

CITY CLERK ORIGINAL

CONTRIBUTION AGREEMENT

THIS CONTRIBUTION AGREEMENT is effective this 13th day of July, 2011 and is made by the City of Glendale, an Arizona municipal corporation (the "City"), for the benefit of the Gila River Indian Community (the "Community").

RECITALS

- A. On January 29, 2009, the Tohono O'odham Nation (the "TO") filed its application with the Department of Interior ("DOI") requesting that 134 acres of land within the exterior boundaries of the City and located at 91st and Northern Avenues (the "Subject Land") be taken into trust by the United States for the benefit of the Nation under the Gila Bend Indian Reservation Lands Replacement Act, P.L. 9-503 ("Gila Bend Act"). This application also requested the Department of Interior grant approval for the land to be used for Indian gaming under the Federal Indian Gaming Regulatory Act. Subsequently, the TO has amended its application to limit the transfer to 54 acres of the Subject Land ("Parcel 2") and to remove the request for approval of gaming under the TO's argument that no approval of DOI was necessary for the TO to conduct gaming operations on Parcel 2. On July 23, 2010, the Assistant Secretary for Indian Affairs granted the TO's application with respect to Parcel 2.
- B. On March 22, 2010, the Community filed a lawsuit in the Federal District Court for Arizona, CV-00472 (the "TO Lawsuit") against the United States of American related to the DOI's final administrative determination that Parcel 2 be eligible to be taken into trust under the Gila Bend Act.
- C. On September 21, 2010, the City filed a similar action in the Federal District Court for Arizona, CV-02017 related to the same Department of Interior decision, and on October 1, 2010, the City's lawsuit was consolidated with the TO Lawsuit.
- D. On March 3, 2011, the Federal District Court issued its Order affirming the July 23 decision and denying summary judgment on the Community's and the City's claims. The Community and the City filed notices of appeal and requested an order of the Court enjoining the United States from accepting the transfer of the land into trust pending appeal to the Ninth Circuit Court of Appeals.
- E. On May 3, 2011, the Federal District Court entered an order enjoining the United States from accepting transfer of Parcel 2 and enjoining the City from annexing Parcel 2. The injunction against the United States was conditioned on plaintiffs' posting a bond in the amount of \$500,000 ("Bond Amount").
- F. On May 13, 2011, the Community deposited the required Bond Amount with the Federal District Court (the "Bond").
- G. On May 17, 2011, the City Attorney received instructions from the Glendale City Council to agree to provide equal contribution for any subsequent draw upon the Bond and the City desires to document its obligation to share equally in any subsequent collection that may be made upon the Bond Amount.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the City agree as follows:

1. Term. This Agreement will remain in effect so long as the Bond is in effect.

2. Contribution. Upon any draw upon the Bond, the City will pay GRIC one-half of any amount paid from the Bond; except that if the City ceases to be a plaintiff to the TO Lawsuit while the Bond is in effect, then upon any draw upon the Bond, the City will pay GRIC one-half of any amount that is attributable to the period that the City was a plaintiff to the TO Lawsuit.
 - a. Payment of the above amount will be made by the City within 15 days following the receipt of a request for payment under this agreement.
 - b. Any late payment by the City will accrue interest at the statutory rate for judgments in Arizona.

3. Dispute Resolution. Disputes will be resolved in the United States District Court for the District of Arizona. The City hereby consents to any motion under Fed. R. Civ. P. 14(a)(1) for leave to file a third-party complaint to enforce this Agreement as part of or ancillary to the TO Lawsuit. If the United States District Court for the District of Arizona lacks jurisdiction to resolve disputes under this Agreement, disputes will be resolved by arbitration which will be conducted in accordance with the American Arbitration Association ("AAA") Commercial Arbitration Rules without, however, submitting the matter to AAA.
 - a. The parties will each select an independent arbitrator within 15 days from the date of notice of a dispute, and those arbitrators will jointly select a third arbitrator.
 - b. The parties will each pay one-half of the costs of arbitration.
 - c. The prevailing party at arbitration will have the right to recover all costs and attorney's fees incurred.

4. Governing Law. This Agreement will be subject to the laws of the State of Arizona.

City of Glendale



Craig D. Tindall
City Attorney

7.11.11
Date

Gila River Indian Community



By: WM R. RHODES
Its: GOVERNOR

7-13-11
Date