

CITY CLERK ORIGINAL

C-8957
06/02/2014

CITY OF GLENDALE GLENDALE REGIONAL PUBLIC SAFETY TRAINING CENTER Facilities Use Agreement

This Facilities Use Agreement ("Agreement") is entered into between the City of Glendale, an Arizona municipal corporation ("CITY") and the Tolleson Police Department, an *Arizona municipal corporation* ("USER"), and collectively "Parties," is effective only for the date, location and type of use listed below.

1. **PURPOSE/EVENT.** USER has a non-exclusive right to occupy and use the Glendale Regional Public Safety Training Center ("Center") for the following purpose and no other: police drivers' training class.

2. **REQUESTED USE AND FEES.** CITY grants to USER the right to use the Center and any authorized surrounding parking lots or staging areas located in the vicinity of the Center for and in consideration of the rents and costs listed below:

- a) Date: June 2, 2014
- b) Room: Drivers' Track and North Aid Canopy
- c) Equipment: \$ 0 - Tolleson will supply its own vehicles
- d) Rent: \$ 1,215.00 + \$41.31 (3.4% tax) + \$1,256.31
- e) Labor Costs: Glendale Safety Officers & Instructors to be billed at actual overtime rates
- f) Total Due: \$1,256.31 (due on or before date of use)
- g) Deposit: \$0
- h) Balance: \$1,256.31 (to be paid in full on or before date of use.)

3. **RESERVATION.** Return of this Agreement properly signed along and proof of insurance as required under paragraph 17 below, constitutes a reservation for the planned date(s) of use. Payment in full of the balance is due before June 2, 2014. All payment instruments should be made payable to the City of Glendale. The CITY reserves the right to require further assurances of the method of payment.

4. **CANCELLATION OF RESERVATION.** If the reservation is cancelled by the USER with 14 or more calendar days' prior notice to the planned use to the CITY of, USER will receive a full refund of any deposit, rent or other costs paid to the CITY. Upon cancellation of the reservation by the USER with less than 14 calendar days' notice, CITY retains the deposit but the USER will be refunded any monies over and above the deposit amount. Upon cancellation of the reservation by the CITY, the USER will receive a full refund of any monies paid to the CITY in connection with the reservation. USER understands that CITY assumes no liability for cancellation of a reservation but that CITY will engage in reasonable efforts with the USER to secure a new reservation.

5. **TERMINATION BY CITY.** The CITY may terminate this Agreement for any reason after commencement of use. If the CITY terminates this Agreement without cause, USER may be entitled to a pro-rata refund of any rent paid in advance. However, if the City terminates this Agreement for cause or a force majeure, including, but not limited to, the activities undertaken by the USER pose an unreasonable risk to the health and safety of the participants, the USER may not be entitled to a refund of any rent paid in advance. Further, if the CITY terminates this Agreement, USER agrees to forego any and all claims for damages against CITY and further agrees to waive any and all rights which might arise by reason of the terms of this use and USER shall have no recourse of any kind against CITY.

6. USE INTERRUPTION. CITY retains the right to cause the interruption of any activity in the interests of public safety, and to likewise cause the termination of USER's activities, when in the sole judgment of CITY, the acts are necessary in the interest of public safety. If the interruption is due to an evacuation order, USER may re-enter the Center after release from the order for sufficient time to complete the planned use without additional rental charge so long as the time does not interfere with other CITY uses. If it is not possible to complete the planned use, rental and costs shall be forfeited, prorated, or adjusted, based upon the situation, at the discretion of the CITY. USER waives any claim for damages or compensation from the CITY for use interruption.

7. ARRANGEMENTS AND DETAILS. Center coordination details should be finalized at least ten calendar days prior to the first day of the agreed-upon use with Mark Malinski, Glendale Police Training Sergeant, at 623-772-7111. If coordination is not conducted or if such coordination is deemed insufficient by the City, then CITY may impose USER facility needs or restrictions based upon available information. Changes requested less than ten days in advance of the first day of use are subject to additional costs.

8. SERVICES INCLUDED. All Center integrated equipment, chairs, tables, general house lighting, heating, air conditioning, restrooms and custodial service are provided for USER's use for the duration of the rental period specified in this Agreement.

9. ADDITIONAL SERVICES, STAFF AND EQUIPMENT. Other services, staff and equipment, not specifically identified in Paragraph 2 above, may be available to USER at additional cost. For purposes of this USER's use on June 2, 2014, USER has agreed to pay additional costs associated with Glendale personnel serving as Safety Officers & Instructors. These services will be billed to USER at the individual Glendale personnel's actual overtime rates. Additional services, staff and equipment must be coordinated with the CITY's as provided in paragraph 7 above.

10. DAMAGE TO FACILITIES AND EQUIPMENT. USER is responsible for any damage that occurs to Center facilities and equipment during its period of use, including, but not limited to, damage caused by USER's employees, contractors, consultants, invitees, guests, agents or representatives. USER shall take all precautions to maintain the Center in good repair and restore and return the Center back to its pre-use condition, ordinary wear and tear excepted. If USER does not maintain the Center as required by this Agreement, the CITY may undertake any remedial action necessary to restore the Center to its pre-use condition, and any and all costs associated with such corrective action shall be charged to and paid by the USER.

11. ATTACHMENTS. No pins, staples, nails or similar fasteners nor adhesive tapes may be applied to any surface unless approved in advance by the CITY.

12. PUBLIC SAFETY. USER agrees that at all times it will conduct its authorized activities with full regard to public safety and will observe and abide by all applicable municipal, state and federal laws and regulations, and any requests by CITY and duly authorized governmental agencies responsible for public safety. CITY also reserves the right to eject or cause to be ejected from the Center any person engaging in objectionable conduct, including, but not limited to: disruption of other Center operations; exposing property or persons to risk of damage or injury; unreasonable noise; or any illegal conduct. Neither the CITY, nor any of its officers, elected officials, agents or employees is liable to USER for any damages or injuries sustained by USER, including, but not limited to, the forfeiture of any rents paid, through CITY's exercise of its right to eject.

13. PROPERTY LIABILITY. USER expressly releases and discharges CITY from any and all liabilities, and agrees to indemnify CITY for any claims or causes of action arising out of, any loss, injury or damages to property which may or does arise out of or be related to USER's use of the Center under this Agreement. Any additional security or other protective service desired by USER must be arranged for by special agreement with the CITY and USER is responsible for all costs connected with any additional services.

14. **COMPETENCY OF PERSONNEL.** USER certifies that all employees, agents or others assisting or performing on behalf of USER in the Center are knowledgeable in the use and operation of the Center equipment and facilities authorized under this Agreement.

15. **PROPERTY LEFT BEHIND.** The CITY assumes no responsibility for any personal items, equipment or other items that remain in the Center after the termination of this Agreement. Items left will be maintained for a period of 14 calendar days. If not claimed within 14 days, the items are subject to disposal at the CITY'S discretion. The CITY reserves the right to charge storage for items left in the Center.

16. **ACCESS.** The CITY reserves the right to control and manage the Center and to enforce all necessary and proper rules for its management and operation. Authorized CITY employees will have free access at all times to all spaces occupied by USER.

17. **INSURANCE.** Insurance is required for use of the Center. At all times User is using the Center, User shall: (a) certify that it will be covered under a program of self-insurance in an amount sufficient to fully protect itself and the City from hazard or liability; or (b) obtain insurance in the amounts specified below, naming CITY as an additional insured. USER'S insurance coverage must be primary insurance and non-contributory with respect to all other available sources and must cover all dates and times it uses the Center. User Minimum Scope and Limit of Insurance coverage must be at least as broad as:

(A) **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01, including products and completed operations, with limits of no less than **\$1,000,000** per occurrence for bodily injury, personal injury, and property damage. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit (*i.e.*, **\$2,000,000**).

(B) **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than **\$1,000,000** per accident for bodily injury and property damage.

(C) **Worker's Compensation:** Insurance as required by the State of Arizona, with Statutory Limits, and Employers' Liability insurance with a limit of no less than **\$1,000,000** per accident for bodily injury or disease.

18. **INDEMNIFICATION.** USER shall indemnify, defend and hold harmless the CITY and its officers, agents, contractors, volunteers, and employees from and against any and all claims, actions, liabilities, damages, losses, or expenses including court costs, attorneys' fees, and costs of claim processing, investigation and litigation (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss of or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of USER or any of its owners, officers, directors, agents, employees, invitees or contractors, arising out of or related to USER'S occupancy and use of the Center. It is the specific intention of the Parties that the CITY shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the CITY, be indemnified by USER from and against any and all claims. It is agreed that USER will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration for the use and occupancy of the Center, USER agrees to waive all rights of subrogation against the CITY and its officers, officials, agents and employees for losses arising from the use, occupancy or condition of the Center unless the rights arise due to the negligent or willful acts or omissions of the CITY.

19. **ASSIGNMENT.** USER may not assign or transfer the authorized use under this Agreement without the written consent of the CITY.

20. **COOPERATION.** USER and CITY mutually agree to provide reasonable notice and opportunity to address or cure the performance of the terms or issues related to the use authorized under this Agreement. USER acknowledges that certain situations involving safety of personnel and waste or

risk of damage to the Center may provide little or no opportunity for notice or cure before CITY action.

21. SCHEDULING OF OTHER EVENTS. CITY may schedule and contract with other parties for uses that are adjacent to, in close proximity of or similar in nature to the use authorized under this Agreement so long as the other uses do not unreasonably affect the use authorized under this Agreement. The CITY may schedule and contract for these events during USER's planned use without notice to USER, unless otherwise specified in writing by the CITY.

22. JURISDICTION. The laws of the State of Arizona shall govern this Agreement.

23. NOTICES. Any notice permitted or required under this Agreement must be delivered personally or by United States Postal Service, certified mail with return receipt requested to the addresses as shown below. Notice is considered received upon date of delivery.

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

25. IMMIGRATION LAW COMPLIANCE. USER warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to its employees, agents or others assisting or performing on behalf of USER, 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 warranty is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement. USER's warranty and obligations under this section to the City is 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. For purposes of this Paragraph, "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.

26. ENTIRE AGREEMENT. The Parties agree that all agreements are fully set forth above and that no oral statement or representations of any kind have been made upon which either party may rely. This provision does not limit the CITY from imposing any reasonable additional rules or regulations that may be necessary for the implementation of this Agreement or that would be in the best interests of the operation of the Center.

27. AUTHORITY. The individual signing below on behalf of USER certifies that the individual is authorized to enter this Agreement and to bind USER to all of its terms and conditions.

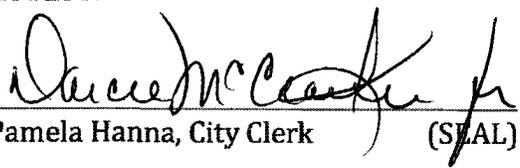
The Parties have caused this Agreement to be executed as shown on the following page.

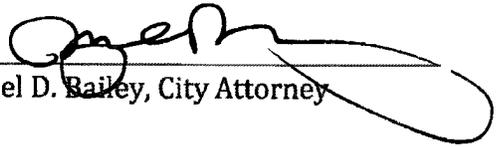
CITY: CITY OF GLENDALE
Glendale Regional Public Safety
Training Center
11550 West Glendale Avenue
Glendale, Arizona 85307
Attn: Center Director

USER:
City of Tolleson
Wayne Booher
8350 West Van Buren
Tolleson, Arizona 85353
623-936-7186
wbooher@tollesonaz.org

Signature: 
Date: 5/28/14

Signature: 
Date: 5-28-14

ATTEST:

Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

Michael D. Bailey, City Attorney

CERTIFICATE OF INSURANCE

ISSUE DATE
04/09/2014

ADMINISTRATOR

Southwest Risk Services
14902 North 73rd Street
Scottsdale, AZ 85260
(602) 996-8810

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY
LETTER A ARIZONA MUNICIPAL RISK RETENTION POOL

INSURED

City of Tolleson
9555 West Van Buren
Tolleson, AZ 85353

COMPANY
LETTER B
COMPANY
LETTER C
COMPANY
LETTER D

COVERAGES

THIS IS TO CERTIFY THAT POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOT WITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR PERTAIN, THE INSURANCE AFFORDED BY THE POLICES DESCRIBED HERE IN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS, AND CONDITIONS OF SUCH POLICIES.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE	POLICY EXPIRATION DATE	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCURRENCE	AM40062013	07/01/2013	07/01/2014	EACH WRONGFUL ACT \$2,000,000 PROD COMP/OPS AGGR \$2,000,000 PERSONAL & ADV INJURY \$2,000,000 FIRE DAMAGE(1 FIRE) \$300,000 MEDICAL EXP(1 PERSON) \$5,000 COMBINED SINGLE LIMIT
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY				
	EXCESS LIABILITY				EACH WRONGFUL ACT AGGREGATE
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY	AZWC010917	07/01/2013	07/01/2014	Statutory (EACH ACCIDENT) \$1,000,000 (DISEASE-POL LMT) \$1,000,000 (DISEASE-EACH EMP) \$1,000,000
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

Regarding the vicarious liability by the City of Tolleson for use of the City of Glendale training facility on Monday June 2, 2014.

CERTIFICATE HOLDER

ADDITIONAL INSURED

City of Glendale
5850 West Glenrosa Avenue
Glendale, AZ 85301

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED SIGNATURE

Edward A. Rouse