

**CITY CLERK
ORIGINAL**

**C-8903-1
01/04/2016**

**AMENDMENT NO. 1
TO
MASTER SERVICES AGREEMENT AND ADDENDUM
BETWEEN THE CITY OF GLENDALE, ARIZONA
AND
VINCENT BENJAMIN RECRUITING AND CONSULTING (Contract No. C-8903)**

This Amendment No. 1 (the "First Amendment") to the Master Services Agreement and Addendum is made this 4 day of January, 2015 ("Effective Date"), by and between the City of Glendale, an Arizona municipal corporation ("City") and Vincent Benjamin Recruiting and Consulting, a(n) _____ corporation ("Contractor").

RECITALS

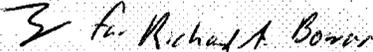
- A. City and Contractor previously entered into an agreement contained in the Master Services Agreement and Addendum documents signed by the parties and filed by the City as Contract No. C-8903, dated May 21, 2014 (the "Agreement"); and
- B. City and Contractor wish to modify and amend the Agreement subject to and strictly in accordance with the terms of this First Amendment.

AGREEMENT

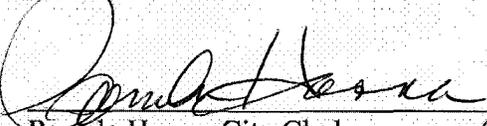
In consideration of the mutual promises set forth in this First Amendment and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the City and Contractor agree as follows:

1. **Scope.** Contractor will refer to City direct-hire search candidates for the City's technical staff. This recruitment is in addition to the Senior DBA and Systems Analyst direct-hire searches originally addressed in Agreement (in Paragraph IV of the Addendum).
2. **Capitalized Terms.** Unless defined in this First Amendment, all capitalized terms have the same meaning as given in the Agreement.
3. **Other Terms.** Other than the terms specifically described in this First Amendment, all other terms in the Agreement are unmodified and remain in effect.

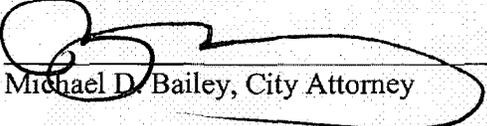
CITY OF GLENDALE, an Arizona
municipal corporation


Richard A. Bowers, Acting City Manager

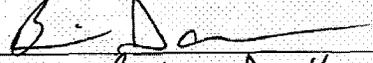
ATTEST:


Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:


Michael D. Bailey, City Attorney

Vincent Benjamin Recruiting and
Consulting


By: Brian Dallmann
Title: Sr Recruiting Manager

MASTER SERVICES AGREEMENT

By this agreement, the undersigned entity (hereinafter referred to as "VincentBenjamin" or "VB") accepts the assignment to provide recruiting services for **City of Glendale** now known as Client, which hereby enters into this agreement with VincentBenjamin as of the date of the last signature below.

Service Offerings:

DIRECT HIRE (DH) RECRUITMENT SERVICES

After establishing the qualifications for the recruiting assignment, VincentBenjamin will identify prospects; inquire about their backgrounds, interest in the opportunity, qualifications, technical expertise, accomplishments, financial expectations and career goals. If the prospect meets the requirements and overall suitability regarding the Client's expectations, the resume of the candidate is submitted, with permission of the candidate, to the client via email or in person. Where possible, VincentBenjamin will perform reference checks and will furnish Client with this information upon request. **Because there are substantial legal restrictions on the use and communication of various types of employment-related information, it is mutually understood that final reference checks, verification of education, criminal checks, credit checks, and other documentation deemed necessary by Client will be performed by Client.**

Client will designate a representative for coordination of search and placement activities with VincentBenjamin, who will work with VincentBenjamin, as required, in the evaluation and screening of prospective candidates, timely arrangement of interviews, and the arrangements of appropriate activities in the final selection process, to include meetings with appropriate hiring managers. Client will process all candidates in a professional manner, and will keep VincentBenjamin informed on a current basis of negotiations with all candidates.

DH Placement Fee & Payment Terms

VincentBenjamin performs its search services on a contingency basis, meaning no fee will be assessed unless Client hires a candidate introduced by VincentBenjamin (a "Candidate"). The fee for providing such services is **twenty-two percent (22.5%)** of each Candidate's first year guaranteed compensation. Placement fees are earned by VincentBenjamin when a Candidate is hired either directly or indirectly by Client, its affiliate or subsidiary, within one year of the last contact made as a result of VincentBenjamin's efforts or referral, including but not limited to facsimile transmission or e-mail of a requested resume or candidate profile, telephone interview, or personal interview. Candidates are referred to Client in confidence. Should Client refer or otherwise identify a Candidate to another company that hires the candidate, Client shall be jointly and severally liable for the entire fee. All fees are earned and due on the Candidate's start date, **payable within ten (10) business days** of the Candidate start date. Unpaid fees are subject to a service charge of 1.5% per month (18% per year). In the event Client fails to timely pay said any fees when due, Client agrees to pay all of VincentBenjamin's fees and costs of enforcement, including but not limited to attorney fees and costs.

DH Placement Guarantee

A ninety (90) day pro-rata guarantee will be provided in the event that the Candidate resigns or is terminated for cause. This guarantee does not apply if the invoice terms have not been met, or if the Candidate is terminated for any reason other than cause or resignation.

CONTRACT AND CONTRACT-TO-HIRE (CCH) SERVICES

Employee Relationship

The candidate assigned is an employee of VB and shall not be deemed to be a Client employee. VB agrees to assume full responsibility for paying, withholding, transmitting payroll taxes; making unemployment contributions; and handling unemployment and worker's compensation claims involving assigned employees.

Insurance

Certificate of Insurance for the following is available upon Client's request:

- Statutory Worker's Compensation Insurance
- Commercial Liability Insurance
- Excess/Umbrella Liability
- Professional Liability
- Crime insurance in amounts deemed sufficient

CCH Guarantee

VB guarantees Client satisfaction with the candidate's services by providing a one-day guarantee period for each new candidate assigned. If for any reason Client is dissatisfied with the candidate assigned, and Client so informs VB before the end of the first day, VB will not charge Client for the unsatisfactory work, up to a maximum of the first eight hours worked. VB's guarantee does not cover any overtime work.

Billing

VB will invoice Client at the hourly rate quoted, and the quoted rate (whether communicated by phone, email, mail, or other such reasonable means of communication) is deemed accepted upon agreement to start the assigned candidate. VB compensates assigned candidates on a weekly basis and invoices weekly for the total hours worked (rounded up to the nearest quarter hour). Because VB invoices reflect payroll we have already paid, our **invoices are due upon receipt**. Unpaid invoices are subject to a service charge of 1.5% per month (18% per year). In the event Client fails to timely pay any said fees and charges when due (whether for interim services or conversion fees), Client agrees to pay all of VB's fees and costs of enforcement, including but not limited to attorney fees and costs.

Overtime

Overtime, if any, will be paid according to applicable state law and billed at one and one half times (1.5x) the hourly rate.

Conversion Fee

Client further understands that VB is an employment agency, and temporary employees represent our inventory of skilled professionals as a result of substantial expense in terms of time and money spent for advertising, screening, testing, referencing, and training of such personnel. In the event Client wishes VB employees converted to Client's employ, Client agrees to contact VB regarding VB policy before the conversion, and Client agrees to pay a conversion fee of **up to twenty-two percent (22.5%)** of the annual salary. Discount will be applied to conversion fee based on hours worked.

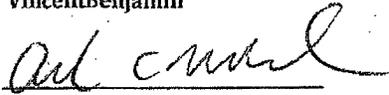
Supervision & Responsibility

Supervision of the candidate, and his/her work for Client, is Client's sole responsibility, and Client shall be solely responsible to provide a safe, harassment-free and discrimination-free workplace, and provide any necessary and appropriate equipment and safety training for that equipment. Client is to immediately report to VB any violations of these provisions, as well as report any injuries or complaints by VB Employee. Client shall defend, and indemnify and hold VB harmless from any and all claims that may arise as a result of Client's actual or alleged breach of these provisions. The prevailing party in any dispute over the applicability or breach of this paragraph will be entitled to its reasonable attorney's fees and costs incurred in such dispute. Because VB corporate offices are located in Arizona, proper venue for any action based this contract will be Maricopa County. Client will not permit or require a VB interim employee: (i) to perform Services outside of the scope of his or her assignment; (ii) to sign contracts or statements (including SEC documents); (iii) to make any management decisions; (iv) to sign, endorse, wire, transport or otherwise convey cash, securities, checks, or any negotiable instruments or valuables; or (v) to operate machinery (other than office machines) or automotive equipment. Since VB is not a professional accounting firm, Client will not permit or require the assigned candidate: (a) to render an opinion on behalf of VB or on Client's behalf regarding financial statements; (b) to sign the name of VB on any document; or (c) to sign their own names on financial statements or tax returns. Client hereby represents and warrants that Client is in full compliance with all the laws, rules and regulations of duty constituted governmental bodies concerning VB candidates or any other employees, and that VB candidates will be provided rest periods and meal breaks in accordance with the law.

Acceptance

All referrals are made in confidence. The terms of this agreement are deemed accepted upon agreement to interview, by phone or in person, a candidate referred by VincentBenjamin. This agreement contains the complete and final terms on the topics discussed herein, and supersedes any prior agreements or understandings on these topics.

VincentBenjamin

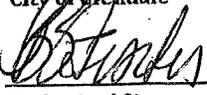

Authorized Signer

Title

5/1/2014
Date

Approved as to form

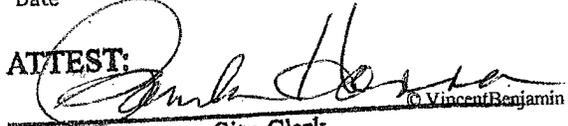
City of Glendale

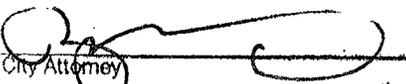

Authorized Signer

Title

5/12/14
Date

ATTEST:


City Clerk


City Attorney

ADDENDUM

The City of Glendale, Arizona ("City") and Vincent Benjamin ("Contractor") further agree as follows:

I. Conflicts. The Master Services Agreement (the "Agreement") between the parties is subject to cancellation for conflicts of interest under the provisions of Arizona Revised Statutes ("A.R.S.") § 38-511.

II. Immigration Law Compliance.

- A. Contractor, 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.
- B. Any breach of warranty under subsection (A) above is considered a material breach of the Agreement and is subject to penalties up to and including termination of the Agreement.
- C. City retains the legal right to inspect the papers of Contractor or subcontractor employee who performs work under the Agreement to ensure that Contractor or any subcontractor is compliant with the warranty under subsection (A) above.
- D. City may conduct random inspections, and upon request of the City, Contractor shall provide copies of papers and records demonstrating continued compliance with the warranty under subsection (A) above. Contractor 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 **Paragraph II**.
- E. Contractor agrees to incorporate into any subcontracts under the Agreement the same obligations imposed upon itself and expressly accrue those obligations directly to the benefit of the City. Contractor also agrees to require any subcontractor to incorporate into each of its own subcontracts under the Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.
- F. Contractor's warranty and obligations under this **Paragraph II** to the City are continuing throughout the term of the 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.

III. Entire Agreement. The Agreement, the cover letter and this Addendum constitute the entire understanding between the parties with respect to the subject matter of the Agreement and Addendum.

IV. Not-to-exceed. City will not pay Contractor more than Forty-Five Thousand Dollars (\$45,000) total for Contractor's services performed pursuant to the Agreement for the Senior DBA and Systems Analyst direct-hire searches.

V. Addendum and Agreement Conflict. In the result of any conflict between the Agreement and this Addendum, the terms of this Addendum prevail.

[SIGNATURES ON NEXT PAGE]

B. H. L.
Contractor

B. Archer
City

5.16.2014
Date

5-21-14
Date

ATTEST:
[Signature]
City Clerk

Approved as to form

[Signature]
City Attorney