

CITY CLERK ORIGINAL

C-8039
05/12/2012

TELECOMMUNICATION AGENCY AGREEMENT

This Telecommunication Agency Agreement ("Agreement") is entered into between Jett Enterprises LLC, an Arizona limited liability company ("Agent"), and City of Glendale, an Arizona municipal corporation ("City"), as of this 12th day of May, 2012 ("Effective Date").

AGREEMENT

1. **Appointment.** The City hereby appoints Agent to order, coordinate, discuss and arrange telecommunication services for the City.
2. **Duties of Agent.**
 - 2.1 Agent will, on behalf of the City, negotiate, arrange, and upon City's written approval, order Telecommunication Service that meets City's telecommunication needs.
 - 2.2 Agent shall not enter into any binding contract or agreement on behalf of the City, or release any information obtained from the City while acting as an agent of the City, without prior written consent of the City's Chief Information Technology Officer. This provision survives the termination of this Agreement.
3. **Duties of the City.**
 - 3.1 Upon request of Agent, the City will provide to Agent information the City deemed necessary for the Agent to perform its duty.
 - 3.2 Upon request of the Agent, the City will meet with Agent to discuss City's telecommunication needs.
4. **Compensation.** The City will not compensate Agent for any work performed on behalf of the City under this Agreement. Agent may obtain compensation from a third-party telecommunication provider that provides services to the City.
5. **Term and Termination.**
 - 5.1 This Agreement will commence on the Effective Date and will continue in force until terminated by either party pursuant to the terms of this Agreement.
 - 5.2 The initial term of this Agreement is one year from the Effective Date. The Agreement is automatically renewed for an additional one year unless either party notifies the other party it will not renew this Agreement.
 - 5.3 Either party may terminate this Agreement at any time by sending a written termination notice to the other party at least 30 days before the termination date.

6. **Non-exclusivity.** Nothing in this Agreement precludes the City from obtaining telecommunication services directly from a telecommunication provider or through another agent of the City.

7. **Insurance.** Agent and each subcontractor hired by Agent must obtain and maintain the following insurance ("Required Insurance"):

7.1 General Liability.

7.1.1 Agent 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.

7.1.2 Subcontractors 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.

7.1.3 The 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.

7.1.4 These limits may be met through a combination of primary and excess liability coverage.

7.2 Auto. A business auto policy providing a liability limit of at least \$1,000,000 per accident for Agent and \$1,000,000 per accident for subcontractors and covering owned, non-owned and hired automobiles.

7.3 Workers' Compensation and Employer's Liability. A workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.

7.4 Notice of Changes. Agent's policies must provide for not less than 30-day advance written notice to City representative of:

7.4.1 Cancellation or termination of Agent or its subcontractor's policies;

7.4.2 Reduction of the coverage limits of any of Agent or its subcontractor's policies; and

7.4.3 Any other material modification of Agent or subcontractor's policies related to this Agreement.

7.5 Additional Insured.

7.5.1 Except with respect to workers' compensation and employer's liability coverages, the City must be named and properly endorsed as an additional insured on all liability policies required by this section.

7.5.2 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.

7.5.3 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.

7.6 Upon written request of Agent, City's Risk Manager may waive or reduce any of the Required Insurance.

8. **Indemnification.** To the fullest extent permitted by law, Agent must defend, indemnify, and hold harmless City and its elected officials, officers, employees and third-party 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 Agent) and that arises out of or results from the breach of this Agreement by Agent or Agent's negligent actions, errors or omissions (including any subcontractor or other person or firm employed by Agent).

9. **Notice.**

9.1 Unless otherwise specifically provided herein, all notices, demands or other communications given must be in writing and is deemed delivered upon personal delivery, as of the second business day after mailing by United States mail, postage prepaid, return receipt requested, or upon the next business day if delivered by Federal Express or similar overnight delivery system, addressed as follows:

If to the City:

Chuck Murphy
Chief Information Technology Officer
City of Glendale
6830 North 57th Drive
Glendale, Arizona 85301

With a copy to:

City Attorney
City of Glendale
5850 West Glendale Avenue, Suite 450
Glendale, Arizona 85301

If to Agent:

Tim Fyke
Member, J 3 Communications, LLC
Jetts Enterprises, LLC
3051 West Sousa Court
Anthem, AZ 85086

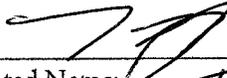
9.2 The address to which any notice, demand or other writing may be given, made or sent to any party may be changed by sending a written notice to addresses provided in section 9.1.

10. **Choice of Forum; Choice of Law.** Any legal actions instituted pursuant to this Agreement must be filed in the County of Maricopa, State of Arizona. The laws of the State of Arizona will govern the interpretation and enforcement of this Agreement.
11. **Conflict of Interest.** No member, official or employee of the City may have any direct or indirect interest in this Agreement, nor participate in any decision relating to this Agreement that is prohibited by law. This Agreement is subject to cancellation pursuant to the provisions of A.R.S. § 38-511.
12. **No Waiver.** Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies as to any default, will not operate as a waiver of any default, or of any such rights or remedies, or deprive any such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.
13. **Severability.** If a court of competent jurisdiction found any provision of this Agreement invalid or unenforceable, the remaining provisions of this Agreement will not be affected and remain valid and enforceable to the fullest extent permitted by law, provided that the fundamental purposes of this Agreement are not defeated by such severability.
14. **Modification.** No modification, waiver, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, amendment, discharge or change is or may be sought.
15. **Immigration Law Compliance.** Agent, and on behalf of any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program. Any breach of this section is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.
16. **Prohibitions.** Agent certifies under A.R.S. §§ 35-391 et seq., and 35-393 et seq., that it does not have, and during the term of this Agreement will not have, "scrutinized" business operations, as defined in the preceding statutory sections, in the countries of Sudan or Iran.

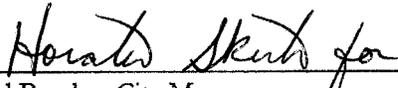
[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, Agent and the City have caused this Agreement to be executed as of the day first above written.

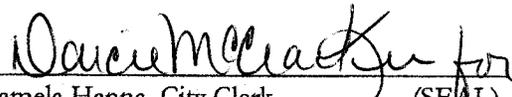
Jett Enterprises LLC, an Arizona limited liability company


Printed Name: Tya Fyke
Title: President

CITY OF GLENDALE, an Arizona municipal corporation


Ed Beasley, City Manager

ATTEST:


Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

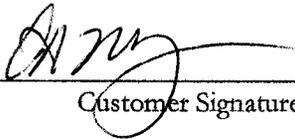

Craig Tindall, City Attorney

LETTER OF AGENCY

This Letter of Agency ("LOA") hereby authorizes Jett Enterprises LLC to act as City's agent for the purpose of ordering, coordinating, discussing and arranging communications services at 5850 West Glendale Avenue, Glendale, Arizona 85301, and specifically authorizes release of all customer records to Jett Enterprises, including but not limited to billing records, service records, and network and equipment records. City accepts full responsibility for all "authorized orders" placed by its authorized agent with CenturyLink on its behalf. For purpose of this LOA, an "authorized order" must include written approval from the City's Chief Information Technology Officer or his designee.

This LOA will become effective on May 12, 2012 and will remain in effect for a period of one year unless revoked in writing prior to that date.

This LOA does not preclude the City's ability to act on its own behalf when it deems necessary. Any questions relating to this matter may be directed to Tim Fyke at (623) 551-8595.



Customer Signature

Chuck Murphy
Chief Information Technology Officer
City of Glendale
6830 North 57th Drive
Glendale, Arizona 85301