



# CITY CLERK ORIGINAL

C-7775  
09/23/2011

## CONTRACTOR AGREEMENT

This Agreement ("Agreement") is by and between Valley of the Sun United Way ("VSUW"), an Arizona non-profit corporation, located at 1515 East Osborn Road, Glendale, Arizona 85014 and the City of Glendale ("CITY"), an Arizona municipal corporation, located at 5850 West Glendale Avenue, Glendale, Arizona 85301.

### RECITALS

A. VSUW has established the Success By 6 Initiative (the "Project") to ensure that children have the resources they need to enter school ready to succeed.

B. The Project is dedicated to increasing access to and improving quality early learning experiences for children through community engagement and mobilization, child care quality improvement, parent empowerment, and school transitioning strategies.

C. The CITY is dedicated to providing reading and literacy services to children and families throughout the CITY by providing various public libraries, community programs and services managed by the CITY's Library Department (the "Glendale Public Library").

D. VSUW wishes to engage CITY, and CITY is willing to serve, as a contractor to operate various Glendale Public Library programs related to the Project.

E. The parties now wish to formalize the terms of their relationship with regard to the Project.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### AGREEMENT

1. **CITY Obligations.**

CITY shall perform all necessary labor and services for the programs related to the Project set forth in Part I of the Statement of Work, attached as Exhibit A (the "Programs"). CITY shall be responsible for all the labor and services required for the Programs, not explicitly provided by VSUW in Part II of Exhibit A.

2. **VSUW Obligations.**

VSUW shall provide to CITY direction and support services for the Programs as those support services are set forth in Part II of Exhibit A. VSUW shall also make

available to the Glendale Public Library a VSUW representative to answer questions and provide such direction and support to the Project.

3. **Payment.**

Funding for the Programs will be provided by VSUW under the terms of this Agreement as described in Exhibit B. With reasonable prior notice, VSUW may audit CITY's records regarding the use made by CITY of all service payments made by VSUW to CITY.

4. **Ownership.**

CITY recognizes that VSUW is the owner of all right, title, and interest in and to all VSUW trademarks, logos, and names ("VSUW Property"). Any use of the VSUW Property by CITY requires the written approval of VSUW. VSUW recognizes that CITY is the owner of all right, title, and interest in and to all CITY trademarks, logos, and names ("CITY Property"). Any use of the CITY Property by VSUW requires the written approval of CITY.

5. **Confidentiality.**

5.1 Each party is the owner of certain information that it deems to be confidential and proprietary in nature ("Confidential Information"). For purposes of this Paragraph 5, "Disclosing Party" shall refer to the party that discloses Confidential Information, and "Receiving Party" shall refer to the party that receives Confidential Information. Subject to the requirements of A.R.S. § 39-121 et seq., neither party will, during or subsequent to the term of this Agreement, directly or indirectly (a) use any of the Disclosing Party's Confidential Information for the benefit of anyone other than Disclosing Party, or (b) disclose any of the Disclosing Party's Confidential Information to anyone other than an employee, representative or agent of the Receiving Party, to whom disclosure of such Confidential Information is necessary for the purposes permitted under this Agreement and who is obligated by written contract to protect the confidentiality thereof in a manner no less stringent than provided herein. Confidential Information does not include information (a) known to Receiving Party at the time of disclosure to Receiving Party by Disclosing Party, (b) publicly known through no wrongful act of Receiving Party, (c) rightfully received by Receiving Party from a third party who is authorized to make such disclosure, or (d) independently developed by Receiving Party other than pursuant to this Agreement.

5.2 Subject to the requirements of A.R.S. § 39-121 et seq., the Receiving Party may disclose Confidential Information if required pursuant to applicable law, or under a government or court order; provided that (a) the obligations of confidentiality and non-use shall continue to the fullest extent not in conflict with such law or order, and (b) if and when Receiving Party is required to disclose Confidential Information pursuant to any law or order. VSUW may use reasonable best efforts to obtain a protective order or take other actions as shall prevent or limit, to the fullest extent possible, public access to, or disclosure of, such Confidential Information.

5.3 Subject to the requirements of A.R.S. § 39-121 et seq., in the event this Agreement is terminated, Receiving Party shall cease use of the Confidential Information received from Disclosing Party and, upon Disclosing Party's written request, shall promptly destroy or return Confidential Information. In the event Disclosing Party requests destruction, Receiving Party shall provide written certification of the destruction within thirty (30) days of such request.

6. **Term and Termination.**

6.1 The term of this Agreement shall be for a period beginning on July 1, 2011 and ending June 30, 2012.

6.2 Either party may terminate this Agreement at any time by providing thirty (30) days written notice to the other party of a desire to terminate. Such termination shall be effective upon the expiration of the thirty (30) day period unless otherwise agreed to in writing by the parties. In the event of a breach of the terms of this Agreement by CITY, VSUW may provide written notice of such breach to CITY. CITY shall have ten (10) days following receipt of such notice to cure the breach complained of. If CITY fails to remedy the breach within the ten (10) day period, VSUW may terminate this Agreement, with such termination to be effective immediately.

6.3 Any funds provided by VSUW to CITY under this Agreement for the Programs that have not been disbursed by CITY prior to any termination or expiration of this Agreement, must be returned to VSUW within fifteen (15) days from the date of any termination or expiration of this Agreement, unless otherwise agreed to in writing by the parties. At VSUW's request, CITY shall provide in writing to VSUW an accounting of all funds provided by VSUW under this Agreement, documenting CITY's disposal of such funds. With reasonable notice, VSUW may audit CITY's records regarding the disposal of VSUW Program funds. CITY shall be responsible for the costs of any audit in the event such audit reveals a material discrepancy on the part of CITY.

7. **Warranties.**

CITY warrants that the services provided by it under this Agreement shall be performed in a professional manner consistent with industry standards. CITY further warrants that it will use best efforts in performing the services required for the Programs and that such Program services shall be provided in accordance with the terms of Exhibit A. CITY warrants that the Programs and the Glendale Public Library's operation of the Programs shall comply with all applicable government laws and regulations.

8. **Limitation of Liability.**

Except for the indemnity obligations set forth below, neither party nor its principals, members and employees shall be liable to the other party for any actions, damages, claims, liabilities, costs, expenses, or losses in any way arising out of or relating to the Programs hereunder for an amount in excess of the total amount of service payments made, or required to be made, by VSUW under this Agreement. In

no event shall either party, its principals, members or employees be liable for consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, lost profits and opportunity costs). The provisions of this Paragraph shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss, whether in contract, statute, tort (including, without limitation, negligence) or otherwise.

9. **Indemnity.**

9.1 Notwithstanding the limitation set forth in Paragraph 8, each party shall indemnify and hold harmless the other party, its principals, members and employees from and against any and all claims, actions, damages, liabilities, costs, expenses, and losses (including, without limitation, reasonable legal fees and expenses) brought against, incurred by or paid by such other party at any time, in any way arising out of or relating to this Agreement, except to the extent finally judicially determined to have resulted from the fault of the indemnified party. This indemnification provision shall apply regardless of the form or action, damage, claim, liability, cost, expense, or loss, whether in contract, statute, tort (including, without limitation, negligence) or otherwise.

9.2 The indemnifying party shall have the right to take over, settle, or defend all claims through counsel of the indemnifying party's choice and under its sole direction, except that the indemnifying party shall not take any action or agree to any settlement that would adversely affect the indemnified party without the indemnified party's written approval. The indemnified party must provide to the indemnifying party reasonable written notice of a claim or potential claim, shall make all defenses available to the indemnifying party and shall give the indemnifying party all assistance and authority, at the indemnifying party's reasonable request.

9.3 CITY shall provide evidence of liability insurance to VSUW upon request. In addition, evidence of CITY's automobile insurance policy shall be provided for the operation of any CITY-owned vehicles that may be used in connection with the Project.

9.4 CITY shall provide evidence that Workers' Compensation Insurance is provided to CITY employees.

10. **Licenses and Permits.**

CITY shall be responsible for obtaining any and all licenses and permits from the State of Arizona, any county or city therein, or any other government agency necessary for the Programs.

11. **Independent Contractor.**

Each of the parties hereto is an independent contractor and neither party is, nor shall be considered to be, an agent, distributor or representative of the other. Neither party shall act or represent itself, directly or by implication, as an agent of the other or in any manner assume or create any obligation on behalf of, or in the name of, the

other. As a contractor, CITY will determine the means, methods and manner of performing the services provided under this Agreement.

12. **Miscellaneous.**

12.1 **ASSIGNMENT.** Neither party can assign its rights or obligations under this Agreement absent written consent from the other party.

12.2 **ENTIRE AGREEMENT.** This Agreement together with all Exhibits attached hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous representations understandings or agreements, whether written or oral, relating to the subject matter of this Agreement.

12.3 **SEVERABILITY.** Should a court of competent jurisdiction find any provision of this Agreement to be invalid or otherwise unenforceable, that provision shall be severed from the Agreement, with the remaining provisions to be enforced to the maximum extent allowed by law.

12.4 **WAIVER.** A waiver by either party of any right contained herein shall not constitute a future or continuing waiver of that right, or any other right.

12.5 **MODIFICATION.** The provisions of this Agreement may not be waived, amended or modified unless agreed to in writing by both parties.

12.6 **FORCE MAJEURE.** Neither party shall be liable for any delays in performance resulting from circumstances or causes beyond its reasonable control, including without limitation, fire or other casualty, act of God, terrorism, strike or labor dispute, war or other violence, or any law, order or requirement of any government agency or authority.

12.7 **GOVERNING LAW.** This Agreement shall be governed by, and performed in accordance with, the laws of the State of Arizona, without regard to its conflicts of laws provisions.

12.8 **SURVIVAL.** The following provisions shall, by their nature, survive any termination or expiration of this Agreement: 4, 5, 6.3, 8, 9, 11, and 12.7.

**CONTACT INFORMATION**

***Valley of the Sun United Way***

Name: Dawn Gerundo  
Title: Community Program Manager  
Telephone: [REDACTED]  
Email: dgerundo@vsuw.org

***City of Glendale***

Name: Coreen Wagner  
Title: Youth Services Coordinator  
Telephone: [REDACTED]  
Email: cwagner@glendaleaz.com

**AUTHORIZATION**

IN WITNESS WHEREOF, the parties have caused this Agreement to be entered into as of the date of the last signature below.

CITY OF GLENDALE, an Arizona municipal corporation

  
\_\_\_\_\_

By: Ed Beasley  
Its: City Manager

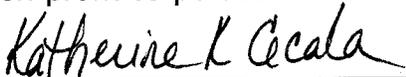
ATTEST:

  
\_\_\_\_\_  
Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Craig Tindall, City Attorney

VALLEY OF THE SUN UNITED WAY, an Arizona non-profit corporation

  
\_\_\_\_\_

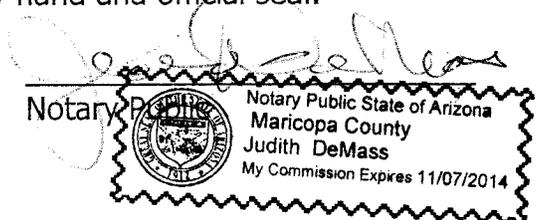
By: Katherine K. Cecala  
Its: Chief Operating Officer

State of Arizona )  
 ) ss.  
County of Maricopa )

On this the 14 day of SEPTEMBER, 2011, before me, the undersigned Notary Public, personally appeared Katherine K. Celcala, who acknowledged herself to be the Chief Operating Officer of Valley of the Sun United Way, and that she as such official, being authorized to do so, executed the foregoing Agreement for and on behalf of said corporation for the purpose and consideration therein expressed.

IN WITNESS WHEREOF, I hereunder to set my hand and official seal.

My commission Expires:  
11/7/2014



**Valley of the Sun United Way  
Statement of Work  
City of Glendale**

**I. Contractor's Roles and Responsibilities**

The City of Glendale through the public library system ("CITY") provides opportunities for parents and caregivers to be actively involved in their child's literacy and language development. Through funding from Valley of the Sun United Way, the Glendale Public Library shall provide 20 Story Time activities with a minimum of 3 and up to 25 children in attendance. The Story Time activities will be held at the Velma Teague Library located at 7010 North 58<sup>th</sup> Avenue in Glendale. The location is subject to change based on Project needs as determined by VSUW.

Each Story Time activity shall include:

- 45 to 60 minutes of reading and activity time conducted by a trained librarian at the library location
- A minimum of 3 and a maximum of 25 children ages 0 to 5 in attendance
- At least one age-appropriate story
- At least one developmentally appropriate activity with materials
- Offering of a tour of the library and, conducting a tour for those attendees who are interested
- Distribution of a high-quality, age-appropriate book(s) to each child in attendance

The Glendale Public Library will perform the following tasks:

- Coordinate dates and times for Story Time activities at Velma Teague Library.
- Prepare and conduct 20 Story Time activities for children, parents and caregivers.
- Assist with outreach efforts to maximize attendance and participation at the Story Time activities.
- Purchase age-appropriate books to distribute to the children who attend the Story Time activities.
- Conduct a tour of the library, with particular emphasis on the children's area. During the tour, the librarian or assistant will demonstrate to the children, parents and caregivers how to locate books in the library, check books out of the library, and how to sign up for a library card.
- Evaluate each Story Time activity by providing attendees with surveys at the conclusion of the activity. Survey questions to be used will be based on activities, common outcomes, and measurements.

- Agree to track additional outcomes and measurements identified. Provide VSUW with reports and information about Project performance as requested by VSUW, and allow on-site reviews as requested by VSUW.
- Submit electronic reports on a monthly basis.
- Submit invoices for rendered services on a monthly basis.

**CITY will also:**

- Support VSUW in promoting the Project as a coordinated approach to ensuring that children enter school ready to succeed through participation in community and resource development activities.
- Participate in coordination meetings between VSUW, Glendale Public Library, and individuals from other agencies participating in the Project.
- Provide staff input and expertise to the Project.
- Support VSUW in coordinating requested volunteer activities.

**II. VSUW's Roles and Responsibilities**

VSUW is the fiscal agent for the overall Project and will monitor the budget through reports by contractors, such as CITY. VSUW will provide technical assistance and support by:

- Providing Glendale Public Library with support and direction related to the Project as necessary via an assigned VSUW representative.
- Identifying additional appropriate partners for the Project based on the needs of the targeted communities.
- Incorporating program evaluation data into VSUW's reports to increase the visibility of the Project's impact within various communities.
- Identifying and collaborating on potential funding opportunities.
- Actively marketing to VSUW donors, as appropriate, information regarding the Project in order to build community awareness and accountability for contributed dollars.
- Maximizing the funds available for health and human service programs.
- Engaging CITY as a partner in VSUW activities as opportunities arise.
- Participating in activities conducted by CITY under this Agreement as opportunities arise.

**Valley of the Sun United Way  
Program Funding  
City of Glendale**

VSUW funding for the Programs shall be as follows:

VSUW shall make available to Glendale Public Library \$300.00 per Story Time activity during the contract period (July 1, 2011 – June 30, 2012). The total amount of this obligation is not to exceed \$6,000.00.

**Billing**

This is a cost reimbursement Agreement. VSUW will disseminate the stated funding to Glendale Public Library upon receiving an invoice for rendered services throughout the terms of the contract. Therefore, the annual breakdown of funding will be as follows:

July 1, 2011 – June 30, 2012

Story Time Activities (20):	\$6,000.00	(20 activities @ \$300.00)
Total:	\$6,000.00	

**Costs per Story Time Activity**

Time to prepare and conduct the Story Time activity, plus tour of the library – 5 hours at \$20.00 per hour is \$100.00.

\$50.00 for materials needed to conduct the Story Time activity.

\$150.00 to purchase high-quality age-appropriate books to be distributed to attendees

**Total Funding Fiscal Year 2011-2012:      \$6,000.00**

The total amount of funding shall be based on the actual number of Story Time activities successfully provided.