, assigns and lessees of the respective parties hereto.

Notwithstanding any of the aforesaid provisions, the easement rights granted herein shall be further subject to the following covenants, restrictions and conditions:

1. Grantor reserves the right to construct, install, operate, maintain, repair, replace and reinstall surface parking areas, driveways, roadways, sidewalks, curbs and gutters, landscaping, irrigation lines and street lighting on the surface of the easement areas.
2. Grantor reserves the right to construct and install public utilities, and to grant easements and permits for public utility purposes, in, upon, under, over and across the easement areas. subject to compliance with the specifications shown in Exhibit B attached hereto and by this reference made a part hereof.
3. In the event that any repair, maintenance, replacement or installation of the irrigation facilities and appurtenant conveniences will cause a disturbance or a disruption of any public street or paved roadway, Grantee shall notify Grantor, pursuant to existing practices, before Grantee undertakes any such action. In the event of an emergency, Grantee shall have use of any public street or paved roadway as it reasonably deems necessary and appropriate to correct, repair, replace or reconstruct irrigation facilities affected by the emergency and notify Grantor, pursuant to existing practices, as soon as practical after responding to the emergency. Grantee shall provide for advance warning signs, barricades, flagmen, flares, and other devices when necessary to protect the roadway user as set forth in the "Manual on Uniform Traffic Control Devices" and any amendments and/or revisions thereto.
4. Grantor shall warrant and defend the rights, easements and privileges hereby granted and the priority of this easement against all persons whomsoever.

IN WITNESS WHEREOF, **THE CITY OF GLENDALE**, an Arizona municipal corporation, has caused its name to be executed by its duly authorized representative(s) this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**THE CITY OF GLENDALE,**  
an Arizona municipal corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney for the City of  
Glendale



STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, as \_\_\_\_\_, of **THE CITY OF GLENDALE**, an Arizona municipal corporation, and such authorized representative acknowledged that this document was executed on behalf of the corporation for the purposes therein contained.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

\_\_\_\_\_  
Notary Stamp/Seal

**Note: This instrument is exempt from the real estate transfer fee and affidavit of legal value required under A.R.S. Sections 11-1132 and 11-1133 pursuant to the exemptions set forth in A.R.S. Sections 11-1134(A)(2) and (A)(3).**

GLENDALE AVENUE SRP IRRIGATION EASEMENT  
LEGAL DESCRIPTION  
EXHIBIT 'A'

A PART OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5 MONUMENTED BY AN MCDOT BRASS CAP FLUSH AT THE INTERSECTION OF GLENDALE AVENUE AND 99th AVENUE;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF SAID SECTION 5 AND THE CENTERLINE OF GLENDALE AVENUE, 571.18 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 46.50 FEET;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 20.00 FEET;

THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 114.50 FEET;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 20.00 FEET;

THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 68.00 FEET TO THE POINT OF BEGINNING.



EXPIRES 6-30-2019

Site Consultants, Inc.  
113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: N.T.S. DATE: 9-21-2016  
PAGE 1 OF 3

**GLENDALE AVENUE  
SRP IRRIGATION EASEMENT  
EXHIBIT 'A'**

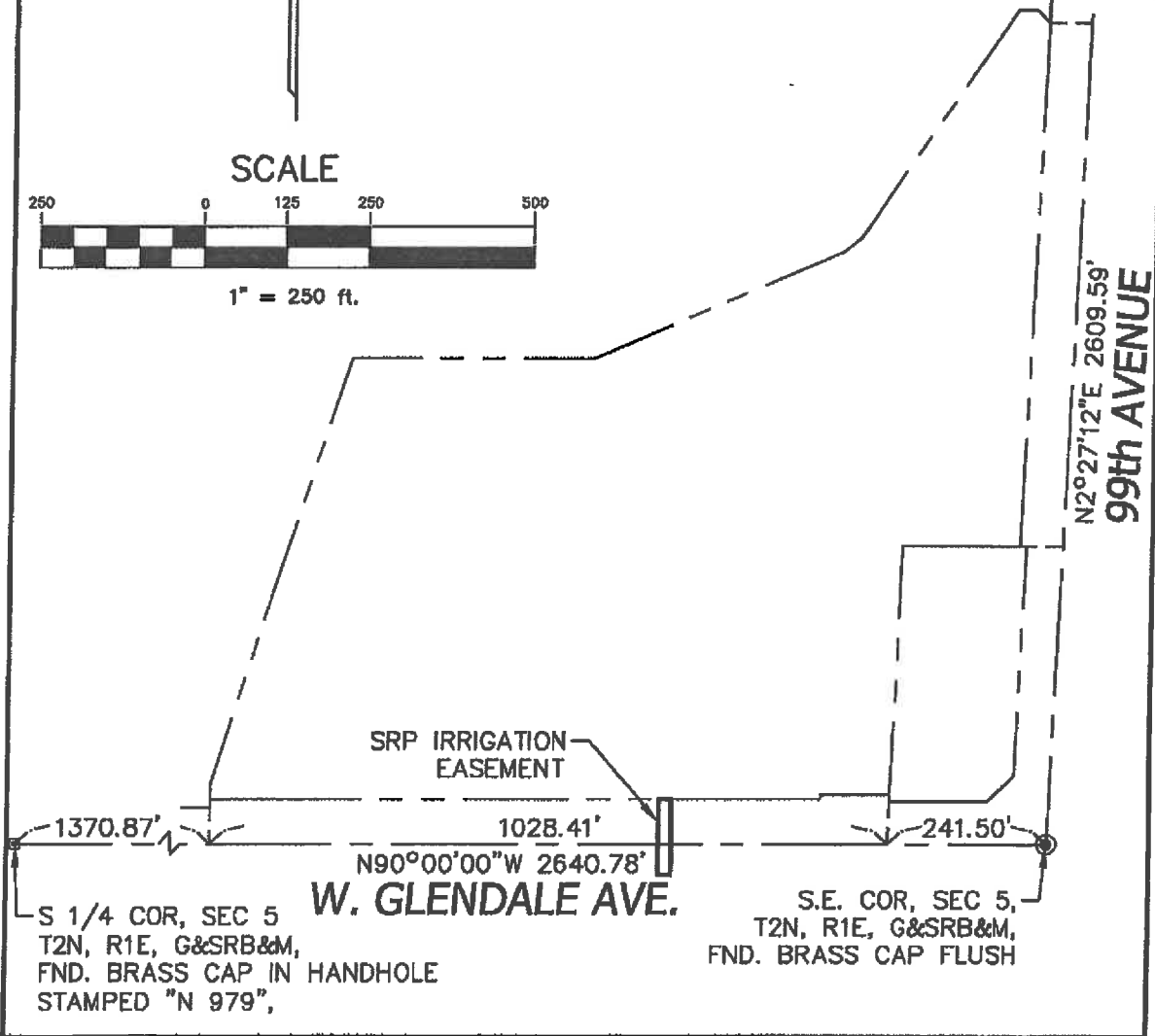
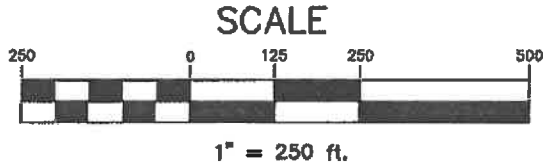
Site Consultants, Inc.  
113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: 1" = 250' DATE: 9-21-2016  
PAGE 2 OF 3

E. 1/4 COR, SEC 5,  
T2N, R1E, G&SRB&M,  
FND. 1/2" REBAR  
POINT OF COMMENCEMENT



EXPIRES 6-30-2019

**W. MYRTLE AVE. ALIGNMENT**



**GLENDALE AVENUE  
SRP IRRIGATION EASEMENT  
EXHIBIT 'A'**

**Site Consultants, Inc.**  
113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: N.T.S. DATE: 9-21-2016  
PAGE 3 OF 3

**LEGEND**

- \_\_\_\_\_ PROPOSED EASEMENT
- LOT LINE
- CENTER LINE

FND. FOUND

P.O.B. POINT OF BEGINNING

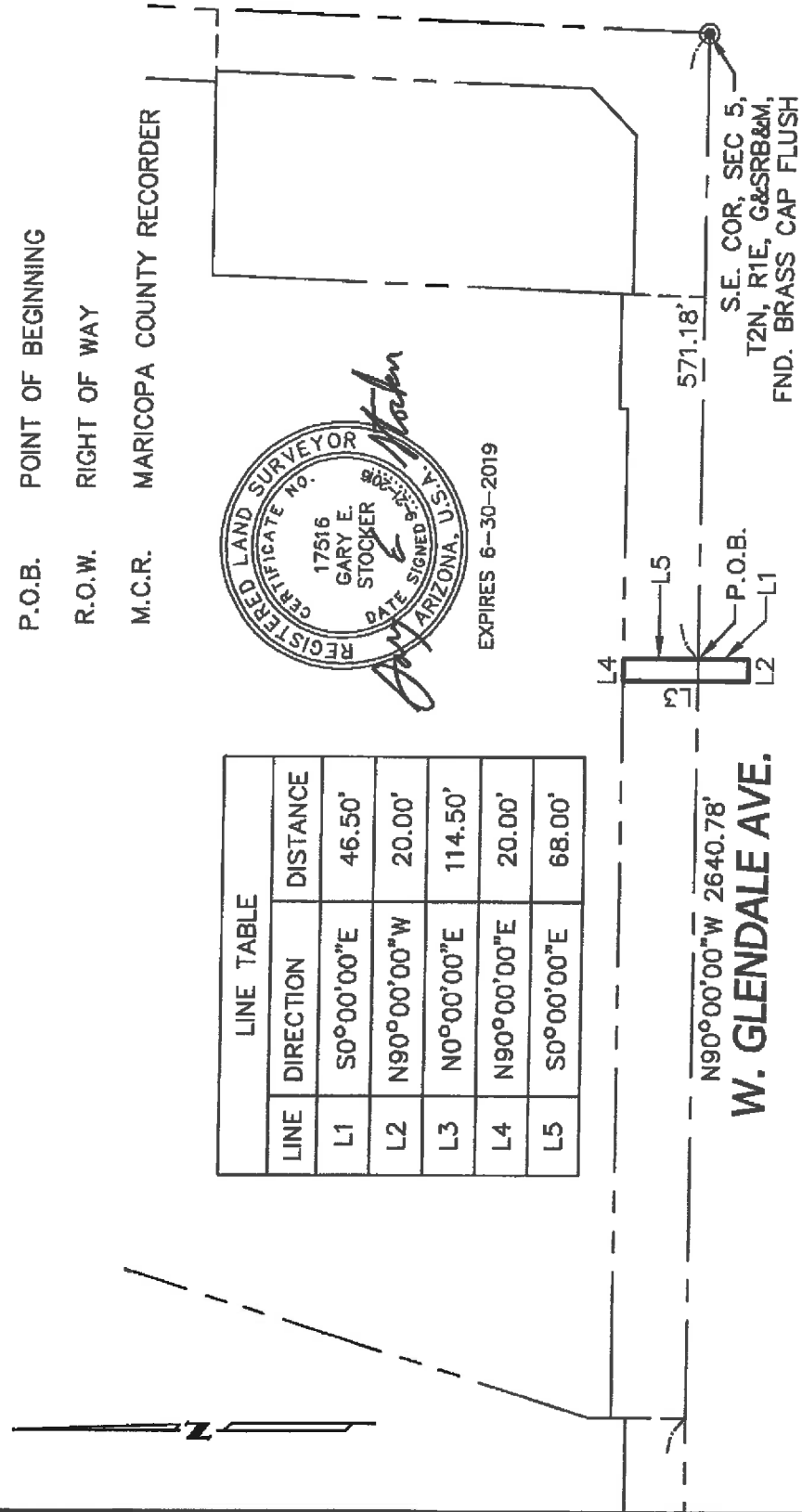
R.O.W. RIGHT OF WAY

M.C.R. MARICOPA COUNTY RECORDER

LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	S0°00'00"E	46.50'
L2	N90°00'00"W	20.00'
L3	N0°00'00"E	114.50'
L4	N90°00'00"E	20.00'
L5	S0°00'00"E	68.00'



EXPIRES 6-30-2019



N90°00'00"W 2640.78'

**W. GLENDALE AVE.**

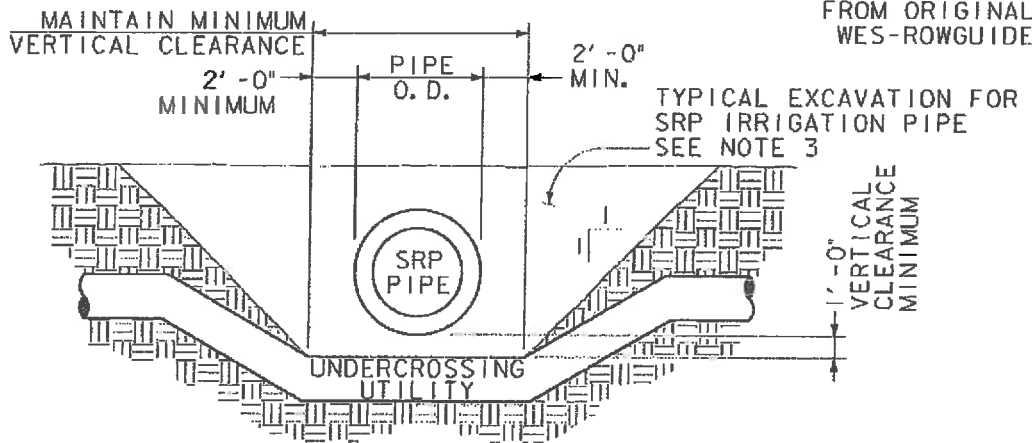
S.E. COR, SEC 5,  
T2N, R1E, G&SRB&M,  
FND. BRASS CAP FLUSH

# EXHIBIT B

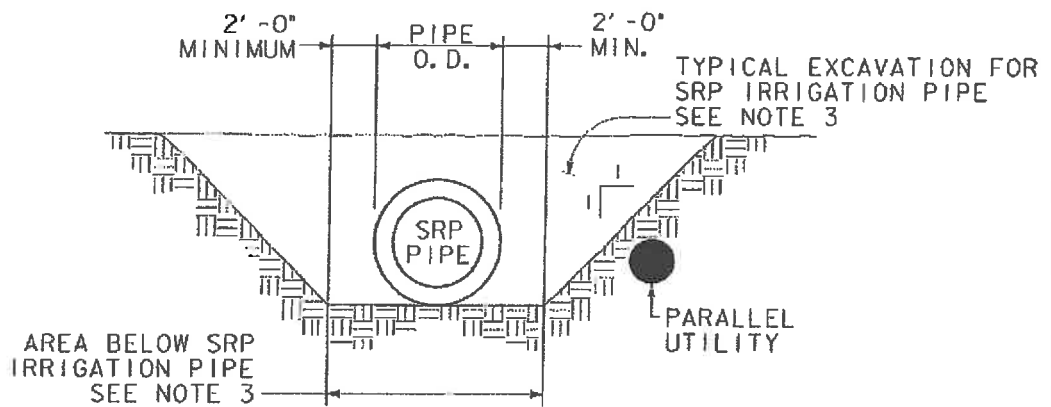
(PAGE 1 OF 2)

REV NO.	DATE
5	06/08/11

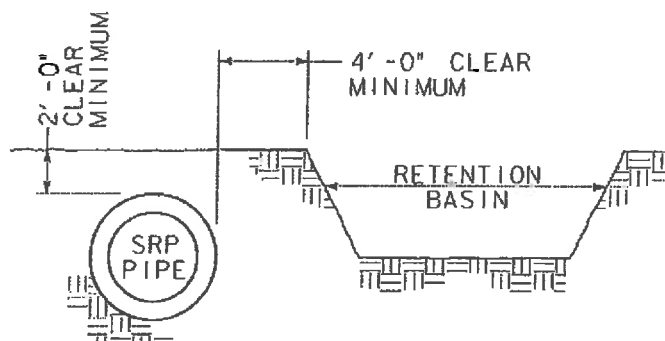
DWG REFERENCED FROM ORIGINAL WES-ROWGUIDE



PIPELINE - UTILITY CROSSING



PIPELINE - PARALLEL UTILITY



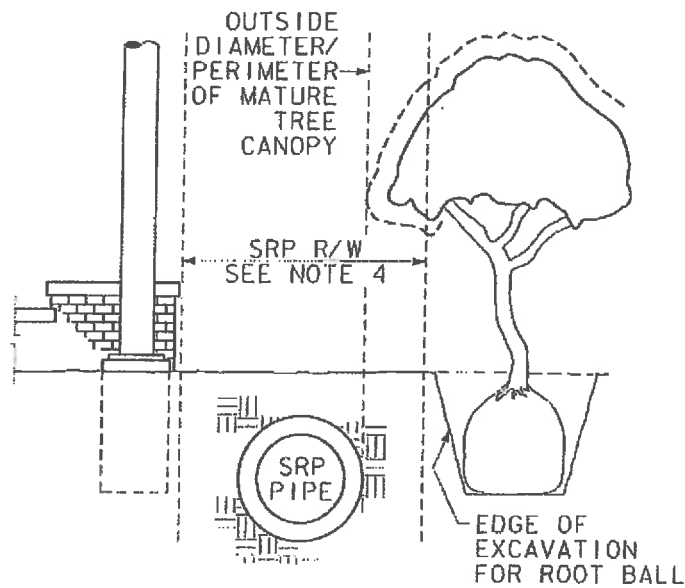
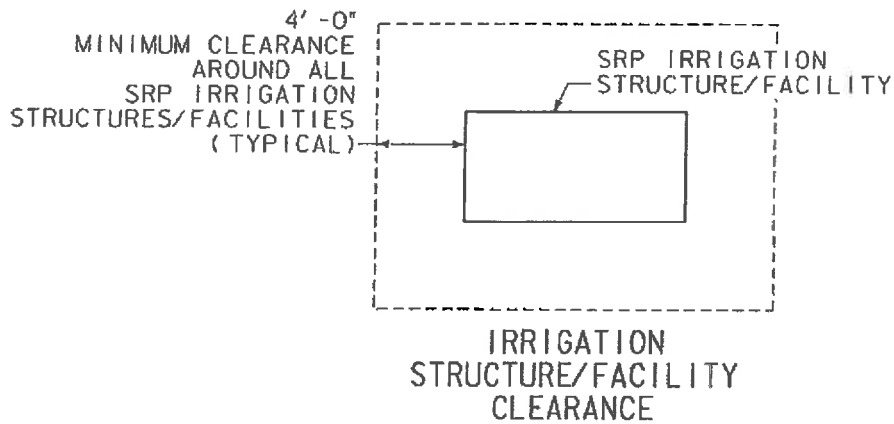
PIPELINES - RETENTION BASIN

# EXHIBIT B

(PAGE 2 OF 2)

REV NO.	DATE
5	06/08/11

DWG REFERENCED  
FROM ORIGINAL  
WES-ROWGUIDE



## PIPELINES - LANDSCAPING

### NOTES

1. THESE GUIDELINES ARE PROVIDED AS A GENERAL AID TO PLANNING. ACTUAL SRP REQUIREMENTS MAY VARY BASED ON SITE-SPECIFIC CONDITIONS, OPERATIONAL CONSIDERATIONS, ETC.
2. AN SRP LICENSE IS REQUIRED FOR UTILITIES CROSSING/PARALLEL TO SRP IRRIGATION PIPE IN SRP RIGHT-OF-WAY. SRP REQUIRES ENGINEER DESIGNED UTILITY CROSSING/LOCATION AND EXCAVATION PLAN.
3. OTHER UTILITIES ARE NOT PERMITTED IN THESE AREAS.
4. SRP MAY LICENSE LIMITED USES OF ITS RIGHT-OF-WAY SUCH AS PARKING, SIDEWALK, LAWN, ETC. POLES, STRUCTURES AND TREES ARE TYPICALLY NOT PERMITTED IN SRP RIGHT-OF-WAY. INCLUDE DESIGN DRAWINGS FOR PROPOSED USE WHEN SUBMITTING REQUEST TO SRP FOR LICENSE.
5. REQUESTS FOR SRP LICENSES ARE HANDLED ON A CASE-BY-CASE BASIS. CONTACT SRP AT 602-236-5799 REGARDING LICENSES FOR SITES LOCATED NORTH AND SOUTH OF THE SALT RIVER.



## Legislation Description

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**File #: 16-615, Version: 1**

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### **ORDINANCE NO. 3029 NEW SERIES**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF AN IRRIGATION EASEMENT IN FAVOR OF SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT LOCATED ON SOUTHBOUND 99TH AVENUE 1010 FEET NORTH OF GLENDALE AVENUE; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.**

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 an ordinance granting a new irrigation easement in favor of Salt River Project Agricultural Improvement and Power District (SRP) at 99th Avenue north of Glendale Avenue; and declaring an emergency to provide for the changes to be effective December 7, 2016.

### **Background**

101 W Healthcare LLC, the owner of the new medical office facility currently under construction at 9950 West Glendale Avenue, is constructing a parking lot and right of way improvements providing access to 99th Avenue. As a condition to construct these improvements and access, Salt River Project Agricultural Improvement and Power District (SRP) is requiring the owner to provide access to an existing irrigation facility at approximately 1,010 feet north of Glendale Avenue at southbound 99th Avenue. SRP is requesting a new irrigation easement to protect its facilities.

### **Analysis**

Staff recommends granting the irrigation easement. There will be no impact on city departments, staff, or service levels as a result of this action.

### **Budget and Financial Impacts**

There are no costs incurred to the city for this action.

ORDINANCE NO. 3029 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF AN IRRIGATION EASEMENT IN FAVOR OF SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT LOCATED ON SOUTHBOUND 99TH AVENUE 1010 FEET NORTH OF GLENDALE AVENUE; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

WHEREAS, 101 Healthcare, LLC is the current owner and developer the real property located at 99<sup>th</sup> Avenue and Glendale Avenue; and

WHEREAS, incidental to 101 W Healthcare's redevelopment of said property, an irrigation pipeline owned and/or operated by the United States and managed by the Salt River Project ("SRP") must be relocated to property owned by the City, as depicted in the attached map and legally described in Exhibit A; and

WHEREAS, the City is willing to provide SRP with the Irrigation Easement to relocate its irrigation pipeline and related facilities as attached hereto as Exhibit B.

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

SECTION 1. That the City Council hereby approves entering into the Irrigation Easement attached hereto and directs that the City Manager to execute said Easement on behalf of the City.

SECTION 2. That the City Council authorizes the City Manager to execute and deliver the same to SRP so that SRP may record the Irrigation Easement with the Maricopa County Recorder's Office. SRP shall provide a copy of the recorded Irrigation Easement to the City Clerk once it is filed with the Maricopa County Recorder.

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

SECTION 4. Whereas the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, and safety of the City of Glendale, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Mayor and Council of the City of Glendale, and it is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.



PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 6th day of December, 2016.

\_\_\_\_\_  
M A Y O R

ATTEST:

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

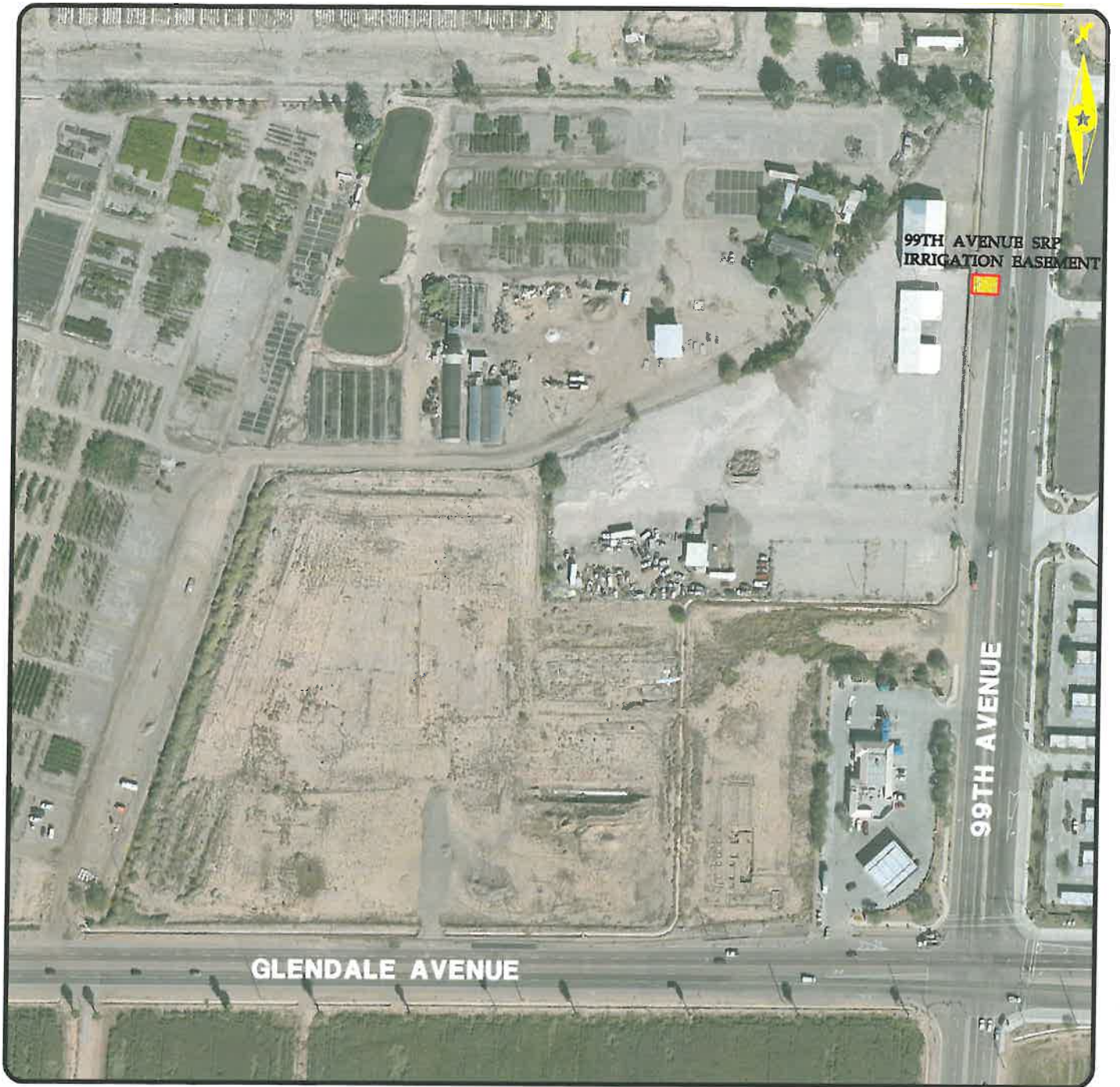
APPROVED AS TO FORM:

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

REVIEWED BY:

\_\_\_\_\_  
City Manager

## EXHIBIT A



**99TH AVENUE & GLENDALE  
99TH AVENUE SRP IRRIGATION EASEMENT**



## EXHIBIT B

**WHEN RECORDED MAIL TO:**

**SALT RIVER PROJECT**  
Land Department/PAB348  
P. O. Box 52025  
Phoenix, Arizona 85072-2025

---

**IRRIGATION EASEMENT**

---

Maricopa County

R/W # 4    Agt. PJH  
Job #LJ51858  
W-PH C \_\_\_\_\_

**KNOW ALL MEN BY THESE PRESENTS:**

That

**CITY OF GLENDALE**, ("Grantor"),  
an Arizona municipal corporation

FOR AND IN CONSIDERATION OF THE SUM of One Dollar, and other valuable consideration, receipt of which is hereby acknowledged, does hereby grant to the **SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**, ("Grantee"), an agricultural improvement district organized and existing under the laws of the State of Arizona, its successors and assigns, for itself and on behalf of the United States of America and as manager of the federal Salt River Reclamation Project, the right, easement and privilege to construct, reconstruct, operate and maintain an irrigation pipeline and irrigation turnout structure together with all the necessary and appurtenant facilities through, over, under and across the following described property:

Exhibit "A" attached hereto and made by reference a part hereof.

Grantor shall not convey any easements or grant any permits within the easement areas in which the facilities do not comply with the specifications shown in Exhibit B attached hereto and by this reference made a part hereof.

Grantor shall not erect, construct or permit to be erected or constructed any building or other structure, plant any trees, drill any well, install swimming pools, or alter ground level by cut or fill, within the limits of said rights of way, which do not comply with said Exhibit B.

Grantee shall have the right, but not the obligation, to erect, maintain and use gates in all fences which now cross said rights of way and to trim, cut and clear away trees or brush whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights hereby granted.

The Grantee shall at all times have the right of full and free ingress and egress to said easement for the purpose heretofore specified.

Grantor and Grantee acknowledge that from time to time Grantee may find it necessary to construct, reconstruct, operate and maintain irrigation facilities and appurtenant conveniences lying within the easement areas.

Grantor shall pay Grantee all costs and expenses of any relocation of the irrigation facilities requested by Grantor, including but not limited to, the relocation of the facilities into the easement area described above.

In the event the right, privilege and easement herein granted shall be abandoned and permanently cease to be used for the purpose herein granted, all rights herein granted shall cease and revert to the Grantors, their heirs or assigns.

The covenants and agreements herein set forth shall extend and inure in favor and to the benefit of and shall be binding on the heirs, successors in ownership and estate, assigns and lessees of the respective parties hereto.

Notwithstanding any of the aforesaid provisions, the easement rights granted herein shall be further subject to the following covenants, restrictions and conditions:

1. Grantor reserves the right to construct, install, operate, maintain, repair, replace and reinstall surface parking areas, driveways, roadways, sidewalks, curbs and gutters, landscaping, irrigation lines and street lighting on the surface of the easement areas.
2. Grantor reserves the right to construct and install public utilities, and to grant easements and permits for public utility purposes, in, upon, under, over and across the easement areas. subject to compliance with the specifications shown in Exhibit B attached hereto and by this reference made a part hereof.
3. In the event that any repair, maintenance, replacement or installation of the irrigation facilities and appurtenant conveniences will cause a disturbance or a disruption of any public street or paved roadway, Grantee shall notify Grantor, pursuant to existing practices, before Grantee undertakes any such action. In the event of an emergency, Grantee shall have use of any public street or paved roadway as it reasonably deems necessary and appropriate to correct, repair, replace or reconstruct irrigation facilities affected by the emergency and notify Grantor, pursuant to existing practices, as soon as practical after responding to the emergency. Grantee shall provide for advance warning signs, barricades, flagmen, flares, and other devices when necessary to protect the roadway user as set forth in the "Manual on Uniform Traffic Control Devices" and any amendments and/or revisions thereto.
4. Grantor shall warrant and defend the rights, easements and privileges hereby granted and the priority of this easement against all persons whomsoever.

IN WITNESS WHEREOF, **THE CITY OF GLENDALE**, an Arizona municipal corporation, has caused its name to be executed by its duly authorized representative(s) this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**THE CITY OF GLENDALE,**  
an Arizona municipal corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney for the City of  
Glendale





**99TH AVENUE SRP IRRIGATION EASEMENT**  
**LEGAL DESCRIPTION**  
**EXHIBIT 'A'**

A PART OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5 MONUMENTED BY AN MCDOT BRASS CAP FLUSH AT THE INTERSECTION OF GLENDALE AVENUE AND 99th AVENUE;

THENCE NORTH 2 DEGREES 27 MINUTES 12 SECONDS WEST ALONG THE EAST LINE OF SAID SECTION 5 AND THE CENTERLINE OF 99TH AVENUE, 1010.00 FEET;

THENCE NORTH 87 DEGREES 32 MINUTES 48 SECONDS WEST, 25.00 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING NORTH 87 DEGREES 32 MINUTES 48 SECONDS WEST, 40.00 FEET;

THENCE NORTH 2 DEGREES 27 MINUTES 12 SECONDS EAST, 28.00 FEET;

THENCE SOUTH 87 DEGREES 32 MINUTES 48 SECONDS EAST, 40.00 FEET;

THENCE SOUTH 2 DEGREES 27 MINUTES 12 SECONDS WEST, 28.00 FEET TO THE POINT OF BEGINNING.



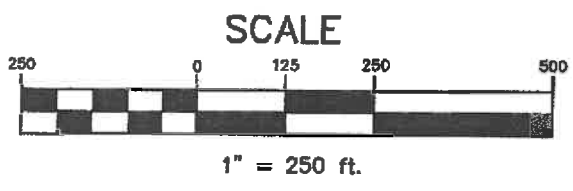
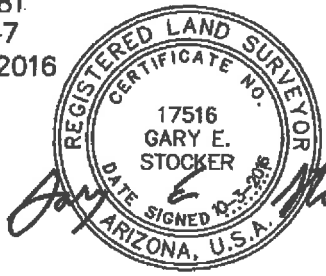
EXPIRES 6-30-2019

**Site Consultants, Inc.**  
113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: N.T.S. DATE: 10-3-2016  
PAGE 1 OF 3

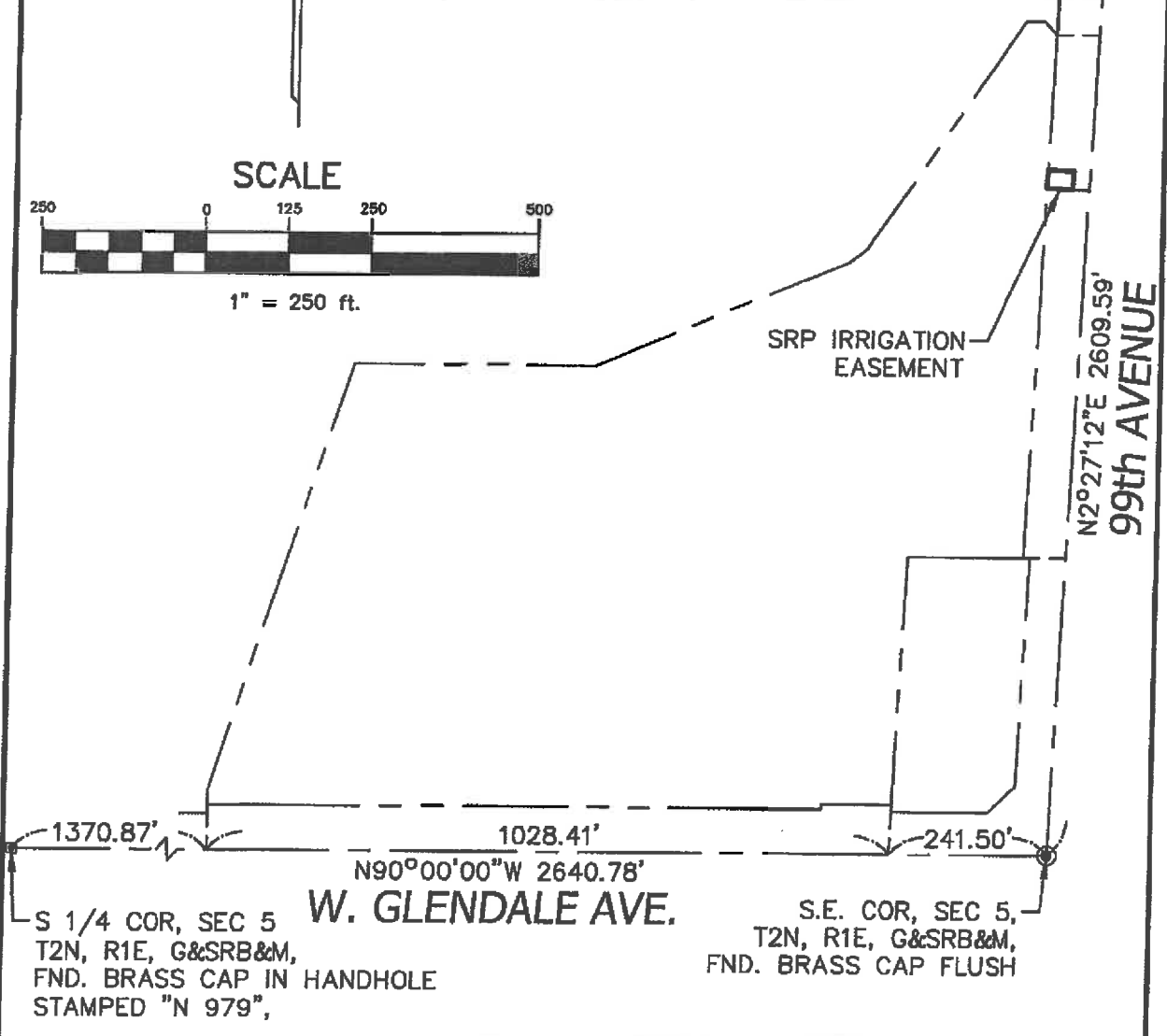
**99TH AVENUE  
SRP IRRIGATION EASEMENT  
EXHIBIT 'A'**

E. 1/4 COR, SEC 5,  
T2N, R1E, G&SRB&M,  
FND. 1/2" REBAR  
POINT OF COMMENCEMENT

**Site Consultants, Inc.**  
113 S. Rockford Drive, Tempe Arizona 85281.  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: 1" = 250' DATE: 10-3-2016  
PAGE 2 OF 3



**W. MYRTLE AVE. ALIGNMENT**

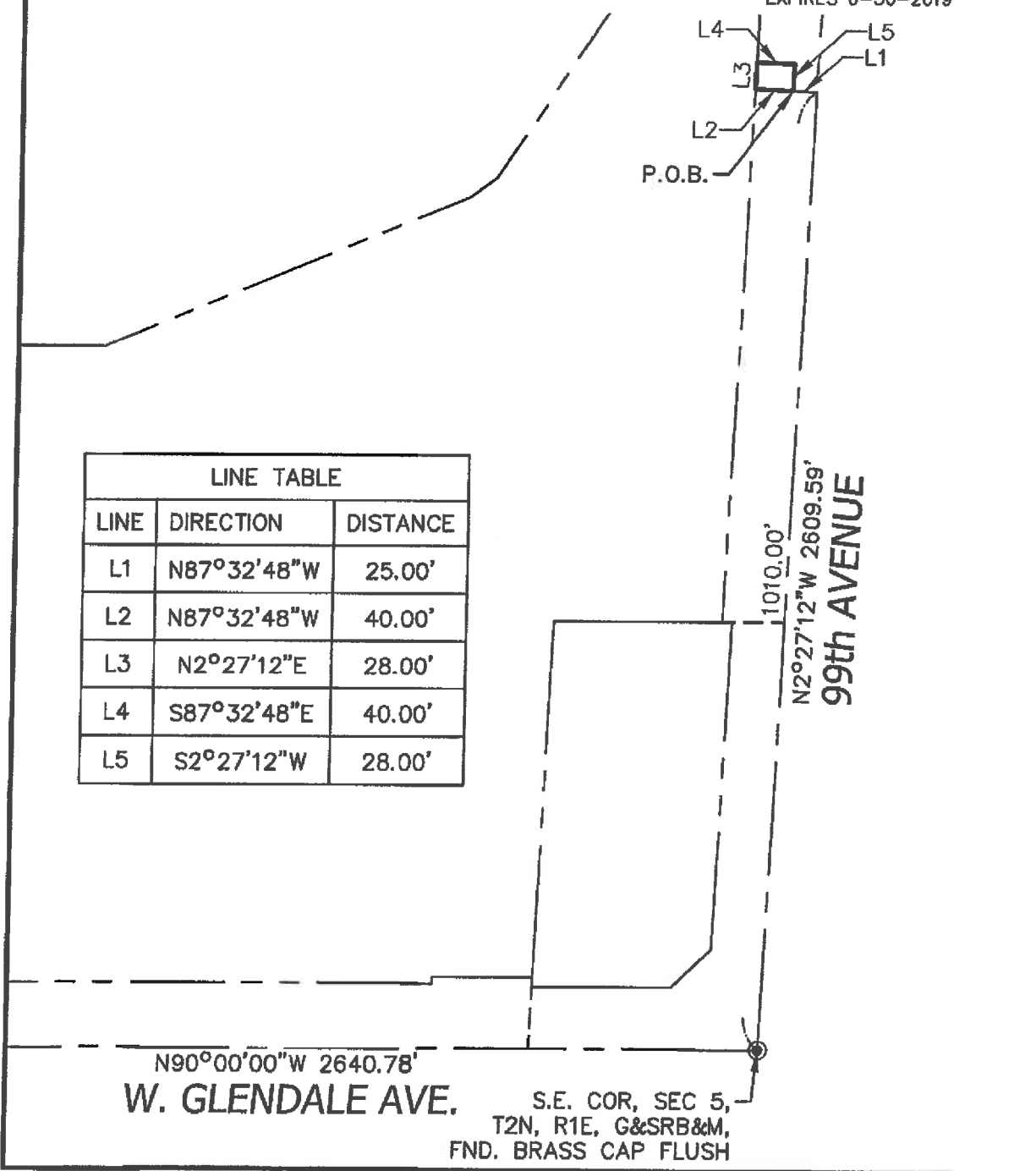


**99TH AVENUE  
SRP IRRIGATION EASEMENT  
EXHIBIT 'A'**

**Site Consultants, Inc.**  
113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: N.T.S. DATE: 10-3-2016  
PAGE 3 OF 3



EXPIRES 6-30-2019



LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	N87°32'48"W	25.00'
L2	N87°32'48"W	40.00'
L3	N2°27'12"E	28.00'
L4	S87°32'48"E	40.00'
L5	S2°27'12"W	28.00'

N90°00'00"W 2640.78'  
**W. GLENDALE AVE.** S.E. COR, SEC 5,  
T2N, R1E, G&SRB&M,  
FND. BRASS CAP FLUSH

# EXHIBIT B

(PAGE 1 OF 2)

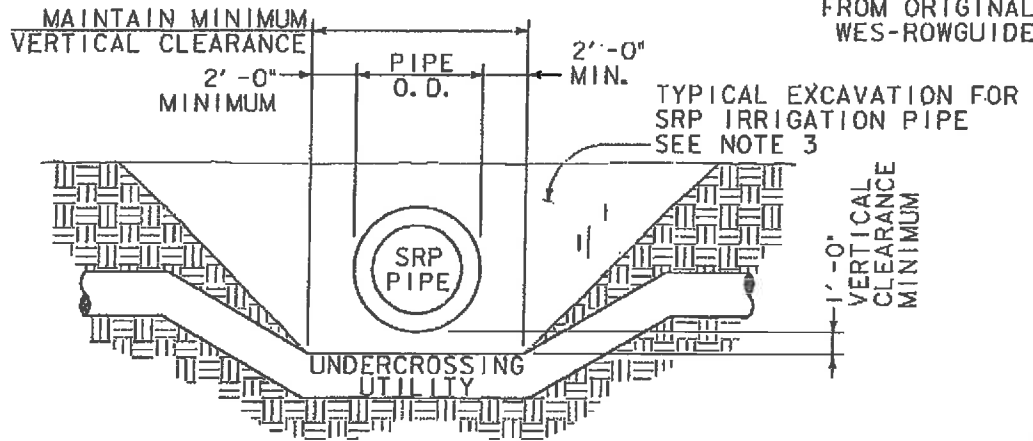
REV  
NO.

DATE

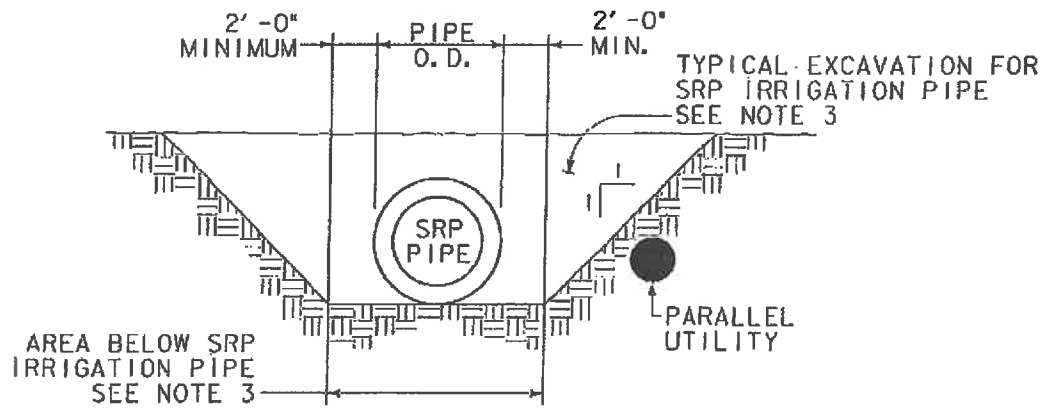
5

06/08/11

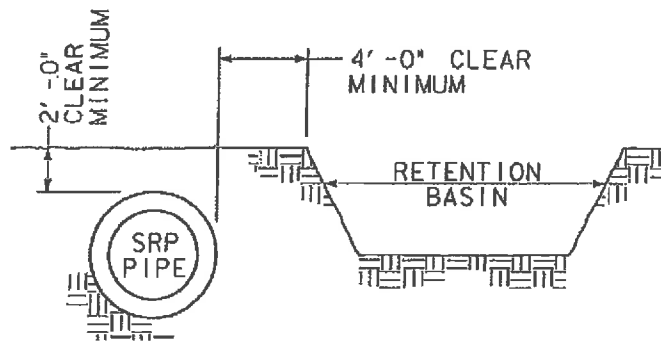
DWG REFERENCED  
FROM ORIGINAL  
WES-ROWGUIDE



PIPELINE - UTILITY CROSSING



PIPELINE - PARALLEL UTILITY



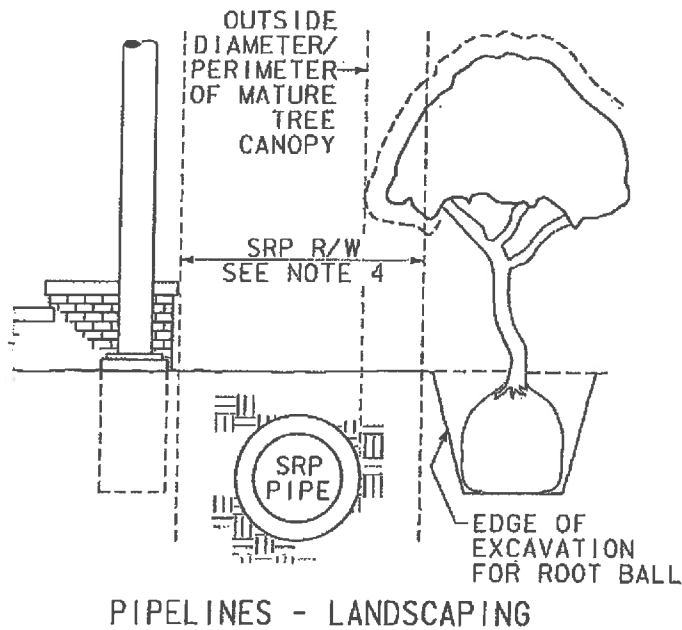
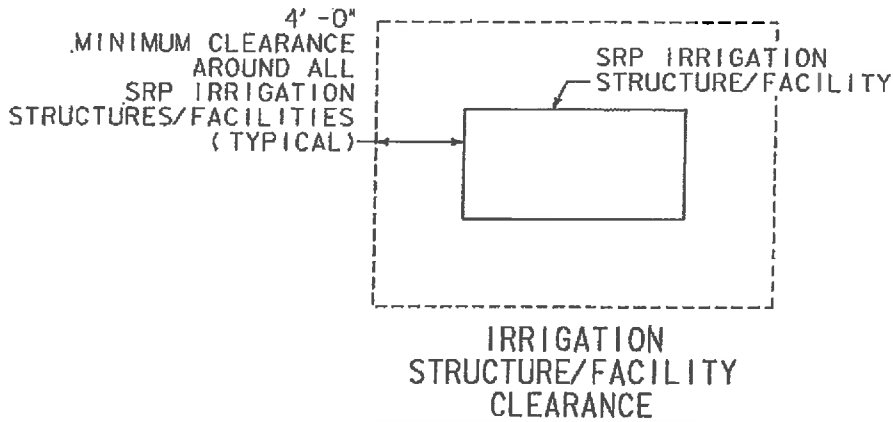
PIPELINES - RETENTION BASIN

# EXHIBIT B

(PAGE 2 OF 2)

REV NO.	DATE
5	06/08/11

DWG REFERENCED FROM ORIGINAL WES-ROWGUIDE



## NOTES

1. THESE GUIDELINES ARE PROVIDED AS A GENERAL AID TO PLANNING. ACTUAL SRP REQUIREMENTS MAY VARY BASED ON SITE-SPECIFIC CONDITIONS, OPERATIONAL CONSIDERATIONS, ETC.
2. AN SRP LICENSE IS REQUIRED FOR UTILITIES CROSSING/PARALLEL TO SRP IRRIGATION PIPE IN SRP RIGHT-OF-WAY. SRP REQUIRES ENGINEER DESIGNED UTILITY CROSSING/LOCATION AND EXCAVATION PLAN.
3. OTHER UTILITIES ARE NOT PERMITTED IN THESE AREAS.
4. SRP MAY LICENSE LIMITED USES OF ITS RIGHT-OF-WAY SUCH AS PARKING, SIDEWALK, LAWN, ETC. POLES, STRUCTURES AND TREES ARE TYPICALLY NOT PERMITTED IN SRP RIGHT-OF-WAY. INCLUDE DESIGN DRAWINGS FOR PROPOSED USE WHEN SUBMITTING REQUEST TO SRP FOR LICENSE.
5. REQUESTS FOR SRP LICENSES ARE HANDLED ON A CASE-BY-CASE BASIS. CONTACT SRP AT 602-236-5799 REGARDING LICENSES FOR SITES LOCATED NORTH AND SOUTH OF THE SALT RIVER.



## Legislation Description

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**File #:** 16-616, **Version:** 1

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### **ORDINANCE NO. 3030 NEW SERIES**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A WARRANTY DEED FOR RIGHT OF WAY LOCATED AT WESTGATE HEALTHCARE CAMPUS; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.**

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 an ordinance accepting right-of-way along westbound Glendale Avenue approximately 635 feet west of 99th Avenue; and declaring an emergency to provide for the changes to be effective December 7, 2016.

### **Background**

The owner of Westgate Medical, located at 9250 West Glendale Avenue, is required to construct street improvements along Glendale Avenue to meet current arterial street design requirements. The owner, 101 W Healthcare, LLC, has agreed to dedicate additional right-of-way in order for the City to maintain this portion of the street.

### **Analysis**

Staff recommends accepting the additional right-of-way along Glendale Avenue. There will be little impact on City departments, staff or service levels as a result of this action. Minimal costs may be incurred by the City in the future to maintain and repair the additional street improvements.

### **Previous Related Council Action**

City Council took action to accept and take title to the current Glendale right-of-way per Ordinance No. 1272 passed, adopted and approved by City Council on April 10, 1984.

ORDINANCE NO. 3030 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A WARRANTY DEED FOR RIGHT OF WAY LOCATED AT WESTGATE HEALTHCARE CAMPUS; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council took action to accept and take title to the current Glendale Avenue right-of-way west of 99<sup>th</sup> Avenue per Ordinance 1272, New Series, passed, adopted and approved by City Council on April 10, 1984; and

WHEREAS, the Westgate Healthcare Campus has been constructed on parcels located generally at the corner of 99<sup>th</sup> Avenue and Glendale Avenue, including the parcel(s) located at 9950 West Glendale Avenue, and as depicted on the map appended hereto as Exhibit A; and

WHEREAS, owner of the parcel, the 101 W Healthcare, LLC, an Arizona limited liability company, wishes to construct improvements outside of the current Glendale Avenue right-of-way, west of 99<sup>th</sup> Avenue, that is owned by the City; and

WHEREAS, 101 W Healthcare, LLC has agreed to dedicate additional right-of-way so these new street improvements will be located within the City right-of-way and allow the City to maintain said street improvements.

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

SECTION 1. That in exchange for dedicating additional real property to the public as a right-of-way along Glendale Avenue, 101 W Healthcare, LLC is hereby granted the right to construct street improvements along Glendale Avenue outside of the City's current Glendale Avenue right-of-way. 101 W Healthcare, LLC shall construct such improvements according to City Code and the plans approved by the City.

SECTION 2. That 101 W Healthcare, LLC shall dedicate additional right-of-way to the City once these improvements have been constructed and approved consistent with the City Code.

SECTION 3. That the Council hereby authorizes and instructs the City Manager to execute the Warranty Deed between 101 W Healthcare, LLC and the City, which is attached hereto as Exhibit B, and which grants the City the right-of-way legally described in Exhibit A to the Warranty Deed.

SECTION 4. That the City Clerk is instructed and authorized to forward a certified copy of this Ordinance to the Maricopa County Recorder's Office for recording.

SECTION 5. Whereas the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, and safety of the City of Glendale, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Mayor and Council of the City of Glendale, and it is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 6th day of December, 2016.

\_\_\_\_\_  
M A Y O R

ATTEST:

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

APPROVED AS TO FORM:

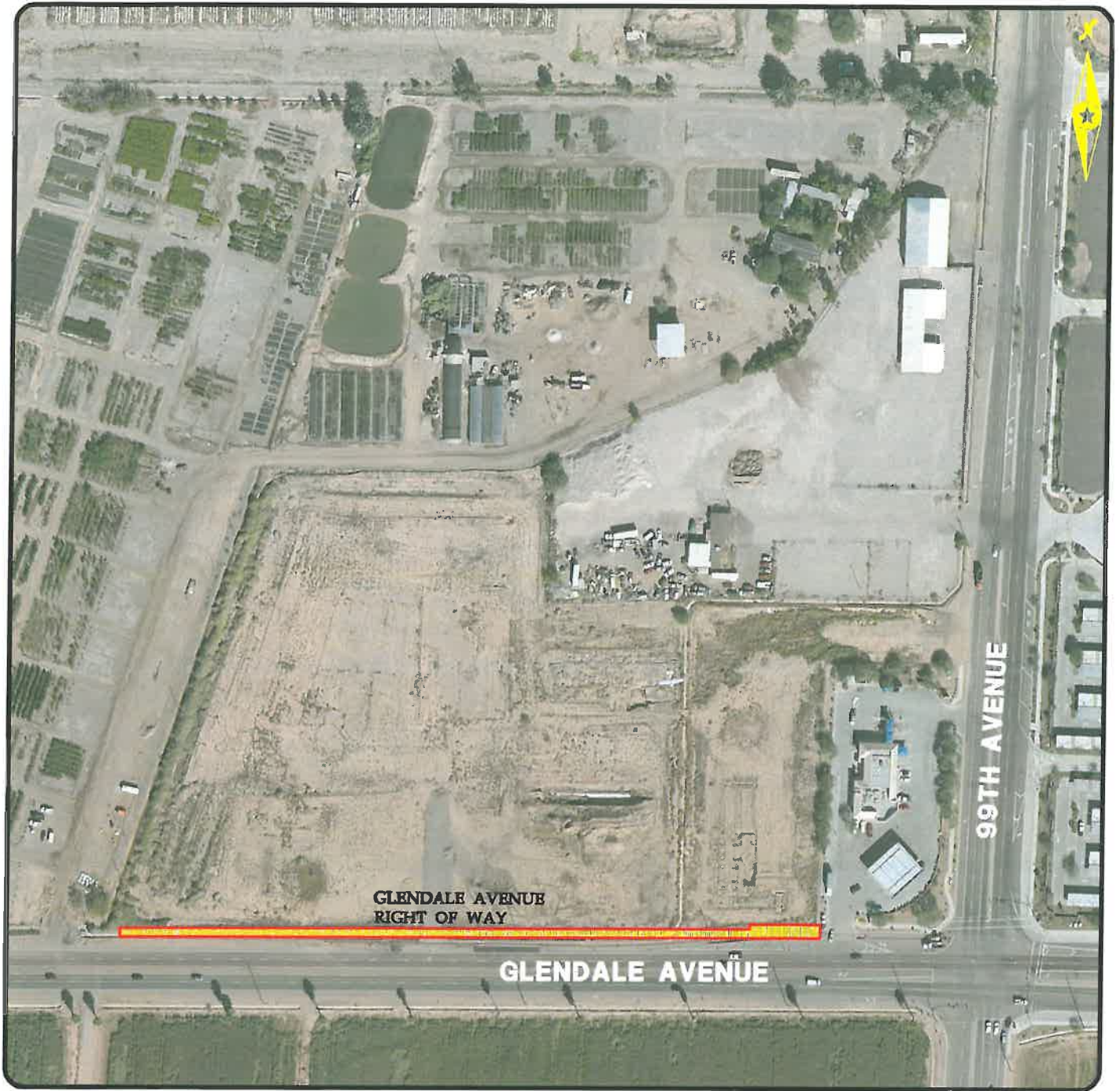
\_\_\_\_\_  
City Attorney

REVIEWED BY:

\_\_\_\_\_  
City Manager



## EXHIBIT A



**99TH AVENUE & GLENDALE  
GLENDALE AVENUE RIGHT OF WAY**



## EXHIBIT B

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## WARRANTY DEED

---

For Ten Dollars and other valuable consideration, I or We, 101 W Healthcare, LLC, an Arizona limited liability company, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, all right, title and interest to and in that certain parcel of Real Property situated in Maricopa County and described as follows:

**See Attached Description, "Exhibit A"**

It is the intention of the parties to cause the real property on said Exhibit "A" to be dedicated as **public right of way for roadway purposes**, and to vest title in fee simple in the City of Glendale in Trust, for all the uses contemplated in public street dedication.

And I or We do warrant the title against all persons whomsoever, subject only to those encumbrances or liens of record, or as above set forth, if any.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
By: Howard John Simon  
Its: Manager

**Exempt Pursuant to A.R.S. §11-1134 (A)(3)**

STATE OF ARIZONA    )  
County of Maricopa    ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016 by Howard John Simon, Manager, who acknowledged that he executed this instrument for the purposes therein contained.

\_\_\_\_\_  
Notary Public

My commission expires:

9950 West Glendale Avenue

GLENDALE AVENUE RIGHT OF WAY  
LEGAL DESCRIPTION  
EXHIBIT 'A'

A PART OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5 MONUMENTED BY AN MCDOT BRASS CAP FLUSH AT THE INTERSECTION OF GLENDALE AVENUE AND 99th AVENUE;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF SAID SECTION 5 AND THE CENTERLINE OF GLENDALE AVENUE, 241.50 FEET;

THENCE NORTH 02 DEGREES 25 MINUTES 00 SECONDS EAST, 55.05 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 55 FEET OF SAID SECTION 5, THE POINT OF BEGINNING;

THENCE ALONG SAID NORTH LINE, NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 1030.73 FEET;

THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 13.00 FEET;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 926.15 FEET;

THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 7.00 FEET;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 105.42 FEET;

THENCE SOUTH 02 DEGREES 25 MINUTES 00 SECONDS WEST, 20.02 FEET TO THE POINT OF BEGINNING.



EXPIRES 6-30-2016

**Site Consultants, Inc.**

113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: N.T.S. DATE: 1-7-2016  
PAGE 1 OF 3

**GLENDALE AVENUE  
RIGHT OF WAY  
EXHIBIT 'A'**

**Site Consultants, Inc.**  
113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: 1" = 250' DATE: 1-7-2016  
PAGE 2 OF 3

E. 1/4 COR, SEC 5,  
T2N, R1E, G&SRB&M,  
FND. 1/2" REBAR  
POINT OF COMMENCEMENT

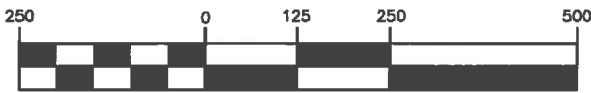


EXPIRES 6-30-2016

**W. MYRTLE AVE. ALIGNMENT**



**SCALE**



1" = 250 ft.

N2°27'12"E 2609.59'  
**99th AVENUE**

RIGHT OF WAY  
SEE DETAIL ON PAGE 3

1370.87'

1028.41'

241.50'

N90°00'00"W 2640.78'

**W. GLENDALE AVE.**

S 1/4 COR, SEC 5  
T2N, R1E, G&SRB&M,  
FND. BRASS CAP IN HANDHOLE  
STAMPED "N 979",

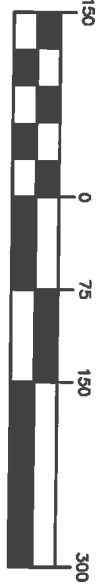
S.E. COR, SEC 5,  
T2N, R1E, G&SRB&M,  
FND. BRASS CAP FLUSH

**GLENDALE AVENUE  
RIGHT OF WAY  
EXHIBIT 'A'**

**LEGEND**

**Site Consultants, Inc.**  
113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: 1" = 150' DATE: 1-7-2016  
PAGE 3 OF 3

**SCALE**

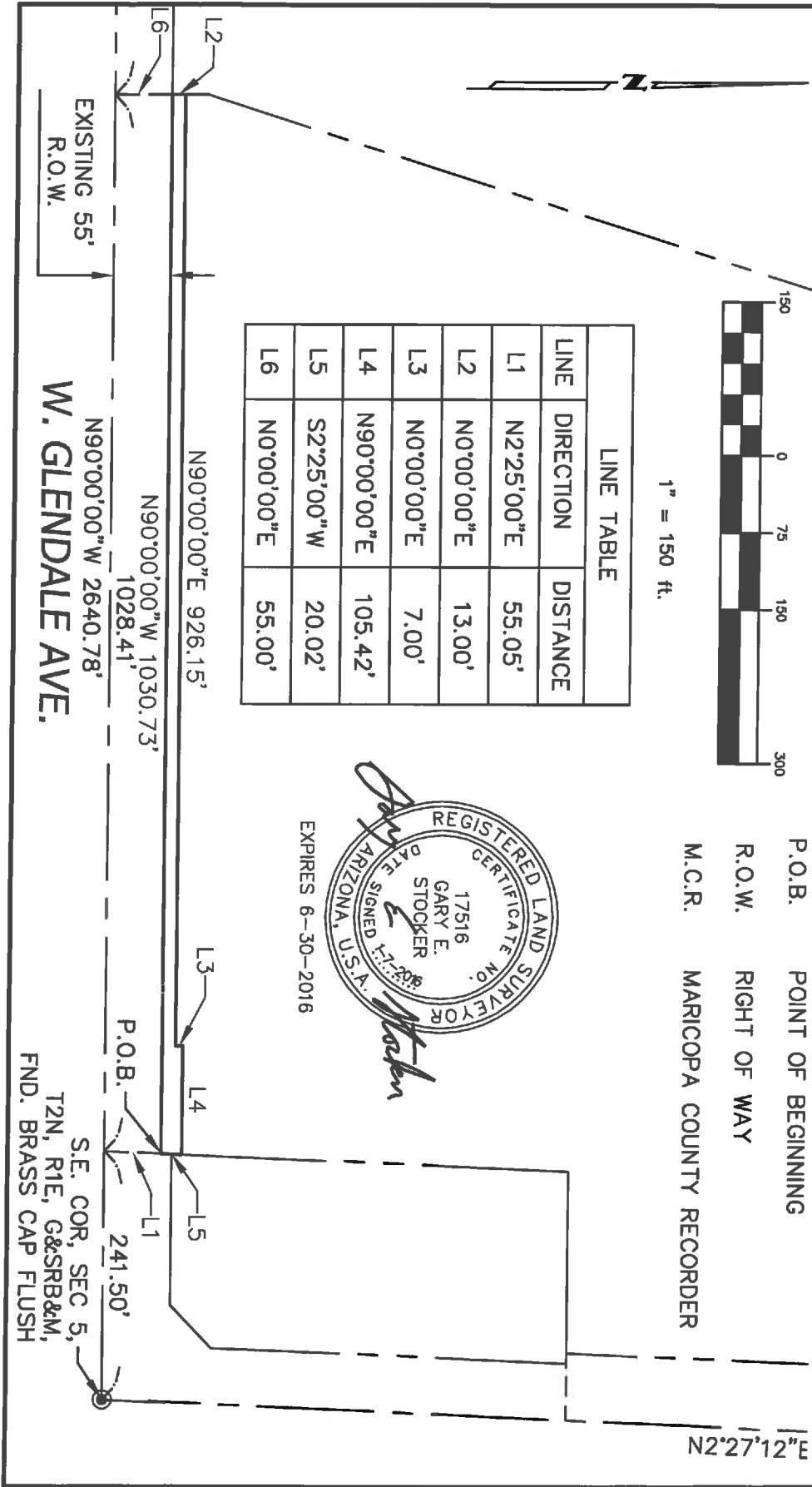


LINE	DIRECTION	DISTANCE
L1	N2°25'00"E	55.05'
L2	N0°00'00"E	13.00'
L3	N0°00'00"E	7.00'
L4	N90°00'00"E	105.42'
L5	S2°25'00"W	20.02'
L6	N0°00'00"E	55.00'

- \_\_\_\_\_ PROPOSED R.O.W.
- \_\_\_\_\_ LOT LINE
- \_\_\_\_\_ CENTER LINE
- FND. FOUND
- P.O.B. POINT OF BEGINNING
- R.O.W. RIGHT OF WAY
- M.C.R. MARICOPA COUNTY RECORDER



EXPIRES 6-30-2016



EXISTING 55'  
R.O.W.

N90°00'00"E 926.15'  
N90°00'00"W 1030.73'  
1028.41'

N90°00'00"E 926.15'  
L3  
L4  
L5  
L6  
P.O.B.  
241.50'

S.E. COR, SEC 5,  
T2N, R1E, G&SRB&M,  
FND. BRASS CAP FLUSH

N2°27'12"E

2030-V-EXB R.O.W. EASEMENT GLENDALE AVE.txt

Name: GLENDALE AVE ROW

North: 923186.3950' East: 596414.2907'

Segment #1 : Line

Course: N90°00'00.00"W Length: 1030.729'

North: 923186.3950' East: 595383.5617'

Segment #2 : Line

Course: N0°00'00.00"E Length: 13.000'

North: 923199.3950' East: 595383.5617'

Segment #3 : Line

Course: N90°00'00.00"E Length: 926.151'

North: 923199.3950' East: 596309.7127'

Segment #4 : Line

Course: N0°00'00.00"E Length: 7.000'

North: 923206.3950' East: 596309.7127'

Segment #5 : Line

Course: N90°00'00.00"E Length: 105.422'

North: 923206.3950' East: 596415.1347'



2030-V-EXB R.O.W. EASEMENT GLENDALE AVE.txt

Segment #6 : Line

Course: S2°25'00.00"W Length: 20.018'

North: 923186.3948' East: 596414.2906'

Perimeter: 2102.320' Area: 14139.97 Sq. Ft.

Error Closure: 0.0002 Course: S23°21'22.75"W

Error North: -0.00020 East: -0.00008

Precision 1: 10511600.000



## **ACCEPTANCE OF RIGHT-OF-WAY ALONG GLENDALE AVENUE WEST OF 99TH AVENUE**

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 an ordinance accepting right-of-way along westbound Glendale Avenue approximately 635 feet west of 99<sup>th</sup> Avenue.

### **Background**

The owner of Westgate Medical, located at 9250 West Glendale Avenue, is required to construct street improvements along Glendale Avenue to meet current arterial street design requirements. The owner, 101 W Healthcare, LLC, an Arizona limited liability company, has agreed to dedicate additional right-of-way in order for the City to maintain this portion of the street.

### **Analysis**

Staff recommends accepting the additional right-of-way along Glendale Avenue. There will be little impact on City departments, staff or service levels as a result of this action. Minimal costs may be incurred by the City in the future to maintain and repair the additional street improvements.

### **Previous Related Council Action**

City Council took action to accept and take title to the current Glendale right-of-way per Ordinance No. 1272 passed, adopted and approved by City Council on April 10, 1984.



Legislation Description

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**File #: 16-617, Version: 1**

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**ORDINANCE NO. 3031 NEW SERIES**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A WARRANTY DEED FOR RIGHT OF WAY LOCATED AT WESTGATE HEALTHCARE CAMPUS; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.**

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 an ordinance accepting right-of-way along southbound 99th Avenue approximately 650 feet north of Glendale Avenue; and declaring an emergency to provide for the changes to be effective December 7, 2016.

**Background**

The owner of Westgate Healthcare Campus, located at 9950 West Glendale Avenue, is required to construct street improvements along 99th Avenue to meet current arterial street design requirements. The owner, 101 W Healthcare, LLC, has agreed to dedicate additional right-of-way in order for the City to maintain this portion of the street.

**Analysis**

Staff recommends accepting the additional right-of-way along Glendale Avenue and along 99th Avenue. There will be little impact on City departments, staff or service levels as a result of this action. Minimal costs may be incurred by the City in the future to maintain and repair the additional street improvements.

**Previous Related Council Action**

City Council took action to accept and take title to the current 99th Avenue and Glendale right-of-way per Ordinance No. 1272 passed, adopted and approved by City Council on April 10, 1984.

ORDINANCE NO. 3031 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A WARRANTY DEED FOR RIGHT OF WAY LOCATED AT WESTGATE HEALTHCARE CAMPUS; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council took action to accept and take title to the current 99<sup>th</sup> Avenue right-of-way per Ordinance 1272, New Series, passed, adopted and approved by City Council on April 10, 1984; and

WHEREAS, the Westgate Healthcare Campus has been constructed on parcels located generally at the corner of 99<sup>th</sup> Avenue and Glendale Avenue, including the parcel(s) located at 9950 West Glendale Avenue, and as depicted on the map appended hereto as Exhibit A; and

WHEREAS, owner of the parcel, the 101 W Healthcare, LLC, an Arizona limited liability company, wishes to construct improvements outside of the current 99<sup>th</sup> Avenue right-of-way, north of Glendale Avenue, that is owned by the City; and

WHEREAS, 101 W Healthcare, LLC has agreed to dedicate additional right-of-way so these new street improvements will be located within the City right-of-way and allow the City to maintain said street improvements.

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

SECTION 1. That in exchange for dedicating additional real property to the public as a right-of-way along 99<sup>th</sup> Avenue, 101 W Healthcare, LLC is hereby granted the right to construct street improvements along 99<sup>th</sup> Avenue outside of the City's current 99<sup>th</sup> Avenue right-of-way. 101 W Healthcare, LLC shall construct such improvements according to City Code and the plans approved by the City.

SECTION 2. That 101 W Healthcare, LLC shall dedicate additional right-of-way to the City once these improvements have been constructed and approved consistent with the City Code.

SECTION 3. The Council hereby authorizes and instructs the City Manager to execute the Warranty Deed between 101 W Healthcare, LLC and the City, which is attached hereto as Exhibit B, and which grants the City the right-of-way legally described in Exhibit A to the Warranty Deed.

SECTION 4. The City Clerk is instructed and authorized to forward a certified copy of this Ordinance to the Maricopa County Recorder's Office for recording.

SECTION 5. Whereas the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, and safety of the City of Glendale, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Mayor and Council of the City of Glendale, and it is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 6th day of December, 2016.

\_\_\_\_\_  
M A Y O R

ATTEST:

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

APPROVED AS TO FORM:

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

REVIEWED BY:

\_\_\_\_\_  
City Manager

## EXHIBIT A



**99TH AVENUE & GLENDALE  
99TH AVENUE RIGHT OF WAY**



## EXHIBIT B



When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## WARRANTY DEED

---

For Ten Dollars and other valuable consideration, I or We, 101 W Healthcare, LLC, an Arizona limited liability company, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, all right, title and interest to and in that certain parcel of Real Property situated in Maricopa County and described as follows:

**See Attached Description, "Exhibit A"**

It is the intention of the parties to cause the real property on said Exhibit "A" to be dedicated as **public right of way for roadway purposes**, and to vest title in fee simple in the City of Glendale in Trust, for all the uses contemplated in public street dedication.

And I or We do warrant the title against all persons whomsoever, subject only to those encumbrances or liens of record, or as above set forth, if any.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
By: Howard John Simon  
Its: Manager

**Exempt Pursuant to A.R.S. §11-1134 (A)(3)**

STATE OF ARIZONA    )  
County of Maricopa    ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016 by Howard John Simon, Manager, who acknowledged that he executed this instrument for the purposes therein contained.

\_\_\_\_\_  
Notary Public

My commission expires:

9950 West Glendale Avenue

99TH AVENUE RIGHT OF WAY  
LEGAL DESCRIPTION  
EXHIBIT 'A'

A PART OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 5 MONUMENTED BY AN MCDOT BRASS CAP FLUSH AT THE INTERSECTION OF GLENDALE AVENUE AND 99th AVENUE;

THENCE NORTH 2 DEGREES 27 MINUTES 12 SECONDS WEST ALONG THE EAST LINE OF SAID SECTION 5 AND THE CENTERLINE OF 99TH AVENUE, 450.01 FEET;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 55.05 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 10.01 FEET;

THENCE NORTH 2 DEGREES 27 MINUTES 12 SECONDS EAST, 854.84 FEET;

THENCE SOUTH 89 DEGREES 56 MINUTES 50 SECONDS EAST, 10.01 FEET;

THENCE SOUTH 2 DEGREES 27 MINUTES 12 SECONDS WEST, 854.84 FEET TO THE POINT OF BEGINNING.



EXPIRES 6-30-2019

**Site Consultants, Inc.**

113 S. Rockford Drive, Tempe Arizona 85281  
Tele: 480-894-2820 Fax: 480-894-2847  
SCI #2030 SCALE: N.T.S. DATE: 10-6-2016  
PAGE 1 OF 3

**99TH AVENUE  
RIGHT OF WAY  
EXHIBIT 'A'**

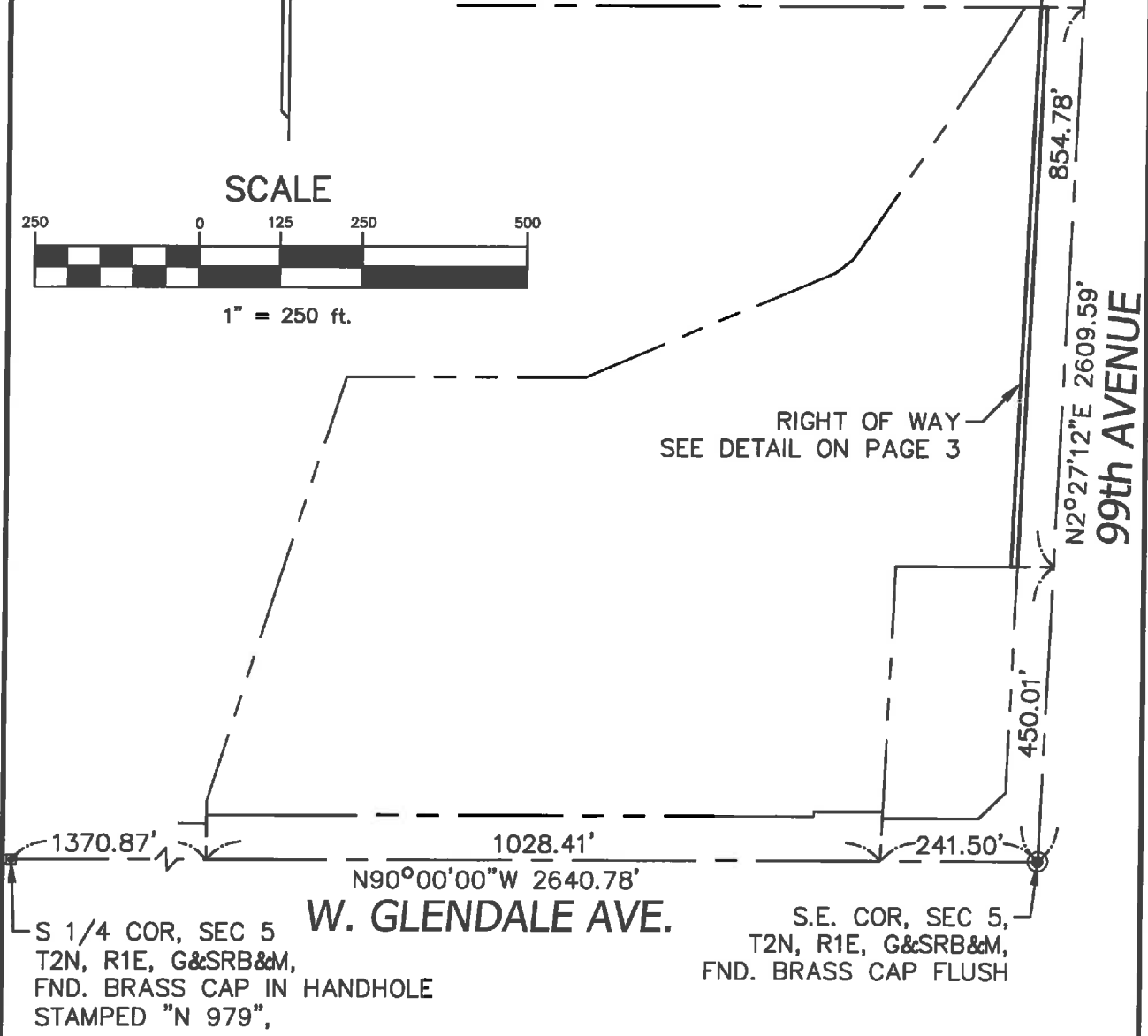
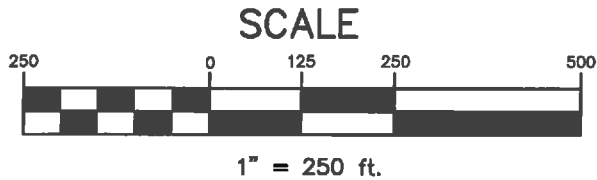
**Site Consultants, Inc.**  
 113 S. Rockford Drive, Tempe Arizona 85281  
 Tele: 480-894-2820 Fax: 480-894-2847  
 SCI #2030 SCALE: 1" = 250' DATE: 10-6-2016  
 PAGE 2 OF 3

E. 1/4 COR, SEC 5,  
 T2N, R1E, G&SRB&M,  
 FND. 1/2" REBAR  
 POINT OF COMMENCEMENT



EXPIRES 6-30-2019

**W. MYRTLE AVE. ALIGNMENT**



RIGHT OF WAY  
 SEE DETAIL ON PAGE 3

S 1/4 COR, SEC 5  
 T2N, R1E, G&SRB&M,  
 FND. BRASS CAP IN HANDHOLE  
 STAMPED "N 979",

**W. GLENDALE AVE.**

S.E. COR, SEC 5,  
 T2N, R1E, G&SRB&M,  
 FND. BRASS CAP FLUSH

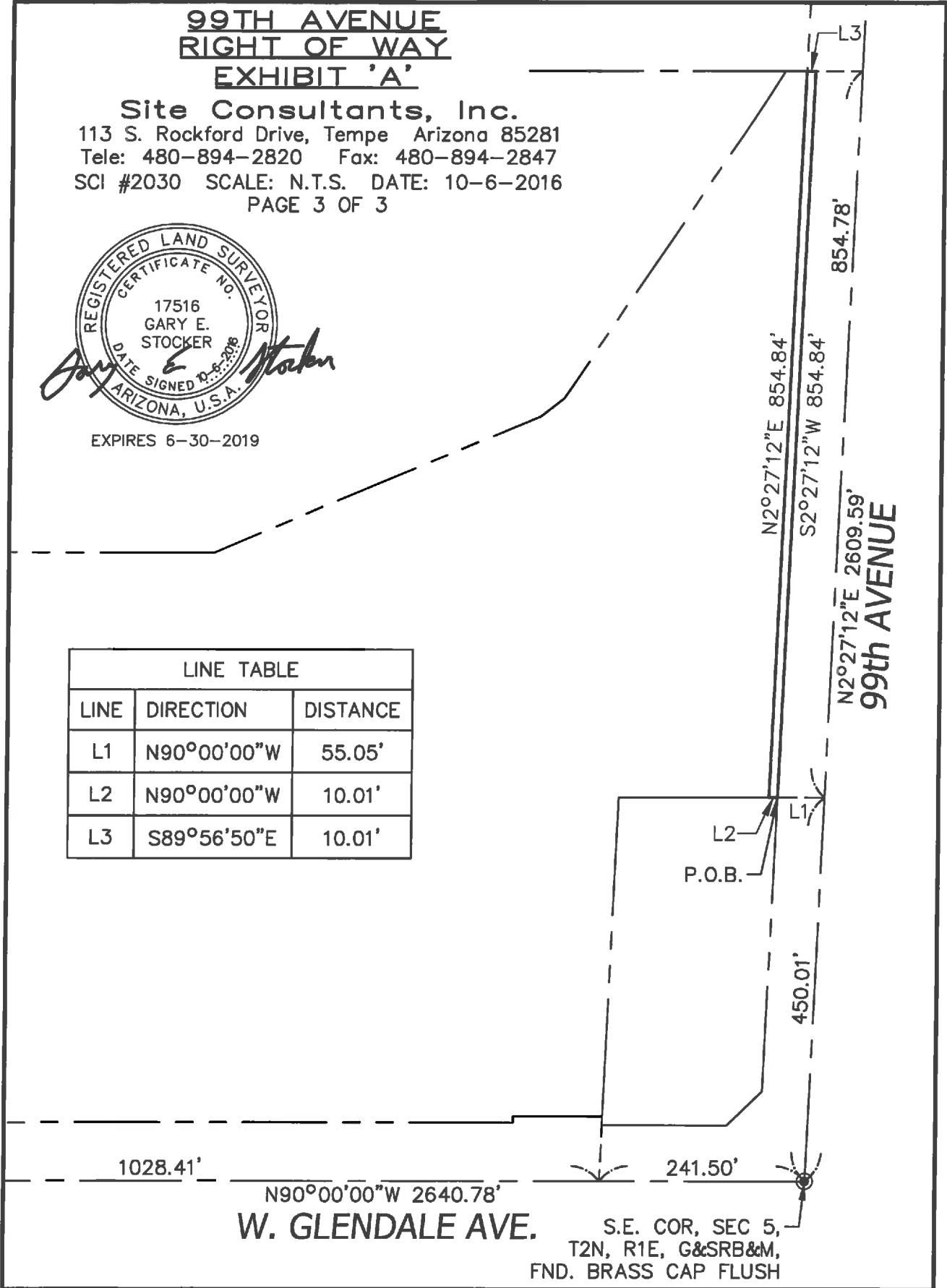
**99TH AVENUE  
RIGHT OF WAY  
EXHIBIT 'A'**

**Site Consultants, Inc.**  
 113 S. Rockford Drive, Tempe Arizona 85281  
 Tele: 480-894-2820 Fax: 480-894-2847  
 SCI #2030 SCALE: N.T.S. DATE: 10-6-2016  
 PAGE 3 OF 3



EXPIRES 6-30-2019

LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	N90°00'00"W	55.05'
L2	N90°00'00"W	10.01'
L3	S89°56'50"E	10.01'



1028.41'      241.50'      450.01'      854.78'      854.84'

N90°00'00"W 2640.78'

**W. GLENDALE AVE.**

S.E. COR, SEC 5,  
 T2N, R1E, G&SRB&M,  
 FND. BRASS CAP FLUSH

2030-V-EXB R.O.W. EASEMENT 99th AVE.txt

Name: 99TH AVE ROW

North: 924435.0467' East: 593664.6888'

Segment #1 : Line

Course: S2°27'11.65"W Length: 854.835'

North: 923580.9952' East: 593628.0984'

Segment #2 : Line

Course: N90°00'00.00"W Length: 10.009'

North: 923580.9952' East: 593618.0894'

Segment #3 : Line

Course: N2°27'11.65"E Length: 854.845'

North: 924435.0567' East: 593654.6802'

Segment #4 : Line

Course: S89°56'50.00"E Length: 10.009'

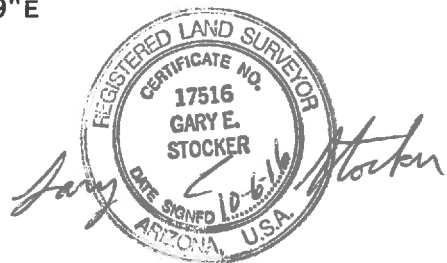
North: 924435.0475' East: 593664.6892'

Perimeter: 1729.698' Area: 8548.40 Sq. Ft.

Error Closure: 0.0009 Course: N28°47'36.39"E

Error North: 0.00077 East: 0.00042

Precision 1: 1921886.667





## Legislation Description

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**File #:** 16-621, **Version:** 1

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### **ORDINANCE NO. 3032 NEW SERIES**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A LAND USE LICENSE IN FAVOR OF THE CITY OF GLENDALE FROM THE SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT LOCATED ON THE NORTHWEST QUADRANT OF 99TH AVENUE AND WESTBOUND GLENDALE; AUTHORIZING THE EXECUTION OF A COMPANION PROPERTY USE AGREEMENT WITH 101 W HEALTHCARE, LLC; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.**

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 an ordinance authorizing the City Manager to enter into a Land Use License with Salt River Project Agricultural Improvement and Power District (SRP) for the nonexclusive right to enter upon and use USA fee land generally located at the northwest quadrant of 99th Avenue and west Glendale Avenue; and declare an emergency (ordinance). Staff also requests that City Council authorize the City to enter into a companion Property Use Agreement with 101 W Healthcare, LLC, the owner of the adjacent parcel. 101 W Healthcare will construct, operate, maintain, repair, and, if necessary, replace the improvements that will be located on the land the City is licensing from SRP.

### **Background**

The subject location of the proposed license agreement is along the 99th Avenue and Glendale Avenue alignments approximately 800 feet north of the Glendale alignment and approximately 350 feet west of the 99th Avenue alignment. This location lies on the Westgate Healthcare campus property being developed by 101 W Healthcare, LLC, an Arizona limited liability company. Certain improvements being constructed by 101 W Healthcare (driveways, parking spaces and landscaping) will overlay the current USA fee land and will cross the relocated irrigation tail water ditch and new irrigation pipeline. SRP has advised the City it wishes to relocate the irrigation pipeline during the impending "dry up" period, beginning in early December 2016.

### **Analysis**

Because the City is entering into a Property Use Agreement with the adjacent property owner to pay for and perform construction and operation and maintenance of the improvements, there should be no impact on City departments, staff or service levels as a result of this action. The Property Use Agreement will be recorded with the Maricopa County Recorder and its obligations will run with the land, so any future user of the adjacent parcel that benefits from the City's license with SRP will be responsible for the continued operation, maintenance, repair and, if necessary, replacement of the parking, driveway, and landscaping improvements.

**Community Benefit/Public Involvement**

In an effort to facilitate a land exchange between SRP and 101 W Healthcare, LLC, SRP has requested the City to enter into a license agreement in the vicinity of 99th Avenue and Glendale Avenue. The City agreed to take the license provided it could designate the landowner as its authorized representative for constructing and maintain the improvements.

ORDINANCE NO. 3032 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF A LAND USE LICENSE IN FAVOR OF THE CITY OF GLENDALE FROM THE SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT LOCATED ON THE NORTHWEST QUADRANT OF 99TH AVENUE AND WESTBOUND GLENDALE; AUTHORIZING THE EXECUTION OF A COMPANION PROPERTY USE AGREEMENT WITH 101 W HEALTHCARE, LLC; DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE; AND DECLARING AN EMERGENCY.

WHEREAS, 101 Healthcare, LLC is the current owner and developer the real property located at 99<sup>th</sup> Avenue and Glendale Avenue; and

WHEREAS, incidental to 101 W Healthcare's redevelopment of said property, an irrigation pipeline owned and/or operated by the United States and managed by the Salt River Project ("SRP") must be relocated on property adjacent to the City's right-of-way, as depicted in the attached map and legally described in Exhibit A; and

WHEREAS, the real property depicted and described in Exhibit A is owned in fee simple by the United States of America and managed by the Salt River Valley Water Users' Association and the Salt River Project Agricultural Improvement and Power District ("SRP"); and

WHEREAS, SRP will only allow a governmental entity rather than a private party license to use real property it manages on the United States' behalf; and

WHEREAS, SRP has agreed to enter into a Land Use License (SRP License No. LJ51858) with the City for the location and construction of certain parking, roadway, sidewalk, landscaping and water and sewer line improvements to support the Westgate Healthcare Campus located at 99<sup>th</sup> Avenue and Glendale Avenue; and

WHEREAS, SRP has advised the City it wishes to relocate the irrigation pipeline during the impending "dry up" period; and

WHEREAS, the License provides that the City may allow its authorized representative to construct, operate, maintain, repair and replace the improvements on the Licensed Property consistent with the purpose of the License.

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



SECTION 1. That the City Council authorizes the City to enter into the Land Use License (License No. LJ51858) with SRP as appended hereto as Exhibit B and directs the City Manager to execute and deliver the same to SRP so that SRP may record the Land Use License with the Maricopa County Recorder's Office once executed by SRP. SRP shall provide a copy of the recorded Land Use License to the City Clerk once it is filed with the Maricopa County Recorder.

SECTION 2. That the City designates 101 W Healthcare, LLC as its authorized representative to construct, operate, maintain, repair and replace the improvements on the Licensed Property consistent with the purpose of the License.

SECTION 3. That the City Council authorizes the City to enter into the Property Use Agreement with 101 W Healthcare, LLC, which is attached hereto as Exhibit C, and directs the City Manager to execute and deliver the same to 101 W Healthcare so that 101 W Healthcare may record the Property Use Agreement with the Maricopa County Recorder's Office to ensure that it runs with the land. 101 W Healthcare shall record the Property Use Agreement after SRP records the Land Use License. 101 W Healthcare shall also provide a copy of the recorded Property Use Agreement to the City Clerk once it is filed with the Maricopa County Recorder.

SECTION 4. That the City Clerk is instructed and authorized to forward a certified copy of this Ordinance and all Exhibits, including the Land Use License and the Property Use Agreement, for recording to the Maricopa County Recorder's Office.

SECTION 5. Whereas the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, and safety of the City of Glendale, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Mayor and Council of the City of Glendale, and it is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

[Signatures on the following page.]

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 6th day of December, 2016.

\_\_\_\_\_  
M A Y O R

ATTEST:

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

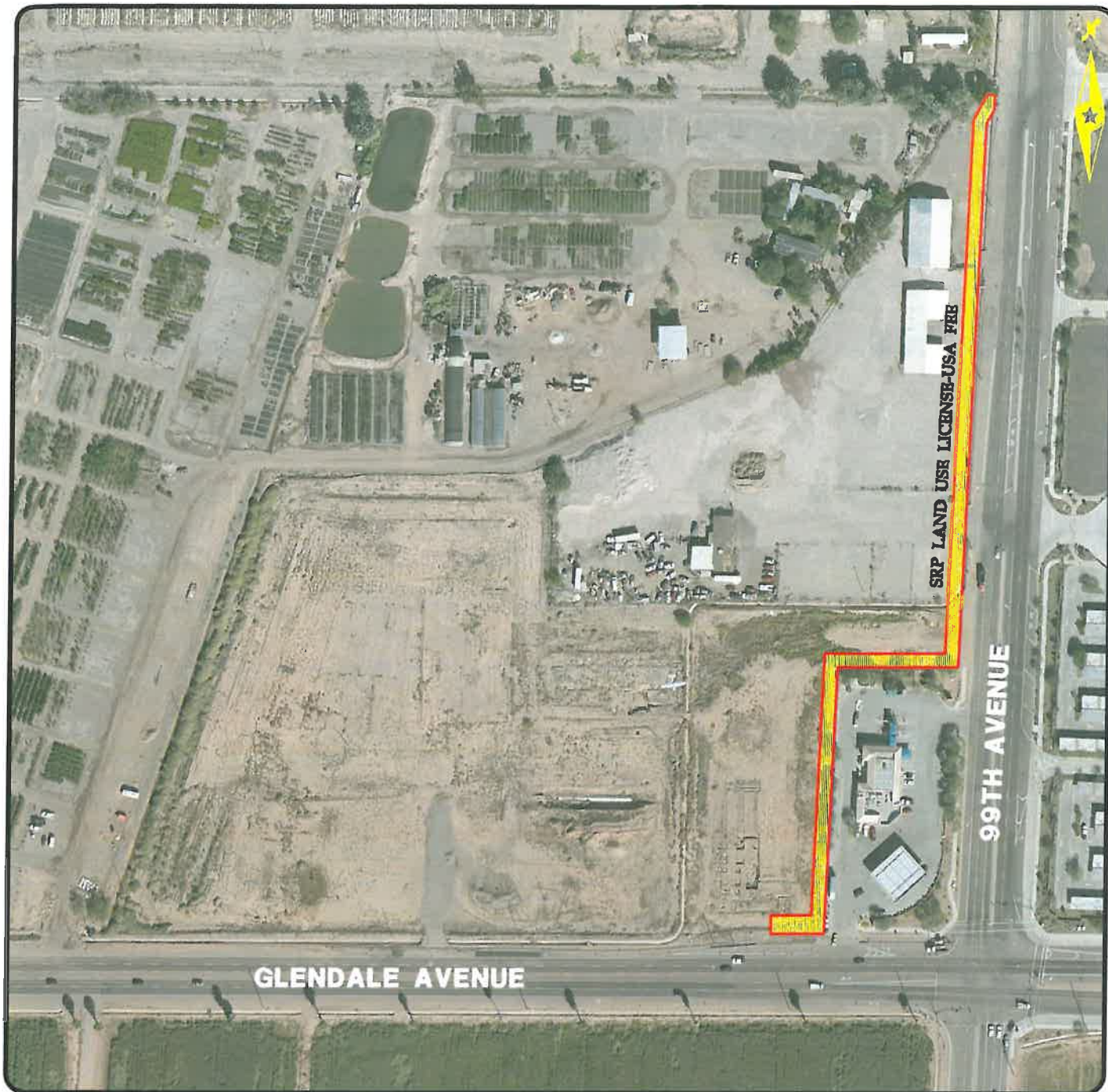
APPROVED AS TO FORM:

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

REVIEWED BY:

\_\_\_\_\_  
City Manager

## EXHIBIT A



**99TH AVENUE & GLENDALE  
SRP LAND USE LICENSE—USA FEE**



Site Consultants Inc.  
113 South Rockford Drive  
Tempe, Az. 85281

EXHIBIT "A"  
DESCRIPTION OF REAL ESTATE IN  
MARICOPA COUNTY, STATE OF ARIZONA

A strip of land in the Southeast quarter of Section 5, Township 2 North, Range 1 East of the Gila and Salt River Meridian, Maricopa County, Arizona, described as follows:

Commencing at the East quarter corner of Section 5, Township 2 North, Range 1 East, Gila and Salt River Meridian, from which the Southeast corner of said Section 5 bears South 2 degrees 27 minutes 12 seconds West, 2,609.59 feet;  
Thence South 2 degrees 27 minutes 12 seconds West along the East line of said Section 5, 1304.80 feet to the Northeast corner of the South half of the Southeast quarter of said Section 5;  
Thence North 89 degrees 56 minutes 50 seconds West along the North line of the South half of the Southeast quarter of said Section 5, 55.05 feet to the Point of Beginning;  
Thence South 2 degrees 27 minutes 12 seconds West, 22.94 feet;  
Thence South 28 degrees 17 minutes 47 seconds West, 22.94 feet;  
Thence South 2 degrees 27 minutes 12 seconds West, 801.67 feet;  
Thence North 90 degrees 00 minutes 00 seconds West, 176.73 feet;  
Thence South 2 degrees 25 minutes 00 seconds West, 391.95 feet;  
Thence North 90 degrees 00 minutes 00 seconds West, 78.60 feet;  
Thence North 0 degrees 00 minutes 00 seconds East, 27.00 feet;  
Thence North 90 degrees 00 minutes 00 seconds East, 59.72 feet;  
Thence North 2 degrees 25 minutes 00 seconds East, 384.94 feet;  
Thence North 90 degrees 00 minutes 00 seconds East, 176.75 feet;  
Thence North 2 degrees 27 minutes 12 seconds East, 787.09 feet;  
Thence North 28 degrees 17 minutes 47 seconds East, 42.80 feet;  
Thence South 89 degrees 56 minutes 50 seconds East, 11.35 feet to the Point of Beginning.

**USA FEE  
LICENSE EXHIBIT**

**Site Consultants, Inc.**

113 S. Rockford Drive, Tempe Arizona 85281

Tele: 480-894-2820 Fax: 480-894-2847

SCI #2030 SCALE: 1" = 200' DATE: 6-23-2016

POINT OF COMMENCEMENT  
FOUND 1/2" REBAR  
E. 1/4 COR., SEC. 5,  
T2N, R1E, G&SRM,

LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	S2°27'12"W	22.94'
L2	S28°17'47"W	22.94'
L3	S2°27'12"W	801.67'
L4	N90°00'00"W	176.73'
L5	S2°25'00"W	391.95'
L6	N90°00'00"W	78.60'
L7	N0°00'00"E	27.00'
L8	N90°00'00"E	59.72'
L9	N2°25'00"E	384.94'
L10	N90°00'00"E	176.75'
L11	N2°27'12"E	787.09'
L12	N28°17'47"E	42.80'
L13	S89°56'50"E	11.35'

N89°56'50"W 55.05'  
POINT OF BEGINNING  
NORTH LINE S. 1/2,  
S.E. 1/4 SEC. 5

1304.80'

L13  
L12  
L1  
L2

PROPOSED USA  
RIGHT OF WAY



EXPIRES 6-30-2016

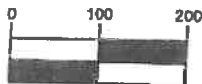


2" = 1 SQUARE MILE

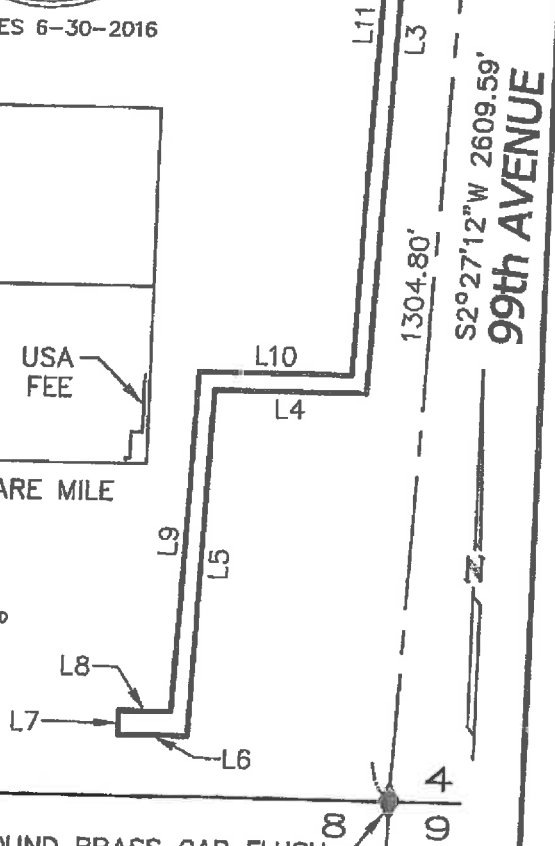
**LEGEND**

- PROPOSED USA FEE
- SECTION LINE
- ◆ CORNER
- ◆ COR. SEC. L11
- CORNER
- SECTION LINE TAG

**SCALE**



1" = 200 ft.



**W. GLENDALE AVE.**

FOUND BRASS CAP FLUSH  
S.E. COR., SEC. 5,  
T2N, R1E, G&SRM,

## EXHIBIT B

**SALT RIVER PROJECT**  
Land Department/PAB348  
P. O. Box 52025  
Phoenix, Arizona 85072-2025

**SALT RIVER PROJECT**  
**LAND USE LICENSE**

**DO NOT REMOVE  
THIS PAGE IS PART OF THE ORIGINAL  
DOCUMENT**



**SALT RIVER PROJECT  
LAND USE LICENSE**

Salt River Project License No.: LJ51858  
Salt River Project File No.: 4  
Effective Date: July 1, 2016  
Agent: PJH

**1. License Granted**

WHEREAS, it is understood by the parties hereto that Licensor and the Salt River Valley Water Users' Association (Association) manage the Licensed Property pursuant to contracts with the United States of America (USA), which assign to Licensor the responsibility and authority for the care, operation, maintenance and management of the Salt River Reclamation Project ("Reclamation Project") of which the Licensed Property is a part, and;

WHEREAS, Licensor is willing to consent to Licensee's use of the Licensed Property in a manner that does not in any way compromise the contractual obligation or authority of Licensor to manage the Reclamation Project.

For valuable consideration acknowledged and received by Licensor, the **SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**, an agricultural improvement district organized and existing under the laws of the State of Arizona ("Licensor"), grants **CITY OF GLENDALE**, an Arizona municipal corporation ("Licensee"), a revocable License granting the nonpossessory and nonexclusive right and privilege to enter upon and use certain real property, the Licensed Property, under the following terms and conditions. Nothing herein shall be construed as a conveyance of a real property interest in the Licensed Property.

**2. Purpose**

Licensee shall make the Licensed Property available for use by the general public and may use the Licensed Property only for roadway, sidewalk, landscaping, water and sewer lines. Licensee shall not use the Licensed Property for any other purpose without the prior written approval of Licensor. Licensee acknowledges that, but for this License, it has no rights to use or occupy the Licensed Property, and represents that it makes no claim to such rights.

**3. Licensed Property**

The Licensed Property shall mean: That portion of USA Fee property located within the Southeast Quarter of Section 5, Township 2 North, Range 1 East of the Gila and Salt River Meridian, Maricopa County, Arizona and further described on Exhibit "A" attached hereto and made by reference a part hereof.

#### **4. Compensation**

4.1 Licensee shall reimburse Licensor, for all federal, state and local excise, sales, privilege, gross receipts and other similar taxes lawfully imposed on and paid by Licensor as a result of any License Fees received by Licensor under this License; provided, however, that this Section shall not apply to income taxes. Licensee shall pay all property taxes, if any, levied on the Licensed Property.

4.2 All amounts paid by Licensee to Licensor as a result of damages, costs, expenses and sums incurred by Licensor hereunder as a result of Licensee's default shall be deemed to be License Fees.

4.3 Any payment due under this License that is not paid within 30 days of its due date shall bear interest from the date such payment was due at the rate of eighteen percent (18%) per annum. Licensor shall have all the rights and remedies provided herein and by law for Licensee's failure to pay any of the compensation specified in this Section 4.

4.4 Within 30 days of Licensor's delivery of an invoice therefore, Licensee shall pay any incremental increase in Licensor's operation and maintenance costs on the Licensed Property resulting from Licensee's exercise of its rights hereunder. Licensor shall incur no liability for any costs of repairing or replacing Licensee's improvements within the Licensed Property, damaged as a result of Licensor's operation and maintenance of its facilities, unless due to negligent or willful acts or omissions of Licensor or its agents or employees.

4.5 In the event of non-payment by Licensee of any amount due hereunder, Licensor's remedies shall include, though not be limited to, the collection of past due compensation and termination of this License.

#### **5. Term**

The term of this License shall be for Twenty Five Years (25) Licensed Years (as defined below) beginning July 1, 2016 and ending June 30, 2041. Unless earlier terminated pursuant to the terms set forth herein, and may be renewed upon written agreement by the parties. For purposes of this License, the term "License Year" shall mean each twelve (12) month period during the term of this License commencing on July 1st and ending at midnight on the next succeeding June 30<sup>th</sup>.

#### **6. Default**

If a party ("Defaulting Party") fails (i) to make payment required herein by its due date or (ii) perform an obligation under this License within 30 days after written notice is given to the Defaulting Party of its failure to perform such obligation on the date when such performance was due (or, if such default cannot reasonably be cured within 30 days, then within such longer period as is determined by the non-defaulting party to be necessary to cure such default, provided the Defaulting Party commences to cure such default within the 30 day period), then, upon the expiration of the applicable cure period, if any, the non-defaulting party may terminate this

License upon not less than 30 days prior written notice to the Defaulting Party.

**7. Rights of the United States of America**

7.1 This License is subject to the paramount rights and regulatory jurisdiction of the USA in and to the Licensed Property, federal reclamation law, and all agreements existing and to be made between and among the USA, the Association, and Licensor regarding the management, care, operation and maintenance of the Reclamation Project.

7.2 The USA reserves the right of its officers, agents, and employees at all times to have unrestricted access and ingress to, passage over, and egress from all of said lands, to make investigations of all kinds, dig test pits and drill test holes, to survey for and construct reclamation and irrigation works and other structures incident to Federal Reclamation Projects, or for any purpose whatsoever. The USA will make every reasonable effort to keep damages to a minimum.

**8. Successors and Assigns**

The privileges granted to Licensee herein shall not inure to or benefit any person or entity other than Licensee, either through assignment or sublicense. Any attempt by Licensee to so assign or sublicense all or any portion of the Licensed Property for any purpose whatsoever shall void this License. Notwithstanding the preceding language, the parties agree that Licensee may authorize parties other than Licensee to perform Licensee's obligations on its behalf to install, operate and maintain improvements authorized under this license. No such authorization shall relieve Licensee of its obligations under this license.

**9. Termination of the License**

9.1 Either party or the USA may terminate this License without cause upon not less than thirty (30) days written notice.

9.2 The USA or Licensor may, at any time and at no cost or liability to the USA or Licensor, terminate this License if the USA or Licensor determines that any of the following apply:

(i) The use has become incompatible with authorized project purposes, project operations, safety, and security;

(ii) A higher public use is identified through a public process described at 43 CFR § 429.32(a)(1); or

(iii) Termination is necessary for operational needs of the project.

9.3 The USA or Licensor may, at any time and at no cost or liability to the USA or Licensor, terminate this License if the USA or Licensor determines that the Licensee has failed to use the Licensed Property for its intended purpose. Further, failure to construct improvements pursuant to Section 15 hereof within the timeframe specified in the terms of the License may constitute a presumption of abandonment of the requested use and cause termination of the License.

9.4 Upon the expiration, termination, or revocation of this License, if all License Fees and damage claims due the USA and Licensor have been paid, the Licensee shall remove all structures, equipment, or other improvements made by it from the Licensed Property at no cost to the USA or Licensor. Upon failure to remove any such improvements within thirty (30) days of the expiration, termination, or revocation, any remaining improvements shall, at the option of the USA or Licensor, be removed or become the property of the USA or Licensor. The Licensee shall pay all expenses of the USA or Licensor, or their assigns, related to the removal of such improvements.

**10. Maintenance of Licensed Property & Interface with Licensor's Use of Licensed Property**

10.1 Licensee, at its own expense, shall maintain all of the Licensed Property in reasonably good, sanitary and safe condition. Subject to the conditions set forth herein, Licensor reserves to itself and Association, a right of access to the Licensed Property for the construction, use, operation, maintenance, relocation and removal of any existing and future electric or water distribution or transmission facilities. Any such construction, use, operation, maintenance, relocation or removal shall be performed in a manner designed to avoid, to the extent feasible, disturbance to Licensee's improvements and Licensee's use and enjoyment of the Licensed Property. Licensor shall give Licensee at least thirty (30) days prior written notice of any such construction, use, operation, maintenance, relocation or removal that will materially disrupt Licensee's use and enjoyment of the Licensed Property or the Licensee's improvements; provided, however, that such notice may be given in such shorter period as Licensor determines to be reasonable under prevailing circumstances, or with no notice in the event of an emergency where no notice is feasible. Nothing in this License shall be construed to deny or lessen the powers and privileges granted Licensor by the laws of the State of Arizona. Licensor shall not be liable to Licensee for any damage to Licensee's improvements located upon the Licensed Property, unless due to negligent or willful acts or omissions of Licensor or its agents or employees.

10.2 If Licensee defaults in the performance of the obligations set forth in Section 10.1, and Licensor gives notice of the default, Licensee shall correct such default to the reasonable satisfaction of Licensor within the required period of time set forth in the notice of default (the "Correction Period"), which period of time shall be reasonable under the circumstances. If Licensee fails to correct the default within the Correction Period, Licensor may take any action reasonably determined by Licensor to be necessary to correct such default, including without limitation making any repair or modification to or removing any of Licensee's improvements. Licensee shall reimburse Licensor for the reasonable costs it incurs to correct such default within thirty (30) days after Licensor presents Licensee with a statement of such costs. Licensee shall release Licensor and Association from all damages resulting to Licensee from the correction of such default, including, without limitation, those damages arising from all repairs or modifications to or removal of any of Licensee's improvements.

10.3 The USA, acting through Reclamation, Department of the Interior, reserves rights to construct, operate, and maintain public works now or hereafter authorized by the Congress without liability for termination of the License or other damage to Licensee's activities or facilities.

**11. Nonexclusive Rights**

This License is nonexclusive and nothing herein shall be construed to prevent or restrict Licensor from granting other privileges to use the Licensed Property in a manner Licensor or the USA deems not inconsistent with Licensee's use of the Licensed Property in accordance with this License.

**12. Existing Easements and Licenses**

This License is subject to all existing encumbrances of record, including easements and licenses. It shall be Licensee's obligation and responsibility to ascertain the rights of all third parties in the Licensed Property. Licensor consents only to the use of the Licensed Property for the purposes described herein, in its capacity as manager of the Licensed Property and on behalf of the USA. Nothing in this License shall be construed as Licensor's representation, warranty, approval or consent regarding rights in the Licensed Property held by other parties. Licensee shall indemnify and hold Licensor, the USA and the Association harmless from any liability arising out of any dispute or claim regarding actual or alleged interests in the Licensed Property, affecting Licensee's interests created herein, and shall release Licensor, the USA and Association from any such claims on its own behalf.

**13. Indemnification**

13.1 To the extent not prohibited by law or expressly excepted herein, Licensee, its successors and assigns ("Indemnitors"), shall indemnify, release, and hold harmless Licensor and Association ("Indemnitees") and the directors, officers, employees, agents, successors and assigns thereof, for, from and against any damage, loss or liability caused in whole or in part by Licensee, regardless of whether caused in part by Indemnitees or any of them, and suffered by Indemnitees as a result of any claim, demand, lawsuit or action of any kind, whether such damage or loss is to person or property, arising out of, resulting from or caused by: (a) the acts or omissions of Licensee, its agents, contractors, officers, directors, or employees; (b) Licensee's use or occupancy of the Licensed Property for the purposes contemplated by this License, including but not limited to claims by third parties who are invited or permitted onto the Licensed Property, either expressly or impliedly, by Licensee or by the nature of Licensee's improvement or other use of the Licensed Property pursuant to this License; (c) Licensee's failure to comply with or fulfill its obligations established by this License or by law. Such obligation to indemnify shall extend to and encompass all costs incurred by Licensor in defending against such claims, demands, lawsuits or actions, including but not limited to attorney, witness and expert witness fees, and any other litigation related expenses. Indemnitors' obligation pursuant to this Section shall not extend to any damage, loss or liability as a result of any claim, demand, lawsuit or action of any kind, whether such damage, loss or liability is to person or property arising out of, resulting from or caused by the sole, exclusive acts or omissions of Indemnitees, their contractors, directors, officers, employees, agents, successors or assigns for which Licensor shall indemnify, release and hold harmless Indemnitors. Licensor's obligation to indemnify Indemnitors shall extend to and encompass all costs incurred by Indemnitors in defending against such claims, demands, lawsuits or actions, including but not limited to attorney, witness and expert witness fees, and any other litigation related expenses. The provisions of this Section shall survive termination of this License.

13.2 The Licensee agrees to indemnify the USA for, and hold the USA and all of its representatives harmless from, all damages resulting from suits, actions, or claims of any character brought on account of any injury to any person or property arising out of any act, omission, neglect, or misconduct in the manner or method of performing any construction, care, operation, maintenance, supervision, examination, inspection, or other activities of the Licensee.

#### **14. Insurance**

Without limiting any liabilities or any other obligations of Licensee, Licensee shall provide and maintain, with forms and insurers acceptable to Licensor, and until all obligations under the License are satisfied, the minimum insurance coverages, as follows:

14.1 If applicable, worker's compensation insurance to cover obligations imposed by applicable federal and state statutes and employer's liability insurance with a minimum limit of One Million and No/100 Dollars (\$1,000,000.00).

14.2 General liability insurance with a minimum combined single limit of Two Million Dollars (\$2,000,000.00) each occurrence or current homeowner's liability policy. The policy shall include coverage for bodily injury liability, property damage liability, and for liability assumed under this License.

14.3 If applicable, comprehensive automobile liability insurance with a combined single limit for bodily injury and property damage of not less than Two Million and No/100 Dollars (\$2,000,000.00) each occurrence with respect to Licensee's vehicle, whether owned, hired or non-owned, assigned to or used in the performance of the work.

14.4 The policies required by Sections 14.2 and 14.3 hereof shall be endorsed to include Licensor, members of its governing bodies, its officers, agents and employees as additional insureds and shall stipulate that the insurance afforded for Licensor, members of its governing bodies, its officers, agents and employees shall be primary insurance and that any insurance carried by Licensor, members of its governing bodies, its officers, agents or employees shall be excess and not contributory insurance.

14.5 Licensee shall waive their rights of recovery and require its insurers providing the required coverages to waive all rights of subrogation against Licensor and members of its governing bodies, its officers, agents and employees for matters arising out of this License.

14.6 Upon execution of this License, Licensee shall furnish Licensor with Certificates of Insurance as evidence that policies providing the required coverages, conditions and limits are in full force and effect. Such certificates shall provide that not less than thirty (30) days advance notice of cancellation, termination, or alteration shall be sent directly to Licensor addressed as follows:

Manager, Land Rights Management, PAB348  
Salt River Project  
P.O. Box 52025

14.7 The insurance policies may provide coverages that include deductibles or self-insured retentions. Licensee shall be solely responsible for deductibles and/or self-insured retentions, and SRP, at its option, may require Licensee to secure the payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

**15. Construction**

15.1 Prior to making any improvements on the Licensed Property, Licensee shall submit to Licensor for its approval final construction documents and plans showing the location of any such improvements. Licensor shall approve or disapprove such documents and plans within 30 days. If applicable, Licensee shall obtain a Construction License from Water Engineering prior to the start of construction. Construction on the Licensed Property shall be performed only in accordance with approved construction documents and plans. At least ten (10) days prior to the beginning of any construction on the Licensed Property, Licensee shall give Licensor notice of the date that construction will begin and a schedule listing all construction activities and the dates when such construction activities will be performed. Licensee shall give Licensor written notice of all changes in the schedule and delays in construction immediately upon it being reasonably foreseeable that such change or delay will occur.

15.2 Licensee's improvements constructed, installed, operated and maintained on the Licensed Property shall not interfere with Licensor's use of Licensor's existing or any future irrigation or electric facilities on or adjacent to the Licensed Property.

15.3 Licensor may request Licensee to alter the scheduling of construction undertaken pursuant to Section 15.1 but only when and to the extent necessary to prevent any material interference with Licensor's use of the Licensed Property, and if such improvements do interfere with Licensor's use, Licensor may request Licensee to relocate Licensee's material, facilities and improvements as deemed necessary by Licensor.

15.4 If relocation of Licensee's materials, facilities, or improvements is necessitated by Licensor's use of existing facilities or the construction of improvements by or on behalf of Licensor, Licensee shall bear the entire actual cost of relocating said materials, facilities and improvements.

15.5 Licensor shall not exercise its right to require relocation of Licensee's facilities, materials, and improvements in an unreasonable or arbitrary manner, and warrants to Licensee that as of the date of this License, relocation of Licensee's facilities is not expected or anticipated as a result of Licensor's existing plans for the Licensed Property.

**16. Permits, Statutes and Codes**

16.1 Licensee shall comply with all requirements of all statutes, acts, ordinances, regulations, codes, and standards of legally constituted authorities with jurisdiction, applicable to

Licensee's use of the Licensed Property. Licensee shall obtain or cause to be obtained at its expense, all permits, approvals and authorizations required by Licensee's actions pursuant to this License.

16.2 The USA or Licensor may, at any time and at no cost or liability to the USA or Licensor, terminate any License if the Licensee fails to comply with all applicable Federal, State, and local laws, regulations, ordinances, or terms and conditions of any License, or to obtain any required permits or authorizations.

**17. Licensor's Right to Inspect**

17.1 Licensor, Association or the USA may enter any part of the Licensed Property at all reasonable times to make an inspection thereof. During any construction by Licensee, Licensor may inspect all trenching, backfilling and other related construction activity that potentially affects Licensor's facilities, and require conformance with all Licensor's requirements and specifications related thereto.

17.2 Licensee shall release Licensor, Association and the USA from any claims for damages arising out of any delay caused by Licensor in permitting or inspecting any work on the Licensed Premises. The provisions of this Section shall survive termination of this License.

**18. Service of Notice**

All notices, demands and invoices required or permitted by this License shall be in writing and shall be considered to have been properly delivered: (i) if mailed, three (3) business days after deposit in the U.S. mail, postage prepaid, return receipt requested, addressed as follows; (ii) if sent by overnight delivery service, on the next business day after deposit with such service, addressed as follows; (iii) if personally delivered, or (iv) if by email on the date of delivery service to:

**Mail**

**Notices to Licensor**

Attn: Manager, PAB348  
SALT RIVER PROJECT  
Land Rights Management  
P.O. Box 52025  
Phoenix, AZ 85072-2025

**Notices to Licensee**

Attn: Tom Kaczmarowski  
Sr Civil Engineer  
City of Glendale- Suite 315  
5850 West Glendale Avenue  
Glendale, AZ 85301

**Hand /Certified Delivery**

**Notices to Licensor**

Attn: Manager, PAB348  
SALT RIVER PROJECT  
Land Rights Management  
2727 E. Washington Street  
Phoenix, AZ 85034-1422

**Notices to Licensee**

Attn: Tom Kaczmarowski  
Sr Civil Engineer  
City of Glendale- Suite 315  
5850 West Glendale Avenue  
Glendale, AZ 85301



Either party may change its address or the designated person to receive notification hereunder by giving notice of such change in the manner provided above.

**19. Waiver**

This License may not be modified or any provision waived except by written agreement executed by both Licensor and Licensee. The waiver by either party of any breach or failure to provide full performance under any of the terms and conditions of this License, or the failure of a party to exercise, or any delay in exercising, any rights or remedies provided herein or by law, or the failure of a party to notify the other properly in the event of a breach hereunder shall not be construed as a waiver of any other term of condition herein, or of any subsequent or continuing breach of the same or any other term or condition.

**20. Attorneys' Fees Upon Default**

If either party brings or defends any legal action, suit or proceeding based on rights or obligations arising from this License, the successful party shall be entitled to recover reasonable litigation expenses, court costs and reasonable attorneys' fees, as determined by a court, in any such action, suit or proceeding. The foregoing shall not in any way limit or restrict any other right or remedy at law or equity otherwise available to such party.

**21. Force Majeure**

21.1 If either party is rendered unable, wholly or in part, by force majeure to carry out its obligations under this License, other than the obligation of Licensee to make payments of amounts due hereunder, then the obligations of both Licensee and Licensor, so far as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused, but for no longer period, and such cause shall so far as possible be remedied within a reasonable time. The term "force majeure" as used herein shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemies, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, interruptions by government not due to the fault of the parties, civil disturbances, explosions, or unforeseeable action or nonaction by governmental bodies in approving the applications for approvals or permits or any material change in circumstances arising out of legislation, regulation or litigation. Nothing in this Section shall require Licensor to settle a strike.

21.2 The USA may, at any time and at no cost or liability to the USA, terminate this License in the event of a natural disaster, a national emergency, a need arising from security requirements, or an immediate and overriding threat to public health and safety.

**22. Entire Agreement; Changes After Execution**

This License, including its specified addenda and exhibits, if any, constitutes the entire agreement between the parties, and any amendment hereto must be in writing and signed by both parties.

**23. Governing Law, Venue and Waiver of Trial by Jury**

23.1 This License shall be interpreted, governed by, and construed in accordance with the substantive and procedural laws of the State of Arizona, without regard to conflicts of law principles. Licensor and Licensee agree that any action, suit, or proceeding arising out of, or in any way connected with this License, shall be initiated and prosecuted in a state or federal court of competent jurisdiction located in Maricopa County, Arizona, and the parties irrevocably submit to the jurisdiction and venue of such court. To the fullest extent permitted by law, each party hereby irrevocably waives any and all rights to a trial by jury and covenants and agrees that it will not request a trial by jury with respect to any legal proceeding arising out of or in any way connected with this License.

23.2 Each provision of this License shall be interpreted in such a manner as to be valid under applicable law, but if any provision of this License shall be deemed or determined by competent authority to be invalid or prohibited hereunder, such provision shall be ineffective and void only to the extent of such invalidity or prohibition, but shall not be deemed ineffective or invalid as to the remainder of such provision or any other remaining provisions, or of the License as a whole.

**24. Water Damage**

Except when the result of the negligent or willful act or omission of Licensor or Association or their directors, officers, employees, agents or assigns, neither Licensor, Association or the USA shall be liable for any loss sustained by Licensee, its officers, employees, agents or invitees on the Licensed Property because of water damage resulting from any source whatsoever, including, but not limited to, flood, drainage or run-off, irrespective of any prior knowledge by Licensor of the possibility of such flood, drainage or run-off, arising from or in connection with the operation or maintenance of any Reclamation Project dam, canal or other facility.

**25. Transactional Conflict of Interest**

Notice is hereby given of A.R.S. § 38-511.

**26. Approvals**

Each party agrees that if any consent or approval shall be required of such party, such consent or approval shall not be unreasonably withheld.

**27. Reservation of Remedies**

Unless otherwise provided herein, each party shall have available to it, all remedies provided by law or equity.

**28. Archaeological and Environmental Compliance**

28.1 Licensee shall immediately provide an oral notification to Reclamation (hereinafter

described) authorized official and Licensor of the discovery of any and all antiquities or other objects of archaeological, cultural, historic, or scientific interest on the Licensed Property. The License shall follow up with a written report of their finding(s) to Reclamation authorized official and Licensor within forty-eight (48) hours. Objects under consideration include, but are not limited to, historic or prehistoric ruins, human remains, funerary objects, and artifacts discovered as a result of activities under this License. The Licensee shall immediately cease the activity in the area of discovery, make a reasonable effort to protect such discovery, and wait for written approval from Reclamation authorized official and Licensor before resuming the activity. Protective and mitigative measures specified by Reclamation authorized official and Licensor shall be the responsibility of the Licensee.

28.2 Licensee through the Licensor shall obtain a final environmental clearance from Reclamation prior to construction on the Licensed Property.

28.3 Licensee shall notify Licensor's staff archaeologist should any cultural resources or human remains be found on the Licensed Property, and when appropriate, shall be responsible for other notifications and legal requirements as required by the Archeological Resource Protection Act and the Native American Graves Protection and Repatriation Act and ensuing 43 C.F.R. 10 regulations. All costs are the responsibility of the Licensee.

28.4 (a). Licensee may not allow contamination or pollution on Licensed Property, waters or facilities by its employees or agents and shall take reasonable precautions to prevent such contamination or pollution by third parties. Substances causing contamination or pollution shall include, but are not limited to hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial waste, petroleum products, mine tailings, mineral salts, misused pesticides, pesticide containers, or any other pollutants.

(b). Licensee shall comply with all applicable Federal, State, and local laws and regulations, and Reclamation policies and directives and standards, existing or hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported, stored, or disposed of on or in Federal lands, waters or facilities.

(c). "Hazardous material" means any substance, pollutant, or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended, 42 U.S.C. § 9601, et seq., and the regulations promulgated pursuant to that Act.

(d). Upon discovery of any event which may or does result in contamination or pollution of Licensed Property, waters or facilities, Licensee shall initiate any necessary emergency measures to protect health, safety and the environment and shall report such discovery and full details of the actions taken to the Licensor. Reporting is timely if made within twenty-four (24) hours of the time of discovery if it is an emergency or by the first working day if it is a non-emergency. An emergency is a situation that requires immediate action to reduce or avoid endangering public health and safety or the environment.

(e). Violation of any of the provisions of this Article 28, as determined by the Licensor, may constitute grounds for termination of this Agreement. Such violations require immediate corrective action by Licensee and shall make Licensee liable for the cost of full and complete remediation and/or restoration of any Licensed Property, waters or facilities that are adversely affected as a result of the violation.

28.5 Licensee hereby assumes and accepts all liability and responsibility for initiation and completion of response, cleanup, and corrective and remedial action, and the cost thereof, required on the Licensed Property and any other affected premises, due to any action taken by Licensee or its agents, officers, directors, or employees that that results in release of any hazardous substance within the meaning of the Federal Comprehensive Environmental Response, Compensation and Liability Act -- 42 U.S.C. § 9601 et seq., or the Arizona Environmental Quality Act -- A.R.S. § 49-101 et seq., as such laws have been or are amended from time to time, or regulated substance within the meaning of Subtitle I of the Federal Resource Conservation and Recovery Act (Underground Storage Tanks) -- 42 U.S.C. § 6991a et seq., or the Arizona Underground Storage Tank Law -- A.R.S. § 49-1001 et seq., as such laws have been or are amended from time to time. This Section 28 shall survive termination of this License.

**29. Intentionally Deleted**

**30. Officials Not to Benefit**

No Member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon, pursuant to 41 U.S.C. § 22.

**31. Illegal Use**

Any activity deemed to be illegal on the Licensed Property will be cause for immediate termination of this License.

**32. Bonding**

Licensee shall provide a bond in the amount of \$0.00, to be maintained until all construction activities of this project and restoration of the disturbed areas have been completed and accepted in writing by Reclamation or Licensor. Upon completion, or partial completion, of these restoration requirements, Reclamation or Licensor, may terminate or allow partial reduction of the amount of the bond requirement.

**33. Pest Control**

33.1 The Licensee shall not permit the use of any pesticides on Licensed Property without prior written approval by Reclamation or Licensor. The Licensee shall submit to Reclamation or Licensor for approval an Integrated Pest Management Plan (IPMP) thirty (30) days in advance of pesticide application.

33.2 All pesticides used shall be in accordance with the current registration, label direction, or other directives regulating their (State Department of Agricultural, Department of Ecology, OSHA, etc.) and with applicable Reclamation policy and directives and standards. Applicators will meet applicable State training or licensing requirements. Records maintenance

shall be in accordance with State requirement and such records shall be furnished to Reclamation or Licensor not later than five (5) working days after any application of a pesticide

33.3 Any equipment, tools, and machines used for pesticide application shall be in good repair and suitable for such use. Equipment shall be calibrated prior to the spraying season and as deemed necessary by Reclamation or Licensor.

33.4 Mixing, disposal, and cleaning shall be done where pesticide residues cannot enter storm drains, sewers, or other non-target areas.

33.5 The Licensee shall initiate any necessary measures for containment and cleanup of pesticide spills. Spills shall be reported to Licensor or Reclamation Contracting Officer with full details of the actions taken. Reporting may be within a reasonable time period. A reasonable time period means within twenty-four (24) hours of the spill if it is an emergency or by the first working day if it is a non-emergency. An emergency is any situation that requires immediate action to reduce or avoid endangering public health and safety or the environment.

33.6 Aerial application of pesticides is prohibited without the prior written consent by Licensor or Reclamation's designated representative.

33.7 The Licensee agrees to include the provisions contained in paragraphs 33.1 through 33.6 of this Section in any subcontract or third-party contract it may enter into pursuant to this License.

IN WITNESS WHEREOF, the parties hereto have executed this License this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**LICENSOR:**

**SALT RIVER PROJECT AGRICULTURAL  
IMPROVEMENT AND POWER DISTRICT**

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF ARIZONA     )  
  ) ss.  
COUNTY OF MARICOPA )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the foregoing instrument was acknowledged before me by \_\_\_\_\_ a \_\_\_\_\_ of the Land Department, **SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT DISTRICT**, an agricultural improvement district organized and existing under the laws of the State of Arizona ("SRP"), on behalf of SRP.

My Commission Expires:

\_\_\_\_\_  
Notary Public

IN WITNESS WHEREOF, \_\_\_\_\_,  
\_\_\_\_\_ has caused its name to be executed by its duly  
authorized representative(s), this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**LICENSEE:**

**CITY OF GLENDALE** an Arizona municipal corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF ARIZONA     )  
  ) ss  
COUNTY OF MARICOPA )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, personally  
appeared \_\_\_\_\_, of \_\_\_\_\_, and such  
authorized representative(s) acknowledged that this document was executed on behalf of the  
corporation for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Will Expire:

\_\_\_\_\_  
Notary Public

Site Consultants Inc.  
113 South Rockford Drive  
Tempe, Az. 85281

EXHIBIT "A"  
DESCRIPTION OF REAL ESTATE IN  
MARICOPA COUNTY, STATE OF ARIZONA

A strip of land in the Southeast quarter of Section 5, Township 2 North, Range 1 East of the Gila and Salt River Meridian, Maricopa County, Arizona, described as follows:

Commencing at the East quarter corner of Section 5, Township 2 North, Range 1 East, Gila and Salt River Meridian, from which the Southeast corner of said Section 5 bears South 2 degrees 27 minutes 12 seconds West, 2,609.59 feet;  
Thence South 2 degrees 27 minutes 12 seconds West along the East line of said Section 5, 1304.80 feet to the Northeast corner of the South half of the Southeast quarter of said Section 5;  
Thence North 89 degrees 56 minutes 50 seconds West along the North line of the South half of the Southeast quarter of said Section 5, 55.05 feet to the Point of Beginning;  
Thence South 2 degrees 27 minutes 12 seconds West, 22.94 feet;  
Thence South 28 degrees 17 minutes 47 seconds West, 22.94 feet;  
Thence South 2 degrees 27 minutes 12 seconds West, 801.67 feet;  
Thence North 90 degrees 00 minutes 00 seconds West, 176.73 feet;  
Thence South 2 degrees 25 minutes 00 seconds West, 391.95 feet;  
Thence North 90 degrees 00 minutes 00 seconds West, 78.60 feet;  
Thence North 0 degrees 00 minutes 00 seconds East, 27.00 feet;  
Thence North 90 degrees 00 minutes 00 seconds East, 59.72 feet;  
Thence North 2 degrees 25 minutes 00 seconds East, 384.94 feet;  
Thence North 90 degrees 00 minutes 00 seconds East, 176.75 feet;  
Thence North 2 degrees 27 minutes 12 seconds East, 787.09 feet;  
Thence North 28 degrees 17 minutes 47 seconds East, 42.80 feet;  
Thence South 89 degrees 56 minutes 50 seconds East, 11.35 feet to the Point of Beginning.



**USA FEE  
LICENSE EXHIBIT**

**Site Consultants, Inc.**

113 S. Rockford Drive, Tempe Arizona 85281  
 Tele: 480-894-2820 Fax: 480-894-2847

SCI #2030 SCALE: 1" = 200' DATE: 6-23-2016

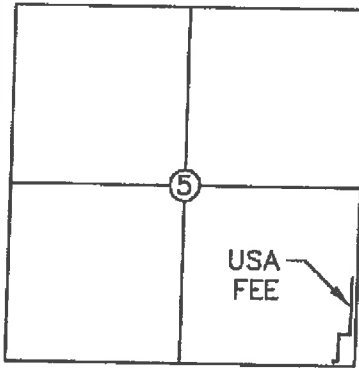
POINT OF COMMENCEMENT  
 FOUND 1/2" REBAR  
 E. 1/4 COR., SEC. 5,  
 T2N, R1E, G&SRM,

LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	S2°27'12"W	22.94'
L2	S28°17'47"W	22.94'
L3	S2°27'12"W	801.67'
L4	N90°00'00"W	176.73'
L5	S2°25'00"W	391.95'
L6	N90°00'00"W	78.60'
L7	N0°00'00"E	27.00'
L8	N90°00'00"E	59.72'
L9	N2°25'00"E	384.94'
L10	N90°00'00"E	176.75'
L11	N2°27'12"E	787.09'
L12	N28°17'47"E	42.80'
L13	S89°56'50"E	11.35'

N89°56'50"W 55.05'  
 POINT OF BEGINNING  
 NORTH LINE S. 1/2,  
 S.E. 1/4 SEC. 5



EXPIRES 6-30-2016



2" = 1 SQUARE MILE

**LEGEND**

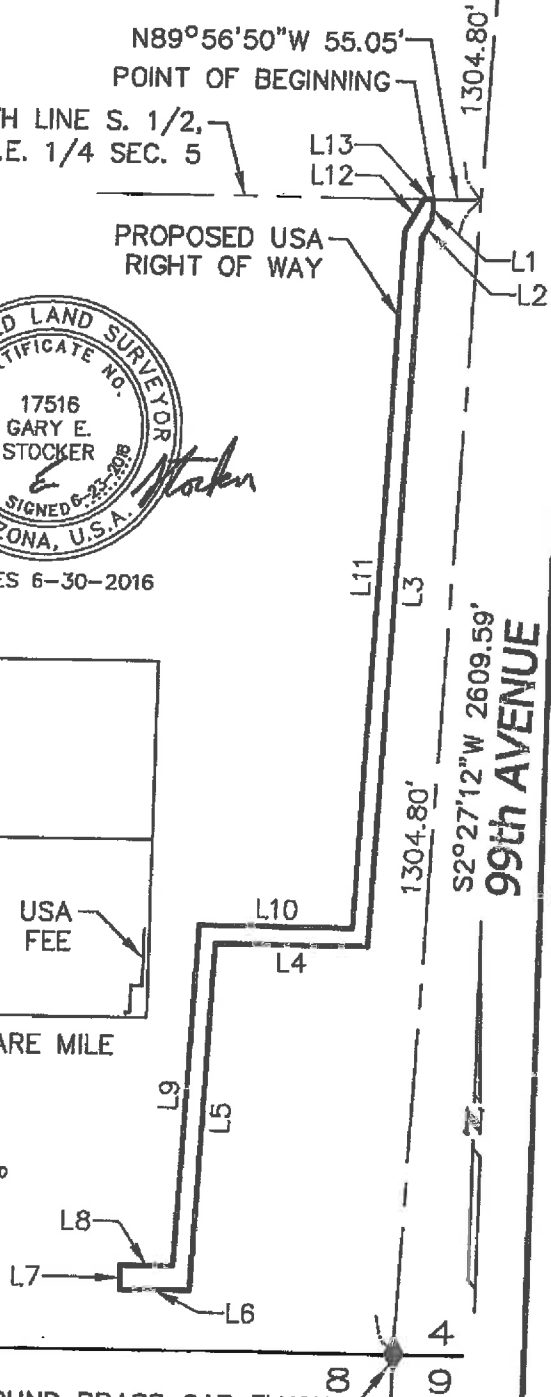
- PROPOSED USA FEE
- SECTION LINE
- ◆ SECTION CORNER
- ◆ CORNER
- ◆ SECTION LINE TAG

COR.  
 SEC.  
 L11

**SCALE**



1" = 200 ft.



**W. GLENDALE AVE.**

FOUND BRASS CAP FLUSH  
 S.E. COR., SEC. 5,  
 T2N, R1E, G&SRM,

## EXHIBIT C

**When recorded, return to:**

City Clerk  
5850 W. Glendale Ave.  
Glendale, Arizona 85301

**PROPERTY USE AGREEMENT**

For valuable consideration and the exchange of promises contained in this Agreement, the receipt of which is hereby acknowledged, the City of Glendale, an Arizona municipal corporation (“City”), and 101 W Healthcare, LLC, an Arizona limited liability company (“Owner”), agree as follows concerning the real property licensed, or to be licensed, to the City by the United States of America pursuant to the Salt River Project Land Use License No. LJ51858 (“SRP License”) the form of which is attached as Exhibit 1, and which identifies the real property to be licensed as Exhibit A to the SRP License (“Licensed Property”). Owner is the owner of that certain real property described on the attached Exhibit 2 (“Owner’s Property”) which is adjacent to and abuts the Licensed Property.

**The City of Glendale:**

1. Hereby agrees to execute the SRP License and comply with its terms in good faith; and
2. Hereby agrees to designate Owner as its authorized representative to allow Owner to construct improvements on and use the Licensed Property in any and all manner consistent with the SRP License, including for driveway, parking, roadway, sidewalk, landscaping, water and sewer lines; and
3. Hereby agrees to designate Owner as its authorized representative to allow Owner to operate and maintain, and, if necessary, repair and replacement of Owner’s improvements on the Licensed Property; and
4. Hereby agrees to promptly provide written notice to Owner pursuant to Section 13 herein of any notice received by City from the Licensor with respect to the SRP License, including without limitation, notice of renewal or termination, default or demand for correction of default, entry by Licensor for maintenance or repairs, or demand by Licensor for indemnification. As used in this subsection, “promptly” is defined as: (1) within one business day, if cure is required within seven days or less; or (2) within three business days if cure is required within 8 days or more. The City will use its best efforts to, but is not required to, notify the Owner when an emergency exists; and
5. Makes no representation as to any warranty of habitability or suitability of the Licensed Property for the use intended by Owner; and
6. Makes no representation that the License will remain in effect for the full term provided in Section 5 of the License.

## **101 W Healthcare:**

7. Hereby agrees to comply with all terms and conditions of the SRP License in good faith and to reimburse the City in the event Owner's violation of a term or condition of the License results in any financial obligation to the City, including, but not limited to, the cost to restore the Licensed Property to its original condition, or other monetary damages, reasonable attorneys' fees or costs; and

8. Owner agrees to perform and/or pay for all costs associated with construction of improvements installed by or on behalf of Owner on the Licensed Property; and

9. Owner agrees to perform and/or pay for all costs necessary to safely operate, maintain, repair and replace, if necessary, any such improvements installed by or on behalf of Owner once constructed. It is the intent of the parties that Owner will perform all routine maintenance, repairs and replacement of improvements installed by or on behalf of Owner on the Licensed Property. In the event of an emergency which may pose a risk to public health or welfare or the environment, the City may perform any and all emergency maintenance, repairs, or replacement of improvements installed by or on behalf of Owner on the Licensed Property to return the Licensed Property to a safe condition. If the City performs any maintenance, repairs, or replacement of improvements installed by or on behalf of Owner on the Licensed Property, it will bill Owner for the actual cost of such work. Owner agrees to reimburse the City within 30 days of its receipt of the bill for such costs. Nothing in this Agreement prevents the City from performing any routine maintenance, repairs and replacement of improvements on the Licensed Property if it believes the Owner's performance of such work is defective or otherwise inadequate.

10. **Insurance.** For the duration of the term of this Agreement, Owner 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 that occurs on the Licensed Property. Such insurance shall cover Owner, its agent(s), representative(s), employee(s) and any subcontractors and shall name the City of Glendale as an additional insured. 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 **\$2,000,000** 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. 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.
- c. Automobile Insurance: Comprehensive automobile liability insurance with a combined single limit for bodily injury and property damage of not less than

**\$2,000,000** each occurrence with respect to Owner's vehicle, whether owned, hired or non-owned, assigned to or used in the performance of the work.

- d. The insurance policies required by the Section above must contain, or be endorsed to contain, the following insurance provisions:
  - i. **The City, its officers, officials, employees and volunteers are to be covered as additional insureds** of the CGL for any liability arising from or in connection with the performance of all tasks or work that occurs on the Licensed Property. 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 Owner or on its behalf. General liability coverage can be provided in the form of an endorsement to Owner'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.
  - ii. For any claims related to the Licensed Property, the **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.
  - iii. Each insurance policy required by this Section shall provide that coverage shall not be canceled, except after providing notice to the City.
  - iv. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII, unless Owner has obtained prior approval from the City stating that a non-conforming insurer is acceptable to the City.
  - v. Waiver of Subrogation. Owner **hereby agrees to waive its rights of subrogation which any insurer may acquire** from it by virtue of the payment of any loss. Owner 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 Owner, its employees, agent(s) and subcontractor(s).
  - vi. Verification of Coverage. Within 15 days of the Effective Date of this Agreement, Owner 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 a Certificate of Occupancy is issued. 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. Starting on the first anniversary of this Agreement and annually

thereafter during the term of the SRP License, Owner shall provide City with verification of the coverage required by this Agreement.

**Additional Provisions:**

11. **Amendment.** This Agreement may be modified or amended only by a written instrument executed by or on behalf of the City and by the owner(s) of that portion(s) of the Owner's Property which is within twenty feet (20') of the Licensed Property

12. **Successors and Assigns.** The provisions of this Agreement shall run with the land and shall be binding upon the respective successors and assigns with respect to Owner's Property. Wherever the term "Owner" is used in this Agreement such term shall include any such successors and assigns. Whenever there is any conveyance of any portion of the Owner's Property that is within twenty feet (20') of the Licensed Property, notice pursuant to Section 13 herein shall be provided to the City of such conveyance.

13. **Notice.** All notices, demands, and other communications required or permitted by this Agreement shall be in writing and shall be considered to have been properly delivered: (i) if mailed, after deposit in the U.S. mail, postage prepaid, return receipt requested, addressed as follows; (ii) if sent by overnight courier delivery service, on the next business day after deposit with such service, addressed as follows; (iii) if personally delivered; or (iv) if by email on the date of delivery service to:

If to City: City of Glendale  
Attn: Tom Kaczmarowski, Sr. Civil Engineer  
5850 W. Glendale Ave.  
Glendale, Arizona 85301  
Email: [TKaczmarowski@glendaleaz.com](mailto:TKaczmarowski@glendaleaz.com)

With a copy to: City of Glendale  
Attn: City Manager  
5850 W. Glendale Ave.  
Glendale, Arizona 85301  
Email: [KPhelps@glendaleaz.com](mailto:KPhelps@glendaleaz.com) or successor

With a copy to: City of Glendale  
Attn: City Attorney  
5850 W. Glendale Ave.  
Glendale, Arizona 85301  
Email: [MBailey@glendaleaz.com](mailto:MBailey@glendaleaz.com) or successor

If to Owner: 101 W Healthcare, LLC  
5800 N. Yucca Rd.  
Paradise Valley, Arizona 85253  
Email: [JSimon@simonmed.com](mailto:JSimon@simonmed.com)

With a copy to: Mattson Construction  
Attn: Michael Mattson  
P.O. Box 27842  
Tempe, Arizona 85285  
Email: [Mike@mattsonconstruction.com](mailto:Mike@mattsonconstruction.com)

Any party may change its address or the designated person to receive notification hereunder by giving notice of such change in the manner provided above.

14. **Term; Revocation.** The Effective Date of this Agreement shall be the Effective Date of the SRP License and the term of this Agreement shall be coextensive with the term of the SRP License. In the event that the SRP License is not executed on behalf of its Licensor within 90 days of the date of this Agreement, or in the event that the SRP License expires or is terminated, either party to this Agreement may give notice to the other of the revocation of this Agreement.

15. **Counterparts.** This Agreement may be executed in counterpart and the parties may execute and exchange counterparts, and when so exchanged, this document shall be binding and effective for all purposes and treated in the same manner as if the parties had exchanged original, manually signed signature pages.

16. **Recordation.** After the execution on behalf of the Licensor and Licensee of the SRP License, the City shall provide a fully executed copy of the SRP License to this Agreement as its Exhibit 1 to Owner. Owner then shall record this Agreement with its exhibits within ten (10) days of its receipt of the SRP License to ensure that this Agreement runs with the land. Owner shall provide a copy of the Agreement as recorded with the Maricopa County Recorder's Office to the City within ten (10) days of its recordation.

IN WITNESS WHEREOF, this Property Use Agreement has been executed by the Parties as of the dates set forth below.

CITY OF GLENDALE

ATTEST:

\_\_\_\_\_  
Kevin R. Phelps

Date: \_\_\_\_\_

\_\_\_\_\_  
Julie K. Bower  
City Clerk

APPROVED AS TO FORM:

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



101 W HEALTHCARE, LLC

By: [Signature]  
its Manager

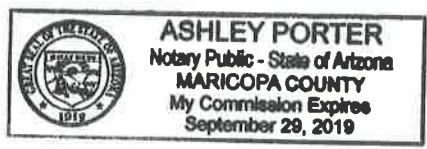
Date: Nov. 23, 2016

STATE OF ARIZONA        )  
  ) ss.  
County of Maricopa        )

The foregoing instrument was acknowledged before me this 23 day of Nov., 2016, by John Simon, known to me to be the person whose name is subscribed to the foregoing Property Use Agreement, and acknowledged that he/she executed the same on behalf of 101 W Healthcare, LLC for the purposes therein contained.

Ashley Porter  
Notary Public

My Commission Expires  
September 29, 2019



**SALT RIVER PROJECT**  
Land Department/PAB348  
P. O. Box 52025  
Phoenix, Arizona 85072-2025

**SALT RIVER PROJECT**  
**LAND USE LICENSE**

**DO NOT REMOVE  
THIS PAGE IS PART OF THE ORIGINAL  
DOCUMENT**

**SALT RIVER PROJECT  
LAND USE LICENSE**

Salt River Project License No.: LJ51858  
Salt River Project File No.: 4  
Effective Date: July 1, 2016  
Agent: PJH

**1. License Granted**

WHEREAS, it is understood by the parties hereto that Licensor and the Salt River Valley Water Users' Association (Association) manage the Licensed Property pursuant to contracts with the United States of America (USA), which assign to Licensor the responsibility and authority for the care, operation, maintenance and management of the Salt River Reclamation Project ("Reclamation Project") of which the Licensed Property is a part, and;

WHEREAS, Licensor is willing to consent to Licensee's use of the Licensed Property in a manner that does not in any way compromise the contractual obligation or authority of Licensor to manage the Reclamation Project.

For valuable consideration acknowledged and received by Licensor, the **SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**, an agricultural improvement district organized and existing under the laws of the State of Arizona ("Licensor"), grants **CITY OF GLENDALE**, an Arizona municipal corporation ("Licensee"), a revocable License granting the nonpossessory and nonexclusive right and privilege to enter upon and use certain real property, the Licensed Property, under the following terms and conditions. Nothing herein shall be construed as a conveyance of a real property interest in the Licensed Property.

**2. Purpose**

Licensee shall make the Licensed Property available for use by the general public and may use the Licensed Property only for roadway, sidewalk, landscaping, water and sewer lines. Licensee shall not use the Licensed Property for any other purpose without the prior written approval of Licensor. Licensee acknowledges that, but for this License, it has no rights to use or occupy the Licensed Property, and represents that it makes no claim to such rights.

**3. Licensed Property**

The Licensed Property shall mean: That portion of USA Fee property located within the Southeast Quarter of Section 5, Township 2 North, Range 1 East of the Gila and Salt River Meridian, Maricopa County, Arizona and further described on Exhibit "A" attached hereto and made by reference a part hereof.

#### **4. Compensation**

4.1 Licensee shall reimburse Licensor, for all federal, state and local excise, sales, privilege, gross receipts and other similar taxes lawfully imposed on and paid by Licensor as a result of any License Fees received by Licensor under this License; provided, however, that this Section shall not apply to income taxes. Licensee shall pay all property taxes, if any, levied on the Licensed Property.

4.2 All amounts paid by Licensee to Licensor as a result of damages, costs, expenses and sums incurred by Licensor hereunder as a result of Licensee's default shall be deemed to be License Fees.

4.3 Any payment due under this License that is not paid within 30 days of its due date shall bear interest from the date such payment was due at the rate of eighteen percent (18%) per annum. Licensor shall have all the rights and remedies provided herein and by law for Licensee's failure to pay any of the compensation specified in this Section 4.

4.4 Within 30 days of Licensor's delivery of an invoice therefore, Licensee shall pay any incremental increase in Licensor's operation and maintenance costs on the Licensed Property resulting from Licensee's exercise of its rights hereunder. Licensor shall incur no liability for any costs of repairing or replacing Licensee's improvements within the Licensed Property, damaged as a result of Licensor's operation and maintenance of its facilities, unless due to negligent or willful acts or omissions of Licensor or its agents or employees.

4.5 In the event of non-payment by Licensee of any amount due hereunder, Licensor's remedies shall include, though not be limited to, the collection of past due compensation and termination of this License.

#### **5. Term**

The term of this License shall be for Twenty Five Years (25) Licensed Years (as defined below) beginning July 1, 2016 and ending June 30, 2041. Unless earlier terminated pursuant to the terms set forth herein, and may be renewed upon written agreement by the parties. For purposes of this License, the term "License Year" shall mean each twelve (12) month period during the term of this License commencing on July 1st and ending at midnight on the next succeeding June 30<sup>th</sup>.

#### **6. Default**

If a party ("Defaulting Party") fails (i) to make payment required herein by its due date or (ii) perform an obligation under this License within 30 days after written notice is given to the Defaulting Party of its failure to perform such obligation on the date when such performance was due (or, if such default cannot reasonably be cured within 30 days, then within such longer period as is determined by the non-defaulting party to be necessary to cure such default, provided the Defaulting Party commences to cure such default within the 30 day period), then, upon the expiration of the applicable cure period, if any, the non-defaulting party may terminate this

License upon not less than 30 days prior written notice to the Defaulting Party.

**7. Rights of the United States of America**

7.1 This License is subject to the paramount rights and regulatory jurisdiction of the USA in and to the Licensed Property, federal reclamation law, and all agreements existing and to be made between and among the USA, the Association, and Licensor regarding the management, care, operation and maintenance of the Reclamation Project.

7.2 The USA reserves the right of its officers, agents, and employees at all times to have unrestricted access and ingress to, passage over, and egress from all of said lands, to make investigations of all kinds, dig test pits and drill test holes, to survey for and construct reclamation and irrigation works and other structures incident to Federal Reclamation Projects, or for any purpose whatsoever. The USA will make every reasonable effort to keep damages to a minimum.

**8. Successors and Assigns**

The privileges granted to Licensee herein shall not inure to or benefit any person or entity other than Licensee, either through assignment or sublicense. Any attempt by Licensee to so assign or sublicense all or any portion of the Licensed Property for any purpose whatsoever shall void this License. Notwithstanding the preceding language, the parties agree that Licensee may authorize parties other than Licensee to perform Licensee's obligations on its behalf to install, operate and maintain improvements authorized under this license. No such authorization shall relieve Licensee of its obligations under this license.

**9. Termination of the License**

9.1 Either party or the USA may terminate this License without cause upon not less than thirty (30) days written notice.

9.2 The USA or Licensor may, at any time and at no cost or liability to the USA or Licensor, terminate this License if the USA or Licensor determines that any of the following apply:

(i) The use has become incompatible with authorized project purposes, project operations, safety, and security;

(ii) A higher public use is identified through a public process described at 43 CFR § 429.32(a)(1); or

(iii) Termination is necessary for operational needs of the project.

9.3 The USA or Licensor may, at any time and at no cost or liability to the USA or Licensor, terminate this License if the USA or Licensor determines that the Licensee has failed to use the Licensed Property for its intended purpose. Further, failure to construct improvements pursuant to Section 15 hereof within the timeframe specified in the terms of the License may constitute a presumption of abandonment of the requested use and cause termination of the License.

9.4 Upon the expiration, termination, or revocation of this License, if all License Fees and damage claims due the USA and Licensor have been paid, the Licensee shall remove all structures, equipment, or other improvements made by it from the Licensed Property at no cost to the USA or Licensor. Upon failure to remove any such improvements within thirty (30) days of the expiration, termination, or revocation, any remaining improvements shall, at the option of the USA or Licensor, be removed or become the property of the USA or Licensor. The Licensee shall pay all expenses of the USA or Licensor, or their assigns, related to the removal of such improvements.

**10. Maintenance of Licensed Property & Interface with Licensor's Use of Licensed Property**

10.1 Licensee, at its own expense, shall maintain all of the Licensed Property in reasonably good, sanitary and safe condition. Subject to the conditions set forth herein, Licensor reserves to itself and Association, a right of access to the Licensed Property for the construction, use, operation, maintenance, relocation and removal of any existing and future electric or water distribution or transmission facilities. Any such construction, use, operation, maintenance, relocation or removal shall be performed in a manner designed to avoid, to the extent feasible, disturbance to Licensee's improvements and Licensee's use and enjoyment of the Licensed Property. Licensor shall give Licensee at least thirty (30) days prior written notice of any such construction, use, operation, maintenance, relocation or removal that will materially disrupt Licensee's use and enjoyment of the Licensed Property or the Licensee's improvements; provided, however, that such notice may be given in such shorter period as Licensor determines to be reasonable under prevailing circumstances, or with no notice in the event of an emergency where no notice is feasible. Nothing in this License shall be construed to deny or lessen the powers and privileges granted Licensor by the laws of the State of Arizona. Licensor shall not be liable to Licensee for any damage to Licensee's improvements located upon the Licensed Property, unless due to negligent or willful acts or omissions of Licensor or its agents or employees.

10.2 If Licensee defaults in the performance of the obligations set forth in Section 10.1, and Licensor gives notice of the default, Licensee shall correct such default to the reasonable satisfaction of Licensor within the required period of time set forth in the notice of default (the "Correction Period"), which period of time shall be reasonable under the circumstances. If Licensee fails to correct the default within the Correction Period, Licensor may take any action reasonably determined by Licensor to be necessary to correct such default, including without limitation making any repair or modification to or removing any of Licensee's improvements. Licensee shall reimburse Licensor for the reasonable costs it incurs to correct such default within thirty (30) days after Licensor presents Licensee with a statement of such costs. Licensee shall release Licensor and Association from all damages resulting to Licensee from the correction of such default, including, without limitation, those damages arising from all repairs or modifications to or removal of any of Licensee's improvements.

10.3 The USA, acting through Reclamation, Department of the Interior, reserves rights to construct, operate, and maintain public works now or hereafter authorized by the Congress without liability for termination of the License or other damage to Licensee's activities or facilities.

**11. Nonexclusive Rights**

This License is nonexclusive and nothing herein shall be construed to prevent or restrict Licensor from granting other privileges to use the Licensed Property in a manner Licensor or the USA deems not inconsistent with Licensee's use of the Licensed Property in accordance with this License.

**12. Existing Easements and Licenses**

This License is subject to all existing encumbrances of record, including easements and licenses. It shall be Licensee's obligation and responsibility to ascertain the rights of all third parties in the Licensed Property. Licensor consents only to the use of the Licensed Property for the purposes described herein, in its capacity as manager of the Licensed Property and on behalf of the USA. Nothing in this License shall be construed as Licensor's representation, warranty, approval or consent regarding rights in the Licensed Property held by other parties. Licensee shall indemnify and hold Licensor, the USA and the Association harmless from any liability arising out of any dispute or claim regarding actual or alleged interests in the Licensed Property, affecting Licensee's interests created herein, and shall release Licensor, the USA and Association from any such claims on its own behalf.

**13. Indemnification**

13.1 To the extent not prohibited by law or expressly excepted herein, Licensee, its successors and assigns ("Indemnitors"), shall indemnify, release, and hold harmless Licensor and Association ("Indemnitees") and the directors, officers, employees, agents, successors and assigns thereof, for, from and against any damage, loss or liability caused in whole or in part by Licensee, regardless of whether caused in part by Indemnitees or any of them, and suffered by Indemnitees as a result of any claim, demand, lawsuit or action of any kind, whether such damage or loss is to person or property, arising out of, resulting from or caused by: (a) the acts or omissions of Licensee, its agents, contractors, officers, directors, or employees; (b) Licensee's use or occupancy of the Licensed Property for the purposes contemplated by this License, including but not limited to claims by third parties who are invited or permitted onto the Licensed Property, either expressly or impliedly, by Licensee or by the nature of Licensee's improvement or other use of the Licensed Property pursuant to this License; (c) Licensee's failure to comply with or fulfill its obligations established by this License or by law. Such obligation to indemnify shall extend to and encompass all costs incurred by Licensor in defending against such claims, demands, lawsuits or actions, including but not limited to attorney, witness and expert witness fees, and any other litigation related expenses. Indemnitors' obligation pursuant to this Section shall not extend to any damage, loss or liability as a result of any claim, demand, lawsuit or action of any kind, whether such damage, loss or liability is to person or property arising out of, resulting from or caused by the sole, exclusive acts or omissions of Indemnitees, their contractors, directors, officers, employees, agents, successors or assigns for which Licensor shall indemnify, release and hold harmless Indemnitors. Licensor's obligation to indemnify Indemnitors shall extend to and encompass all costs incurred by Indemnitors in defending against such claims, demands, lawsuits or actions, including but not limited to attorney, witness and expert witness fees, and any other litigation related expenses. The provisions of this Section shall survive termination of this License.

13.2 The Licensee agrees to indemnify the USA for, and hold the USA and all of its representatives harmless from, all damages resulting from suits, actions, or claims of any character brought on account of any injury to any person or property arising out of any act, omission, neglect, or misconduct in the manner or method of performing any construction, care, operation, maintenance, supervision, examination, inspection, or other activities of the Licensee.

#### **14. Insurance**

Without limiting any liabilities or any other obligations of Licensee, Licensee shall provide and maintain, with forms and insurers acceptable to Licensor, and until all obligations under the License are satisfied, the minimum insurance coverages, as follows:

14.1 If applicable, worker's compensation insurance to cover obligations imposed by applicable federal and state statutes and employer's liability insurance with a minimum limit of One Million and No/100 Dollars (\$1,000,000.00).

14.2 General liability insurance with a minimum combined single limit of Two Million Dollars (\$2,000,000.00) each occurrence or current homeowner's liability policy. The policy shall include coverage for bodily injury liability, property damage liability, and for liability assumed under this License.

14.3 If applicable, comprehensive automobile liability insurance with a combined single limit for bodily injury and property damage of not less than Two Million and No/100 Dollars (\$2,000,000.00) each occurrence with respect to Licensee's vehicle, whether owned, hired or non-owned, assigned to or used in the performance of the work.

14.4 The policies required by Sections 14.2 and 14.3 hereof shall be endorsed to include Licensor, members of its governing bodies, its officers, agents and employees as additional insureds and shall stipulate that the insurance afforded for Licensor, members of its governing bodies, its officers, agents and employees shall be primary insurance and that any insurance carried by Licensor, members of its governing bodies, its officers, agents or employees shall be excess and not contributory insurance.

14.5 Licensee shall waive their rights of recovery and require its insurers providing the required coverages to waive all rights of subrogation against Licensor and members of its governing bodies, its officers, agents and employees for matters arising out of this License.

14.6 Upon execution of this License, Licensee shall furnish Licensor with Certificates of Insurance as evidence that policies providing the required coverages, conditions and limits are in full force and effect. Such certificates shall provide that not less than thirty (30) days advance notice of cancellation, termination, or alteration shall be sent directly to Licensor addressed as follows:

Manager, Land Rights Management, PAB348  
Salt River Project  
P.O. Box 52025



14.7 The insurance policies may provide coverages that include deductibles or self-insured retentions. Licensee shall be solely responsible for deductibles and/or self-insured retentions, and SRP, at its option, may require Licensee to secure the payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

## **15. Construction**

15.1 Prior to making any improvements on the Licensed Property, Licensee shall submit to Licensor for its approval final construction documents and plans showing the location of any such improvements. Licensor shall approve or disapprove such documents and plans within 30 days. If applicable, Licensee shall obtain a Construction License from Water Engineering prior to the start of construction. Construction on the Licensed Property shall be performed only in accordance with approved construction documents and plans. At least ten (10) days prior to the beginning of any construction on the Licensed Property, Licensee shall give Licensor notice of the date that construction will begin and a schedule listing all construction activities and the dates when such construction activities will be performed. Licensee shall give Licensor written notice of all changes in the schedule and delays in construction immediately upon it being reasonably foreseeable that such change or delay will occur.

15.2 Licensee's improvements constructed, installed, operated and maintained on the Licensed Property shall not interfere with Licensor's use of Licensor's existing or any future irrigation or electric facilities on or adjacent to the Licensed Property.

15.3 Licensor may request Licensee to alter the scheduling of construction undertaken pursuant to Section 15.1 but only when and to the extent necessary to prevent any material interference with Licensor's use of the Licensed Property, and if such improvements do interfere with Licensor's use, Licensor may request Licensee to relocate Licensee's material, facilities and improvements as deemed necessary by Licensor.

15.4 If relocation of Licensee's materials, facilities, or improvements is necessitated by Licensor's use of existing facilities or the construction of improvements by or on behalf of Licensor, Licensee shall bear the entire actual cost of relocating said materials, facilities and improvements.

15.5 Licensor shall not exercise its right to require relocation of Licensee's facilities, materials, and improvements in an unreasonable or arbitrary manner, and warrants to Licensee that as of the date of this License, relocation of Licensee's facilities is not expected or anticipated as a result of Licensor's existing plans for the Licensed Property.

## **16. Permits, Statutes and Codes**

16.1 Licensee shall comply with all requirements of all statutes, acts, ordinances, regulations, codes, and standards of legally constituted authorities with jurisdiction, applicable to

Licensee's use of the Licensed Property. Licensee shall obtain or cause to be obtained at its expense, all permits, approvals and authorizations required by Licensee's actions pursuant to this License.

16.2 The USA or Licensor may, at any time and at no cost or liability to the USA or Licensor, terminate any License if the Licensee fails to comply with all applicable Federal, State, and local laws, regulations, ordinances, or terms and conditions of any License, or to obtain any required permits or authorizations.

**17. Licensor's Right to Inspect**

17.1 Licensor, Association or the USA may enter any part of the Licensed Property at all reasonable times to make an inspection thereof. During any construction by Licensee, Licensor may inspect all trenching, backfilling and other related construction activity that potentially affects Licensor's facilities, and require conformance with all Licensor's requirements and specifications related thereto.

17.2 Licensee shall release Licensor, Association and the USA from any claims for damages arising out of any delay caused by Licensor in permitting or inspecting any work on the Licensed Premises. The provisions of this Section shall survive termination of this License.

**18. Service of Notice**

All notices, demands and invoices required or permitted by this License shall be in writing and shall be considered to have been properly delivered: (i) if mailed, three (3) business days after deposit in the U.S. mail, postage prepaid, return receipt requested, addressed as follows; (ii) if sent by overnight delivery service, on the next business day after deposit with such service, addressed as follows; (iii) if personally delivered, or (iv) if by email on the date of delivery service to:

**Mail**

**Notices to Licensor**

Attn: Manager, PAB348  
SALT RIVER PROJECT  
Land Rights Management  
P.O. Box 52025  
Phoenix, AZ 85072-2025

**Notices to Licensee**

Attn: Tom Kaczmarowski  
Sr Civil Engineer  
City of Glendale- Suite 315  
5850 West Glendale Avenue  
Glendale, AZ 85301

**Hand /Certified Delivery**

**Notices to Licensor**

Attn: Manager, PAB348  
SALT RIVER PROJECT  
Land Rights Management  
2727 E. Washington Street  
Phoenix, AZ 85034-1422

**Notices to Licensee**

Attn: Tom Kaczmarowski  
Sr Civil Engineer  
City of Glendale- Suite 315  
5850 West Glendale Avenue  
Glendale, AZ 85301

Either party may change its address or the designated person to receive notification hereunder by giving notice of such change in the manner provided above.

**19. Waiver**

This License may not be modified or any provision waived except by written agreement executed by both Licensor and Licensee. The waiver by either party of any breach or failure to provide full performance under any of the terms and conditions of this License, or the failure of a party to exercise, or any delay in exercising, any rights or remedies provided herein or by law, or the failure of a party to notify the other properly in the event of a breach hereunder shall not be construed as a waiver of any other term of condition herein, or of any subsequent or continuing breach of the same or any other term or condition.

**20. Attorneys' Fees Upon Default**

If either party brings or defends any legal action, suit or proceeding based on rights or obligations arising from this License, the successful party shall be entitled to recover reasonable litigation expenses, court costs and reasonable attorneys' fees, as determined by a court, in any such action, suit or proceeding. The foregoing shall not in any way limit or restrict any other right or remedy at law or equity otherwise available to such party.

**21. Force Majeure**

21.1 If either party is rendered unable, wholly or in part, by force majeure to carry out its obligations under this License, other than the obligation of Licensee to make payments of amounts due hereunder, then the obligations of both Licensee and Licensor, so far as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused, but for no longer period, and such cause shall so far as possible be remedied within a reasonable time. The term "force majeure" as used herein shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemies, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, interruptions by government not due to the fault of the parties, civil disturbances, explosions, or unforeseeable action or nonaction by governmental bodies in approving the applications for approvals or permits or any material change in circumstances arising out of legislation, regulation or litigation. Nothing in this Section shall require Licensor to settle a strike.

21.2 The USA may, at any time and at no cost or liability to the USA, terminate this License in the event of a natural disaster, a national emergency, a need arising from security requirements, or an immediate and overriding threat to public health and safety.

**22. Entire Agreement; Changes After Execution**

This License, including its specified addenda and exhibits, if any, constitutes the entire agreement between the parties, and any amendment hereto must be in writing and signed by both parties.

**23. Governing Law, Venue and Waiver of Trial by Jury**

23.1 This License shall be interpreted, governed by, and construed in accordance with the substantive and procedural laws of the State of Arizona, without regard to conflicts of law principles. Licensor and Licensee agree that any action, suit, or proceeding arising out of, or in any way connected with this License, shall be initiated and prosecuted in a state or federal court of competent jurisdiction located in Maricopa County, Arizona, and the parties irrevocably submit to the jurisdiction and venue of such court. To the fullest extent permitted by law, each party hereby irrevocably waives any and all rights to a trial by jury and covenants and agrees that it will not request a trial by jury with respect to any legal proceeding arising out of or in any way connected with this License.

23.2 Each provision of this License shall be interpreted in such a manner as to be valid under applicable law, but if any provision of this License shall be deemed or determined by competent authority to be invalid or prohibited hereunder, such provision shall be ineffective and void only to the extent of such invalidity or prohibition, but shall not be deemed ineffective or invalid as to the remainder of such provision or any other remaining provisions, or of the License as a whole.

**24. Water Damage**

Except when the result of the negligent or willful act or omission of Licensor or Association or their directors, officers, employees, agents or assigns, neither Licensor, Association or the USA shall be liable for any loss sustained by Licensee, its officers, employees, agents or invitees on the Licensed Property because of water damage resulting from any source whatsoever, including, but not limited to, flood, drainage or run-off, irrespective of any prior knowledge by Licensor of the possibility of such flood, drainage or run-off, arising from or in connection with the operation or maintenance of any Reclamation Project dam, canal or other facility.

**25. Transactional Conflict of Interest**

Notice is hereby given of A.R.S. § 38-511.

**26. Approvals**

Each party agrees that if any consent or approval shall be required of such party, such consent or approval shall not be unreasonably withheld.

**27. Reservation of Remedies**

Unless otherwise provided herein, each party shall have available to it, all remedies provided by law or equity.

**28. Archaeological and Environmental Compliance**

28.1 Licensee shall immediately provide an oral notification to Reclamation (hereinafter

described) authorized official and Licensor of the discovery of any and all antiquities or other objects of archaeological, cultural, historic, or scientific interest on the Licensed Property. The License shall follow up with a written report of their finding(s) to Reclamation authorized official and Licensor within forty-eight (48) hours. Objects under consideration include, but are not limited to, historic or prehistoric ruins, human remains, funerary objects, and artifacts discovered as a result of activities under this License. The Licensee shall immediately cease the activity in the area of discovery, make a reasonable effort to protect such discovery, and wait for written approval from Reclamation authorized official and Licensor before resuming the activity. Protective and mitigative measures specified by Reclamation authorized official and Licensor shall be the responsibility of the Licensee.

28.2 Licensee through the Licensor shall obtain a final environmental clearance from Reclamation prior to construction on the Licensed Property.

28.3 Licensee shall notify Licensor's staff archaeologist should any cultural resources or human remains be found on the Licensed Property, and when appropriate, shall be responsible for other notifications and legal requirements as required by the Archeological Resource Protection Act and the Native American Graves Protection and Repatriation Act and ensuing 43 C.F.R. 10 regulations. All costs are the responsibility of the Licensee.

28.4 (a). Licensee may not allow contamination or pollution on Licensed Property, waters or facilities by its employees or agents and shall take reasonable precautions to prevent such contamination or pollution by third parties. Substances causing contamination or pollution shall include, but are not limited to hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial waste, petroleum products, mine tailings, mineral salts, misused pesticides, pesticide containers, or any other pollutants.

(b). Licensee shall comply with all applicable Federal, State, and local laws and regulations, and Reclamation policies and directives and standards, existing or hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported, stored, or disposed of on or in Federal lands, waters or facilities.

(c). "Hazardous material" means any substance, pollutant, or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended, 42 U.S.C. § 9601, et seq., and the regulations promulgated pursuant to that Act.

(d). Upon discovery of any event which may or does result in contamination or pollution of Licensed Property, waters or facilities, Licensee shall initiate any necessary emergency measures to protect health, safety and the environment and shall report such discovery and full details of the actions taken to the Licensor. Reporting is timely if made within twenty-four (24) hours of the time of discovery if it is an emergency or by the first working day if it is a non-emergency. An emergency is a situation that requires immediate action to reduce or avoid endangering public health and safety or the environment.

(e). Violation of any of the provisions of this Article 28, as determined by the Licensor, may constitute grounds for termination of this Agreement. Such violations require immediate corrective action by Licensee and shall make Licensee liable for the cost of full and complete remediation and/or restoration of any Licensed Property, waters or facilities that are adversely affected as a result of the violation.

28.5 Licensee hereby assumes and accepts all liability and responsibility for initiation and completion of response, cleanup, and corrective and remedial action, and the cost thereof, required on the Licensed Property and any other affected premises, due to any action taken by Licensee or its agents, officers, directors, or employees that that results in release of any hazardous substance within the meaning of the Federal Comprehensive Environmental Response, Compensation and Liability Act -- 42 U.S.C. § 9601 et seq., or the Arizona Environmental Quality Act -- A.R.S. § 49-101 et seq., as such laws have been or are amended from time to time, or regulated substance within the meaning of Subtitle I of the Federal Resource Conservation and Recovery Act (Underground Storage Tanks) -- 42 U.S.C. § 6991a et seq., or the Arizona Underground Storage Tank Law -- A.R.S. § 49-1001 et seq., as such laws have been or are amended from time to time. This Section 28 shall survive termination of this License.

**29. Intentionally Deleted**

**30. Officials Not to Benefit**

No Member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon, pursuant to 41 U.S.C. § 22.

**31. Illegal Use**

Any activity deemed to be illegal on the Licensed Property will be cause for immediate termination of this License.

**32. Bonding**

Licensee shall provide a bond in the amount of \$0.00, to be maintained until all construction activities of this project and restoration of the disturbed areas have been completed and accepted in writing by Reclamation or Licensor. Upon completion, or partial completion, of these restoration requirements, Reclamation or Licensor, may terminate or allow partial reduction of the amount of the bond requirement.

**33. Pest Control**

33.1 The Licensee shall not permit the use of any pesticides on Licensed Property without prior written approval by Reclamation or Licensor. The Licensee shall submit to Reclamation or Licensor for approval an Integrated Pest Management Plan (IPMP) thirty (30) days in advance of pesticide application.

33.2 All pesticides used shall be in accordance with the current registration, label direction, or other directives regulating their (State Department of Agricultural, Department of Ecology, OSHA, etc.) and with applicable Reclamation policy and directives and standards. Applicators will meet applicable State training or licensing requirements. Records maintenance

shall be in accordance with State requirement and such records shall be furnished to Reclamation or Licensor not later than five (5) working days after any application of a pesticide

33.3 Any equipment, tools, and machines used for pesticide application shall be in good repair and suitable for such use. Equipment shall be calibrated prior to the spraying season and as deemed necessary by Reclamation or Licensor.

33.4 Mixing, disposal, and cleaning shall be done where pesticide residues cannot enter storm drains, sewers, or other non-target areas.

33.5 The Licensee shall initiate any necessary measures for containment and cleanup of pesticide spills. Spills shall be reported to Licensor or Reclamation Contracting Officer with full details of the actions taken. Reporting may be within a reasonable time period. A reasonable time period means within twenty-four (24) hours of the spill if it is an emergency or by the first working day if it is a non-emergency. An emergency is any situation that requires immediate action to reduce or avoid endangering public health and safety or the environment.

33.6 Aerial application of pesticides is prohibited without the prior written consent by Licensor or Reclamation's designated representative.

33.7 The Licensee agrees to include the provisions contained in paragraphs 33.1 through 33.6 of this Section in any subcontract or third-party contract it may enter into pursuant to this License.

IN WITNESS WHEREOF, the parties hereto have executed this License this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**LICENSOR:**

**SALT RIVER PROJECT AGRICULTURAL  
IMPROVEMENT AND POWER DISTRICT**

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF ARIZONA     )  
  ) ss.  
COUNTY OF MARICOPA )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the foregoing instrument was acknowledged before me by \_\_\_\_\_ a \_\_\_\_\_ of the Land Department, **SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT DISTRICT**, an agricultural improvement district organized and existing under the laws of the State of Arizona ("SRP"), on behalf of SRP.

My Commission Expires:

\_\_\_\_\_  
Notary Public





Site Consultants Inc.  
113 South Rockford Drive  
Tempe, Az. 85281

EXHIBIT "A"  
DESCRIPTION OF REAL ESTATE IN  
MARICOPA COUNTY, STATE OF ARIZONA

A strip of land in the Southeast quarter of Section 5, Township 2 North, Range 1 East of the Gila and Salt River Meridian, Maricopa County, Arizona, described as follows:

Commencing at the East quarter corner of Section 5, Township 2 North, Range 1 East, Gila and Salt River Meridian, from which the Southeast corner of said Section 5 bears South 2 degrees 27 minutes 12 seconds West, 2,609.59 feet;  
Thence South 2 degrees 27 minutes 12 seconds West along the East line of said Section 5, 1304.80 feet to the Northeast corner of the South half of the Southeast quarter of said Section 5;  
Thence North 89 degrees 56 minutes 50 seconds West along the North line of the South half of the Southeast quarter of said Section 5, 55.05 feet to the Point of Beginning;  
Thence South 2 degrees 27 minutes 12 seconds West, 22.94 feet;  
Thence South 28 degrees 17 minutes 47 seconds West, 22.94 feet;  
Thence South 2 degrees 27 minutes 12 seconds West, 801.67 feet;  
Thence North 90 degrees 00 minutes 00 seconds West, 176.73 feet;  
Thence South 2 degrees 25 minutes 00 seconds West, 391.95 feet;  
Thence North 90 degrees 00 minutes 00 seconds West, 78.60 feet;  
Thence North 0 degrees 00 minutes 00 seconds East, 27.00 feet;  
Thence North 90 degrees 00 minutes 00 seconds East, 59.72 feet;  
Thence North 2 degrees 25 minutes 00 seconds East, 384.94 feet;  
Thence North 90 degrees 00 minutes 00 seconds East, 176.75 feet;  
Thence North 2 degrees 27 minutes 12 seconds East, 787.09 feet;  
Thence North 28 degrees 17 minutes 47 seconds East, 42.80 feet;  
Thence South 89 degrees 56 minutes 50 seconds East, 11.35 feet to the Point of Beginning.

**USA FEE  
LICENSE EXHIBIT**

**Site Consultants, Inc.**

113 S. Rockford Drive, Tempe Arizona 85281  
 Tele: 480-894-2820 Fax: 480-894-2847

SCI #2030 SCALE: 1" = 200' DATE: 6-23-2016

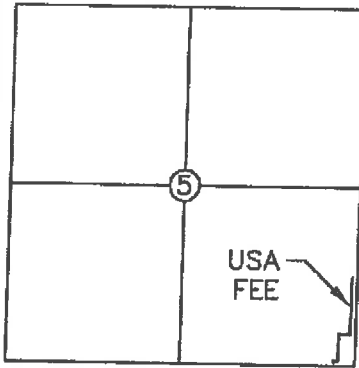
POINT OF COMMENCEMENT  
 FOUND 1/2" REBAR  
 E. 1/4 COR., SEC. 5,  
 T2N, R1E, G&SRM,

LINE TABLE		
LINE	DIRECTION	DISTANCE
L1	S2°27'12"W	22.94'
L2	S28°17'47"W	22.94'
L3	S2°27'12"W	801.67'
L4	N90°00'00"W	176.73'
L5	S2°25'00"W	391.95'
L6	N90°00'00"W	78.60'
L7	N0°00'00"E	27.00'
L8	N90°00'00"E	59.72'
L9	N2°25'00"E	384.94'
L10	N90°00'00"E	176.75'
L11	N2°27'12"E	787.09'
L12	N28°17'47"E	42.80'
L13	S89°56'50"E	11.35'

N89°56'50"W 55.05'  
 POINT OF BEGINNING  
 NORTH LINE S. 1/2,  
 S.E. 1/4 SEC. 5



EXPIRES 6-30-2016



2" = 1 SQUARE MILE

**LEGEND**

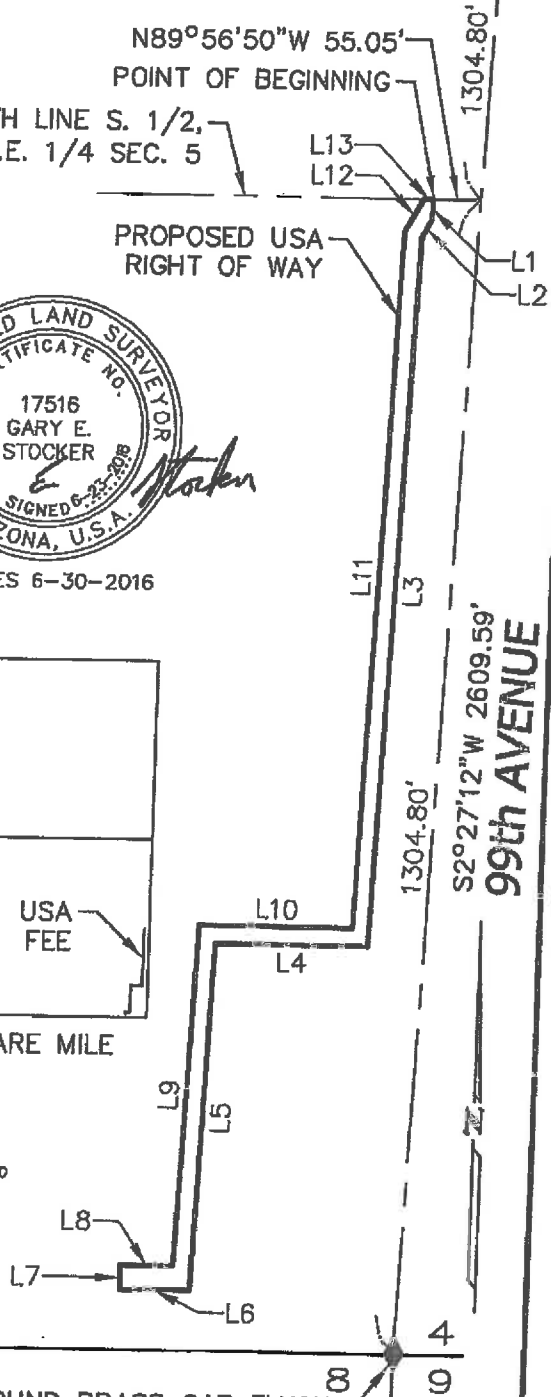
- PROPOSED USA FEE
- SECTION LINE
- ◆ SECTION CORNER
- ◆ CORNER
- ◆ SECTION LINE TAG

COR.  
 SEC.  
 L11

**SCALE**



1" = 200 ft.



**W. GLENDALE AVE.**

FOUND BRASS CAP FLUSH  
 S.E. COR., SEC. 5,  
 T2N, R1E, G&SRM,

**When recorded, return to:**

City Clerk  
5850 W. Glendale Ave.  
Glendale, Arizona 85301

**PROPERTY USE AGREEMENT**

For valuable consideration and the exchange of promises contained in this Agreement, the receipt of which is hereby acknowledged, the City of Glendale, an Arizona municipal corporation (“City”), and 101 W Healthcare, LLC, an Arizona limited liability company (“Owner”), agree as follows concerning the real property licensed, or to be licensed, to the City by the United States of America pursuant to the Salt River Project Land Use License No. LJ51858 (“SRP License”) the form of which is attached as Exhibit 1, and which identifies the real property to be licensed as Exhibit A to the SRP License (“Licensed Property”). Owner is the owner of that certain real property described on the attached Exhibit 2 (“Owner’s Property”) which is adjacent to and abuts the Licensed Property.

**The City of Glendale:**

1. Hereby agrees to execute the SRP License and comply with its terms in good faith; and
2. Hereby agrees to designate Owner as its authorized representative to allow Owner to construct improvements on and use the Licensed Property in any and all manner consistent with the SRP License, including for driveway, parking, roadway, sidewalk, landscaping, water and sewer lines; and
3. Hereby agrees to designate Owner as its authorized representative to allow Owner to operate and maintain, and, if necessary, repair and replacement of Owner’s improvements on the Licensed Property; and
4. Hereby agrees to promptly provide written notice to Owner pursuant to Section 13 herein of any notice received by City from the Licensor with respect to the SRP License, including without limitation, notice of renewal or termination, default or demand for correction of default, entry by Licensor for maintenance or repairs, or demand by Licensor for indemnification. As used in this subsection, “promptly” is defined as: (1) within one business day, if cure is required within seven days or less; or (2) within three business days if cure is required within 8 days or more. The City will use its best efforts to, but is not required to, notify the Owner when an emergency exists; and
5. Makes no representation as to any warranty of habitability or suitability of the Licensed Property for the use intended by Owner; and
6. Makes no representation that the License will remain in effect for the full term provided in Section 5 of the License.

## **101 W Healthcare:**

7. Hereby agrees to comply with all terms and conditions of the SRP License in good faith and to reimburse the City in the event Owner's violation of a term or condition of the License results in any financial obligation to the City, including, but not limited to, the cost to restore the Licensed Property to its original condition, or other monetary damages, reasonable attorneys' fees or costs; and

8. Owner agrees to perform and/or pay for all costs associated with construction of improvements installed by or on behalf of Owner on the Licensed Property; and

9. Owner agrees to perform and/or pay for all costs necessary to safely operate, maintain, repair and replace, if necessary, any such improvements installed by or on behalf of Owner once constructed. It is the intent of the parties that Owner will perform all routine maintenance, repairs and replacement of improvements installed by or on behalf of Owner on the Licensed Property. In the event of an emergency which may pose a risk to public health or welfare or the environment, the City may perform any and all emergency maintenance, repairs, or replacement of improvements installed by or on behalf of Owner on the Licensed Property to return the Licensed Property to a safe condition. If the City performs any maintenance, repairs, or replacement of improvements installed by or on behalf of Owner on the Licensed Property, it will bill Owner for the actual cost of such work. Owner agrees to reimburse the City within 30 days of its receipt of the bill for such costs. Nothing in this Agreement prevents the City from performing any routine maintenance, repairs and replacement of improvements on the Licensed Property if it believes the Owner's performance of such work is defective or otherwise inadequate.

10. **Insurance.** For the duration of the term of this Agreement, Owner 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 that occurs on the Licensed Property. Such insurance shall cover Owner, its agent(s), representative(s), employee(s) and any subcontractors and shall name the City of Glendale as an additional insured. 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 **\$2,000,000** 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. 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.
- c. Automobile Insurance: Comprehensive automobile liability insurance with a combined single limit for bodily injury and property damage of not less than

**\$2,000,000** each occurrence with respect to Owner's vehicle, whether owned, hired or non-owned, assigned to or used in the performance of the work.

- d. The insurance policies required by the Section above must contain, or be endorsed to contain, the following insurance provisions:
  - i. **The City, its officers, officials, employees and volunteers are to be covered as additional insureds** of the CGL for any liability arising from or in connection with the performance of all tasks or work that occurs on the Licensed Property. 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 Owner or on its behalf. General liability coverage can be provided in the form of an endorsement to Owner'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.
  - ii. For any claims related to the Licensed Property, the **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.
  - iii. Each insurance policy required by this Section shall provide that coverage shall not be canceled, except after providing notice to the City.
  - iv. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII, unless Owner has obtained prior approval from the City stating that a non-conforming insurer is acceptable to the City.
  - v. Waiver of Subrogation. Owner **hereby agrees to waive its rights of subrogation which any insurer may acquire** from it by virtue of the payment of any loss. Owner 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 Owner, its employees, agent(s) and subcontractor(s).
  - vi. Verification of Coverage. Within 15 days of the Effective Date of this Agreement, Owner 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 a Certificate of Occupancy is issued. 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. Starting on the first anniversary of this Agreement and annually

thereafter during the term of the SRP License, Owner shall provide City with verification of the coverage required by this Agreement.

**Additional Provisions:**

11. **Amendment.** This Agreement may be modified or amended only by a written instrument executed by or on behalf of the City and by the owner(s) of that portion(s) of the Owner's Property which is within twenty feet (20') of the Licensed Property

12. **Successors and Assigns.** The provisions of this Agreement shall run with the land and shall be binding upon the respective successors and assigns with respect to Owner's Property. Wherever the term "Owner" is used in this Agreement such term shall include any such successors and assigns. Whenever there is any conveyance of any portion of the Owner's Property that is within twenty feet (20') of the Licensed Property, notice pursuant to Section 13 herein shall be provided to the City of such conveyance.

13. **Notice.** All notices, demands, and other communications required or permitted by this Agreement shall be in writing and shall be considered to have been properly delivered: (i) if mailed, after deposit in the U.S. mail, postage prepaid, return receipt requested, addressed as follows; (ii) if sent by overnight courier delivery service, on the next business day after deposit with such service, addressed as follows; (iii) if personally delivered; or (iv) if by email on the date of delivery service to:

If to City: City of Glendale  
Attn: Tom Kaczmarowski, Sr. Civil Engineer  
5850 W. Glendale Ave.  
Glendale, Arizona 85301  
Email: [TKaczmarowski@glendaleaz.com](mailto:TKaczmarowski@glendaleaz.com)

With a copy to: City of Glendale  
Attn: City Manager  
5850 W. Glendale Ave.  
Glendale, Arizona 85301  
Email: [KPhelps@glendaleaz.com](mailto:KPhelps@glendaleaz.com) or successor

With a copy to: City of Glendale  
Attn: City Attorney  
5850 W. Glendale Ave.  
Glendale, Arizona 85301  
Email: [MBailey@glendaleaz.com](mailto:MBailey@glendaleaz.com) or successor

If to Owner: 101 W Healthcare, LLC  
5800 N. Yucca Rd.  
Paradise Valley, Arizona 85253  
Email: [JSimon@simonmed.com](mailto:JSimon@simonmed.com)

With a copy to: Mattson Construction  
Attn: Michael Mattson  
P.O. Box 27842  
Tempe, Arizona 85285  
Email: [Mike@mattsonconstruction.com](mailto:Mike@mattsonconstruction.com)

Any party may change its address or the designated person to receive notification hereunder by giving notice of such change in the manner provided above.

14. **Term; Revocation.** The Effective Date of this Agreement shall be the Effective Date of the SRP License and the term of this Agreement shall be coextensive with the term of the SRP License. In the event that the SRP License is not executed on behalf of its Licensor within 90 days of the date of this Agreement, or in the event that the SRP License expires or is terminated, either party to this Agreement may give notice to the other of the revocation of this Agreement.

15. **Counterparts.** This Agreement may be executed in counterpart and the parties may execute and exchange counterparts, and when so exchanged, this document shall be binding and effective for all purposes and treated in the same manner as if the parties had exchanged original, manually signed signature pages.

16. **Recordation.** After the execution on behalf of the Licensor and Licensee of the SRP License, the City shall provide a fully executed copy of the SRP License to this Agreement as its Exhibit 1 to Owner. Owner then shall record this Agreement with its exhibits within ten (10) days of its receipt of the SRP License to ensure that this Agreement runs with the land. Owner shall provide a copy of the Agreement as recorded with the Maricopa County Recorder's Office to the City within ten (10) days of its recordation.



IN WITNESS WHEREOF, this Property Use Agreement has been executed by the Parties as of the dates set forth below.

CITY OF GLENDALE

ATTEST:

\_\_\_\_\_  
Kevin R. Phelps

Date: \_\_\_\_\_

\_\_\_\_\_  
Julie K. Bower  
City Clerk

APPROVED AS TO FORM:

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

101 W HEALTHCARE, LLC

By: [Signature]  
its Manager

Date: Nov. 23, 2016

STATE OF ARIZONA        )  
  ) ss.  
County of Maricopa        )

The foregoing instrument was acknowledged before me this 23 day of Nov., 2016, by John Simon, known to me to be the person whose name is subscribed to the foregoing Property Use Agreement, and acknowledged that he/she executed the same on behalf of 101 W Healthcare, LLC for the purposes therein contained.

[Signature]  
Notary Public

My Commission Expires  
September 29, 2019

