

CITY CLERK ORIGINAL

C-8106
07/01/2012

AGREEMENT TO PROVIDE A VEHICLE TO THE GLENDALE FIRE DEPARTMENT FOR SAFETY PROGRAMS

This Agreement to Provide a Vehicle to the Glendale Fire Department for Safety Programs ("Agreement") is entered into and effective between CITY OF GLENDALE, an Arizona municipal corporation acting through the Glendale Fire Department ("City") and DON SANDERSON FORD, INC., an Arizona corporation authorized to do business in the State of Arizona ("Sanderson"), as of the 1st day of July 2012 ("Effective Date"). City and Sanderson collectively referred to as "Parties."

RECITALS

- A. City conducts water and child passenger safety programs and a fire prevention parade to raise awareness and educate the public in order to save lives;
- B. Sanderson seeks to support the City's safety mission by providing a vehicle for use by the City in promoting and conducting its water and child passenger safety programs and fire prevention parade; and
- C. City and Sanderson 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 Sanderson agree as follows:

1. Provision of Vehicle. Sanderson agrees to provide one 2012 Ford Escape ("Vehicle") to the City for official use, such use at the sole discretion of the Fire Chief, Glendale Fire Department, for promoting and conducting water and child passenger safety programs for the term of this Agreement.
2. Term. This Agreement is for a period beginning July 1, 2012 through March 19, 2014.
3. Vehicle Graphics. Sanderson agrees, at its sole expense and at no cost to City, to wrap the Vehicle with graphics to promote the City's child passenger and/or water safety message(s) and the Glendale Fire Department logo. The Sanderson logo may also appear on the Vehicle. Graphics must be approved by the Parties.
4. Vehicle Registration. Sanderson agrees, at its sole expense and at no cost to the City, to register the Vehicle with the Arizona Department of Motor Vehicles for the term of this Agreement.
5. Events. City agrees to showcase the Vehicle at the following events in 2012 and 2013, if such events are held: water safety day, car seat safety clinics and the fire prevention parade. To the extent reasonably practical, City will identify Sanderson as the provider of the Vehicle in written materials that promote or advertise these events. City agrees to conduct monthly car seat clinics at Sanderson during the 24 months the vehicle is provided with the exception of hot summer months, including July, August, and September. The events will be conducted only when the temperature will

not exceed 90 degrees Fahrenheit in order to protect the health and safety of employees, volunteers, and the event participants.

6. Modification or Cancellation of Annual Event. Nothing in this Agreement limits City's discretion regarding, or requires City to conduct, car seat safety clinics, a water safety day or a fire prevention parade. City may, in its sole discretion and for any reason, permanently or temporarily discontinue such event(s). In the event the City is unwilling or unable to conduct monthly car seat safety clinics, water safety day or the fire prevention parade during the term of this Agreement, Sanderson may terminate the Agreement and require City to return Vehicle by providing 30 calendar days' written notice to City.

7. Insurance and Indemnity.

A. All insurance required herein shall be maintained in full force and effect until the Vehicle is returned to Sanderson and is no longer available for use by City or March 20, 2014, whichever is later.

B. The City of Glendale shall obtain and shall keep in effect:

i. Commercial General Liability coverage written on an occurrence basis with a combined single limit per occurrence of not less than \$1,000,000 and each annual aggregate limit not less than \$2,000,000. The CGL coverage shall include bodily injury, property damage, broad form contractual, personal and advertising injury, and products and completed operations.

ii. Automobile Liability. Liability covering all owned, non-owned, or hired vehicles with a combined single limit for bodily injury and property damages of not less than \$1,000,000, regarding any owned, hired and non-owned vehicles assigned to or used by the City under this Agreement.

C. Insurance coverage provided shall include the following terms and conditions:

i. Primary Coverage. The City of Glendale's insurance shall be the primary insurance coverage.

ii. Claim Reporting. It is agreed that the City of Glendale will be responsible for primary loss investigation, defense and judgment costs where this Agreement applies.

D. Indemnification. Sanderson agrees to indemnify, defend and hold harmless the City and its officials, employees, and agents against: i) any and all losses, claims, damages, lawsuits and liabilities for any personal injury, death, or property damage arising out, or as a consequence of, the condition of the Vehicle or any work or activity performed by Sanderson, or its employees, subcontractors, agents or assigns, pursuant to the Agreement; ii) any and all expenses related to claims or lawsuits resulting from the above, including court costs and attorney(s) fees; and iii) any and all penalties and damages incurred by reason of Sanderson's failure to obtain any required permit or license, or comply with any applicable laws, ordinances, or regulations. Sanderson shall

hold the City and its officials, employees and agents harmless from any claimants supplying labor, materials, equipment or supplies to Sanderson or subcontractors in the performance of its obligations under this Agreement.

8. Immigration Law Compliance.

A. Sanderson, and on behalf 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.

B. Any breach of warranty under subsection (A) above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.

C. City retains the legal right to inspect the papers of Sanderson or subcontractor employee who performs work under this Agreement to ensure that Sanderson or any subcontractor is compliant with the warranty under subsection (A) above.

D. City may conduct random inspections, and upon request of the City, Sanderson shall provide copies of papers and records demonstrating continued compliance with the warranty under subsection (A) above. Sanderson agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this Section 8.

E. Sanderson agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon itself and expressly accrue those obligations directly to the benefit of the City. Sanderson also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.

F. Sanderson's warranty and obligations under this Section 8 to the City are continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.

G. The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

9. Prohibitions. Sanderson 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.

10. Conflicts. This Agreement is subject to cancellation for conflicts of interest under the provisions of A.R.S. § 38-511.

11. Termination. Either City or Sanderson may, for any reason, terminate this Agreement upon giving the other party not less than thirty (30) calendar days notice. In the event of termination, the Vehicle shall be returned to Sanderson on or before expiration of the 30 calendar days notice.

12. Legal Proceedings. The Parties agree that if either party is required to take legal action of any kind to enforce the terms and conditions of this Agreement, the successful party shall be entitled to recover all of its reasonable attorney's fees and costs resulting from those legal proceedings.

13. Notices. Any notices required to be given under this Agreement are deemed to be properly served if sent by United States mail, postage-paid, or hand-delivered to the parties at the following addresses:

To Glendale:

Fire Chief
Glendale Fire Department
City of Glendale
5800 West Glenn Drive, Suite 350
Glendale, Arizona 85301

To Sanderson:

Steve Wendt
General Manager
Don Sanderson Ford, Inc.
6400 North 51st Avenue
Glendale, Arizona 85301

with a copy to:

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

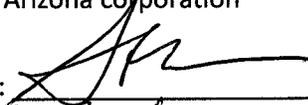
14. Entire Agreement. This Agreement contains the entire agreement between Sanderson and the City relating to the Vehicle. It may be amended or modified only by a properly executed written amendment.

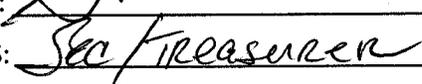
15. Surviving Provisions. The obligations under Section 7 (Insurance and Indemnity) and Section 12 (Legal Proceedings) shall survive expiration, cancellation or any other termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date stated above.

"Sanderson":

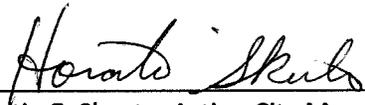
DON SANDERSON FORD, INC.,
an Arizona corporation

BY: 

ITS: 

"City":

CITY OF GLENDALE, an Arizona
municipal corporation



Horatio E. Skeete, Acting City Manager

ATTEST:



Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:



Craig Tindall, City Attorney