

**CITY OF GLENDALE
FACILITIES USE AGREEMENT**

This Facility Use Agreement is entered into as of February 11th 2015, between the City of Glendale ("City") and The Arizona Early Day Gas Engine and Tractor Association, an Arizona no-profit corporation ("Licensee"), to authorize licensee to use the Sahuaro Ranch Park Historical Area for the dates and times set forth below.

RECITALS

A. Licensee wishes to obtain from the City a license to use Sahuaro Ranch Historical Area, property owned by the City ("Facilities");

B. The City approval of such use contingent upon Licensee's adherence to all policies established by the City for such uses.

AGREEMENT

The Parties agree as follows:

1. Facilities. Subject to the terms of this Agreement and the policies established by the City, the City agrees that Licensee may use the following Facilities:

Sections of the Sahuaro Ranch Park Historical Area (Facility) for the Tractor Show, and designated sections of Facility for set-up and clean-up of materials and equipment used in Tractor Show.

2. Use. Licensee may use the Facilities for the following purpose or purposes, and for no other purpose or purposes: Tractor Show held once a year, and for the storage of the Tractor Associations equipment and materials used for the Tractor Show. The City reserves the right to prohibit Licensee from storing equipment at the Facility.

a. Licensee agrees to conduct its activities in the Facilities in a careful and safe manner and in accordance with the terms of this Agreement;

b. Licensee agrees to comply with all laws and regulations, and with the policies and regulations of the City pertaining to the use and occupancy of the Facilities;

c. Licensee agrees to exercise due caution and apply good and diligent care in the use of the Facilities and to maintain the Facilities in as good order and condition as it was prior to Licensee's use;

d. Licensee agrees not to use or allow the Facilities to be used for any unlawful purposes and to not commit or allow to be committed any waste or nuisance in or about the Facilities or subject the Facilities to any use that would damage the Facilities or raise or violate any insurance coverage maintained by Licensee or the City;

e. Licensee agrees that the City may terminate or preclude any use immediately upon a determination by the City, at its sole discretion and consistent with its police powers, that such a use would endanger the public or be inconsistent with the health, safety and general welfare of the public;

f. Licensee agrees that nothing within this Agreement shall be construed to have created a tenancy of any type or manner;

3. Use Periods. Licensee may use the Facilities listed above on the following dates and during the following hours ("Use Periods"):

February 11th -13th for event set-up and move in

February 14th -15th for event

February 16th event clean-up

4. Usage fee. Licensee agrees to pay the city \$2,000.00 for the use of the designated Facilities for dates stated above.

5. Concessions. Unless otherwise prohibited by the City, use of the Facilities permits Licensee to sell concessions at the Facilities during the Use Periods. The Licensee is responsible for all City and State taxes.

6. Condition of Facilities. The City will make reasonable efforts to maintain the Facilities consistent with their intended uses. Notwithstanding this fact, the City makes no specific representations or warranties that the Facilities are in a condition necessary for Licensee's safe use. Licensee, therefore, assumes sole and full responsibility to inspect and investigate the Facilities to assure its use can and will be conducted in a safe manner. Any deficiency perceived by Licensee shall be brought to the City's attention immediately. The City may, at its sole option, address the condition of concern or cancel this Agreement. Should the City elect not to correct the condition and Licensee decides to proceed with the use, Licensee assumes full responsibility for the condition and indemnifies the City as set forth below.

7. Insurance. Licensee, at its expense, agrees to procure and maintain during the term a policy of commercial general liability insurance in an amount of not less than one million dollars (\$1,000,000), single limit, against claims for bodily injury, death and property damage occurring in connection with Licensee's use of the Facilities. The policy and the insurer shall be acceptable to the City.

a. This insurance must name the City of Glendale as additional insured; and

b. Insurance must be issued by an insurer authorized to do business in the State of Arizona; and

c. Licensee must provide City with a certificate evidencing this insurance coverage no later than ten days prior to Licensee's use of the Facilities.

8. Indemnification. Licensee shall indemnify, defend, and save harmless the City from any and all claims, demands, suits, actions, proceedings, losses, costs and damages of every kind and description, including attorneys' fees and litigation expenses, which may be brought or made against or incurred by the City as the result of (i) any injuries to or death of a person, (ii) any loss or damage to equipment and materials owned by the licensee stored at Sahuaro Ranch Park Historic Area, or (iii) any breach or default in the performance of any obligation on Licensee's part, including any claims of a purported third party beneficiary of this Agreement, and which are or asserted to be or have been caused by, arising out of, or contributed to, in whole or in part, by reason of any act, omission, professional error, fault, mistake, or negligence of Licensee, its agents, employees, representatives, subcontractors or invitees, in connection with or incidental to any use, authorized or unauthorized, or any occupancy of the Facilities. Licensee's obligation hereunder shall not extend to any liability that is the sole negligence of the City (such negligence shall exclude liability arising as a result of a non-delegable duty). Licensee's obligation under this provision shall survive the termination or expiration of this Agreement regardless of the purpose of the termination.

9. Prohibitions.

- a. Licensee shall not permit any advertising to be displayed in or upon the Facilities without the prior approval of the City, which consent may be granted, withheld or revoked at City's sole discretion;
- b. Licensee shall not permit any alcohol to be sold, consumed, stored or transported in, upon or through the Facilities without a specific, separate license for such activity;
- c. Licensee shall not permit any activity that is not reasonably consistent with conduct or promotion of a City-related event, including the use of tobacco, in, upon, or throughout the Facilities;
- d. Licensee shall not permit any firearms, other weapons, or dangerous objects to be possessed in or upon the Facilities;
- e. The City's name shall not be used to suggest co-sponsorship or endorsement of any activity, except with the prior written approval by the City;
- f. Licensee shall not sell or cause to be sold any programs or other items in or about the Facilities, except on terms and conditions established by the City;
- g. Licensee shall not make audio or video recordings or televise or broadcast the event or any portion thereof without the City's written approval;
- h. Licensee shall not admit a larger number of persons than can safely and freely move about in the Facilities. The City shall notify Licensee of the recommended capacity of the Facilities and the decision of the City concerning questions arising under this paragraph shall be final.
- i. Licensee shall not injure, mar or in any way deface the Facilities and shall not cause or permit anything to be done whereby the Facilities shall be in any manner injured, marred, or defaced. Licensee will not drive, or permit to be driven, nails, hooks, tacks, or screws into any part of the Facilities and will not make or allow to be made any alterations of any kind therein. Licensee is responsible for any costs related to repair of damages caused during usage.

j. Licensee shall not use City's equipment, tools or furnishings, located in or about the Facilities, without the prior approval of the City.

k. Licensee shall not produce or allow amplified sound, live or recorded music or any other noise that might disturb the neighborhoods surrounding or near the Facilities after 10:00 p.m.

l. Licensee will not permit any hazardous substance or pollutants to be used, stored, generated or disposed of on, in, or about, or transported to or from, the Facilities, by Licensee, Licensee's agents, employees, contractors, invitees, subtenants, or concessionaires without first obtaining City's written consent, which City may give or withhold at its sole discretion, or revoke at any time. If City consents, all hazardous substances or pollutants must be handled at Licensee's sole cost and expense, in compliance with all applicable state, federal or local governmental requirements, using all necessary and appropriate precautions. Without limitation, if Licensee causes or permits the presence of any hazardous substance or pollutants on, in or about the Facilities and this results in contamination of any part of the Facilities, Licensee will promptly, at its sole cost and expense, take all necessary actions to return the Facilities and any adjacent facility to the condition existing prior to the presence of any hazardous substance; provided, however, Licensee shall first obtain City's approval for any such remedial action. "Hazardous substance" means any substance regulated by any local government, the State of Arizona or the United States government. Hazardous substance includes any material or substances that are defined as "hazardous material," "hazardous waste," "extremely hazardous waste" or a "hazardous substance" pursuant to state, federal or local government law. Hazardous substance includes, but is not restricted to, asbestos, polychlorobiphenyls and petroleum.

10. Additional Users. Licensee understands and agrees that during the term of this Agreement there may be other events taking place in other parts of the Facilities not covered by this Agreement. Licensee shall conduct its activities so as not to interfere with other events.

11. Parking Facilities. Parking facilities at the Facilities are available for the vehicular traffic and parking necessitated by Licensee's use on a non-exclusive basis.

12. Violations. If at any time the use of the Facilities by Licensee violates this Agreement, any and all applicable laws, rules or regulations of the City of Glendale, County of Maricopa, State of Arizona or the United States of America, Licensee shall either cease and desist from continuing such use or shall surrender the Facilities forthwith upon demand of the City.

13. Control of Facilities. In permitting the use of the Facilities described herein, the City does not relinquish control or custody thereof and does hereby specifically retain the right to enforce any and all laws, rules and regulations applicable thereto. All portions of the Facilities will and at all times be under the charge and control of the City. Employees, officials, agents or other authorized representatives of the City may enter upon the Facilities at any and all times to make inspections to ensure compliance with this Agreement.

14. Assignment. Licensee does not have the right to assign this Agreement or allow any other person or entity to use or occupy any of the Facilities without the prior written consent of City, which consent may be granted or withheld at City's sole discretion.

15. Default and Termination. If Licensee fails to pay any fee or other sum required to be paid by Licensee when due, or otherwise fails to comply with or observe any other provision of this Agreement or the City's policies, in addition to any other remedy that may be available to City, whether at law or in equity, City may immediately terminate this Agreement and all rights of Licensee. Both parties may terminate for convenience, and the terminating party must give the non-terminating party 90 days' notice.

16. Interpretation. This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter. No prior or contemporaneous agreement or understanding will be effective. This Agreement may not be modified or amended except by written instrument signed by both parties. This Agreement shall be governed by the laws of Arizona, the courts of which state shall have jurisdiction over its subject matter.

17. Relationship. Neither Licensee nor any personnel of Licensee will for any purpose be considered employees or agents of City. Licensee assumes full responsibility for the actions of Licensee's personnel, and is solely responsible for their supervision, daily direction and control, payment of salary (including withholding income taxes and social security), worker's compensation and disability benefits. Licensee is an independent contractor and not the agent or employee of the City.

18. Authority. The individual signing below on behalf of Licensee hereby represents and warrants that s/he is duly authorized to execute and deliver this Agreement on behalf of Licensee and that this Agreement is binding upon Licensee in accordance with its terms.

19. Miscellaneous.

a. Licensee agrees to comply with all federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, nondiscrimination, including the Americans with Disabilities Act, and affirmative action.

b. This Agreement is subject to A.R.S. §38-511. This Agreement may be canceled if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of City is an employee, consultant, or agent of any other party to this Agreement.

c. If City's performance under this Agreement depends upon the appropriation of funds by the City Council, and if the City Council fails to appropriate the funds necessary for performance, then City may provide written notice of this to Licensee and cancel this Agreement without further obligation of City.

d. Arizona Early Day Gas Engine & Tractor Association is responsible and liable for any and all costs arising from the use of patented, trademarked, franchised, or copyrighted music, materials, devices used on City property or at any City facility, including but not limited to, the Sahuaro Ranch Park Historic Area.

Name: Jerry Geiger
 Title: President, Arizona Early Day Gas Engine & Tractor Association
 Mailing Address: P.O. Box 56386
 Phoenix, AZ 85079
 Phone: 623-435-3955

This Agreement will become effective on the date it is executed by Arizona Early Day Gas Engine & Tractor Association and will conclude February 16, 2015.

<p>Jerry Geiger, President Arizona Early Day Gas Engine & Tractor Association P.O. Box 56386 Phoenix, AZ 85079 Phone:623-435-3955</p>		<p>Erik Strunk, Executive Director City of Glendale Parks, Recreation & Library Services 5959 West Brown Street Glendale, Arizona 85302</p>
<p><i>Jerry Geiger</i> 2/16/15 (Date)</p>		<p><i>Erik Strunk</i> 2.11.15 (Date)</p>

ATTEST:

 City Clerk

Approved as to form


 City Attorney

EXHIBIT A
Sahuaro Ranch areas of usage and fees

Date	Day	Use Area	Type of Use	Times	Cost
2/11/2015	Wednesday	Demo Area	User set-up	8A-5P	\$125.00
2/12/2015	Thursday	Demo Area	User set-up	8A-5P	\$125.00
2/13/2015	Friday	Demo Area	User set-up	8A-5P	\$125.00
2/14/2015	Saturday	Entire Complex	User event	8A-5P	\$750.00
2/15/2015	Sunday	Entire Complex	User event	8A-5P	\$750.00
2/16/2015	Monday	Demo Area	User Clean up	8A-5P	\$125.00
				30% Discount	600.00
				Total	\$1,400.00

Rental Details

Arrangements for catering, special decorations and tent rentals are not included in the rental fee and are the responsibility of the licensee.