

CITY CLERK
ORIGINAL
MEMORANDUM OF UNDERSTANDING
BETWEEN THE
ARIZONA DEPARTMENT OF TRANSPORTATION
MOTOR VEHICLE DIVISION AND
CITY OF GLENDALE

C-10811
04/26/2016

This Memorandum of Understanding ("MOU") is made and entered into by and between the Arizona Department of Transportation Motor Vehicle Division ("ADOT MVD"), a government agency of the State of Arizona, and the City of Glendale ("City"). ADOT MVD and the City will collectively be referred to in this MOU as the "Parties."

RECITALS

1. ADOT MVD is ready, willing and able to provide services of the kind and character that the City wishes to provide for its citizens at the City Court Building (the "Facility"), as specified below, and the City wishes ADOT MVD to provide such services.
2. The City owns real property within its City limits, including the "Facility" located at 5711 W. Glendale Ave., Glendale, AZ 85301.

NOW, THEREFORE, in consideration of the covenants and promises contained in this MOU and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

TERMS

1. Recitals. The recitals which appear above are incorporated into this MOU by this reference.
2. Applicability. The terms and conditions of this MOU shall apply to ADOT MVD's use of the Facility listed below:

The City Court Building
5711 W. Glendale Ave.
Glendale, AZ 85301

3. Service Area.
 - 3.1 The City agrees to provide ADOT MVD with suitable space in the Facility listed in section 2.0, above, subject to the terms and conditions contained in this MOU, to enable ADOT MVD to render those services and conduct the programs and activities, as applicable, which it customarily provides, as more specifically provided in Subsection 4.1. The space designated for the use of ADOT MVD to provide services in the facility to which this MOU relates shall be referred to in this MOU as the "Service Area."
 - 3.2 Both Parties understand and acknowledge that the services provided at any particular facility are subject to continuous review to determine the needs of the persons using the facility and how to best respond to them. The nature of the service to be provided or activity to be conducted, the frequency of need, scheduling and need to coordinate other services and providers are all considered in determining a suitable and appropriate Service Area. The Parties mutually agree to confer on these matters. In the event of change in Service Area, the Parties agree to prepare a diagram showing the new Service Area, which will be signed by the Parties and substituted as the new Exhibit "A".

- 3.3 The City, after conferring with ADOT MVD, shall have the final authority and sole discretion to determine the size and location of the Service Area, and the times at which it will be made available to ADOT MVD. ADOT MVD acknowledges by the execution of this MOU that it has examined the Service Area, which shall consist of a portion of the Facility's lobby sufficient in size to contain the ServiceArizona Kiosk discussed in Subsection 4.1 of this MOU and which is shown on the diagram in Exhibit "A", and ADOT MVD agrees that it is appropriate and suitable for providing services. Unless otherwise provided in this MOU, ADOT MVD accepts the Service Area in "as is" condition.
- 3.4 ADOT MVD shall furnish signage at the Facility to direct members of the public to the Service Area. ADOT MVD will confer with the City concerning signage, but ADOT MVD shall have discretion to determine the signage content and amount, based upon the need for existing signage at the Facility, the need for consistency and uniformity in signage, and other considerations. The City, its officers, employees and agents shall clearly identify that it is ADOT MVD, rather than the City, that is providing services in the Service Area. The City shall not represent that it is a part of ADOT MVD, or that it is acting on behalf of ADOT MVD. The City shall not use the name of ADOT MVD, its seal, signs or logos in any advertising, promotional materials, or for any other purpose without the express, written prior approval of the ServiceArizona Program Administrator.
- 3.5 The City assumes all responsibility for a safe, secured and monitored Service Area for its customers and the ServiceArizona Kiosk, at no cost to ADOT MVD. Accordingly, all City Court visitors and their property are subject to security screenings upon entering the Facility by City Court security personnel. The area designed for the ServiceArizona Kiosk is located in the front lobby near the security station. In addition to court security personnel, the ServiceArizona Kiosk is monitored by the court security camera system during all business hours. ADOT MVD agrees and acknowledges that the City's security measures described in the paragraph meet the City's obligation as expressed in the first sentence of this paragraph.
- 3.6 The City assumes all risks of loss or damage to the ServiceArizona Kiosk from any cause, and agrees to return it to ADOT MVD in the condition received, with the exception of normal wear and tear. ADOT MVD will determine normal wear and tear. The following standards apply for determining unreasonable wear and tear: a modified appearance; added, removed or modified accessories, equipment, or parts without ADOT MVD's prior written permission; component damage, including monitor and printer; water or electrical damage. All determinations made by ADOT MVD are final. ADOT MVD and the City shall jointly inspect the ServiceArizona Kiosk upon delivery. The City shall immediately notify ADOT MVD of any discrepancies. If the City fails to provide such notice within two (2) days after the delivery of the ServiceArizona Kiosk, the City will be conclusively presumed to have accepted the ServiceArizona Kiosk as is. Any subsequent claim that the ServiceArizona Kiosk was not provided in fully functional order will not be considered.
- 3.7 The City shall notify ADOT MVD of any office break-in, theft or loss of the ServiceArizona Kiosk or documents related to this MOU as soon as the break-in, theft or loss is discovered. If necessary, the City shall employ, and pay for, any additional security measures as prescribed by ADOT MVD.

4. Use of Facility.

- 4.1 ADOT MVD's use of the Facility shall be limited to providing those services that ADOT MVD customarily provides, which are more specifically described as follows:

ADOT MVD will install one (1) ServiceArizona Kiosk in the Service Area at no cost (\$0.00) to the City. The ServiceArizona Kiosk will provide users access to MVD online services, which shall include but are not limited to the following: Registration Renewal; Motor Vehicle Record; Duplicate Driver License; Registration Tab Replacement; Duplicate Vehicle Registration; Driver License Reinstatement; Change of Address; Insurance Verification; 3 Day Permit; Plate Refund; 30 Day General Use; Voter Registration; Sold Notice; Plate Credit; and Vehicle Fee Recap.

The services benefit the Parties as users can perform certain driver license and motor vehicle transactions immediately at the ServiceArizona Kiosk.

- 4.2 The Service Area that is the subject of this MOU shall be used solely for the purposes of rendering the services described in Subsection 4.1. ADOT MVD shall not use the Service Area for any other purpose, without the written consent of the Contract Administrator.
- 4.3 ADOT MVD shall be responsible for ensuring that any persons providing services, including but not limited to ADOT MVD's employees, agents and volunteers ("Service Providers"), are of suitable background to do so. ADOT MVD shall provide to the City, prior to its occupation and use of any Service Area, its written policies and procedures regarding the background investigation of its Service Providers.
- 4.4 ADOT MVD shall be responsible for ensuring that its work environment is free from unlawful discrimination, as provided by Title VI and Title VII of the Civil Rights Act of 1964 and other applicable state and federal laws. ADOT MVD shall further ensure a commitment to respecting individual differences and valuing diversity.
- 4.5 ADOT MVD shall ensure that the Service Providers have all required and applicable licenses, permits and permissions required by federal, state, City and City statutes, ordinances, laws, rules and regulations, prior to providing services at the Facility. All such licenses, permits and permissions must be current and in good standing.
- 4.6 City reserves the right to adopt, amend and enforce reasonable rules and regulations governing the operation of the Facility and the use of the Service Area. Rules and regulations shall be consistent with the safety, security, public use and utility of the Facility. These rules and regulations shall apply to ADOT MVD, its officers, employees and agents, including all Service Providers, and ADOT MVD agrees to comply with them.
- 4.7 ADOT MVD shall obtain the prior written approval of the City before making any representation, in any application for a grant or other funding, that it has or will secure the continuing use of the Service Area, or any other City property, whether real, personal or financial, in connection with the application.
5. Contract Administrator. The ServiceArizona Program Administrator shall be responsible for administering the terms of this MOU for ADOT MVD, and shall be the contact between

ADOT MVD and the City. Prior to the commencement of the MOU, the City shall designate a Contract Administrator who will be responsible for administering the terms of this MOU for the City, and will be the contact between the City and ADOT MVD. Each party shall furnish to the other full contact information, including mailing and physical addresses, phone numbers and current email addresses, for its designated Contract Administrator, including emergency contact information. Each party shall furnish the other in writing within two (2) business days of any change in its Contract Administrator. The City's Contract Administrator is Christopher Phelps, Court Administrator, whose physical and mailing address is 5711 West Glendale Avenue, Glendale, Arizona 85301, phone number is (623) 930-2452, e-mail address is cphelps@glendaleaz.com, and whose emergency contact information will be provided separately. ADOT MVD's ServiceArizona Contract Administrator is Robert J. Smith, Program Administrator, whose physical and mailing address is 1801 W. Jefferson St., MD 532M, Phoenix, AZ 85007, whose phone number is (602) 712-8217, option 4, and whose e-mail address is rsmith@azdot.gov, and whose emergency contact information will be provided separately.

6. **Notice.** Any notice required or permitted to be given pursuant to this MOU, unless otherwise expressly provided herein, shall be given in writing, either personally to the Contract Administrator of the other party; by an email sent to the designated email address, as shown below, of the other party the receipt of which is thereafter acknowledged by electronic or other reply; or by United States Postal Service, as shown below or to such other street address(es) as may be designed by the respective parties in writing from time to time. The notice shall be deemed complete when received by the person receiving it.

City
City of Glendale
Glendale City Court
5711 W. Glendale Ave.
Glendale, AZ 85007

ATTN: Contract Administrator

ADOT MVD
ServiceArizona
Motor Vehicle Division
Arizona Department of Transportation
1801 W. Jefferson St., Phoenix, AZ. 85007
and/or email: serviceazgroup@azdot.gov
ATTN: ServiceArizona Program Administrator

7. **Consideration.** As and for consideration for rights and privileges which are the subject of this MOU, ADOT MVD agrees to provide the services described in Section 4.0, above, which the City regards as serving a valuable public purpose, constituting fair consideration. There shall be no fees charged to ADOT MVD.
8. **Utilities.** The City will arrange and pay for the electricity furnished to the ServiceArizona Kiosk in the Service Area for the term of this MOU. The City shall maintain the structural elements, heating, cooling and other systems of the Facility, including the Service Area, at its own expense and shall keep them in good repair. There shall be no additional charges to ADOT MVD for these utilities or services.
- 8.1 The City shall be responsible for arranging, providing, and paying for access to the public internet via *Ethernet Connection* to the ServiceArizona Kiosk in the Service Area. Both Parties mutually agree access to the public internet is by dedicated data line, in a manner to be prescribed by ADOT MVD.
9. **Maintenance.** ADOT MVD shall be responsible for all maintenance, repairs and service of the ServiceArizona Kiosk, including but not limited to repairing damage, correcting outages,

replacing parts and conducting routine maintenance and service calls. ADOT MVD shall have the right to inspect and perform maintenance on the ServiceArizona Kiosk during normal business hours. ADOT MVD shall have the right to perform emergency maintenance of the ServiceArizona Kiosk during after-hours.

The City has the right to enter the Service Area at any reasonable times to inspect and perform such maintenance and repairs. The City shall also provide janitorial services and trash disposal services to the Service Area at its sole cost and expense.

9.1 ADOT MVD will not have keys to the Service Area. The City hereby authorizes its Contract Administrator, as defined in Section 5.0, to provide ADOT MVD with after-hours access to the Service Area, including ADOT MVD supplied inventory.

10. Compliance. The City shall comply with all of the terms set forth in this MOU, together with all applicable federal and state statutes and regulations. The City shall also comply with all ADOT MVD policies, procedures and directives that ADOT MVD provides to the City throughout the course of this MOU. All City employees or contractors are held to the same compliance standards, and any failure to comply on the part of an employee or contractor will be deemed a failure on the part of the City.

The City shall establish and maintain an adequate system of supervision and internal management controls which will ensure, to the greatest degree possible, an early identification of any issues and problems related to the performance of its staff.

The City shall immediately notify ADOT MVD if it has reason to believe that an officer, agent, employee, contractor or other representative of the City has acted in violation of the law and/or the terms of this MOU, including but not limited to a suspected misuse of records or information on the part of such persons.

The relationship between ADOT MVD and the City is that of two independently contracting parties, wholly separate from one another. No agent or employee of the City shall be deemed to be an agent or employee of ADOT MVD, or the State of Arizona, for any reason. The City will be solely and entirely responsible for its acts and omissions, and the acts and omissions of its agents or employees throughout the duration of this MOU.

11. Inventory. The City shall be responsible for timely restocking all ServiceArizona Kiosk inventory, including but not limited to plain paper stock, Tab on Demand paper stock, and printer toner cartridge.

ADOT MVD shall be responsible for supplying the Tab on Demand paper stock, which the City shall use for the restocking.

The City shall be responsible for supplying the plain paper stock for the ServiceArizona Kiosk(s).

The City shall be responsible for maintaining and properly securing the Tab on Demand inventory, in a locked safe or vault, and for allowing ADOT MVD to inspect the storage of such inventory upon request.

ADOT MVD shall be responsible for supplying the printer toner cartridges, which the City shall use for timely changing the toner cartridges when needed.

12. Costs. Other than the costs associated with the provision of the Service Area described above in Paragraph 3, including but not limited to any costs associated with the risk of loss and damage to the ServiceArizona Kiosk described above in Paragraph 3.6, the costs of utilities described above in Paragraph 8, the costs associated with inventory replenishment described above in Paragraph 11, and any costs associated with the indemnity described below in Paragraph 14, the Parties acknowledge and agree that the City will not incur any costs associated with this Agreement.
13. Destruction of Facility. Partial destruction, which shall mean destruction or damage to an extent not exceeding twenty-five percent (25%) of the full insurable value of the Facility, shall render this MOU voidable by either party. Complete destruction, which shall mean destruction or damage to an extent exceeding twenty-five percent (25%) of the full insurable value of the Facility, shall render it void.
14. Indemnification. To the extent permitted by law, each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses, including reasonable attorney's fees, (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.
15. Non-assignability. The rights, privileges and responsibilities of ADOT MVD and of the City under this MOU are non-assignable.
16. ADOT MVD's remedies on Termination. Upon any termination of this MOU, according to its terms, for cause or convenience, ADOT MVD, at its election, may re-enter the Service Area occupied by the ServiceArizona Kiosk pursuant to this MOU and may immediately demand in writing that all property, including ADOT MVD supplied inventory be immediately returned to ServiceArizona Program Administrator. Subject only to the limitations of state law.
17. Entire MOU. This MOU constitutes the entire MOU between the Parties with respect to the subject matter hereof and supersedes any prior MOU, understanding, negotiation or representation regarding the Facility, the Service Area or the services to be provided pursuant to this MOU.
18. Law governing. This MOU shall be governed by the laws of the State of Arizona.
19. Conflict of interest. ADOT MVD or the City may cancel this MOU, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the MOU on behalf of either party is, at any time while the MOU is in effect, an employee of the other party in any capacity, or a consultant to the other party with respect to the subject matter of the MOU. The cancellation shall be effective when written notice is received by the other party to the MOU, unless the notice specifies a later time (A.R.S. § 38-511).

20. Attorney fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this MOU, or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorney fees and reasonable costs and expenses, determined by order of the court, sitting without jury, which shall be deemed to have accrued on the date of such court order and shall be enforceable whether or not such action is prosecuted to final judgment on the merits.
21. Exhibits. All Exhibits referred to in this MOU are hereby incorporated by this reference.
22. Non-Appropriation of Funds. If either party's performance under this MOU depends upon the appropriation of funds by the perspective legislative body, and if the either legislative body does not appropriate funds to continue this MOU, either party may terminate this MOU at the end of the current fiscal period. Both parties agree to give written notice of termination at least 30 days prior to the end of its current fiscal period. Termination in accordance with this provision shall not constitute a breach of this MOU by either party. No person will be entitled to any compensation, damages or other remedy from the City if this MOU is terminated pursuant to the terms of this subsection.
23. Term and Termination. The term of the MOU is for (1) one year, commencing upon approval by the Motor Vehicle Division Director and executed by both parties. It shall thereafter continue in effect for a term of (1) one year, unless previously terminated or canceled as provided herein.

Upon expiration of the one (1) year period, the Parties may mutually agree to extend the term of the MOU for another one (1) (or greater) year by entering into a "Joint Letter of Renewal."

- 23.1 Either Party may terminate this MOU for cause or for convenience by giving the other party thirty (30) days written notice. The City shall have the right to cancel the MOU with ten (10) days prior written notice to ADOT MVD, if there is any threat to public health in the performance of the MOU by ADOT MVD. This MOU is also subject to cancellation by the Governor of Arizona pursuant to Arizona Revised Statutes § 38-511.

IN WITNESS WHEREOF, the Parties have executed this document by affixing their signatures, as of the day and date first written above.

ARIZONA DEPARTMENT OF TRANSPORTATION
MOTOR VEHICLE DIVISION



Eric R. Jorgensen, Assistant Director / Date
Arizona Department of Transportation
Motor Vehicle Division

CITY OF GLENDALE

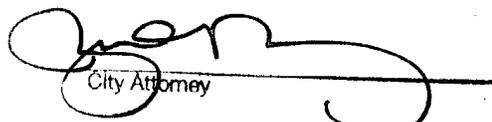


Kevin R. Phelps, City Manager
City of Glendale

ATTEST:


City Clerk

Approved as to form



City Attorney

TABLE OF EXHIBITS

<u>Exhibit</u>	<u>Page</u>	<u>Paragraph</u>	<u>Title</u>
A	2	3.3; 3.4	Service Area
B			Additional Terms and Conditions [None]

Exhibit "A"

IMAGE OF FACILITY/FACILITIES WITH LOCATION(S) OF SERVICE AREA(S)

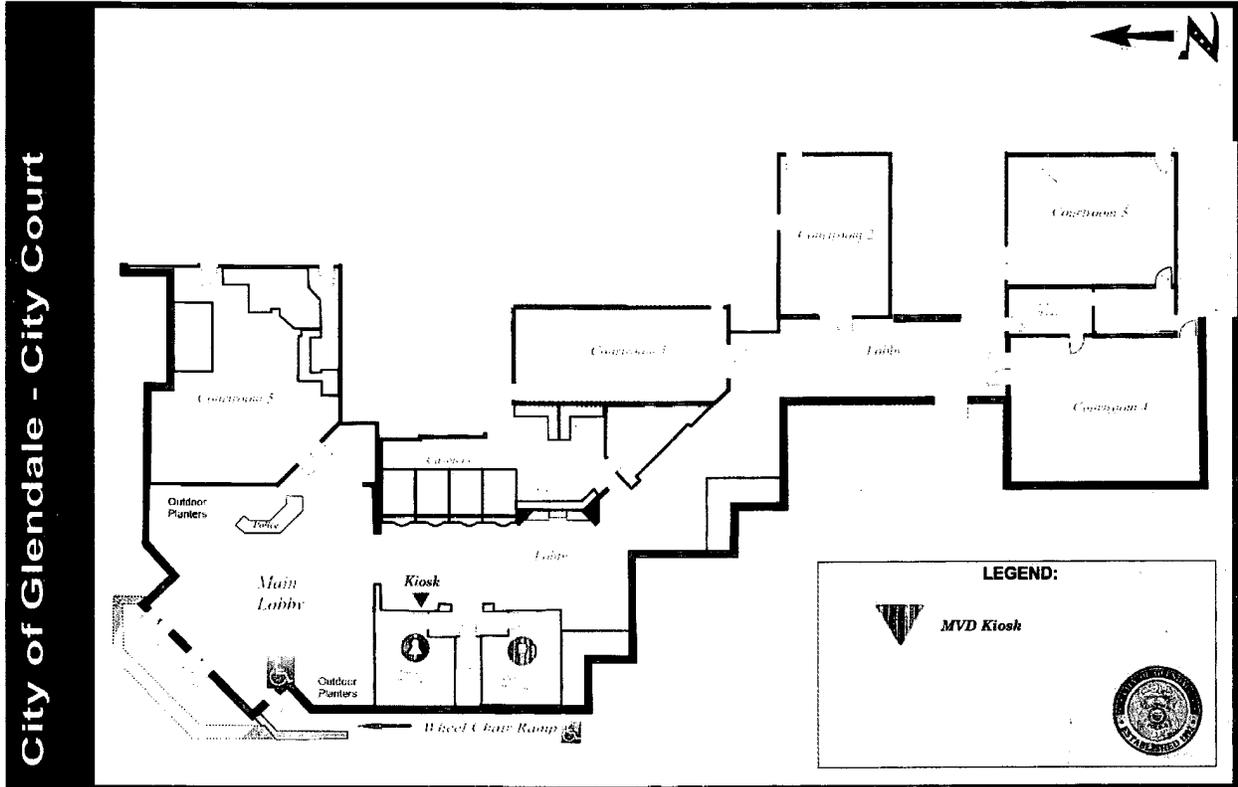


Exhibit "B"
ADDITIONAL TERMS AND CONDITIONS
(NONE FOR THIS MOU)