City of Glendale
Council Meeting Agenda

February 12, 2013 – 7:00 p.m.

City Council meetings are telecast live at 7:00 p.m. on the second and fourth Tuesday of the month. Repeat broadcasts are telecast the second and fourth week of the month – Wednesday at 2:30 p.m., Thursday at 8:00 a.m., Friday at 8:00 a.m., Saturday at 2:00 p.m., Sunday at 9:00 a.m. and Monday at 1:30 p.m. on Glendale Channel 11.

Welcome!
We are glad you have chosen to attend this City Council meeting. We welcome your interest and encourage you to attend again.

Form of Government
The City of Glendale has a Council-Manager form of government. Legislative policy is set by the elected Council and administered by the Council-appointed City Manager.

The City Council consists of a Mayor and six Councilmembers. The Mayor is elected every four years by voters city-wide. Councilmembers hold four-year terms with three seats decided every two years. Each of the six Councilmembers represent one of six electoral districts and are elected by the voters of their respective districts (see map on back).

Council Meeting Schedule
The Mayor and City Council hold Council meetings to take official action two times each month. These meetings are held on the second and fourth Tuesday of the month at 7:00 p.m. Regular meetings are held in the Council Chambers, Glendale Municipal Office Complex, 5850 W. Glendale Avenue.

Agendas may be obtained after 4:00 p.m. on the Friday before a Council meeting, at the City Clerk's Office in the Municipal Complex. The agenda and supporting documents are posted to the city's Internet web site, ***www.glendaleaz.com***

Questions or Comments
If you have any questions about the agenda, please call the City Manager's Office at (623) 930-2870. If you have a concern you would like to discuss with your District Councilmember, please call (623) 930-2249, Monday - Friday, 8:00 a.m. – 5:00 p.m.

Public Rules of Conduct
The presiding officer shall keep control of the meeting and require the speakers and audience to refrain from abusive or profane remarks, disruptive outbursts, applause, protests, or other conduct which disrupts or interferes with the orderly conduct of the business of the meeting. Personal attacks on Councilmembers, city staff, or members of the public are not allowed. It is inappropriate to utilize the public hearing or other agenda item for purposes of making political speeches, including threats of political action. Engaging in such conduct, and failing to cease such conduct upon request of the presiding officer will be grounds for ending a speaker's time at the podium or for removal of any disruptive person from the meeting room, at the direction of the presiding officer.

How to Participate
The Glendale City Council values citizen comments and input. If you wish to speak on a matter concerning Glendale city government that is not on the printed agenda, please fill out a blue Citizen Comments Card located at the back of the Council Chambers and give it to the City Clerk before the meeting starts. The Mayor will call your name when the Citizen Comments portion of the agenda is reached. Because these matters are not listed on the posted agenda, the City Council may not act on the information during the meeting but may refer the matter to the City Manager for follow-up.

Public Hearings are also held on certain agenda items such as zoning cases, liquor license applications and use permits. If you wish to speak or provide written comments about a public hearing item on tonight's agenda, please fill out a gold Public Hearing Speakers Card located at the back of the Council Chambers and give it to the City Clerk before the meeting starts. The Mayor will call your name when the public hearing on the item has been opened.

When speaking at the Podium, please state your name and the city in which you reside. If you reside in the City of Glendale, please state the Council District you live in and present your comments in five minutes or less.

**** For special accommodations or interpreter assistance, please contact the City Manager's Office at (623) 930- 2870 at least one business day prior to this meeting. TDD (623) 930-2197.**

**** Para acomodacion especial o traductor de español, por favor llame a la oficina del adminsitrador del ayuntamiento de Glendale, al (623) 930-2870 un día hábil antes de la fecha de la junta.**

Councilmembers

Barrel District – Yvonne J. Knaack
Cactus District – Ian Hugh
Cholla District – Manuel D. Martinez
Ocotillo District – Norma S. Alvarez
Sahuaro District – Gary D. Sherwood
Yucca District – Samuel U. Chavira

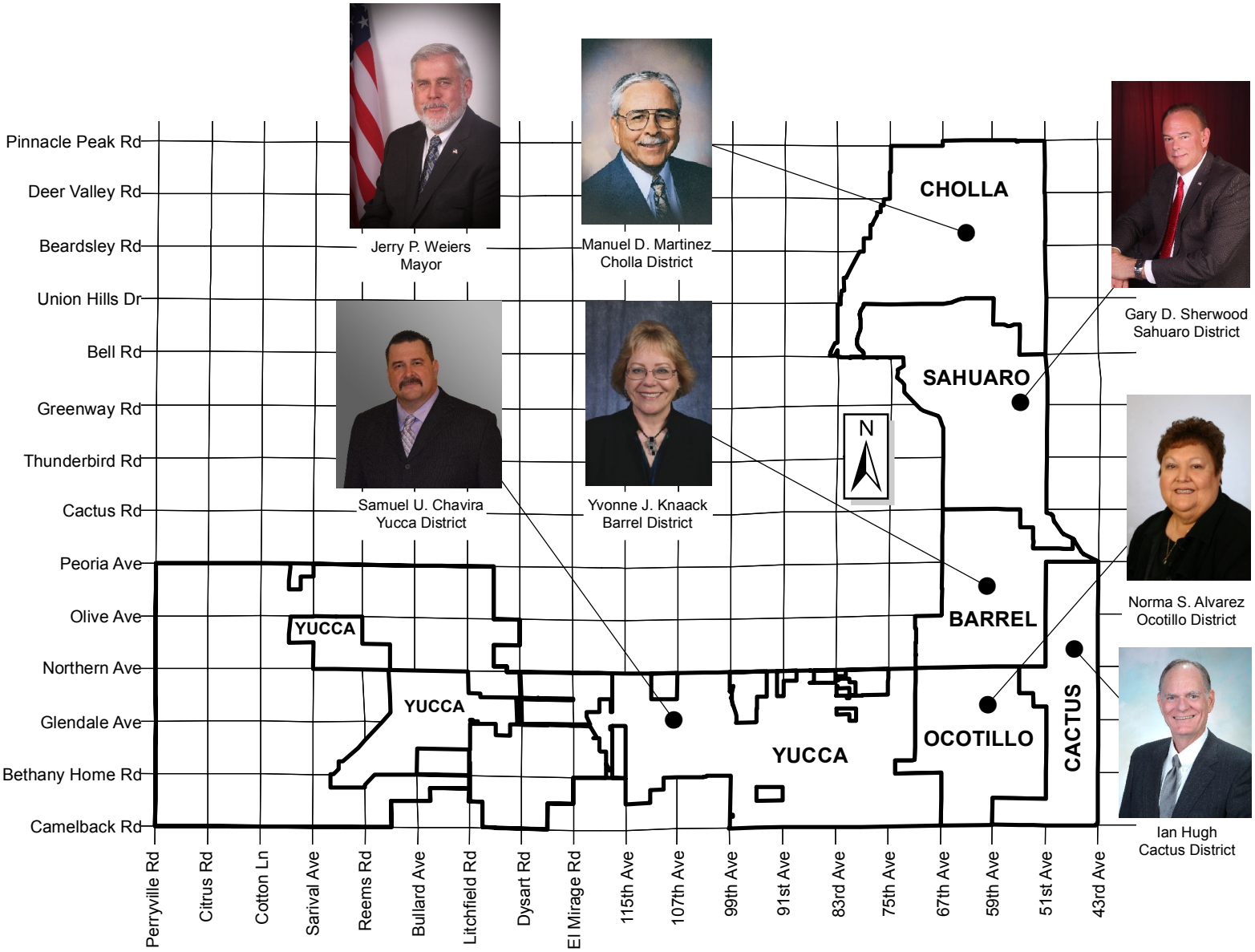
GLENDALE AZ

MAYOR JERRY P. WEIERS

Appointed City Staff

Horatio Skeete – Acting City Manager
Craig Tindall – City Attorney
Pamela Hanna – City Clerk
Elizabeth Finn – City Judge

Council District Boundaries



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GLENDALE CITY COUNCIL MEETING
Council Chambers
5850 West Glendale Avenue
February 12, 2013
7:00 p.m.

One or more members of the City Council may be unable to attend the Council Meeting in person and may participate telephonically, pursuant to A.R.S. § 38-431(4).

CALL TO ORDER

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

APPROVAL OF THE MINUTES OF January 15, 2013 and January 22, 2013

CONSENT AGENDA

Items on the consent agenda are intended to be acted upon in one motion. If you would like to comment on an item on the consent agenda, please come to the podium and state your name, address and item you wish to discuss.

CONSENT RESOLUTIONS

1. AMENDMENT NO. 8 TO INTERGOVERNMENTAL AGREEMENT WITH ARIZONA DEPARTMENT OF ECONOMIC SECURITY FOR COMMUNITY ACTION PROGRAM FUNDING AND OPERATIONS

PRESENTED BY: Rebecca H. Daniel, Community Action Program Administrator
RESOLUTION: 4638

2. MAIN EXTENSION AGREEMENT WITH VALLEY UTILITIES WATER COMPANY, INC. TO SUPPLY WATER FOR NORTHERN PARKWAY LANDSCAPING

PRESENTED BY: Cathy Colbath, Interim Executive Director, Transportation Services
RESOLUTION: 4639

3. MEMORANDUM OF UNDERSTANDING WITH MARICOPA COUNTY ATTORNEY'S OFFICE FOR THE EQUITABLE SHARING OF RACKETEERING INFLUENCED CORRUPT ORGANIZATIONS ASSETS

PRESENTED BY: Debora Black, Interim Police Chief
RESOLUTION: 4640

4. MEMORANDUM OF UNDERSTANDING WITH MARICOPA COUNTY ADULT PROBATION DEPARTMENT FOR EXCHANGE OF PROBATION DATA AND LAW ENFORCEMENT INFORMATION

PRESENTED BY: Debora Black, Interim Police Chief
RESOLUTION: 4641

5. AMENDED AND RESTATED TRIBAL WATER RIGHTS SETTLEMENT AND LEASE AGREEMENT

PRESENTED BY: Doug Kukino, Environmental Resources Director
RESOLUTION: 4642

BIDS AND CONTRACTS

6. AWARD OF PROPOSAL 13-07, LIBRARY BOOKS

PRESENTED BY: Erik Strunk, Executive Director, Parks, Recreation & Library Services

7. PROFESSIONAL SERVICES AGREEMENT WITH RITOCH-POWELL & ASSOCIATES CONSULTING ENGINEERS, INC. FOR THE 2012/2013 SLURRY SEAL PROGRAM

PRESENTED BY: Gregory Rodzenko, P.E., Acting City Engineer

8. MAINTENANCE AGREEMENT WITH TCS AMERICA AND IMPRESSION TECHNOLOGY INCORPORATED FOR TAX MANTRA

PRESENTED BY: Diane Goke, Chief Financial Officer

RESOLUTIONS

9. EMPLOYEE DEFERRED COMPENSATION CONTRACT WITH GREAT WEST RETIREMENT SERVICES

PRESENTED BY: Jim Brown, Interim Executive Director, Human Resources and Risk Management
RESOLUTION: 4643

10. RETIREE HEALTH SAVINGS ACCOUNT CONTRACT WITH EDUCATORS BENEFIT CONSULTANTS, LLC

PRESENTED BY: Jim Brown, Interim Executive Director, Human Resources and Risk Management
RESOLUTION: 4644

NEW BUSINESS

11. COUNCIL SELECTION OF VICE MAYOR
PRESENTED BY: Mayor and Council

REQUEST FOR FUTURE WORKSHOP AND EXECUTIVE SESSION

CITIZEN COMMENTS

If you wish to speak on a matter concerning Glendale city government that is not on the printed agenda, please fill out a Citizen Comments Card located in the back of the Council Chambers and give it to the City Clerk before the meeting starts. The City Council can only act on matters that are on the printed agenda, but may refer the matter to the City Manager for follow up. Once your name is called by the Mayor, proceed to the podium, state your name and address for the record and limit your comments to a period of five minutes or less.

COUNCIL COMMENTS AND SUGGESTIONS

ADJOURNMENT

Upon a public majority vote of a quorum of the City Council, the Council may hold an executive session, which will not be open to the public, regarding any item listed on the agenda but only for the following purposes:

(i) discussion or consideration of personnel matters (A.R.S. § 38-431.03(A)(1));
(ii) discussion or consideration of records exempt by law from public inspection (A.R.S. § 38-431.03(A)(2));
(iii) discussion or consultation for legal advice with the city's attorneys (A.R.S. § 38-431.03(A)(3));
(iv) discussion or consultation with the city's attorneys regarding the city's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation, or in settlement discussions conducted in order to avoid or resolve litigation (A.R.S. § 38-431.03(A)(4));
(v) discussion or consultation with designated representatives of the city in order to consider its position and instruct its representatives regarding negotiations with employee organizations (A.R.S. § 38-431.03(A)(5)); or
(vi) discussing or consulting with designated representatives of the city in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property (A.R.S. § 38-431.03(A)(7)).

Items Respectfully Submitted,

Horatio Skeete
Acting City Manager

MINUTES OF THE
GLENDALE CITY COUNCIL MEETING
2013 INSTALLATION CEREMONY
Council Chambers, 5850 West Glendale Avenue
January 15, 2013
7:00 p.m.

Present: Mayor Scruggs, Vice Mayor Frate, Councilmembers Martinez, Knaack, and Hugh.

Absent: Councilmembers Clark and Alvarez

Council-Elect Present: Mayor-elect Weiers, Councilmembers-Elect Chavira, Hugh and Sherwood.

Also Present: Horatio Skeete, Acting City Manager, Jamsheed Mehta, Acting Assistant Manager, Craig Tindall, City Attorney, and Pamela Hanna, City Clerk.

MAYOR'S WELCOME

Mayor Scruggs called the meeting to order. The presentation of colors by the Luke AFB Honor Guard was followed by the National Anthem, Pledge of Allegiance and a Moment of Silence.

Mayor Scruggs spoke on stewardship and community service with regard to the leaving and incoming Mayor and Councilmembers. She also commended their families for their support and willingness to share them with the citizens of Glendale.

1. **Oath of Office**

Mayor-elect Jerry P. Weiers –
Oath of Office administered by The Honorable Jeffery Fine, Justice of the Peace, White Tank Justice Court

Mayor–elect Weiers accompanied by his wife and Judge Fine came forward. Judge Fine swore in Mayor Weiers as Mayor.

Mayor Weiers thanked his wife and other family members and voiced his appreciation for their support and understanding. Next, he expressed gratitude for those that assisted him during his campaign. He asked that various state, local and military officials stand and be recognized for

their service. In conclusion, he offered his word that he would do everything in his power, the best he could possibly do, to bring a lot of good things to the city and expressed his excitement.

Councilmember-elect Samuel U. Chavira, Yucca District –
Oath of Office administered by The Honorable Joseph "Pep" Guzman, Justice of the Peace, Agua Fria Justice Court

Councilmember-elect Chavira accompanied by his wife, two daughters and Judge Guzman came forward. Judge Guzman swore in Councilmember Chavira as representative to the Yucca District.

Councilmember Chavira expressed his gratitude to his wife, children and other family members, briefly honoring his departed father. He thanked those who served in police, fire, and the armed forces as well as those who had served on the City Council and those beginning their service. He continued offering thanks to numerous people present that supported him during his campaign. In conclusion, he commented that Glendale was a great city which had so much to offer and so many opportunities.

Councilmember-elect Ian Hugh, Cactus District –
Oath of Office administered by The Honorable Jean Baxter, City Court Judge, Glendale City Court

Councilmember-elect Hugh accompanied by his wife and Judge Baxter came forward. Judge Baxter swore in Councilmember Hugh, as representative to the Cactus District.

Councilmember Hugh thanked his wife, his mother and other family members and friends, who had supported him throughout his campaign. He stated it was an honor and privilege to serve. In conclusion, he quoted several inspirational verses.

Councilmember-elect Gary D. Sherwood, Sahuaro District –
Oath of Office administered by The Honorable Elizabeth R. Finn, Presiding Judge, Glendale City Court

Councilmember-Elect Sherwood, his wife, and Judge Finn came forward. Judge Finn swore in Councilmember Sherwood as representative to the Sahuaro District.

Councilmember Sherwood thanked his wife, family, supporters and voters of the Sahuaro District. Also thanking the city staff, who had met with him recently and shared their professional knowledge. He commented on the years of service represented by the outgoing councilmembers and wished them well.

Councilmember Sherwood continued expressing a need to bring back decorum to the meetings and set examples for staff. He commented on goals such as having a permanent city manager within three months as well as restoring the citizens' faith in the city. He noted there are some exciting announcements coming soon on economic development. In conclusion, he stated his belief in the employees and the new council; asking the citizen to give them a chance.

Ceremonial City Council Photograph – A group photograph of the new council was taken. Councilmember Alvarez was not in attendance.

ADJOURNMENT

There being no further business the meeting was adjourned at 8:04 p.m.

MINUTES OF THE
GLENDALE CITY COUNCIL MEETING
Council Chambers
5850 West Glendale Avenue
January 22, 2013
7:00 p.m.

The meeting was called to order by Mayor Jerry P. Weiers and the following Councilmembers were present: Samuel U. Chavira, Ian Hugh, Yvonne J. Knaack, Manuel D. Martinez and Gary D. Sherwood.

Attended telephonically: Councilmember Norma S. Alvarez

Also present were Horatio Skeete, Acting City Manager; Jamsheed Mehta, Interim Assistant City Manager; Craig Tindall, City Attorney; and Pamela Hanna, City Clerk.

Mayor Weiers called for the Pledge of Allegiance and a prayer was offered by Chaplain Raul Ochoa, Glendale Fire Department, Pastor of the Faith Hope Love Community Church.

COMPLIANCE WITH ARTICLE VII, SECTION 6(c) OF THE GLENDALE CHARTER

A statement was filed by the City Clerk that the 1 resolution and 3 ordinances to be considered at the meeting were available for public examination and the title posted at City Hall more than 72 hours in advance of the meeting.

APPROVAL OF THE MINUTES OF THE JANUARY, 8TH, 2013 CITY COUNCIL MEETING

It was moved by Martinez, and seconded by Knaack, to dispense with the reading of the minutes of the January 8, 2013 Regular City Council meeting, as each member of the Council had been provided copies in advance, and approve them as written. The motion carried unanimously.

CONSENT AGENDA

Items on the consent agenda are intended to be acted upon in one motion.

Mr. Horatio Skeete, Acting City Manager, read agenda item numbers 1 through 12.

1. SPECIAL EVENT LIQUOR LICENSE, GLENDALE ARTS COUNCIL
PRESENTED BY: Susan Matousek, Revenue Administrator

This is a request for City Council to approve a special event liquor license for the Glendale Arts Council. The event will be held at Sahuaro Ranch Park located at 9802 North 59th Avenue on Friday, February 1, 2013, from 7 p.m. to 9 p.m. The purpose of this special event liquor license is for a fundraiser.

Staff is requesting Council to forward this application to the Arizona Department of Liquor Licenses and Control with a recommendation of approval.

2. SPECIAL EVENT LIQUOR LICENSE, ST. THOMAS MORE PARISH
PRESENTED BY: Susan Matousek, Revenue Administrator

This is a request for City Council to approve three special event liquor licenses for St. Thomas More Parish. These events will be held inside St. Thomas More Parish Hall located at 6180 West Utopia Road on Saturdays, March 16, May 4, and October 19, 2013, from 6 p.m. to 1 a.m. The purpose of these special event liquor licenses is for fundraising during their St. Patrick's Day, Cinco De Mayo, and Oktoberfest socials.

Staff is requesting Council to forward these applications to the Arizona Department of Liquor Licenses and Control with a recommendation of approval.

3. LIQUOR LICENSE NO. 1-59168, DOLLAR GENERAL STORE #12111
PRESENTED BY: Susan Matousek, Revenue Administrator
This item was pulled by Councilmember Martinez to be heard separately.

4. LIQUOR LICENSE NO. 5-1580, SPROUTS FARMERS MARKET #9
PRESENTED BY: Susan Matousek, Revenue Administrator

This is a request for City Council to approve adding non-transferable sampling privileges to a series 10 (Liquor Store - Beer and Wine) license for Sprouts Farmers Market #9 located at 5130 West Peoria Avenue. The Arizona Department of Liquor Licenses and Control application (No. 10076302S) was submitted by Randy D. Nations.

Staff is requesting Council to forward this application to the Arizona Department of Liquor Licenses and Control with a recommendation of approval.

5. LIQUOR LICENSE NO. 5-1581, SPROUTS FARMERS MARKET #3
PRESENTED BY: Susan Matousek, Revenue Administrator

This is a request for City Council to approve adding non-transferable sampling privileges to a series 10 (Liquor Store - Beer and Wine) license for Sprouts Farmers Market #3 located at 5665 West Bell Road. The Arizona Department of Liquor Licenses and Control application (No. 10076302S) was submitted by Randy D. Nations.

Staff is requesting Council to forward this application to the Arizona Department of Liquor Licenses and Control with a recommendation of approval.

6. LIQUOR LICENSE NO. 5-8519, KORYO SUSHI & BBQ
PRESENTED BY: Susan Matousek, Revenue Administrator

This is a request for City Council to approve a new, non-transferable series 12 (Restaurant) license for Koryo Sushi & BBQ located at 10040 North 43rd Avenue, Suite 1K. The Arizona Department of Liquor Licenses and Control application (No. 12079332) was submitted by Yoon Soo Cho.

Staff is requesting Council to forward this application to the Arizona Department of Liquor Licenses and Control with a recommendation of approval.

7. LIQUOR LICENSE NO. 5-8604, SUICIDE JIM'S SPORTS GRILL
PRESENTED BY: Susan Matousek, Revenue Administrator

This is a request for city council to approve a new, non-transferable series 12 (Restaurant) license for Suicide Jim's Sports Grill located at 17035 north 67th avenue. The Arizona Department of Liquor Licenses and control application (no. 12079367) was submitted by Eric Ryan Simpson.

Staff is requesting council to forward this application to the Arizona Department of Liquor Licenses and control with a recommendation of approval.

8. LIQUOR LICENSE NO. 5-8609, CHIPOTLE MEXICAN GRILL #2046
PRESENTED BY: Susan Matousek, Revenue Administrator

This is a request for City Council to approve a new, non-transferable series 12 (Restaurant) license for Chipotle Mexican Grill #2046 located at 9410 West Hanna Drive, Suite A-101. The Arizona Department of Liquor Licenses and Control application (No. 12079344) was submitted by H.J. Lewkowitz.

Staff is requesting Council to forward this application to the Arizona Department of Liquor Licenses and Control with a recommendation of approval.

9. AUTHORIZATION TO PURCHASE TACTICAL VESTS
PRESENTED BY: Debora Black, Interim Police Chief

This is a request for City Council to approve the purchase from TYR Tactical, LLC in an amount not to exceed $105,342.41.

10. SERVICE AGREEMENT WITH MOTOROLA, INCORPORATED
PRESENTED BY: Debora Black, Interim Police Chief

Staff is requesting Council authorize the City Manager to enter into a services agreement with Motorola, Incorporated for $83,555.40 for Mobile Data Computer (MDC) software service and communication console service.

11. TAX MANTRA ANNUAL MAINTENANCE

PRESENTED BY: Diane Goke, Chief Financial Officer
This item was pulled administratively and not heard.
Mr. Skeete requested this item be removed administratively from the agenda and it was not heard.

12. SOFTWARE MAINTENANCE AGREEMENT WITH GE FANUC INTELLIGENT PLATFORMS, INC.
PRESENTED BY: Craig Johnson, P.E., Executive Director, Water Services

This is a request for City Council to authorize the City Manager to enter into an annual software maintenance agreement with GE Fanuc Intelligent Platforms, Inc. in an amount not to exceed $60,450.80 for the Supervisory Control and Data Acquisition (SCADA) systems used at all of the city's water and wastewater treatment plants.

Mr. Horatio Skeete, Acting City Manager, read agenda item numbers 1 through 10 and 12.

It was moved by Martinez and seconded by Sherwood, to approve the recommended actions on Consent Agenda Item No(s). 1, 2, 4 through 10, and 12 and to forward Special Event Liquor License Application for Glendale Arts Council for a fundraiser to be held at Sahuaro Ranch Park located at 9802 North 59th Avenue on February 1, 2013 and Special Event Liquor License Application for St. Thomas More Parish for a fundraiser to be held at 6180 West Utopia Road on March 16, May 4, and October 19, 2013; Liquor License Application No. 5-1580 for Sprouts Farmers Market #9, Liquor License Application No. 5-1581 for Sprouts Farmers Market #3, Liquor License No. 5-8519 for Koryo Sushi & Bbq, Liquor License No. 5-8604, for Suicide Jim's Sports Grill and Liquor License No. 5-8609 for Chipotle Mexican Grill #2046 to the State of Arizona Department of Liquor Licenses and Control, with the recommendation for approval. The motion carried unanimously.

3. LIQUOR LICENSE NO. 1-59168, DOLLAR GENERAL STORE #12111
PRESENTED BY: Susan Matousek, Revenue Administrator

This is a request for City Council to approve a new, non-transferable series 10 (Liquor Store - Beer and Wine) license for Dollar General Store #12111 located at 5275 North 59th Avenue. The Arizona Department of Liquor Licenses and Control application (No. 10076356) was submitted by Clare Hollie Abel.

Staff is requesting Council to forward this application to the Arizona Department of Liquor Licenses and Control with a recommendation of approval.

Dipak Patel, California spoke opposing Item 3, the application for beer and wine liquor license. He has owned a store across the street for over 20 years. If the license is granted to the Dollar Store, it will cut his business by about 50% or more. Mr. Patel said Dollar Store is a family store and he said it isn't appropriate to have a Dollar Store selling liquor.

Mayor Weiers asked if Mr. Patel had a full liquor license. Mr. Patel replied his store was a full liquor store.

Martin Kornbluth, Scottsdale, AZ, opposed Item 3. He owns the shopping center across the street. He explained Dollar General is a discount house and if they sell beer and wine, it will affect the surrounding businesses. He said the neighborhood has changed over the last 20 years from a middle class neighborhood to a high crime, depressed, low income area. He thought the Dollar General would help the area but does not believe the sale of liquor there would be best for the area.

Clare Abel, Phoenix, AZ, spoke on behalf of the Dollar General store. She said Dollar General currently has 3000 liquor licenses around the U.S., which are limited to beer and wine. She is sympathetic to concerns, but they are primarily competitive concerns. She said Dollar General offers grocery items, with 4-6 aisles devoted just to grocery. She said having a liquor license isn't to get new customers in the store, but to make it more convenient for those who use that business. She said Dollar General is a competent and qualified retailer. Dollar General won't be selling individual bottles of beer.

Mayor Weiers verified that state law only allowed for the sale of the liquor and not for the consumption on the premises. Ms. Abel verified this and said this was an off-sale license. The liquor must be consumed off the premises.

It was moved by Knaack, and seconded by Sherwood, to approve a new, non-transferable series 10 (Liquor Store - Beer and Wine) license for Dollar General Store #12111 located at 5275 North 59th Avenue. Motion carried on a roll call vote, with the following Councilmembers voting "aye": Alvarez, Chavira, Knaack, Martinez, Sherwood, and Weiers. Members voting "nay": Hugh.

CONSENT RESOLUTIONS

Ms. Pamela Hanna, City Clerk, read consent agenda resolution item numbers 13.

13. INTERGOVERNMENTAL AGREEMENT WITH THE GLENDALE ELEMENTARY SCHOOL DISTRICT FOR AFTERSCHOOL ENRICHMENT PROGRAM AT HAROLD W. SMITH ELEMENTARY SCHOOL

PRESENTED BY: Erik Strunk, Executive Director, Parks, Recreation & Library Services
RESOLUTION: 4637

This is a request for City Council to waive reading beyond title and adopt a resolution authorizing an intergovernmental agreement (IGA) with the Glendale Elementary School District (GESD) for afterschool enrichment through the Glendale Recreation After-School Program (GRASP). This partnership provides an experience for youth that incorporates academics, enrichment, and recreation activities in a safe and supportive environment.

RESOLUTION NO. 4637 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT WITH THE GLENDALE ELEMENTARY SCHOOL DISTRICT NO. 40 FOR THE

PURPOSE OF JOINTLY ACCEPTING GRANT MONIES TO FOSTER AN INCREASE IN ACADEMIC ACHIEVEMENT IN THE GLENDALE COMMUNITY.

Ms. Pamela Hanna, City Clerk, read consent agenda resolution item number 13 by number and title.

It was moved by Martinez and seconded by Knaack, to approve the adoption of Resolution No. 4637 New Series.

ORDINANCES

14. TRANSFER OF EXCESS AND UNUSABLE RIGHT-OF-WAY PROPERTY AT THE NORTHWEST CORNER OF 83RD AVENUE AND BELL ROAD FOR TRAVERSE BAY PROPERTIES, L.L.C.

PRESENTED BY: Gregory Rodzenko, P.E., Acting City Engineer
ORDINANCE: 2835

This is a request for City Council to adopt an ordinance authorizing the City Manager to transfer excess and unusable right-of-way property at the northwest corner of 83rd Avenue and Bell Road to Traverse Bay Properties, L.L.C. Staff is requesting Council waive reading beyond the title and adopt an ordinance authorizing the right-of-way transfer.

Andrew Marwick, a Phoenix resident, congratulated the new Mayor and Councilmembers. Mr. Marwick spoke about the traffic congestion in that area and what the traffic and right of way needs would be in 20 years. He spoke about a luxury car dealership there and the positive economic impact it could provide. He asked that the Council look at the situation and make the right decision.

Mayor Weiers spoke about the narrow strip of land and the minimal land uses available for the property.

Councilmember Sherwood spoke about a private road that runs through the property as well as the sizable amount of money the City has already spent in preparing the property.

Councilmember Chavira thanked Mr. Marwick for his concern for the City.

Councilmember Martinez read from the Council packet, and commented that Council was moving forward with something that started back in 2003.

ORDINANCE NO. 2835 NEW SERIES, AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE TRANSFER TO TRAVERSE BAY PROPERTIES, L.L.C. OF EXCESS AND UNUSABLE REAL PROPERTY LOCATED AT THE NORTHWEST CORNER OF 83RD AVENUE AND BELL ROAD; AND ORDERING THAT A CERTIFIED COPY OF THIS ORDINANCE BE RECORDED.

It was moved by Councilmember Hugh, and seconded by Councilmember Martinez, to approve Ordinance No. 2835 New Series. Motion carried on a roll call vote, with the following Councilmembers voting "aye": Alvarez, Chavira, Hugh, Knaack, Martinez, Sherwood, and Weiers. Members voting "nay": none.

15. TRANSFER OF EXCESS AND UNUSABLE RIGHT-OF-WAY PROPERTY AT THE NORTHWEST CORNER OF 83RD AVENUE AND BELL ROAD TO BCC DEVELOPMENT, INC.

PRESENTED BY: Gregory Rodzenko, P.E., Acting City Engineer
ORDINANCE: 2836

This is a request for City Council to adopt an ordinance authorizing the City Manager to transfer excess and unusable right-of-way property at the northwest corner of 83rd Avenue and Bell Road to BCC Development, Inc. Staff is requesting Council waive reading beyond the title and adopt an ordinance authorizing the right-of-way transfer.

ORDINANCE NO. 2836 NEW SERIES, AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE TRANSFER TO BCC DEVELOPMENT, INC. OF EXCESS AND UNUSABLE REAL PROPERTY LOCATED AT THE NORTHWEST CORNER OF 83RD AVENUE AND BELL ROAD; AND ORDERING THAT A CERTIFIED COPY OF THIS ORDINANCE BE RECORDED.

It was moved by Councilmember Chavira, and seconded by Councilmember Martinez, to approve Ordinance No. 2836 New Series. Motion carried on a roll call vote, with the following Councilmembers voting "aye": Alvarez, Chavira, Hugh, Knaack, Martinez, Sherwood, and Weiers. Members voting "nay": none.

16. AMENDMENT TO CITY CODE CHAPTER 2, FINANCIAL DISCLOSURE STATEMENT

PRESENTED BY: Pam Hanna, City Clerk
ORDINANCE: 2837

Staff is requesting Council waive reading beyond the title and adopt an ordinance amending the Code of the City of Glendale: Chapter 2, Administration, Article II, City Council, Division 2, Financial Disclosure, Section 2-32, Financial Disclosure with an emergency clause. This amendment would make this provision of the City Code consistent with ARS 38-542, which allows Councilmembers whose final terms expire in January to file their financial disclosure statements at the same time they file their disclosure statements for the previous calendar year.

Mayor Weiers commented that this simplifies everything for everyone involved. It is only used when finishing up the term in office.

ORDINANCE NO. 2837 NEW SERIES, AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AMENDING GLENDALE CITY CODE, CHAPTER 2, ARTICLE II RELATING TO FINANCIAL DISCLOSURE; AND DECLARING AN EMERGENCY.

It was moved by Councilmember Sherwood, and seconded by Councilmember Knaack, to approve Ordinance No. 2837 New Series. Motion carried on a roll call vote, with the following Councilmembers voting "aye": Alvarez, Chavira, Hugh, Knaack, Martinez, Sherwood, and Weiers. Members voting "nay": none.

REQUEST FOR FUTURE WORKSHOP AND EXECUTIVE SESSION

It was moved by Councilmember Knaack, and seconded by Councilmember Sherwood, to hold a City Council Workshop at 1:30 p.m. in Room B-3 of the City Council Chambers on Tuesday, February, 5th, 2013, to be followed by an Executive Session pursuant to A.R.S. 38-431.03. The motion carried unanimously.

CITIZEN COMMENTS

Wendy Miller, a Cholla resident, spoke about the Challenge Charter School. She is the Principal of the Challenge Charter School. She asked for people representing Challenge Charter School to stand. Ms. Miller said Bud Machamer is the Dare/Great officer for their school, and the children call him Officer Bud. Previously, every school had school resource and Dare/Great officers. Schools and community sponsors support the program and everyone is concerned for the safety of all the kids in all the schools. Officer Bud is a shining representative of the Glendale Police Department, and has spent additional time at the school on his off hours. She gave a couple examples of how the parents and kids have been impacted by the loss of the resource officer.

A student of Challenge Charter School spoke briefly about how much he trusts and appreciates Officer Bud.

Mayor Weiers asked the student how old he was. The student replied 9. Mayor Weiers asked what his name was and the student replied Robert Gray.

Ms. Miller read a letter from a 6th grade student who was impacted in a positive way by the services of the Dare/Great officer.

She spoke about prioritizing the safety of the students and requested that Council consider another option which would allow resource officers to continue.

Randy Miller, a Barrel resident, spoke about Marie Shepherd from the Police Department volunteer program, who was reassigned to Records. He spoke about how Marie coordinates volunteers to come fill in spots throughout the Police Department. He does not want Glendale to become a high crime area. He spoke about the Repeat Offender Program and how they no longer had resources to make the program work. He asked that the Police Department not be underfunded. He wanted to comment on the Dare/Great program, but said that the statements by Robert Gray, the student who spoke previously, were far more eloquent than what he could say. He asked that the City fill the Police Chief position and the other interim positions in the City and make them permanent. He said the Police Department has responded quickly and are always professional when he has called them. He asked that the City be kept secure.

Andrew Marwick, a Phoenix resident, congratulated members of the Challenge Charter School for showing up and speaking. He commented on the Police Department not having a permanent police chief. Mr. Marwick said over the last several years, the previous Council has focused on something that Glendale had no business in. He spoke about a child asking the Council not to take his hockey team away, and he said that there are many children in Canada that have never attended a hockey game in Toronto. He said it costs close to $1000 for halfway decent tickets to attend a Mapleleafs' game. He stated that Mr. Bettman was playing games with all the delays and Mr. Jamison wasn't at the opening game this year and will not share any information about his investors. He continued that the Kings would be moving up to Seattle next year. He said that it was time for Mr. Bettman to put up or shut up.

Mariann Koury, a Peoria resident, has been a Victim's Assistance volunteer since 2005. She asked that Council not cut the Police Department budget. She spoke about the transfer of Marie Shepherd from the volunteer coordinator position to the Records department. Ms. Sheperd had been responsible for managing 85 volunteers, as well as managing the Citizen's Police Academy which was valuable to both the police department and the city. Ms. Koury listed the many divisions within the Police Department that had volunteers. Volunteers have saved the Police Department over $240,000. The volunteer coordinator position is critical to the Police Department and the City. There are 40 unfilled vacancies within the Police Department.

Christine Ranno, a Cholla resident, spoke as a parent of two children who attend Legend Springs noting Officer Bud was also the officer at their school. One of her children had the opportunity to participate in the Dare program, but the other child will not have that opportunity. Officer Bud and Officer Jackson were excellent examples of Police Department employees and they were officers who truly cared. When her daughter won an essay contest and was reading it, Ms. Ranno saw Officer Bud and how proud he was of her daughter, Carly. Officer Bud gave Carly a challenge coin after she won the essay contest. Ms. Ranno asked that Council to reconsider the decision to terminate the Dare/Great program. She and the other parents at Legend Springs extended heartfelt thanks to Officer Bud and Officer Jackson.

Kim Baker, an Avondale resident, congratulated the new Mayor. Mr. Baker referenced when he spoke to Council on January 8th. He spoke about the $750,000 cost for the landfill search for Jhessye Shockley. He spoke about how he is composing a song that she was never there. He said he watched Lance Armstrong come clean about what he did and that makes him a hero to Mr. Baker. He read from scripture. He continued that he didn't know if Jhessye Shockley was dead or not. He said that he knows that she was never in the landfill. He states that this was a covert police operation. He asked Council to ask the police chief what evidence the Police Department had to search the landfill.

COUNCIL COMMENTS AND SUGGESTIONS

Councilmember Alvarez commented that on January 8 she handed out numbers she had come up with along with some community members. They were up to a 10% cut for the employees. She received a memo from the city attorney regarding the open meeting law. She stated that she would not hand out anything in writing and that she would not violate the open meeting law. She listed the various penalties and she stated that she was informed that the City would not pay for

any legal fees. She assured everyone that she did not want to cause harassment to herself or anyone associated with her and that she would never ask the City to pay her legal fees, unlike what has been done in the past. She commented on the Follow Your Money program on the computer and the transfers of funds. She continued that the city should no longer put money into fighting the casino and that paying over $3 million over the last several years to a consultant was not good. She liked the Follow Your money report. She encouraged residents to become knowledgeable about the money. She asked that residents continue to attend meetings and to be aware how the money is spent in the city of Glendale.

Councilmember Sherwood thanked the Challenge Charter School and Robert Gray for being there and speaking. He commented that when Council gets a chance to review some of the budget they would start looking at some of these items. He acknowledged issues on the money side and thanked everyone for their comments and participation.

Councilmember Martinez congratulated the new Mayor and Councilmembers and stated he was looking forward to working with them. We have some tough challenges ahead of us and will be dealing with very difficult budget issues but we will do everything possible to fix them.

Councilmember Hugh congratulated the new Mayor and Council and stated he was also looking forward to working with them.

Councilmember Chavira echoed Councilmember Hugh's comments and also thanked Robert for being here. He commented about the actions taken by council tonight. He explained that the items being purchased for the Police Department were being purchased with RICO funds. He stated that these items would keep everyone safe. He thanked everyone for speaking today. He echoed Councilmember Sherwood in that they would be doing what was right for the City. He commented on the Challenge Charter School and how great it was they came out to support the Dare program. He spoke about how his daughters also quote their DARE officer.

Councilmember Knaack commented on Mr. Baker's comments about Jhessye Shockley. She stated she was very upset that someone would question the actions of the police department and the various members who helped search for the missing child. She said DARE/Great officers were wonderful. The impression made by the DARE/Great officers was long standing and impactful. She would do what she could to bring back the program. She welcomed the new Councilmembers and Mayor Weiers. She looks forward to working with everyone and each meeting would get a little better. In honor of former Vice Mayor Frate, she asked that everyone watch their children around water.

Mayor Weiers thanked everyone for being patient and said the meetings will continue to get smoother. He said there was a bit of a learning curve with four new people on the Council. He issued a challenge for Challenge School. He said he would like to come to the school, take a tour. He was impressed with Robert Gray and knew the other students were just as great.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:35 p.m.

_____

Pamela Hanna - City Clerk

CITY COUNCIL REPORT

Meeting Date:	**2/12/2013**
Meeting Type:	**Voting**
Title:	**AMENDMENT NO. 8 TO INTERGOVERNMENTAL AGREEMENT WITH ARIZONA DEPARTMENT OF ECONOMIC SECURITY FOR COMMUNITY ACTION PROGRAM FUNDING AND OPERATIONS**
Staff Contact:	**Rebecca H. Daniel, Community Action Program Administrator**

Purpose and Recommended Action

This is a request for City Council to waive reading beyond the title and adopt a resolution authorizing the City Manager to enter into Amendment No. 8 to the intergovernmental agreement (IGA) with the Arizona Department of Economic Security (DES) for Community Action Program (CAP) funding and operations.

Background Summary

CAP provides direct services to low and moderate income Glendale residents. Services include energy assistance payment and crisis assistance for families, which includes homeless assistance and rent/mortgage subsidies.

Currently, CAP is being operated through an IGA with DES which provides funding ($926,549) for the provision of CAP services in FY 2012-13. The City of Glendale provides General Fund monies ($129,859) to cover the remainder of the CAP operating budget. In addition, the city provides in-kind contributions including office space, utilities, custodial services and miscellaneous operating expenses for the office.

DES has changed the terms and conditions within the original contract regarding background checks for employment through central registry, section 16.0. This is a contract change to the IGA which requires Council approval. All CAP staff and volunteers are already in compliance with the proposed central registry background check requirements. The amendment also approves the acceptance of additional funds under the Case Management Grant for CAP. The one time increase ($28,734) will change the contract award between DES and City of Glendale from $926,549 to $955,283 for the contract period FY 2012–13.

Previous Related Council Action

On November 13, 2012, City Council approved entering into Amendment No. 7 of the IGA between the city and DES for FY 2012-13 funding for CAP operations. Amendments No. 1 through 6 were previously entered into by the City Manager as they dealt with funding allocations. This was the

direction of City Council when they approved the original five-year IGA on June 22, 2010, between the city and DES for CAP operations.

Community Benefit/Public Involvement

There is no impact to the quality or quantity of CAP services being provided. CAP ensures that the low and moderate-income Glendale residents will continue to receive crisis services that promote financial stability and enhance the quality of life in Glendale.

Budget and Financial Impacts

The recommended action does not impact the CAP General Fund budget; however, $129,859 comes from the General Fund to cover the remaining CAP operation budget.

Attachments

Staff Report

Resolution

Amendment to Agreement

STAFF REPORT

To:	**Horatio Skeete, Acting City Manager**
From:	**Rebecca H. Daniel, Community Action Program Administrator**
Item Title:	**AMENDMENT NO. 8 TO INTERGOVERNMENTAL AGREEMENT WITH ARIZONA DEPARTMENT OF ECONOMIC SECURITY FOR COMMUNITY ACTION PROGRAM FUNDING AND OPERATIONS**
Requested Council Meeting Date:	**2/12/2013**
Meeting Type:	**Voting**

PURPOSE

This report explains why the Community Action Program is in support of a proposed resolution authorizing the City Manager to enter into Amendment No. 8 to the intergovernmental agreement (IGA) with the Arizona Department of Economic Security (DES) for Community Action Program (CAP) funding and operations. The purpose of this report is to request the City Manager forward this item to City Council for their consideration and approval.

BACKGROUND

CAP provides direct services to low and moderate income Glendale residents. Services include energy assistance payments and crisis assistance for families, which includes homeless assistance and rent/mortgage subsidies.

Currently, CAP is being operated through an IGA with DES which provides funding ($926,549) for the provision of CAP services in FY 2012-13. The City of Glendale provides General Fund monies ($129,859) to cover the remainder of the CAP operating budget. In addition, the city provides in-kind contributions including office space, utilities, custodial services and miscellaneous operating expenses for the office.

DES has changed the definition in terms and conditions regarding background checks for employment through central registry, section 16.0. This is a contract change to the IGA which requires Council approval. This amendment also approves the city's acceptance of additional funds under the Case Management Grant for CAP. The one time increase ($28,734) will change the contract award between DES and City of Glendale from $926,549 to $955,283 for the contract period FY 2012-13.

ANALYSIS

There are two options associated with entering into Amendment No. 8 of the IGA between the city and DES. The first option is to accept the change within the terms and conditions of the contract

and enter into Amendment No. 8 which increases DES contract funding and allows CAP to continue providing crisis assistance to Glendale families. The second option is not to accept the change of Amendment No. 8 which would cause the city to be out of compliance with the current DES contract. This would also reject additional funding from DES under the Case Management Grant and not increase the city's contract with DES for CAP services.

Staff recommends adopting a resolution authorizing the City Manager to enter into Amendment No. 8 to the IGA with DES for CAP program operations.

Since entering into Amendment No. 7, DES has changed the Terms and Conditions, Background Checks for Employment through Central Registry, Section 16.0 of the original contract. The change states that a person awaiting receipt of Central Registry Background Check may provide direct services to Arizona DES clients after completion and submittal of the Direct Service Position certification if:

1. The person is not currently subject of an investigation of child abuse or neglect in Arizona, or another state or jurisdiction; and

2. The person has not been the subject of an investigation of child abuse or neglect in Arizona, or another state of jurisdiction, which resulted in a substantiated finding.

All CAP staff or volunteer positions shall have a central registry background check which is used to determine qualifications for all CAP staff or volunteer positions. All current CAP staff is in compliance with the Central Registry background checks.

On November 13, 2012, City Council approved entering into Amendment No. 7 of the IGA between the city and DES for FY 2012-13 funding for CAP operations. Amendments No. 1 through 6 were previously entered into by the City Manager as they dealt with funding allocations. This was the direction of City Council when they approved the original five-year IGA on June 22, 2010, between the city and DES for CAP operations.

There are no impacts to staff associated with adopting Amendment No. 8.

FISCAL IMPACTS

The recommended action does not impact the CAP General Fund budget. This expense is an allowable budget item within the IGA with DES.

RESOLUTION NO. 4638 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AMENDMENT NO. 8 TO THE INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF ECONOMIC SECURITY FOR COMMUNITY ACTION PROGRAM FUNDING.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That it is deemed in the best interest of the City of Glendale and the citizens thereof that Amendment Number Eight to the Intergovernmental Agreement (Contract ID Number DE111089001) between the City of Glendale and the Arizona Department of Economic Security for Community Action Program funding be entered into, which amendment is now on file in the office of the City Clerk of the City of Glendale.

SECTION 2. That the Mayor or City Manager and the City Clerk be authorized and directed to execute and deliver said amendment on behalf of the City of Glendale.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this _____ day of _____, 2013.

_____
M A Y O R

ATTEST:

_____
City Clerk (SEAL)

APPROVED AS TO FORM:

_____
City Attorney

REVIEWED BY:

_____
Acting City Manager

iga_cap_des a_8.doc

DEPARTMENT OF ECONOMIC SECURITY

Your Partner For A Stronger Arizona

Intergovernmental Agreement

CONTRACT AMENDMENT

1. CONTRACTOR *(Name and address)*	2. CONTRACT ID NUMBER **DE111089001**
City of Glendale **5850 W. Glendale Ave.** **Glendale, Arizona 85301**	3. AMENDMENT NUMBER **Eight (8)**

4. THE PARTIES AGREE TO THE FOLLOWING AMENDMENT

Pursuant to the Terms and Conditions, Levels of Service section and Amendments or Modifications section, the purpose of this amendment is to:

Funding for the contract period July 1, 2012 through June 30, 2013:
The reimbursement ceiling for the service Case Management is increased from $735,352 to $764,086. This is an increase of $28,734.

The cumulative reimbursement ceiling for the contract period July 1, 2010 through June 30, 2015 is $3,776,774.

Therefore, the Itemized Service Budget for the service of Case Management (Attachment A) is revised and attached.

Delete and Replace:
Terms and Conditions, **Background Checks for Employment through the Central Registry**, section **16.0**, delete and replace the existing version with the following:

If providing direct services to children or vulnerable adults, the following shall apply:

16.1 The provisions of A.R.S. § 8-804 (as may be amended) are hereby incorporated in its entirety as provisions of this Contract.

16.2 The Department will conduct Central Registry Background Checks and will use the information contained in the Central Registry as a factor to determine qualifications for positions that provide direct service to children or vulnerable adults for:
1. Any person who applies for a contract with this State and that person's employees;
2. All employees of a contractor;
3. A subcontractor of a contractor and the subcontractor's employees; and
4. Prospective employees of the contractor or subcontractor at the request of the prospective employer.

16.3 Volunteers who provide direct services to children or vulnerable adults shall have a Central Registry Background Check which is to be used as a factor to determine qualifications for volunteer positions.

16.4 1. A person who is disqualified because of a Central Registry Background Check may apply to the Board of Fingerprinting for a Central Registry exception pursuant to A.R.S. § 41-619.57. A person who is granted a Central Registry exception pursuant to A.R.S. § 41-619.57 is not entitled to a contract, employment, licensure, certification or other benefit because the person has been granted a Central Registry exception.
2. Before being employed or volunteering in a position that provides direct services to children or vulnerable adults, persons shall certify on forms that are provided by the Department whether an allegation of abuse or neglect was made against them and was substantiated. The completed forms are to be maintained as confidential.

16.5 A person awaiting receipt of the Central Registry Background Check may provide direct services to ADES clients after completion and submittal of the Direct Service Position certification if:
1. The person is not currently the subject of an investigation of child abuse or neglect in Arizona, or another state or jurisdiction; and
2. The person has not been the subject of an investigation of child abuse or neglect in Arizona, or another state of jurisdiction, which resulted in a substantiated finding. The Certification for Direct Service Position is located at:
https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/doc/ACY-1287AFORFF.doc

16.6 If the Central Registry Background Check specifies any disqualifying act and the person does not have a Central Registry exception, the person shall be prohibited from providing direct services to ADES clients.

16.7 The Contractor shall maintain the Central Registry Background Check results and any related forms or documents in a confidential file for five (5) years after termination of the Contract. The Request for Search of Central Registry for Background Check is located at:
https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/doc/ACY-1288AFORFF.doc

Replace: the existing Facility Location Chart with the attached Facility Location Chart.

5. EXCEPT AS PROVIDED HEREIN, ALL TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AS HERETOFORE CHANGED AND/OR AMENDED REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT. THE AMENDMENT SHALL BECOME EFFECTIVE ON THE DATE OF LAST SIGNATURE UNLESS OTHERWISE SPECIFIED HEREIN. BY SIGNING THIS FORM ON BEHALF OF THE CONTRACTOR, THE SIGNATORY CERTIFIES HE/SHE HAS THE AUTHORITY TO BIND THE CONTRACTOR TO THIS CONTRACT.

6. **ARIZONA DEPARTMENT OF ECONOMIC SECURITY**	7. NAME OF CONTRACTOR **CITY OF GLENDALE**
SIGNATURE OF AUTHORIZED INDIVIDUAL	SIGNATURE OF AUTHORIZED INDIVIDUAL
TYPED NAME **Elizabeth G. Csaki, CPPB**	TYPED NAME
TITLE **Contract Administration Procurement Manager**	TITLE
DATE	DATE

IN ACCORDANCE WITH ARS §11-952 THIS CONTRACT AMENDMENT HAS BEEN REVIEWED BY THE UNDERSIGNED WHO HAVE DETERMINED THAT THIS CONTRACT AMENDMENT IS IN APPROPRIATE FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED TO EACH RESPECTIVE PUBLIC BODY.

ARIZONA ATTORNEY GENERAL'S OFFICE

By: _____
Assistant Attorney General

Date: _____

By: _____
Public Agency Legal Counsel

Date: _____

CITY COUNCIL REPORT

Meeting Date:	**2/12/2013**
Meeting Type:	**Voting**
Title:	**MAIN EXTENSION AGREEMENT WITH VALLEY UTILITIES WATER COMPANY, INC. TO SUPPLY WATER FOR NORTHERN PARKWAY LANDSCAPING**
Staff Contact:	**Cathy Colbath, Interim Executive Director, Transportation Services**

Purpose and Recommended Action

Staff is requesting City Council waive reading beyond the title and adopt a resolution authorizing the City Manager to enter into a main extension agreement with Valley Utilities Water Company, Inc. (VUWCO) to supply water for Northern Parkway landscaping. This agreement will allow for construction of a waterline extension needed to deliver irrigation water to the landscaping along Northern Parkway, between 143rd Avenue and Dysart Road.

Background Summary

This proposed main extension agreement is necessary for VUWCO, the water utility company serving this area, to supply and deliver water for Northern Parkway landscaping. This approximately one-mile, 16-inch waterline will run from just north of Glendale Avenue, along Dysart Road, to Northern Avenue. It will extend the existing VUWCO waterline and will deliver the water to Northern Parkway landscaping between 143rd Avenue and Dysart Road. The city will design, construct and install the waterline and, upon completion, it will be conveyed to VUWCO who will own, operate and maintain it.

Previous Related Council Action

On October 23, 2012, City Council approved an agreement with EPCOR Water Arizona, Inc. to extend an existing waterline for landscaping and irrigation for Northern Parkway between Sarival and 143rd avenues.

On April 26, 2011, Council approved two intergovernmental agreements (IGAs) with Maricopa County. The first is an agreement for drainage improvements along Northern Parkway, and the second is an agreement for operation and maintenance of Northern Parkway, from Sarival Avenue to Dysart Road.

On September 23, 2008, Council approved an IGA with Maricopa County, the City of El Mirage and the City of Peoria to construct Northern Parkway.

Community Benefit/Public Involvement

This proposed waterline extension with VUWCO, the water utility company serving this area, will serve the segment of Northern Parkway from 143rd Avenue to Dysart Road. Construction of the waterline is needed to provide irrigation for landscaping along Northern Parkway that will improve the appearance of this roadway, which, in turn, will enhance economic development opportunities in the area.

The public has not been directly involved in this main extension agreement; however, public input on Northern Parkway has been received at public hearings and GO Program open houses over the past eight years. Public meetings specifically addressing the Northern Parkway were held in February and July 2003, and in June and December of 2005. Seven meetings with individual neighborhoods were held in January through March of 2006. Input received was used to develop and analyze alternatives considered in the design of the project. A final public hearing on the environmental assessment for this project was held on October 14, 2009, and was attended by 95 citizens. Official federal approval (Finding of No Significant Impact) was received on May 11, 2010.

More information on the Northern Parkway project can be found by visiting http://www.glendaleaz.com/improvements/NorthernParkway.cfm.

Budget and Financial Impacts

Cost	Fund-Department-Account
$1,038,256	**2210-65016-551200 (Northern Ave. Super Street)**

The cost of this waterline is estimated at $1,038,256. Staff has concluded that it will be cost-effective to turn the ownership of this waterline over to VUWCO to operate and maintain. The nearest city waterline is located two miles away at 115th Avenue, and extending this waterline would prove inefficient and result in ongoing operating and maintenance costs to the city. URS Corporation, a private engineering consulting firm, analyzed the payback period for this waterline in their report entitled, "Dysart Waterline for Northern Parkway Landscape Irrigation: Refund and Cost Savings Documentation." This analysis was based on city-approved land use plans and the latest Maricopa Association of Governments socioeconomic projections for the timing of these plans. The agreement allows full recovery of the cost of the waterline based on the following:

- The main extension agreement's commitment to refund the city 20% of water fees for all waterline users for up to 30 years.
- Payment from developers to hook up to the waterline, based on the Dysart Road frontage of the development, even after the city turns the waterline over to VUWCO. These payments will continue until the final development hooks up to the waterline.
- Ongoing costs that the city will not need to pay to operate and maintain this single, isolated waterline over its estimated 70-year life.

This analysis estimates the city will be repaid for the cost of this line in approximately 21 years. Should development proceed more slowly than reflected in this analysis, repayment will be slowed, but will likely be repaid in full.

Funding is available in the FY 2012-13 capital improvement plan. The cost of the waterline will be charged to the Northern Parkway Project account, which is GO-funded. A portion of this expenditure will be applied to the city's local match contribution to the Northern Parkway Project.

Capital Expense? Yes ☒ No ☐

Budgeted? Yes ☒ No ☐

Requesting Budget or Appropriation Transfer? Yes ☐ No ☒

If yes, where will the transfer be taken from?

Attachments

Staff Report

Resolution

Agreement

STAFF REPORT

To:	**Horatio Skeete, Acting City Manager**
From:	**Cathy Colbath, Interim Executive Director, Transportation Services**
Item Title:	**MAIN EXTENSION AGREEMENT WITH VALLEY UTILITIES WATER COMPANY, INC. TO SUPPLY WATER FOR NORTHERN PARKWAY LANDSCAPING**
Requested Council Meeting Date:	**2/12/2013**
Meeting Type:	**Voting**

PURPOSE

This report describes a proposed main extension agreement with Valley Utilities Water Company, Inc. (VUWCO), which will allow for construction of a waterline to deliver water for Northern Parkway landscaping, between 143rd Avenue and Dysart Road. The purpose of this report is to request that this item be placed on an agenda for City Council action.

BACKGROUND

Northern Parkway is planned to be a 12.5-mile, high-capacity, six-lane expressway connecting Grand Avenue (US 60) to Loop 303. Northern Parkway will provide regional connectivity, enhance east-west mobility, serve expected population and employment growth, reduce travel time and enhance flood protection. Construction of the first phase of Northern Parkway is currently underway and is scheduled for completion in spring 2013. Phase I comprises a four-mile segment from Sarival Avenue to Dysart Road. Construction of two waterlines is needed to provide irrigation for landscaping along Northern Parkway that will improve the appearance of this roadway, which, in turn, will enhance economic development opportunities.

On September 23, 2008, Council approved an intergovernmental agreement (IGA) with Maricopa County and the cities of El Mirage, Glendale and Peoria, which stated that each jurisdiction would be responsible for maintenance of their portion of Northern Parkway. On April 26, 2011, Glendale entered into another IGA with Maricopa County, the lead agency on this project, in which the county agreed to install landscaping on this portion of Northern Parkway and the city agreed to supply the water and maintain the landscaping.

On October 23, 2012, City Council approved a main extension agreement with EPCOR Water Arizona, Inc. to extend an existing waterline for landscaping of Northern Parkway between Sarival and 143rd avenues.

VUWCO is the water utility company that supplies and delivers water to the area between 143rd Avenue and Dysart Road. This proposed main extension agreement will extend the existing

VUWCO waterline to deliver water to Northern Parkway landscaping. The city will design, construct and install the waterline and, upon completion, it will be conveyed to VUWCO who will own, operate and maintain it. This approximately one-mile-long, 16-inch waterline will run along Dysart Road from just north of Glendale Avenue to Northern Avenue.

ANALYSIS

Staff is recommending Council enter into a main extension agreement with VUWCO because VUWCO is the utility company that provides water to this area. Alternatives considered by staff included: (1) no landscaping and no waterline; (2) city constructs and operates its own waterline; and (3) city constructs the waterline and turns it over to VUWCO to own and operate.

A landscaping option was selected because Glendale staff believes attractive landscaping on Northern Parkway will help ensure an aesthetically pleasing roadway that will attract quality economic development to the city. Staff considered using a Glendale-owned waterline as an alternative to conveying it to VUWCO; however, owning, operating and maintaining a waterline would not be cost-effective because there are no other city waterlines in this area. Extending the nearest city waterline, located two miles away at 115th Avenue, would prove inefficient and result in ongoing operations and maintenance costs to the city.

Construction of the first phase of Northern Parkway is scheduled for completion by April 2013. Irrigation installation and landscaping construction will begin at that time; therefore, the waterline must be completed by April 2013. Delays in approving this agreement could prevent the timely construction of the waterline and cost the city an extra $300,000 for interim erosion control.

FISCAL IMPACTS

The cost of this waterline is estimated at $1,038,256, including approximately $7,000 in related fees. Staff analyzed options and concluded that the most cost-effective option is to turn the ownership of this waterline over to VUWCO to operate and maintain. URS Corporation, a private engineering consulting firm, analyzed the payback period for this waterline in their report entitled, "Dysart Waterline for Northern Parkway Landscape Irrigation: Refund and Cost Savings Documentation." This analysis was based on city-approved land use plans and the latest Maricopa Association of Governments socioeconomic projections for the timing of these plans. The agreement allows full recovery of the cost of the waterline based on the following:

- The main extension agreement's commitment to refund the city 20% of water fees for all waterline users for up to 30 years.

- Payment from developers to hook up to the waterline, based on the Dysart Road frontage of the development, even after the city turns the waterline over to VUWCO. These payments will continue until the final development hooks up to the waterline.
- Ongoing costs that the city will not need to pay to operate and maintain this single, isolated waterline over its estimated 70-year life.

This analysis estimates the city will be repaid for the cost of this line in approximately 21 years. Should development proceed more slowly than reflected in this analysis, repayment will be slowed, but as indicated above, has a very high probability of ultimately being repaid in full. In accordance with state requirements, once executed by the city and VUWCO, this main extension agreement will be reviewed by the Arizona Corporation Commission to check costs and ensure the availability of water.

Funding is available in the FY 2012-13 capital improvement plan. The cost of the waterline will be charged to the Northern Parkway Project account (2210-65016-551200), which is GO-funded. A portion of this expenditure will be applied to the city's local match contribution to the Northern Parkway Project.

RESOLUTION NO. 4639 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF A MAIN EXTENSION AGREEMENT WITH VALLEY UTILITIES WATER COMPANY, INC. FOR THE CONSTRUCTION AND SUBSEQUENT OWNERSHIP TRANSFER OF A WATERLINE EXTENSION NEEDED TO DELIVER IRRIGATION WATER TO THE LANDSCAPING ALONG NORTHERN PARKWAY.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That it is deemed in the best interest of the City of Glendale and the citizens thereof that a Main Extension Agreement with Valley Utilities Water Company, Inc. for the construction and subsequent ownership transfer of a waterline extension needed to deliver irrigation water to the landscaping along Northern Parkway be entered into, which Agreement is now on file in the office of the City Clerk of the City of Glendale.

SECTION 2. That the City Manager and the City Clerk are hereby authorized and directed to execute and deliver said Main Extension Agreement along with any and all necessary documents to include subsequent ownership transfer documents on behalf of the City of Glendale.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this _____ day of _____, 2013.

_____
M A Y O R

ATTEST:

_____
City Clerk (SEAL)

APPROVED AS TO FORM:

_____
City Attorney

REVIEWED BY:

_____
Acting City Manager

a_me_valley utilities.doc

MAIN EXTENSION AGREEMENT

FOR

CUSTOMER INSTALLED WATER FACILITIES

BETWEEN

VALLEY UTILITIES WATER CO., INC.

AND

CITY OF GLENDALE

_____ __, 2013

TABLE OF CONTENTS

UTILITY PLANT ADDITIONS, COST AND INCOME TAXES 1
- Utility Plant Additions 1
- Cost 2
- Payment 2

SERVICE; COMPANY LIABILITY LIMITATIONS; APPLICABLE RATES 2
- Service 2
- Applicable Rates 2

PERMITS AND LICENSES; EASEMENTS; TITLE 2
- Permits and Licenses 2
- Easements 3
- Title 3

COMMENCEMENT OF PERFORMANCE AND TIME OF COMPLETION; PLANS AND SPECIFICATIONS; WORKMANSHIP, MATERIALS, EQUIPMENT AND MACHINERY; CONNECTING NEW FACILITIES; EXISTING UNDERGROUND FACILITIES RESPONSIBILITIES 3
- Commencement of Performance and Time of Completion 3
- Plans and Specifications 3
- Materials, Workmanship, Equipment and Machinery 4
- Connecting New Facilities 4
- Existing Underground Facilities Responsibility 4

INSPECTION, TESTING AND CORRECTION OF DEFECTS 5

INVOICES; LIENS; "AS-BUILT" PLANS 6
- Invoices 6
- Liens 6
- "As-Built" Plans 6

AMOUNT OF ADVANCE; REFUND; TRANSFER 6
- Amount of Advance 6
- Amount of Advance 7

Income Taxes 7
Computation of Refund 7
Maximum Refund; Interest on Advance; Limitation on Revenues 7
Transfer of Facilities 8

RISK; LIABILITY; INSURANCE 8
Risk 8
Liability 9
Insurance 9

MISCELLANEOUS 9

WATER MAIN EXTENSION AGREEMENT
FOR CUSTOMER INSTALLED WATER FACILITIES

THIS MAIN EXTENSION AGREEMENT ("Agreement"), is entered into this ____ day of _____, 2013, between VALLEY UTILITIES WATER COMPANY, INC., an Arizona corporation, or its successors and assigns ("Company" or "Utility"), and the CITY OF GLENDALE, an Arizona municipal corporation, or its successors and assigns ("City"), to construct utility infrastructure necessary to provide water service to certain public areas (Northern Parkway right-of-way) in Maricopa County, Arizona ("Property").

RECITALS

A. Company represents and warrants to City that it owns and operates a public service corporation and holds a Certificate of Convenience and Necessity ("CC&N") issued by the Arizona Corporation Commission ("Commission") and other permits and governmental approvals required which authorize Company to serve the public with water utility service at the Property;

B. City is making certain public improvements on the Property in an area that is fully described in the attached Exhibit 1 and incorporated herein by reference. Company warrants that it has the authority to provide water utility service to the Property;

C. the Company does not currently own a water main to extend water service to the Property; and

D. Given the circumstances described in these Recitals, the Commission's Rules and Regulations permit the Company to require, as an Advance-In-Aid-of-Construction ("Advance"), the installation and transfer of facilities required for the Company to provide water service to the Property.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

I. FACILITY ADDITIONS; COSTS; ARSENIC IMPACT FEE; OTHER CHARGES

A. Facility Additions. The City will construct, or cause to be constructed, a 16-inch water main ("Main") that upon completion will be conveyed to the Company as an Advance. The engineering plans for the Main are attached to this Agreement as Exhibit 2 and are incorporated herein by this reference. The estimated cost of the Main is detailed on Exhibit 3 and is incorporated herein by this reference. This Agreement will accommodate additional phases of improvements within the Property boundaries as shown in Exhibit 1 and allow adjacent properties to connect to the Main under separate agreement between the Company and those property owners.

B. **Costs**. The cost of construction of the Main as more fully detailed in Exhibit 3 is estimated to be $1,038,256. That estimate shall be adjusted to the amount of the invoices provided to the Company as required by Sections VI and VII under this Agreement. The Advance shall also include the costs for the applicable Engineering Review, Company Supervision (if any) and Legal Fees ("Administrative Costs"), and Groundwater Replenishment District charges (if any), as defined below.

C. **Arsenic Impact Fee**. City shall pay the Company's applicable Arsenic Impact Fee as a non-refundable Contribution in Aid of Construction as set forth in the Company's Arsenic Impact Fee Tariff on file with the Commission.

D. **Other Water Utility Charges.** In the event the City (or Developer's subcontractor(s) or assign(s)) require construction water for grading, site preparation, road work, dust control or any other construction related purpose, the City may contact the Company and request Construction Water Service under the Company's Tariff.

II. SERVICE; APPLICABLE RATES

A. **Service.** Notwithstanding any reference to fire protection facilities contained in Exhibit 2, the Main extension is installed for the initial purpose of providing water service for landscape irrigation to the Property. However, under certain operating conditions, the Main and Company's water system infrastructure may provide limited fire protection service to an appropriate fire protection agency. The Company's obligation for fire protection utility service shall be the stricter standard of either the Arizona Administrative Code ("AAC") R14-2-407(C) and (D), or this Agreement. Company shall comply with such regulations and any other applicable law. Service will be provided in accordance with good utility practice.

B. **Applicable Rates**. The charges for water services for the Property shall be at the applicable rates of the Company which are currently on file with the Commission. Those rates are subject to change from time to time upon application of the Company and as approved by the Commission.

III. PERMITS AND LICENSES; EASEMENTS; TITLE

A. **Permits and Licenses**. City agrees to obtain, at its sole expense, all licenses, permits, certificates, and approvals from public authorities that may be required for the construction of the Main to the Property under this Agreement or development of the subject Property and shall comply with all applicable municipal and other public laws, ordinances and requirements. The cost of obtaining licenses, permits, certificates, and approvals for the Main shall be added to the amount of the refundable Advance. The applicable Approval to Construct the facilities shall be provided upon execution of this Agreement. The Approval of Construction shall be provided before the Company is obligated to provide water service to the Property.

B. Easements and Deeds. In the event the Main identified in Exhibit 2 is not within a dedicated public right-of-way or public utility easement, the City shall provide to the Company an easement in a form acceptable to the Company. The easement shall be sufficient in size and scope for the construction, operation, maintenance and repair of the Main within that area. All rights-of-way and public and private easements shall remain free of all obstacles which may interfere with the Company's access, use, operation and maintenance of the Main. The easement shall be recorded before the Company is obligated to provide service to the Property. In the event of any dispute over the location of an easement, or a discrepancy from the recorded plat, the Company may require the City to obtain, at City's cost, a survey from a registered land surveyor to verify the easement boundaries. The survey shall only be required to the extent necessary to identify and locate the legal description or to resolve the dispute or discrepancy.

C. Title. Under this Agreement, upon Company's acceptance of the work, all facilities constructed by the City (including all installed materials) in connection with the construction of the Main, shall become the sole property of the Company. The City, or its contractor, must obtain an Approval of Construction from the Maricopa County Department of Health Services, or the appropriate agency, and deliver that approval to the Company before the Main is operational. Concurrently with Company's acceptance of the Main, City shall deliver to Company a fully executed Bill of Sale, in a form and with substance reasonably satisfactory to Company's legal counsel, evidencing the conveyance of the Main to Company, and such Main shall become, and shall thereafter remain, as between Company and City, the sole property of Company. City represents and warrants to Company that, at the time of such transfer, Company will receive good and marketable title to the conveyed Main, free and clear of any and all liens, claims, mortgages or other encumbrances. All risk of loss of the Main shall be with City until title to such Main is transferred to Company upon Final Acceptance under the terms of this Agreement. The Company may confirm in writing the acceptance of title to the Main being placed in regular operation.

IV. COMMENCEMENT OF PERFORMANCE AND TIME OF COMPLETION; PLANS AND SPECIFICATIONS; WORKMANSHIP, MATERIALS, EQUIPMENT AND MACHINERY; ACCEPTANCE; CONNECTING NEW FACILITIES; EXISTING UNDERGROUND FACILITIES RESPONSIBILITIES

A. Commencement of Performance and Time of Completion. The parties estimate that the City will start the construction work contemplated under this Agreement before _____, 2013, and will complete the construction work before _____, 2013. Company and City understand the dates in this paragraph are estimates only. Failure to meet those estimated dates shall in no way relieve the City or Company of any of their obligations under this Agreement.

B. Plans and Specifications. All plans, specifications and construction shall be in accordance with good utility practices and in accordance with all rules, regulations, specifications and requirements of the Company and all regulatory agencies, including but not limited to, the Commission, the Maricopa County Department of Environmental

Services and all local regulatory agencies having jurisdiction over water service and facilities. The plans and specifications shall have all requisite approvals in writing of all necessary agencies and the approval in writing of Company before construction is commenced. The Company's review and comments shall be provided to the City within twenty (20) calendar days after submittal of the plans and specifications to the Company. The Company's approval of the plans and specifications shall be provided within twenty (20) calendar days after final re-submittal of the plans and specifications incorporating the Company's comments. The approved plans and specifications for the water facilities (Main) construction will be incorporated by this reference and made part of this Agreement.

C. Materials, Workmanship, Equipment and Machinery. All materials shall be new and both workmanship and materials shall be of good quality and must meet Company specifications and standards, as well as the standards of the pertinent regulatory agencies. City shall assign to the Company the warranties of its contractor(s) for the Main constructed under this Agreement, which warranties shall be no less than two (2) years. If the City constructs the Main itself, or if the subcontractor's warranty is inadequate, the City agrees to pay all costs for removing and replacing any defective part or parts upon the Company providing written notice to the City within two (2) years after the Company acknowledged Final Acceptance of the Main.

D. Acceptance. Company's Operational Acceptance of the Main and any related facilities shall occur at the time the City has provided all of the following items to the Company as required by this Agreement: (i) all required fees, costs and funds; (ii) the Approval to Construct; and (iii) recorded copies of all required Deeds or Easements. The Company shall assume operational responsibilities for the Main only after receipt of the above. Final Acceptance of the Main and related facilities by the Company shall occur only after the Company receives all of the following as otherwise required by this Agreement: (i) all items required for Operational Acceptance; (ii) the Approval of Construction; (iii) all invoices; (iv) all lien waivers; (v) copies of all permits and licenses; (vi) all required evidences of title; and (vii) the "as-built" plans. If all documents for the Company's Final Acceptance are not received within ninety (90) days of the Operational Acceptance, the Company shall have no obligation to (i) set additional water meters within the Property; or (ii) make any refunds of the Advance pursuant to Paragraph VII, until such time as City has complied with these requirements.

E. Connecting New Facilities. The Main constructed pursuant to the Agreement shall not be connected to the Company's existing facilities, or operated, without the prior written approval of Company. In the event the Main requires retesting, additional, or subsequent purging and re-chlorination after the Company has granted Operational Acceptance, but prior to putting the Main into service, the Company may bill the City for all costs associated with those procedures.

F. Existing Underground Facilities Responsibility. Before and during construction, City shall be responsible for complying with A.R.S. 40-360.21, *et seq.*, and related local regulations, and will assume all costs and liabilities associated with (i) coordination with the owners or agents of all underground facilities within and adjacent to

the Property regarding the location of such facilities, and (ii) construction near, or damage to, underground facilities. City will conduct, or cause to be conducted, all excavation in a careful and prudent manner in its construction of the Main.

V. INSPECTION, TESTING AND CORRECTION OF DEFECTS; DAMAGE AFTER ACCEPTANCE; ADVISING SUBCONTRACTORS

A. Inspection, Testing and Correction of Defects.

(1) City shall comply with the Company's Main inspection and testing requirements. The requirements shall be reasonable and shall not cause City unwarranted delays in the ordinary course of construction. City shall promptly notify the Company when the Main is ready for inspection and testing. The Company will use its best efforts to inspect the progress of the work and evaluate whether the work meets the Company-approved plans and specifications within forty-eight (48) hours after a requested inspection (excluding Saturdays, Sundays, and Holidays). In the event a requested inspection results in overtime or off-hour costs to the Company, the Company's costs, including all overhead, shall be separately billed to the City.

(2) City will comply with Utility's inspection and testing requirements for the Main Extensions; provided however, that Utility furnishes that information to City during the planning and engineering phase of the project. Once construction begins, Utility shall be responsible for all engineering and construction changes and costs required by its failure to timely provide its testing and inspection requirements. City will provide Utility two business days' prior notice when the Main is under construction, and when any portion of the Main is ready for inspection and testing. Utility will then promptly inspect and test the Main to determine if such Main has been constructed in accordance with the approved plans and specifications. As a result of Utility's inspection and testing, Utility may provide written notification to City of punch list items that require correction and City agrees to promptly correct all defects and deficiencies in construction, materials and workmanship.

(3) No costs incurred by City to do over or make good on defective or deficient work shall be included in the amount of Advance pursuant to Paragraph VII.A. The Company specifically reserves the right to withhold approval and to forbid connection of the Main to the Company's system unless such Main has been constructed in accordance with the plans and specifications as approved by the Company and are satisfactory to the Company upon inspection and testing.

B. Damage after Acceptance. City acknowledges that it may perform certain non-utility construction within the Property subsequent to the Operational Acceptance of the Main by the Company. Therefore, the City hereby agrees to immediately repair or replace, consistent with the plans and specifications, any damage to the Main caused by the City, its subcontractors or unknown parties. City shall call the Company for an inspection as contemplated in Paragraph V.A.

VI. APPROVAL OF CONSTRUCTION; INVOICES; LIENS; "AS-BUILT" PLANS; CONDITION PRECEDENT TO INITIAL SERVICE; ANNUAL REFUNDS.

A. Approval of Construction. The Approval of Construction for the water Main shall be delivered to the Company before the Company takes Operational Acceptance of the Main or is obligated to provide water utility service to the Property.

B. Invoices. City will furnish Company, within thirty (30) days after completion of construction, copies of City's, subcontractors', vendors', and all others' invoices for all engineering, surveying, other services and materials installed, and all costs of construction.

C. Liens. City must obtain lien waivers from all entities providing labor, materials or services contemplated by this Agreement.

D. "As-Built" Plans. City will furnish the Company, within thirty (30) days after completion of construction, "as-built" drawings showing the locations of all water mains, hydrants, valves, and service connections to all structures served from the Main and related facilities which are constructed pursuant to this Agreement. The drawings shall be certified by the City's engineer of record and shall be provided on reproducible Mylar prints, and in a digital format (i.e. AutoCAD, MicroStation or .dxf format or as otherwise specified by the Company), all available data for the Property, including ALTA surveys, topographical, aerials, tentative plats, engineering plans, and final plats. Red-lined construction drawings shall not be acceptable as "as-built" drawings.

E. Conditions Precedent to Initial Service and Annual Refunds. City acknowledges and agrees that the Company will not set a meter at any service address or provide service to the Property or make any annual refunds of the Advance under Paragraph VII of this Agreement before receiving the documents required by Paragraph III.A, B, C and E, Paragraph IV.D, and Paragraphs VI.A, B, C and D.

VII. AMOUNT OF ADVANCE; TIME OF PAYMENT; INCOME TAX; REFUND; TRANSFER; NOTICE

A. Amount of Advance.

1. Based on the estimated cost contained in Paragraph I.B, and subject to receiving invoices from the City pursuant to Paragraph VI.B, the value of the Main to be transferred is estimated to be $1,038,256 ("Asset Value"). The Advance shall also include all Administrative Costs and shall be refundable pursuant to this Paragraph VII. If the actual construction cost is less than the estimated Asset Value, then the Advance shall include the lesser amount, to the extent supported by invoices provided pursuant to Paragraph VI.B. If the actual cost is more than the estimated Asset Value, then the Advance shall be the greater amount, to the extent supported by invoices provided pursuant to Paragraph VI.A.

B. **Time of Payment.** The Advance under this Agreement shall be remitted as follows:

1. Upon execution of this Agreement, City shall pay a deposit on Administrative Costs in the amount of $10,000 dollars. Any funds remaining in the deposit after this Agreement is approved by the Commission shall be fully refunded to the City within 10 (ten) business days. In the event Company's Administrative Costs exceed $10,000, Company shall invoice the City on a monthly basis once the deposit has been depleted.

2. City shall pay the applicable non-refundable Arsenic Impact Fee upon request for the installation of a water meter to serve the Property.

3. The City shall provide Company with a Bill of Sale, as set forth the Section III.C, which shall establish an accurate Asset Value based on actual construction costs. The final Asset Value, along with expended Administrative Costs, shall constitute the amount of the total Advance to be refunded to the City pursuant to Paragraph VII.D.

C. **Income Taxes.** [Intentionally Blank]

D. **Computation of Refund.** Refunds of the Advance shall be made to the City by the Company on or before the 31st day of August of each year commencing with August of 2014 covering any refunds owing from water revenues received during the preceding July 1 to June 30 period and also including any revenue received prior to July 1 2013 if any. Any additional charge made by the Company based on any sales, privilege tax, excise tax, or regulatory assessment, shall not be included in the computation. The annual refund shall equal twenty percent (20%) of the total gross annual revenue from water sales to each bona fide customer in the Property for a maximum of thirty (30) years. In addition, before any properties along Dysart Road connect to the waterline extension, a lump sum payment will be made to the City. This lump sum payment will be equal to length of the property fronting Dysart Road divided by the total developable frontage along Dysart (approximately 6,700 feet) times the "Advance in Aid of Construction" as paid by the City of Glendale to construct this water line extension. The developable frontage includes all properties along the waterline extension except the Luke Elementary School property (APN 501-52-001P). The result of the annual payment and the lump sum payment shall not exceed the total "Advance in Aid of Construction". In the event the City has not provided all documentation required by Sections III and VI of this Agreement within ninety (90) days of the Operational Acceptance of the Main by the Company, then and in that event, refunds for the years before receipt of said documentation shall be irrevocably waived by the City, those funds shall become Contributions in Aid of Construction.

E. **Maximum Refund; Interest on Advance; Limitation on Revenues.** In no event shall the City's refund exceed the amount of the City's Advance. No interest shall be paid by the Company on any amounts advanced.

F. Transfer of Main and Related Facilities. In the event of the sale, conveyance or transfer by the Company, pursuant to the approval of the Commission, of any portion of its water system, including the Main constructed under this Agreement, such transfer shall be conditioned upon the transferee accepting the Company's obligations to the City under this Agreement.

G. Notice. Any notice required or permitted to be given under this Agreement shall be deemed delivered and be effective on the date physically delivered to the Party to whom notice is being provided or two (2) calendar days following the date on which the notice is deposited in the United States Mail, postage prepaid, certified delivery, and addressed to the Party to whom notice is being provided as follows:

If to Glendale:

Craig Johnson
Executive Director, Water Services
City of Glendale
7070 West Northern Avenue
Glendale, Arizona 85303

With a copy to:

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

If to Company:

Valley Utilities Water Co., Inc.
Attn: Manager
6808 North Dysart Road, Suite 112
Glendale, Arizona 85307

Each Party shall promptly provide written notice to the other Party of any subsequent change of address, and the failure to do so shall preclude any subsequent claim that notice was improperly given.

VIII. RISK; LIABILITY; INSURANCE

A. Risk. City shall carry on all work required at its own risk until the construction is completed and accepted by the Company. Except for the damage caused by the negligent or intentional acts of the Company, its employees, agents, engineers, contractors, or assigns, the City, at its expense, will, in case of accident, destruction, or injury to the work or material before such final completion and acceptance, replace or repair the damaged work, in accordance with the original approved plans and specifications.

B. Liability. To the extent the liability is directly attributable to City's negligent or willful conduct, City assumes the entire responsibility and liability for injury or death of any person, or loss for damage to any property contributed to or caused by the negligence of the City, its agents, servants, employees, or subcontractors during the course of construction of the Main. Accordingly, during the construction of the Main, City will indemnify and hold harmless the Company, its officers, directors, engineers, agents and employees from and against such claims or expenses, including penalties and assessments, to which they or any of them may be subjected by reason of such injury, death, loss, claim, penalty, assessment or damage, and in case any suit or other proceeding is filed, City will assume the defense at City's expense and will pay all judgments rendered. The City does not indemnify Company for any damages whatsoever attributable to the negligent or intentional acts of the Company, its officers, employees, agents, engineers, assigns, or successors-in-interest.

C. Insurance. City agrees to produce and maintain all insurances described below, including insurance covering the obligations assumed by the City under Paragraph VIII.A and Paragraph VIII.B. Certificates of Issuance shall be provided to the Company before the commencement of actual construction:

1. Workmen's compensation in the benefit amounts, and occupational disease disability insurance, as required by the laws and regulations of the state.

2. Commercial general liability insurance, with minimum combined single limits of $1,000,000.00, and including operations and protective liability coverages. When the work to be performed requires blasting, City's insurance shall specifically cover that risk.

3. Comprehensive automobile liability insurance with a minimum combined single limits of $1,000,000.00, and covering all owned and non-owned automobiles or trucks used by or on behalf of Company, in connection with the work.

IX. MISCELLANEOUS

A. Commission Approval. Before this Agreement shall become effective and binding upon either the Company or the City, it must be approved by the Commission or its authorized representative. In the event approval is denied, this Agreement shall be null and void and of no force or effect whatsoever.

B. Authority. Each Party irrevocably warrants to the other that it has all applicable power and authority, actual, representative or otherwise, to enter into this Agreement and bind that Party's performance. This Agreement may not be modified or amended except by a writing signed by both parties.

C. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. This Agreement constitutes the entire agreement and understanding between the parties and expressly supersedes and revokes all

other prior or contemporaneous promises, representations and assurances of any nature whatsoever.

D. Remedies and Waivers. The remedies provided in this Agreement in favor of the Company shall not be deemed its exclusive remedies but shall be in addition to all other remedies available at law or in equity. No waiver by either party of any breach of this Agreement nor any failure by either party to insist on strict performance by the other party of any provision of this Agreement shall in any way be construed to be a waiver of any future or subsequent breach by such defaulting party or bar the non-defaulting party's right to insist on strict performance by the defaulting party of the provisions of this Agreement in the future.

E. Binding Agreement. City is an Arizona municipal corporation, and under this Agreement, an independent contractor and not an agent or employee of the Company. This Agreement shall inure to the benefit of, be binding upon, and be enforceable by the parties and their respective successors and assigns.

F. Entire Agreement. This Agreement, including its numbered Exhibits, constitute the entire agreement and understanding between the parties relating to the subject matter of this Agreement and supersedes all prior representations, communications and arrangements, whether oral, written or inferred, between the parties relating to that subject matter.

[*Signatures are on the following page.*]

This Agreement is executed as of the day and year first written above.

VALLEY UTILITIES WATER CO., INC., an Arizona corporation

_____

Printed Name: _____

Title: _____

CITY OF GLENDALE, an Arizona municipal corporation

_____

Horatio Skeete, Acting City Manager

ATTEST:

_____

Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

_____

Craig Tindall, City Attorney

ATTACHMENTS

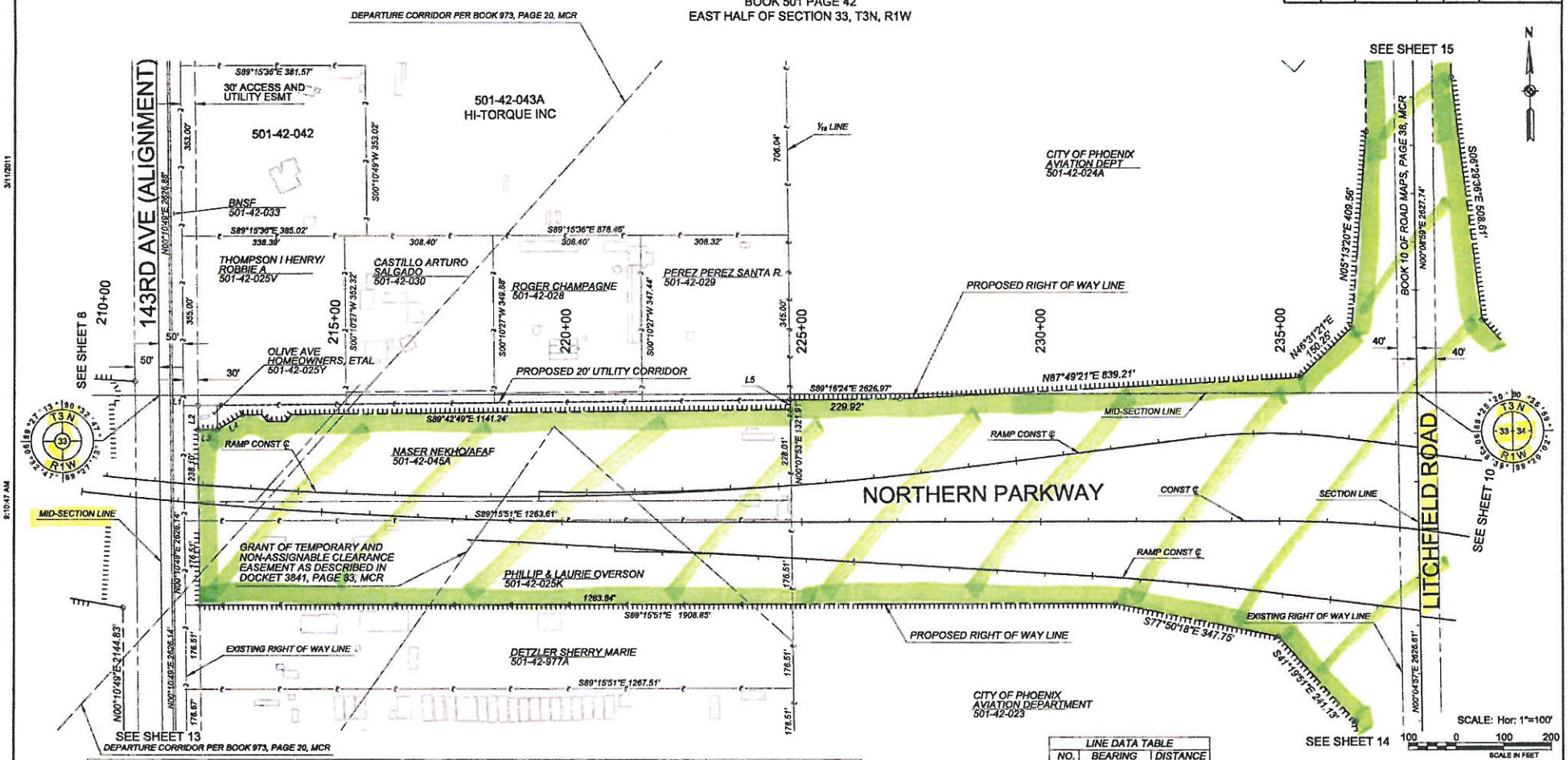
1. Map and Legal Description of Property
2. Engineering Plan of Water Utility Plant
3. Estimated Cost for Main

EXHIBIT 1

MAPS AND DESCRIPTIONS OF RIGHT-OF-WAY
AND PROPERTY TO BE LANDSCAPED

F.H.W.A. REGION	STATE	PROJECT NO.	SHEET NO.	TOTAL SHEETS	RECORD DRAWING
9	AZ	TT195	9	16	

BOOK 501 PAGE 42
EAST HALF OF SECTION 33, T3N, R1W



ITEM NO.	ASSESSOR PARCEL NO.	OWNERSHIP	FEE AREA SQ.FT.	FEE AREA ACRES	ESMT AREA SQ.FT.	ESMT AREA ACRES	ACQUISTION RECORD REC./DKT. NO.	ACQUISTION RECORD DATE
D22276	501-42-033	BNSF	20,721	0.4757	-	-		
D22277	501-42-045A	NASER NEKHO/AFAF	280,429	6.4378	24,645	0.5658		
D22278	501-42-025K	PHILLIP & LAURIE OVERSON	223,048	5.1205	-	-		
D22279	501-42-977A	DETZLER SHERRY MARIE	-	-	-	-		
D22280	501-42-023, 024A	CITY OF PHOENIX AVIATION DEPARTMENT	802,627	18.4258	-	-		
D22288	501-42-025V	THOMPSON I HENRY/ROBBIE A	-	-	-	-		
D22289	501-42-030	CASTILLO ARTURO SALGADO	-	-	-	-		
D22290	501-42-028	ROGER CHAMPAGNE	-	-	-	-		
D22291	501-42-029	PEREZ PEREZ SANTA R.	-	-	-	-		

LINE DATA TABLE

NO.	BEARING	DISTANCE
L1	N89°42'49"W	80.00'
L2	N00°10'42"E	50.00'
L3	N89°42'49"W	40.00'
L4	N60°06'14"E	50.00'
L5	N00°07'53"E	20.00'

LEGEND:
ACCESS CONTROL
EXISTING RIGHT OF WAY
PROPOSED RIGHT OF WAY
PROPERTY LINE
SECTION LINE
EASEMENT
CITY LIMITS

POTENTIAL LANDSCAPE AREA

NO.	REVISION	BY	DATE
3			
2			
1			

MARICOPA COUNTY
DEPARTMENT OF TRANSPORTATION
ENGINEERING DIVISION

NORTHERN PARKWAY
SARIVAL AVENUE TO DYSART ROAD
PROJECT NO. TT195

	BY	DATE
DESIGNED	N/A	2/11
DRAWN	G. Sainz	2/11
CHECKED	R. Bilyeu	2/11

100% PRELIMINARY NOT FOR CONSTRUCTION

Dibble Engineering

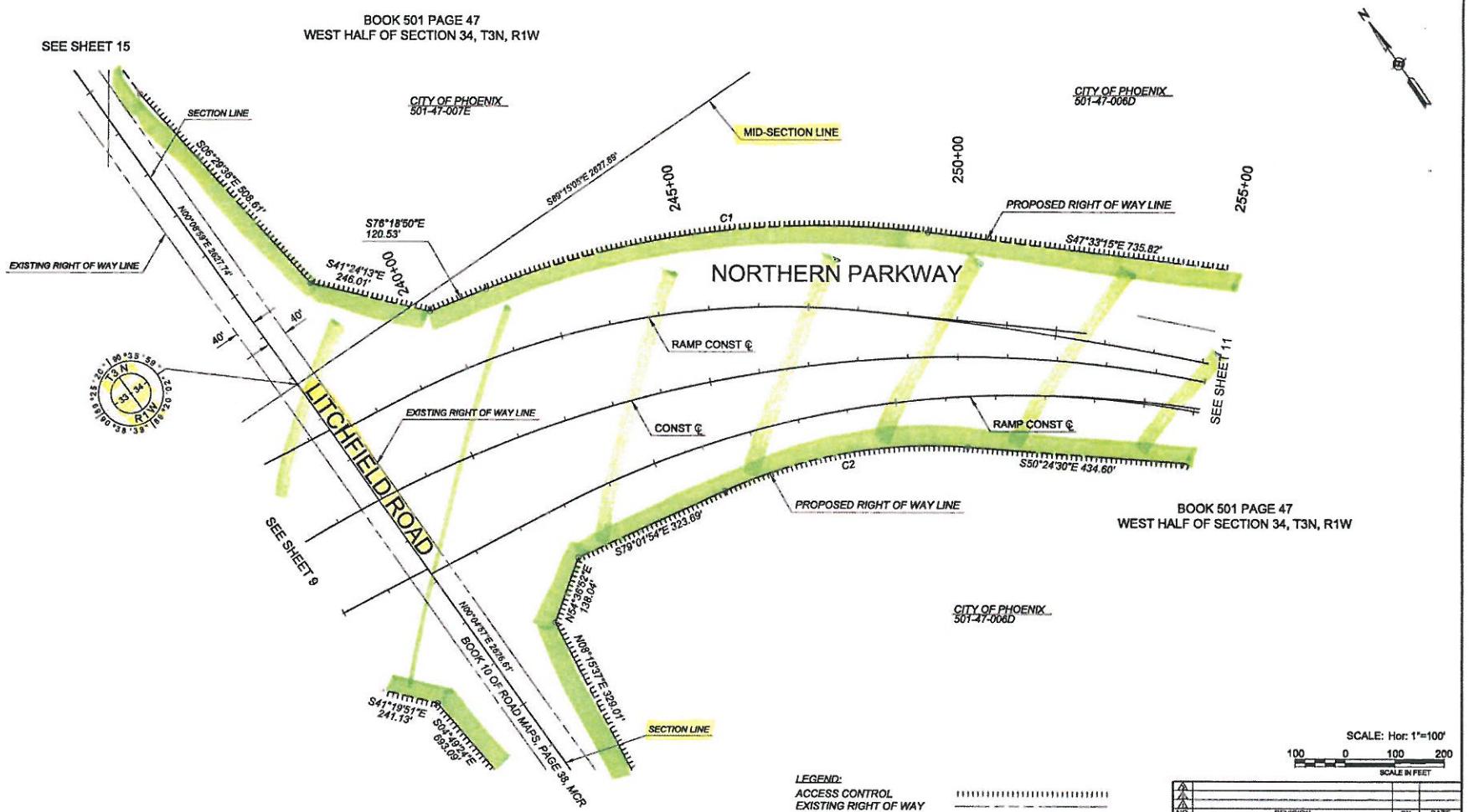
RIGHT OF WAY STRIP MAP

SHEET 9

TRACS NO. SS593 01C

3/11/2011 8:10:47 AM TT195_SR_RowStripMap100_06.dgn

F.H.W.A. REGION	STATE	PROJECT NO.	SHEET NO.	TOTAL SHEETS	RECORD DRAWING
9	AZ	TT195	10	16	



CURVE DATA TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	28°45'35"	1800.00'	903.51'
C2	28°37'24"	1000.00'	499.57'

ITEM NO.	ASSESSOR PARCEL NO.	OWNERSHIP	FEE AREA		ESMT AREA		ACQUISTION RECORD	
			SQ.FT.	ACRES	SQ.FT.	ACRES	REC./DKT. NO.	DATE
D22281	501-47-006D, 007E, 022C	CITY OF PHOENIX	1,738,923	39.9202				

LEGEND:
- ACCESS CONTROL
- EXISTING RIGHT OF WAY
- PROPOSED RIGHT OF WAY
- PROPERTY LINE
- SECTION LINE
- EASEMENT
- CITY LIMITS
- POTENTIAL LANDSCAPE AREA

SCALE: Hor: 1"=100'
100 0 100 200
SCALE IN FEET

NO.	REVISION	BY	DATE
3			
2			
1			

MARICOPA COUNTY
DEPARTMENT OF TRANSPORTATION
ENGINEERING DIVISION

NORTHERN PARKWAY
SARIVAL AVENUE TO DYSART ROAD
PROJECT NO. TT195

	BY	DATE
DESIGNED	N/A	2/11
DRAWN	G. Gainz	2/11
CHECKED	R. Bilyeu	2/11

100% PRELIMINARY NOT FOR CONSTRUCTION

Dibble Engineering

RIGHT OF WAY STRIP MAP

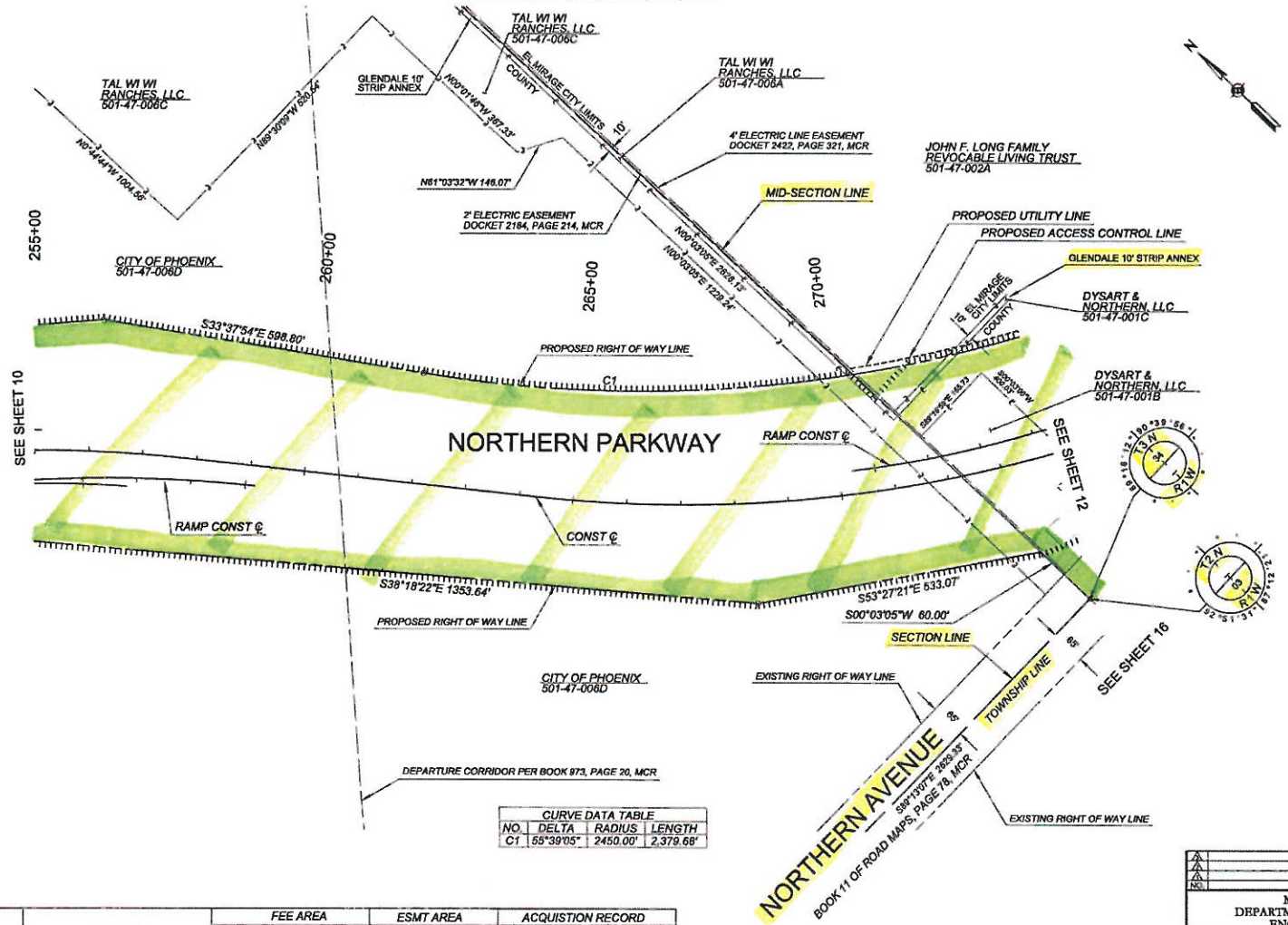
SHEET 10

TRACS NO. SS503 01C

3/11/2011 8:12:32 AM TT195_SR_RowStripMap100_10.dgn

F.H.W.A. REGION	STATE	PROJECT NO.	SHEET NO.	TOTAL SHEETS	RECORD DRAWING
9	AZ	TT195	11	16	

BOOK 501 PAGE 47
SOUTH HALF OF SECTION 34, T3N, R1W



CURVE DATA TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	55°39'05"	2450.00'	2,379.66'

ITEM NO.	ASSESSOR PARCEL NO.	OWNERSHIP	FEE AREA		ESMT AREA		ACQUISTION RECORD	
			SQ.FT.	ACRES	SQ.FT.	ACRES	REC./DKT. NO.	DATE
D22281	501-47-006D, 007E	CITY OF PHOENIX	SEE SHEET 10					
D22282	501-47-006A, 006C	TAL WI WI RANCHES, LLC	27,800	0.6382				
D22283	501-47-001B, 001C, 001D	DYSART AND NORTHERN, LLC	SEE SHEET 12					
D22285	501-47-002A	JOHN F. LONG FAMILY REVOCABLE LIVING TRUST	70,483	1.6180	16,738	0.3843		

LEGEND:
- ACCESS CONTROL
- EXISTING RIGHT OF WAY
- PROPOSED RIGHT OF WAY
- PROPERTY LINE
- SECTION LINE
- EASEMENT
- CITY LIMITS
- POTENTIAL LANDSCAPE AREA

SCALE: Hor: 1"=100'
100 0 100 200
SCALE IN FEET

NO.	REVISION	BY	DATE
3			
2			
1			

MARICOPA COUNTY
DEPARTMENT OF TRANSPORTATION
ENGINEERING DIVISION

NORTHERN PARKWAY
SARIVAL AVENUE TO DYSART ROAD
PROJECT NO. TT195

	BY	DATE
DESIGNED	N/A	2/11
DRAWN	G. Sainz	2/11
CHECKED	R. Bilyeu	2/11

100% PRELIMINARY NOT FOR CONSTRUCTION

Dibble Engineering

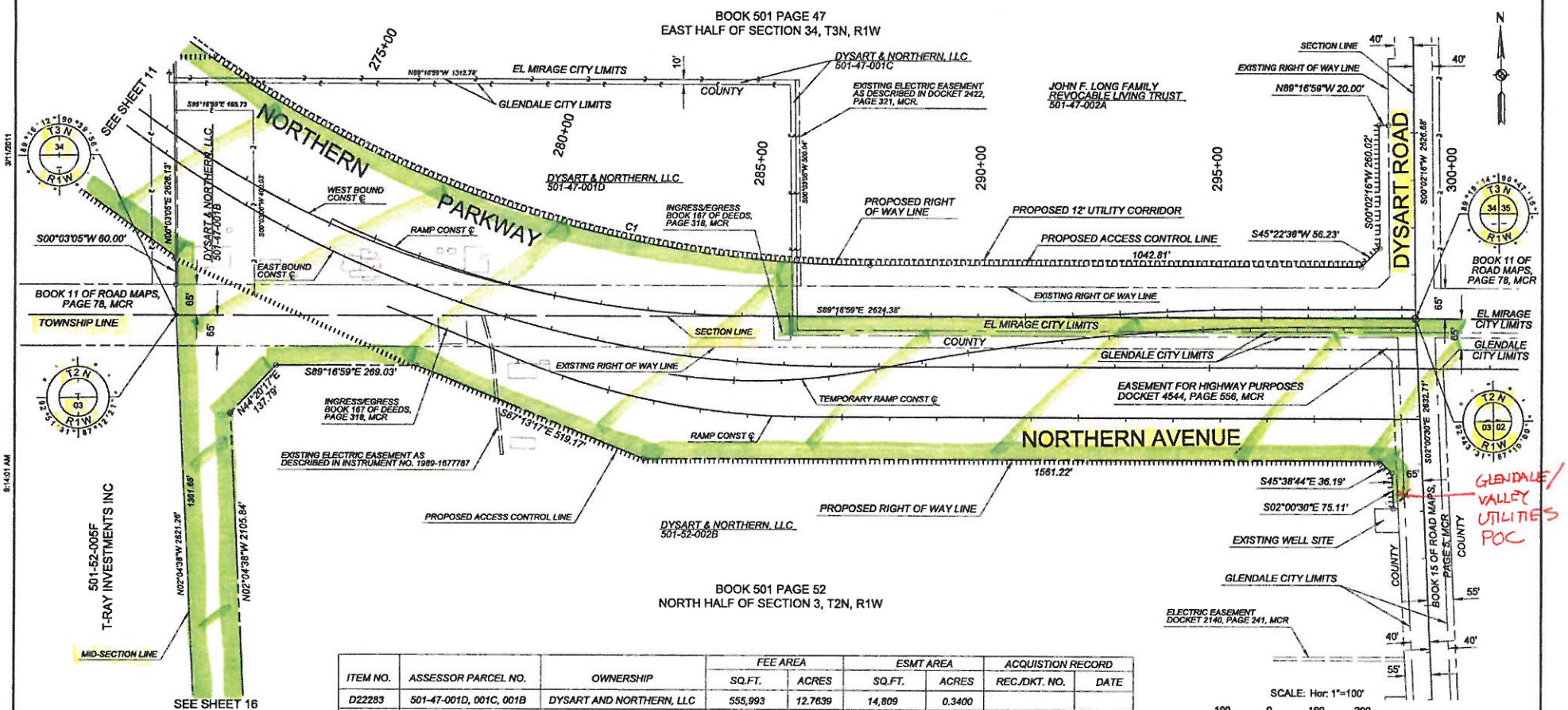
RIGHT OF WAY STRIP MAP

SHEET 11

TRACS NO. SS593 01C

3/11/2011 9:13:11 AM TT195_SR_RowSkyline100_11.dgn

F.H.W.A. REGION	STATE	PROJECT NO.	SHEET NO.	TOTAL SHEETS	RECORD DRAWING
9	AZ	TT195	12	16	



ITEM NO.	ASSESSOR PARCEL NO.	OWNERSHIP	FEE AREA		ESMT AREA		ACQUISTION RECORD	
			SQ.FT.	ACRES	SQ.FT.	ACRES	REC./DKT. NO.	DATE
D22283	501-47-001D, 001C, 001B	DYSART AND NORTHERN, LLC	555,993	12.7639	14,809	0.3400		
D22284	501-52-002B	DYSART AND NORTHERN, LLC	758,320	17.4086				
D22285	501-47-002A	JOHN F. LONG FAMILY REVOCABLE LIVING TRUST	SEE SHEET 11		SEE SHEET 11			

CURVE DATA TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	55°39'05"	2450.00'	2,379.68'

LEGEND:
- ACCESS CONTROL
- EXISTING RIGHT OF WAY
- PROPOSED RIGHT OF WAY
- PROPERTY LINE
- SECTION LINE
- EASEMENT
- CITY LIMITS
- POTENTIAL LANDSCAPE AREAS

NO.	REVISION	BY	DATE
1			
2			
3			

MARICOPA COUNTY
DEPARTMENT OF TRANSPORTATION
ENGINEERING DIVISION

NORTHERN PARKWAY
SARIVAL AVENUE TO DYSART ROAD
PROJECT NO. TT195

	BY	DATE
DESIGNED	N/A	2/11
DRAWN	G. Sainz	2/11
CHECKED	R. Bilyeu	2/11

100% PRELIMINARY NOT FOR CONSTRUCTION

Dibble Engineering

RIGHT OF WAY STRIP MAP

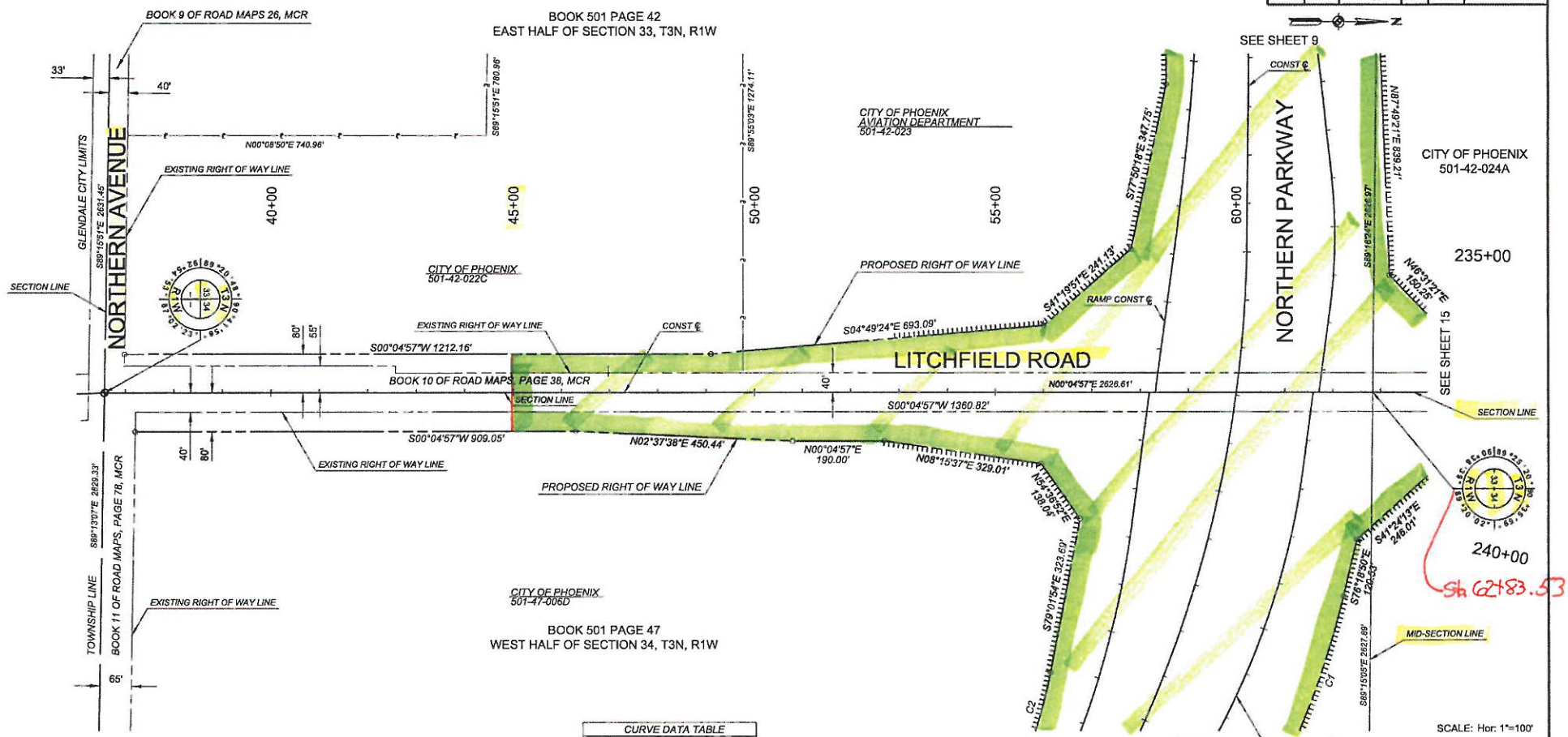
SHEET 12

TRACS NO. SS593 01C

TT195_SR_RowStripMap100_12.dgn

3/11/2011 8:14:01 AM

F.H.W.A. REGION	STATE	PROJECT NO.	SHEET NO.	TOTAL SHEETS	RECORD DRAWING
9	AZ	TT195	14	18	



CURVE DATA TABLE			
NO	DELTA	RADIUS	LENGTH
C1	28°45'35"	1800.00'	903.51'
C2	28°37'24"	1000.00'	499.57'

ITEM NO.	ASSESSOR PARCEL NO.	OWNERSHIP	FEE AREA		ESMT AREA		ACQUISTION RECORD	
			SQ.FT.	ACRES	SQ.FT.	ACRES	REC./DKT. NO.	DATE
D22280	501-42-023, 024A	CITY OF PHOENIX AVIATION DEPARTMENT	SEE SHEET 9	-				
D22281	501-47-006D, 007E, 022C	CITY OF PHOENIX	SEE SHEET 10	-				

LEGEND:
- ACCESS CONTROL
- EXISTING RIGHT OF WAY
- PROPOSED RIGHT OF WAY
- PROPERTY LINE
- SECTION LINE
- EASEMENT
- CITY LIMITS
- POTENTIAL LANDSCAPE AREA

NO.	REVISION	BY	DATE
3			
2			
1			

MARICOPA COUNTY
DEPARTMENT OF TRANSPORTATION
ENGINEERING DIVISION

NORTHERN PARKWAY
SARIVAL AVENUE TO DYSART ROAD
PROJECT NO. TT195

	BY	DATE
DESIGNED	N/A	2/11
DRAWN	G. Salnz	2/11
CHECKED	R. Bilyeu	2/11

100% PRELIMINARY NOT FOR CONSTRUCTION

Dibble Engineering

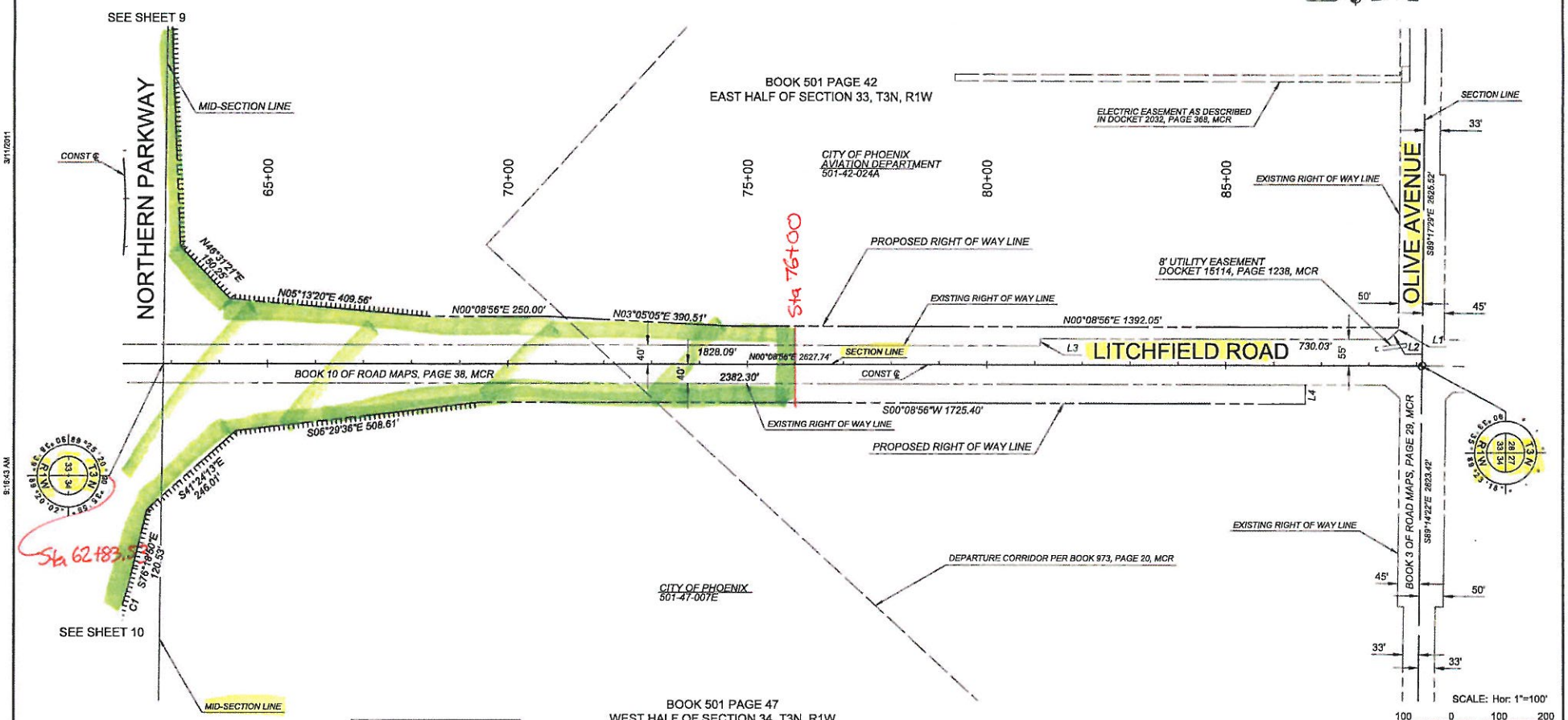
RIGHT OF WAY STRIP MAP

SHEET 14

TRACS NO. SS593 01C

3/11/2011 9:15:51 AM TT195_3R_RowStripMap199_14.dgn

F.H.W.A. REGION	STATE	PROJECT NO.	SHEET NO.	TOTAL SHEETS	RECORD DRAWING
9	AZ	TT195	15	16	



LINE DATA TABLE		
NO.	BEARING	DISTANCE
L1	S89°17'29"E	5.00'
L2	S44°34'11"E	28.42'
L3	S89°17'29"E	15.00'
L4	S89°14'22"E	40.00'

CURVE DATA TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	28°45'35"	1800.00'	903.51'

ITEM NO.	ASSESSOR PARCEL NO.	OWNERSHIP	FEE AREA		ESMT AREA		ACQUISTION RECORD	
			SQ.FT.	ACRES	SQ.FT.	ACRES	REC/DKT. NO.	DATE
D22280	501-42-024A, 023, 022C	CITY OF PHOENIX AVIATION DEPARTMENT	SEE SHEET 9	-				
D22281	501-47-007E, 006D	CITY OF PHOENIX	SEE SHEET 10	-				

LEGEND:
- ACCESS CONTROL
- EXISTING RIGHT OF WAY
- PROPOSED RIGHT OF WAY
- PROPERTY LINE
- SECTION LINE
- EASEMENT
- CITY LIMITS
- POTENTIAL LANDSCAPE AREA

NO.	REVISION	BY	DATE

MARICOPA COUNTY
DEPARTMENT OF TRANSPORTATION
ENGINEERING DIVISION

NORTHERN PARKWAY
SARIVAL AVENUE TO DYSART ROAD
PROJECT NO. TT195

	BY	DATE
DESIGNED	N/A	2/11
DRAWN	G. Sainz	2/11
CHECKED	R. Bilyeu	2/11

100% PRELIMINARY NOT FOR CONSTRUCTION

Dibble Engineering

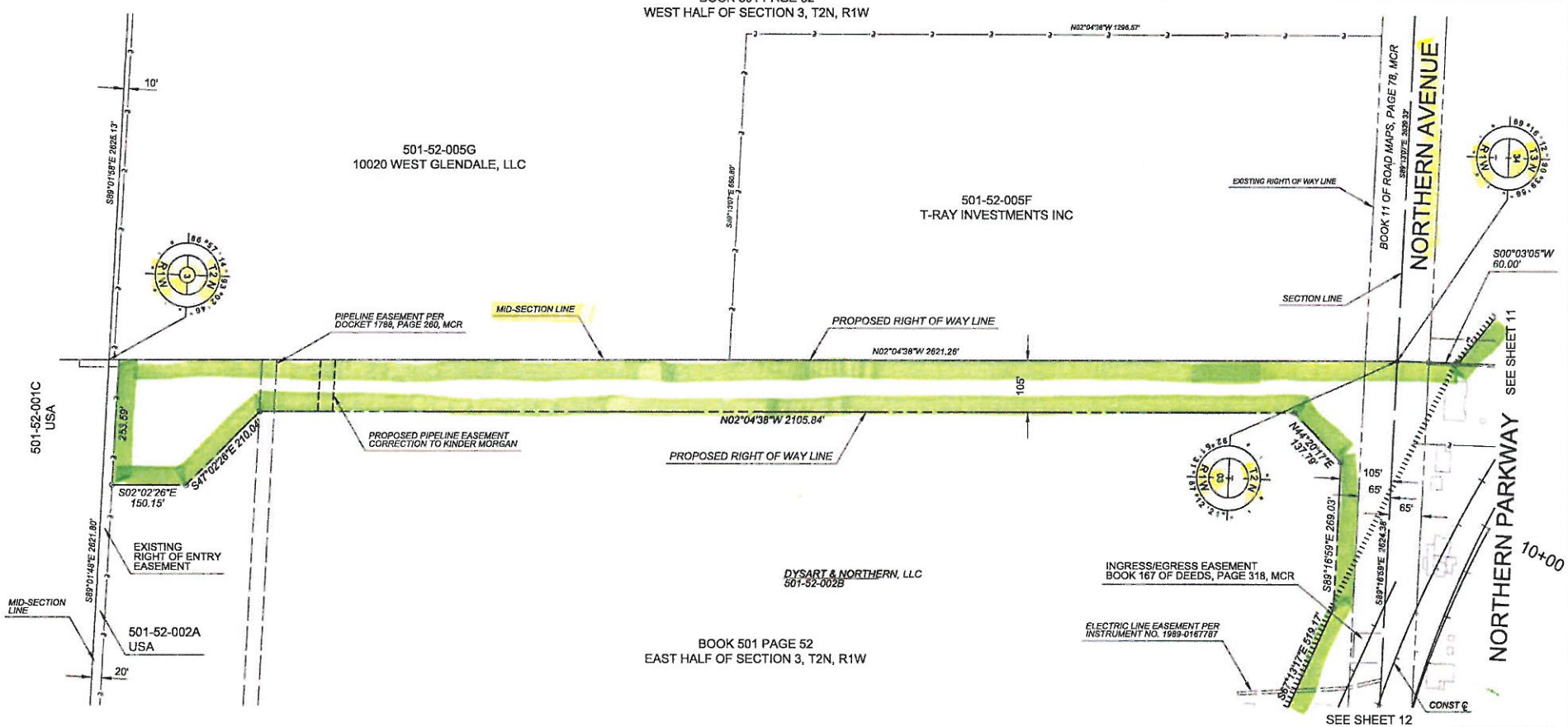
RIGHT OF WAY STRIP MAP

SHEET 15

TRACS NO. SS593 01C

3/11/2011 9:16:43 AM TT195_SR_RowStripMap100_15.dgn

F.H.W.A. REGION	STATE	PROJECT NO.	SHEET NO.	TOTAL SHEETS	RECORD DRAWING
9	AZ	TT195	16	16	



SCALE: Hor: 1"=100'

100 0 100 200
SCALE IN FEET

ITEM NO.	ASSESSOR PARCEL NO.	OWNERSHIP	FEE AREA		ESMT AREA		ACQUISTION RECORD	
			SQ.FT.	ACRES	SQ.FT.	ACRES	REC./DKT. NO.	DATE
D22284	501-52-002B	DYSART AND NORTHERN, LLC	SEE SHEET 12					

LEGEND:
ACCESS CONTROL
EXISTING RIGHT OF WAY
PROPOSED RIGHT OF WAY
PROPERTY LINE
SECTION LINE
EASEMENT
CITY LIMITS
POTENTIAL LANDSCAPE AREA

NO.	REVISION	BY	DATE
1			
2			
3			

MARICOPA COUNTY
DEPARTMENT OF TRANSPORTATION
ENGINEERING DIVISION

NORTHERN PARKWAY
SARIVAL AVENUE TO DYSART ROAD
PROJECT NO. TT195

	BY	DATE
DESIGNED	N/A	2/11
DRAWN	G. Salsz	2/11
CHECKED	R. Bilyeu	2/11

100% PRELIMINARY NOT FOR CONSTRUCTION

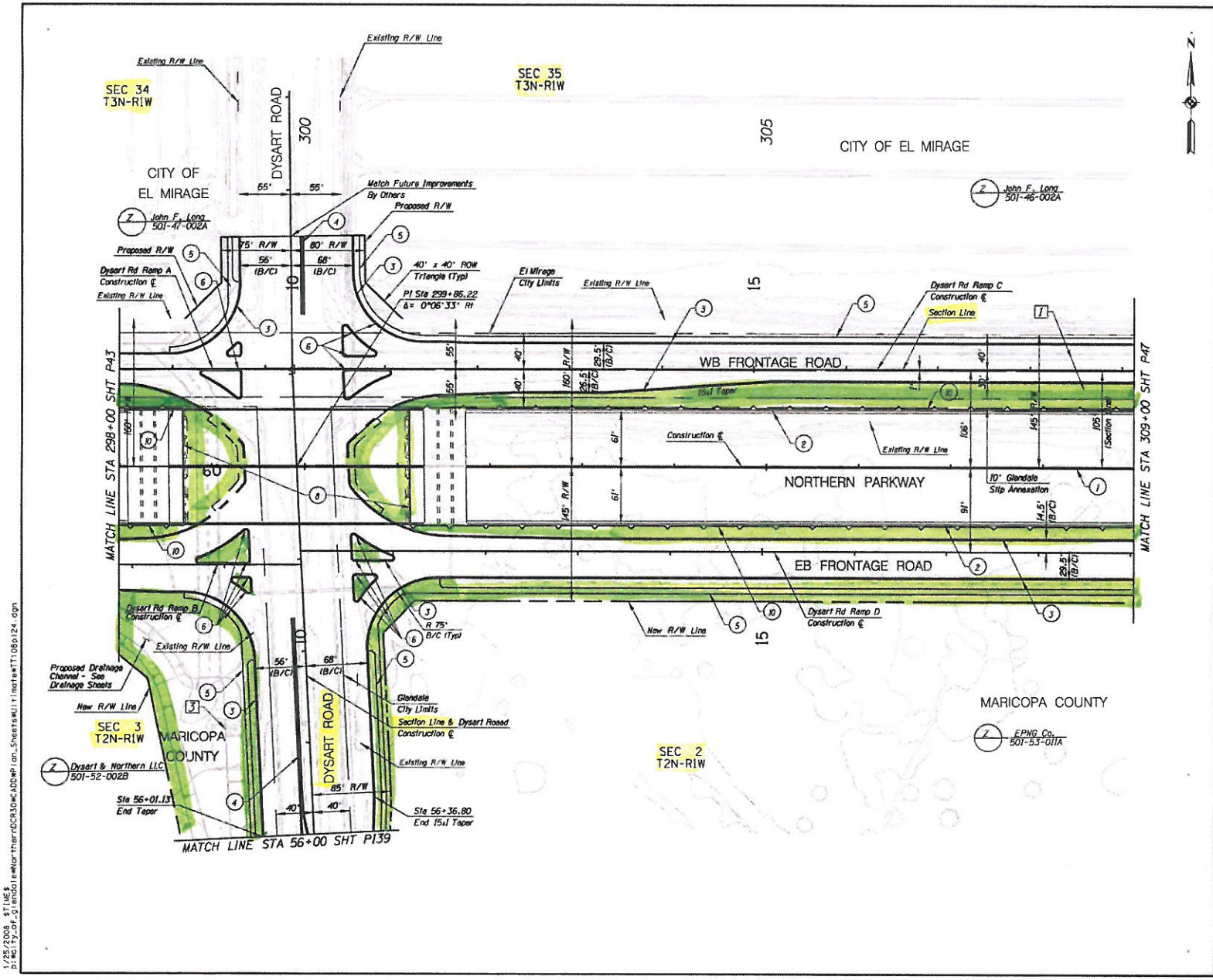
Dibble Engineering

RIGHT OF WAY STRIP MAP

SHEET 16

TRACS NO. SS593 01C

3/11/2011 9:17:40 AM TT195_SR_RowStripMap100_18.dgn



F.W.H.A. REGION	STATE	PROJECT NO.	SHEET NO.	TOTAL SHEETS	RECORD DRAWING
9	AZ.	T195	XX	XX	XXXXX

☐ REMOVAL /RELOCATE ☐

1. Remove Pvmt
2.
3. Relocate Well

○ CONSTRUCTION ○

1. New Median Barrier
2. New Half Barrier
3. New Curb & Gutter
4. New Median Curb
5. New S/W
6. New S/W Ramp
7. New Fence
8. New Bridge
9.
10. New Retaining Wall

POTENTIAL LANDSCAPE AREA - GLENDALE

NO.	REVISION	BY	DATE
1			
2			
3			
4			

MARICOPA COUNTY
DEPARTMENT OF TRANSPORTATION
ENGINEERING DIVISION

NORTHERN PARKWAY
LOOP 303 to GRAND AVENUE
PROJECT NO. T195

PRELIMINARY NOT FOR CONSTRUCTION

DESIGNED	P T BACA/R HOOKEY	1/08
DRAWN	L WAGNER	1/08
CHECKED	R MILES	1/08

URS

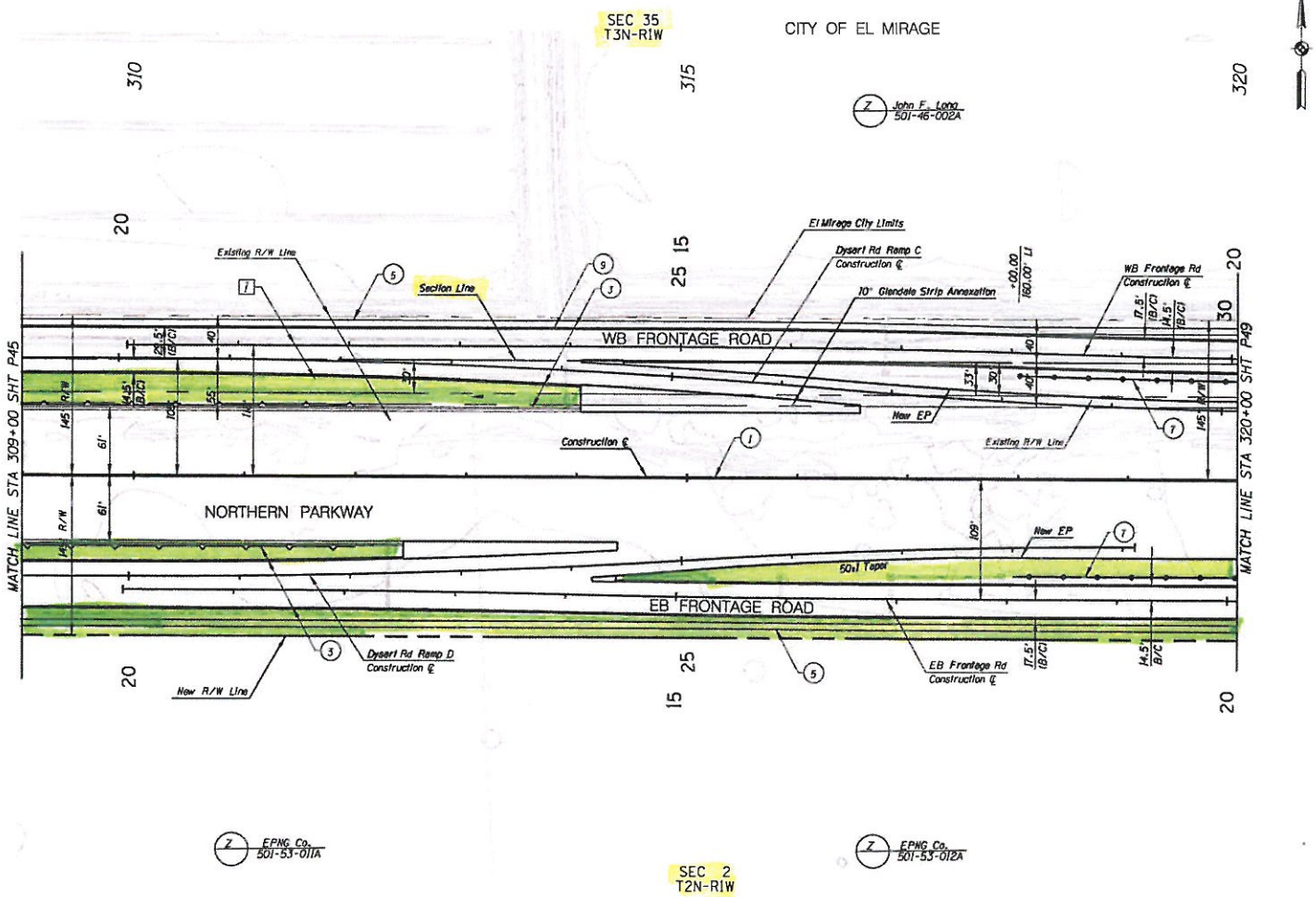
PAVING PLAN SHEET
STA 298+00 TO STA 309+00

SHEET P45

TRACS NO. 0000 MA MMA SS593 01C

1/25/2008 $TIME$
D:\Acl\Type_of_Sj\Dsjolee\Northern\DCR30\CADD\Plan_Sheets\Multimate\T1108p124.dgn

English



F.W.H.A. REGION	STATE	PROJECT NO.	SHEET NO.	TOTAL SHEETS	RECORD DRAWING
9	AZ.	T195	XX	XX	XXXXX

☐ REMOVAL /RELOCATE ☐

(7) Remove Pvmt

CONSTRUCTION

1. New Median Barrier
2. New Half Barrier
3. New Curb & Gutter
4.
5. New S/W
6.
7. New Fence
8.
9. New D/W at Existing D/W Location

POTENTIAL LANDSCAPE AREA - GLENDALE

NO.	REVISION	BY	DATE
3			
2			
1			

MARICOPA COUNTY
DEPARTMENT OF TRANSPORTATION
ENGINEERING DIVISION

NORTHERN PARKWAY
LOOP 303 to GRAND AVENUE
PROJECT NO. T195

PRELIMINARY NOT FOR CONSTRUCTION

DESIGNED	P T BACA/R HOOKEY	1/08
DRAWN	L WAGNER	1/08
CHECKED	R MILES	1/08

URS

PAVING PLAN SHEET
STA 309+00 TO STA 320+00

SHEET P47

TRACS NO. 0000 MA MMA S5593 DIC

1/25/2008 STIWES
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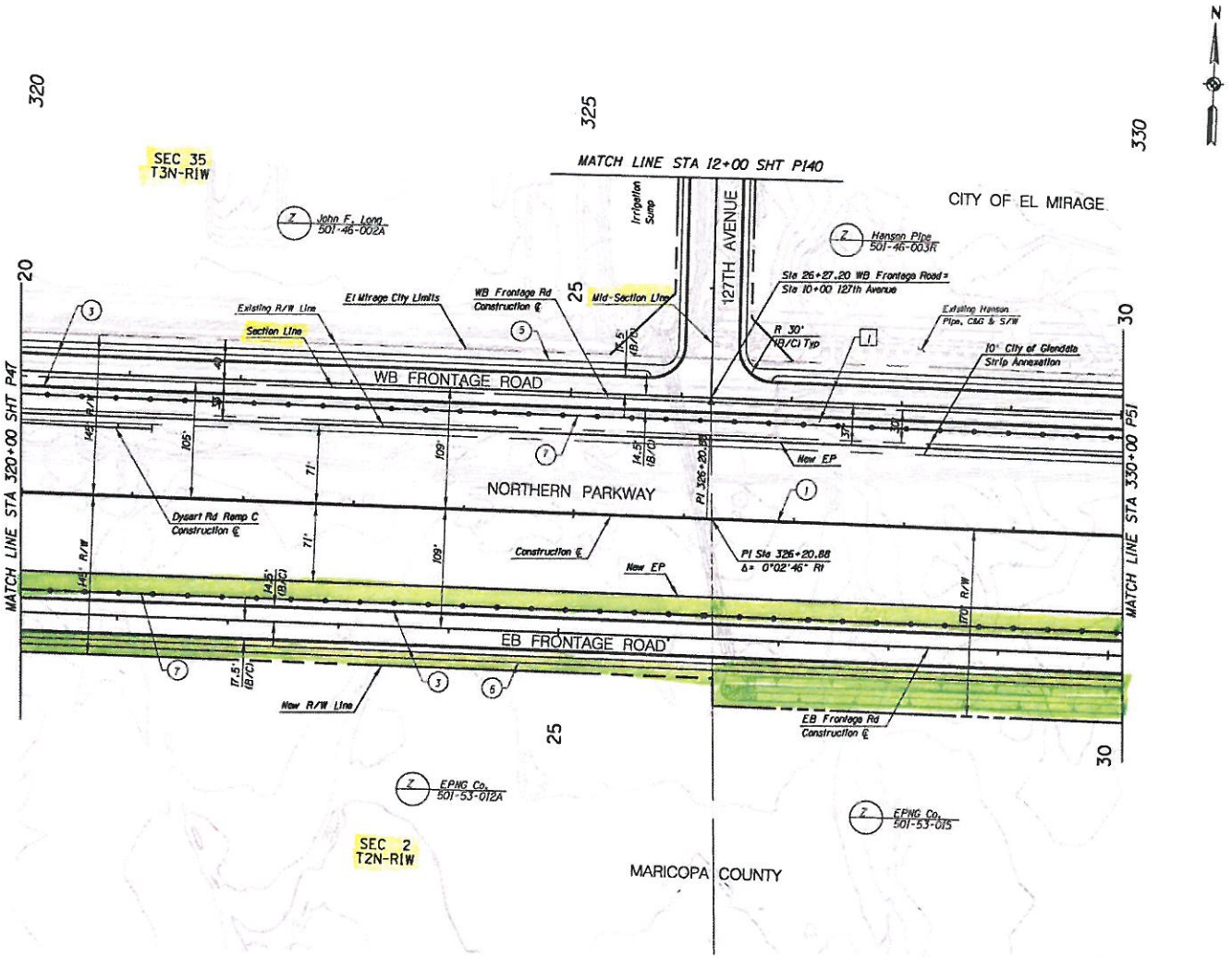


F.W.H.A. REGION	STATE	PROJECT NO.	SHEET NO.	TOTAL SHEETS	RECORD DRAWING
9	AZ.	T195	XX	XX	XXXXX

☐ REMOVAL /RELOCATE ☐

[1] Remove Pvmt

CONSTRUCTION

1. New Median Barrier
2.
3. New Curb & Gutter
4.
5. New S/W
6.
7. New Fence

POTENTIAL LANDSCAPE AREA – GLENDALE

NO.	REVISION	BY	DATE
1			
2			
3			
4			

MARICOPA COUNTY
DEPARTMENT OF TRANSPORTATION
ENGINEERING DIVISION

NORTHERN PARKWAY
LOOP 303 to GRAND AVENUE
PROJECT NO. T195

PRELIMINARY NOT FOR CONSTRUCTION

DESIGNED	P T BACA/R HOOKEY	1/08
DRAWN	L WAGNER	1/08
CHECKED	R MILES	1/08

URS

PAVING PLAN SHEET
STA 320+00 TO STA 330+00

SHEET P49

TRACS NO. 0000 MA MMA S5593 01C

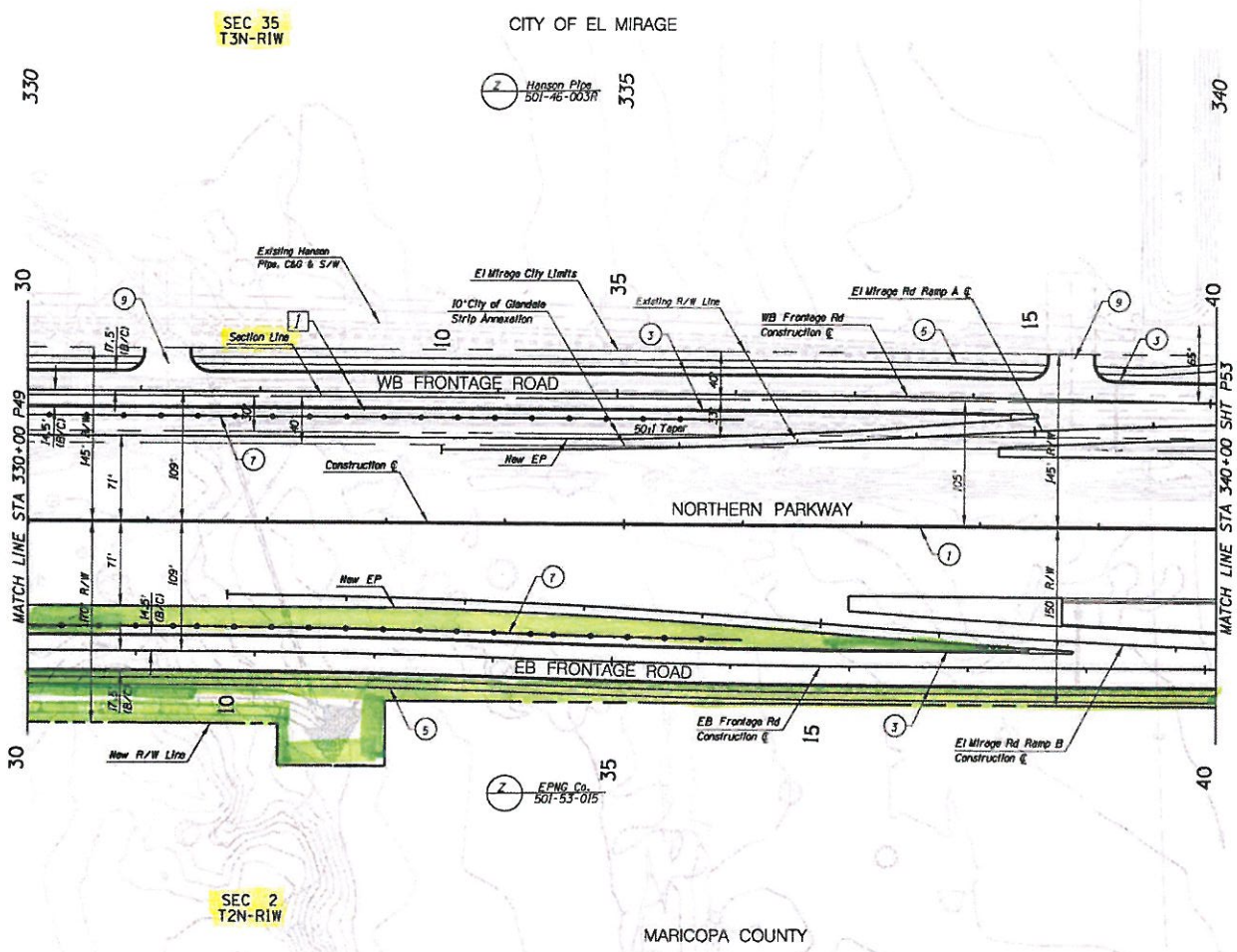
1/25/2008 &TIME&
D:\ACTIVITY.OUT\BRIDGE\NorthernDCR30\CADD\Plan_Sheets\Ultimate\T110bp126.dgn

English

F.W.H.A. REGION	STATE	PROJECT NO.	SHEET NO.	TOTAL SHEETS	RECORD DRAWING
9	AZ.	T195	XX	XX	XXXXX

☐ REMOVAL /RELOCATE ☐

[1] Remove Pvmt



☐ CONSTRUCTION ☐

1. New Median Barrier
2.
3. New Curb & Gutter
4.
5. New S/W
6.
7. New Fence
8.
9. New D/W

POTENTIAL LANDSCAPE AREA -GLENDALE

NO.	REVISION	BY	DATE
4			
3			
2			
1			

MARICOPA COUNTY
DEPARTMENT OF TRANSPORTATION
ENGINEERING DIVISION

NORTHERN PARKWAY
LOOP 303 to GRAND AVENUE
PROJECT NO. T195

PRELIMINARY NOT FOR CONSTRUCTION

DESIGNED	P T BACA/R HOOKEY	1/08
DRAWN	L WAGNER	1/08
CHECKED	R MILES	1/08

URS

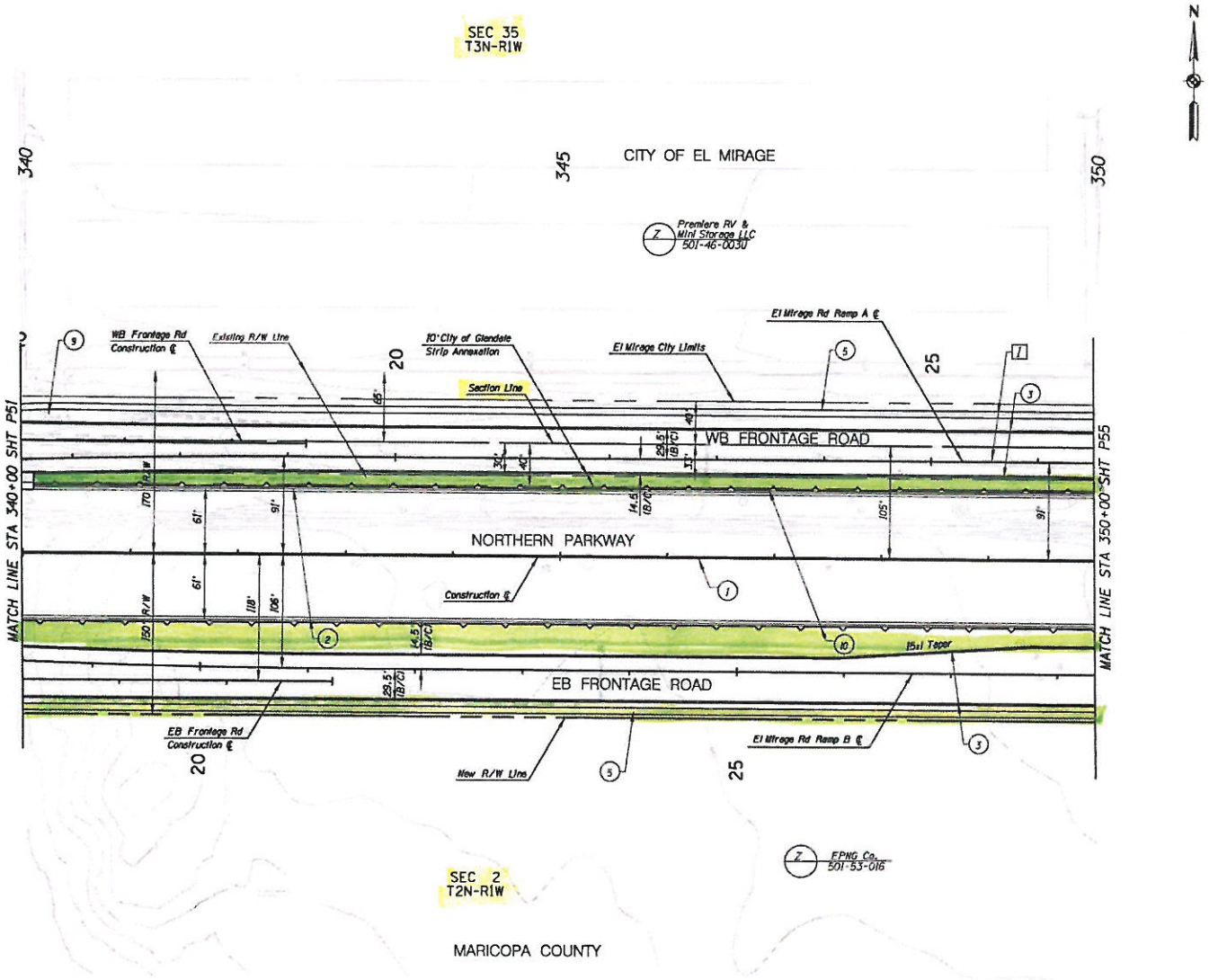
PAVING PLAN SHEET
STA 330+00 TO STA 340+00

SHEET P51

TRACS NO. 0000 MA MMA S5593 01C

1/25/2008 $TIME$
D:\Acty\Ca01\Models\Northern\DCR30\ADD\Plan_Sheets\Multi_Mode\T108p127.dgn

English



F.W.H.A. REGION	STATE	PROJECT NO.	SHEET NO.	TOTAL SHEETS	RECORD DRAWING
9	AZ.	T195	XX	XX	XXXXX

☐ REMOVAL /RELOCATE ☐

[1] Remove Pvmt

CONSTRUCTION

1. New Median Barrier
2. New Half Barrier
3. New Curb & Gutter
4.
5. New S/W
6.
7.
8.
9. New D/W
10. New Retaining Wall at Existing D/W Location

POTENTIAL LANDSCAPE AREA - GLENDALE

NO.	REVISION	BY	DATE
3			
2			
1			

MARICOPA COUNTY
DEPARTMENT OF TRANSPORTATION
ENGINEERING DIVISION

NORTHERN PARKWAY
LOOP 303 to GRAND AVENUE
PROJECT NO. T195

PRELIMINARY NOT FOR CONSTRUCTION

DESIGNED	P T BACA/R HOOKEY	1/08
DRAWN	L WAGNER	1/08
CHECKED	R MILES	1/08

URS

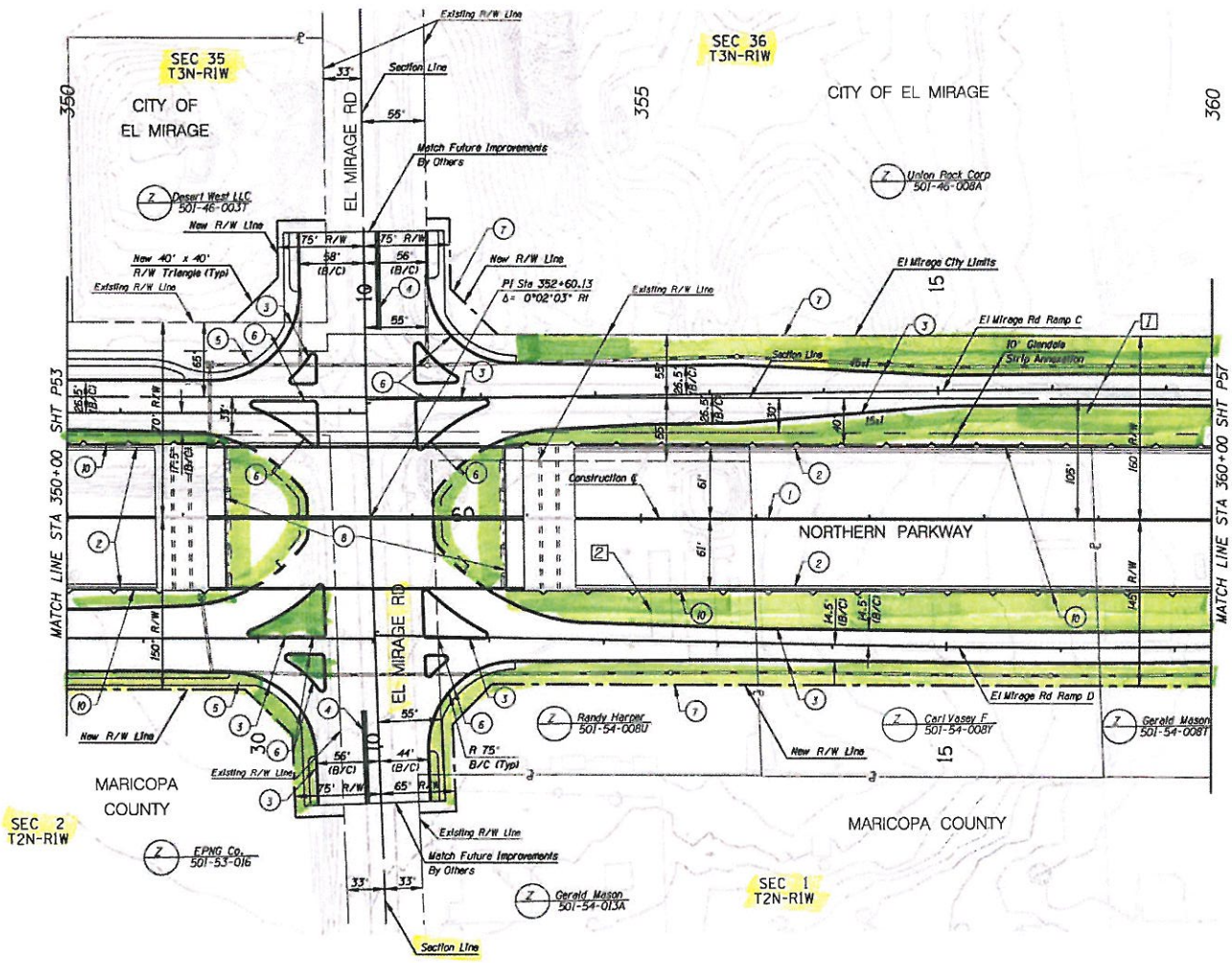
PAVING PLAN SHEET
STA 340+00 TO STA 350+00

SHEET P53

TRACS NO. 0000 MA MVA SS593 01C

English

1/25/2008 $TIME$
p:\city_of_glendale\northern\DCR30\CADD\Plan_Sheets\Utilities\T108p128.dgn



F.W.H.A. REGION	STATE	PROJECT NO.	SHEET NO.	TOTAL SHEETS	RECORD DRAWING
9	AZ.	T195	XX	XX	XXXXX

☐ REMOVAL /RELOCATE ☐

1. Remove Pvmt
2. Remove Business
3.

○ CONSTRUCTION ○

1. New Median Barrier
2. New Half Barrier
3. New Curb & Gutter
4. New Median Curb
5. New S/W
6. New S/W Ramp
7. New R/W Fence
8. New Bridge
9.
10. New Retaining Wall

POTENTIAL LANDSCAPE AREA -GLENDALE

NO.	REVISION	BY	DATE
1			
2			
3			
4			

MARICOPA COUNTY
DEPARTMENT OF TRANSPORTATION
ENGINEERING DIVISION

NORTHERN PARKWAY
LOOP 303 to GRAND AVENUE
PROJECT NO. T195

PRELIMINARY NOT FOR CONSTRUCTION

DESIGNED	P T BACA/R HOOKEY	7/08
DRAWN	L WAGNER	7/08
CHECKED	R MILES	7/08

URS

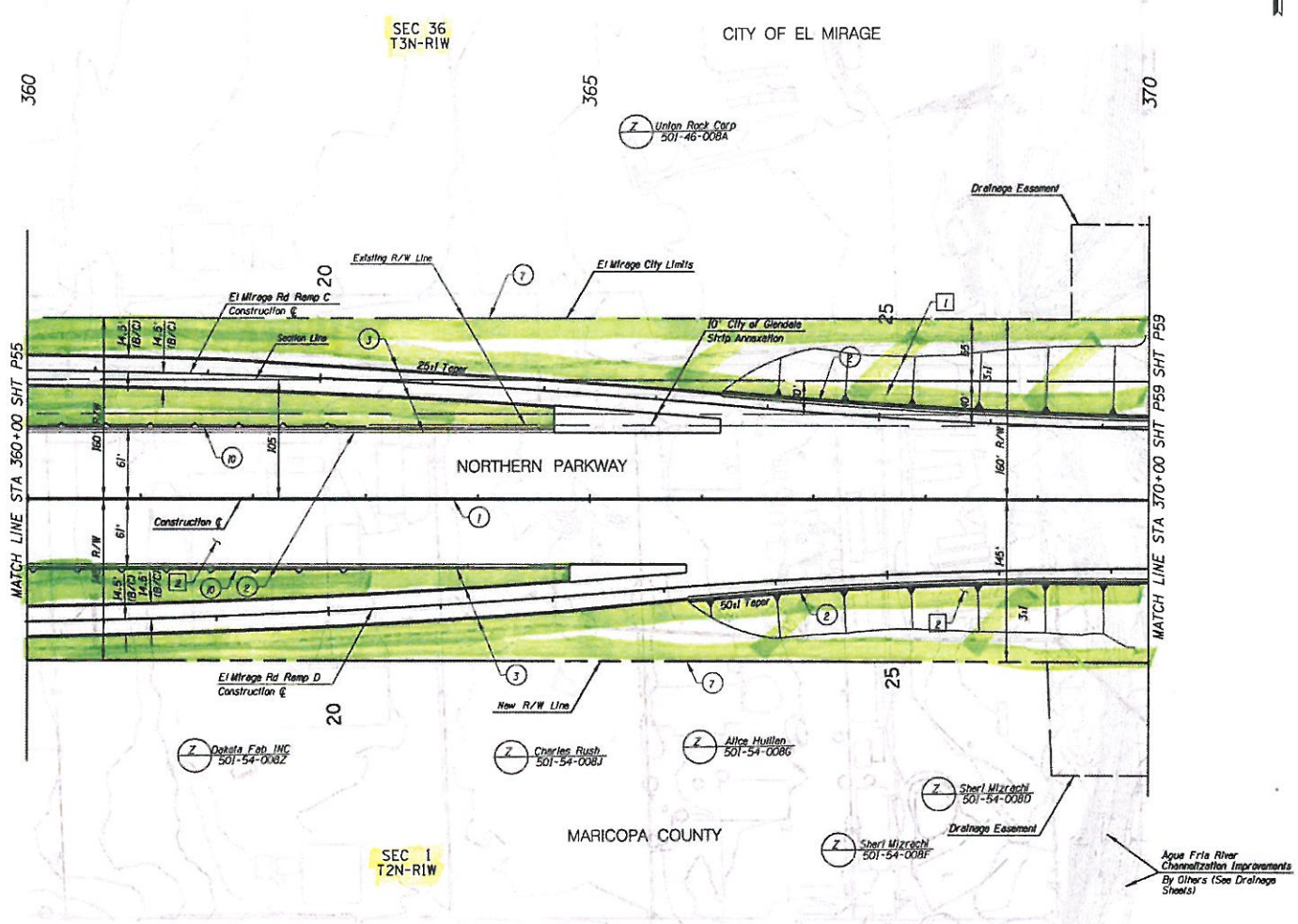
PAVING PLAN SHEET
STA 350+00 TO STA 360+00

SHEET P55

TRACS NO. 0000 MA MMA S5593 01C

English

5/23/2008 4TIME4
N:\TRANSPORTATION\City_of_Glendale\23445409_Glendale_Onboard_Trans_Program\Task 3 - Northern Parkway\CADD\Plans\Alternative 1\T195p129.dgn



F.W.H.A. REGION	STATE	PROJECT NO.	SHEET NO.	TOTAL SHEETS	RECORD DRAWING
9	AZ.	T195	XX	XX	XXXXX

☐ REMOVAL /RELOCATE ☐

1. Remove Pvmt
2. Remove Business

○ CONSTRUCTION ○

1. New Median Barrier
2. New Half Barrier
3. New Curb & Gutter
4.
5.
6.
7. New R/W Fence
8.
9.
10. New Retaining Wall

POTENTIAL LANDSCAPE AREA - GLENDALE

NO.	REVISION	BY	DATE
1			
2			
3			

MARICOPA COUNTY
DEPARTMENT OF TRANSPORTATION
ENGINEERING DIVISION

NORTHERN PARKWAY
LOOP 303 to GRAND AVENUE
PROJECT NO. T195

PRELIMINARY NOT FOR CONSTRUCTION

DESIGNED	P T BACA/R HOOKEY	1/08
DRAWN	L WAGNER	1/08
CHECKED	R MILES	1/08

URS

PAVING PLAN SHEET
STA 360+00 TO STA 370+00

SHEET P57

TRACS NO. 0000 MA MMA S5593 01C

English

1/25/2006 $TIME$
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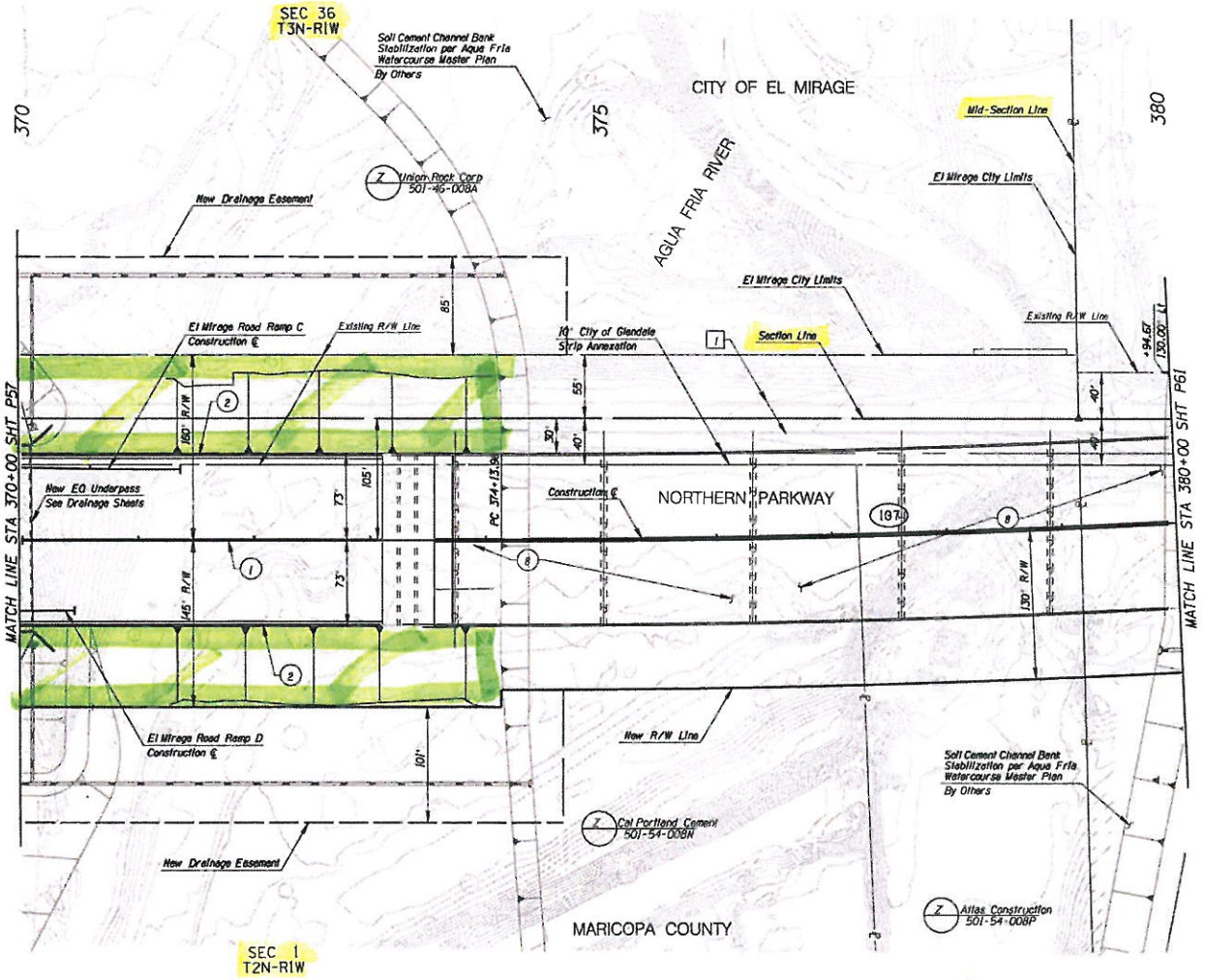


F.W.H.A. REGION	STATE	PROJECT NO.	SHEET NO.	TOTAL SHEETS	RECORD DRAWING
9	AZ.	T195	XX	XX	XXXXX

☐ REMOVAL /RELOCATE ☐

7 Remove Pvmt

CONSTRUCTION

1. New Median Barrier
2. New Half Barrier
3.
4.
5.
6.
7.
8. New Bridge

POTENTIAL LANDSCAPE AREA - GLENDALE

NO.	REVISION	BY	DATE
3			
2			
1			

MARICOPA COUNTY
DEPARTMENT OF TRANSPORTATION
ENGINEERING DIVISION

NORTHERN PARKWAY
LOOP 303 to GRAND AVENUE
PROJECT NO. T195

PRELIMINARY NOT FOR CONSTRUCTION

DESIGNED	P T BACA/R HOOKEY	7/08
DRAWN	L WAGNER	7/08
CHECKED	R MILES	7/08

URS

PAVING PLAN SHEET
STA 370+00 TO STA 380+00

SHEET P59

TRACS NO. 0000 MA MMA SS593 GIC

English

5/27/2009 $TIME$
D:\TRANSPORTATION\City_of_Glendale\2445409_Glendale_Onboard_Trans_Program\Task 3 - Northern Parkway\CADD\Plans\Alternative 1\T195p131.dgn

EXHIBIT 2

ENGINEERING PLAN OF THE MAIN EXTENSION

CITY OF GLENDALE

GLENDALE, ARIZONA

111203

Valley Utilities
Dysart Road
Waterline Extension

GLENDALE

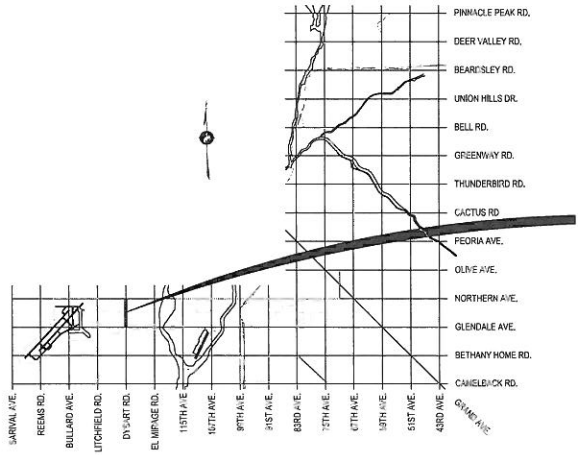
MAYOR
ELAINE M. SCRUGGS

CITY COUNCIL
NORMA S. ALVAREZ
JOYCE V. CLARK
STEVEN E. FRATE
YVONNE J. KNAACK
H. PHILIP LIEBERMAN
MANUEL D. MARTINEZ

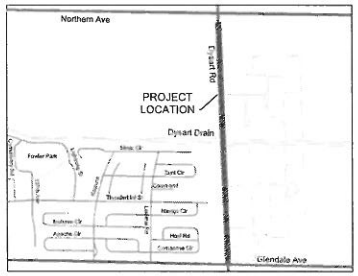
ACTING CITY MANAGER
HORATIO SKEETE

CITY CLERK
PAMELA HANNA

CITY ATTORNEY
CRAIG D. TINDALL



VICINITY MAP



KEY MAP

SHEET INDEX

SHEET NO.	CONTENT
1	Cover Sheet
2	Index Sheet
3	Details/Construction Notes
4	Details/Construction Notes
5	Plan & Profile Sta. 1+00 To 6+00
6	Plan & Profile Sta. 6+00 To 11+00
7	Plan & Profile Sta. 11+00 To 16+00
8	Plan & Profile Sta. 16+00 To 21+00
9	Plan & Profile Sta. 21+00 To 26+00
10	Plan & Profile Sta. 26+00 To 31+00
11	Plan & Profile Sta. 31+00 To 36+00
12	Plan & Profile Sta. 36+00 To 41+00
13	Plan & Profile Sta. 41+00 To 46+00
14	Plan & Profile Sta. 46+00 To 50+59
15	Dysart Drain Crossing - Section & Sleeve Elevation
16	Dysart Drain Crossing - Foundation Details
17	Dysart Drain Crossing - Support Details

RECORD DRAWING

I certify that the locations, elevations, depths and record drawing comments accurately reflect the existing field conditions and materials actually used during construction. This certification is based on periodic field observations and the contractors representations of the facilities as constructed.

NAME _____ DATE _____ (SEAL)

REGISTRATION NO. _____ EXP. DATE _____

REVD. BY: _____
CONSTRUCTION ENGINEER

PLANS ACCEPTANCE

The City of Glendale accepts these plans for construction, as being in general compliance with plan preparation requirements of the City. Responsibility for the completeness and accuracy of the plans and related design resides with the Engineer and the Engineering Firm of Record.

VALLEY UTILITIES WATER COMPANY — DATE

MARICOPA COUNTY DEPARTMENT OF ENVIRONMENTAL SERVICES — DATE

CITY ENGINEER — DATE

TRANSPORTATION DIRECTOR — DATE

FILE NAME: Cover Sheet 2011
REVISION DATE: 8.24.12
PLOTTING DATE: 8.24.12
AUTOCAD VER: 2010

CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (623) 930-3630

Designed DK
Drawn DK
Checked MI

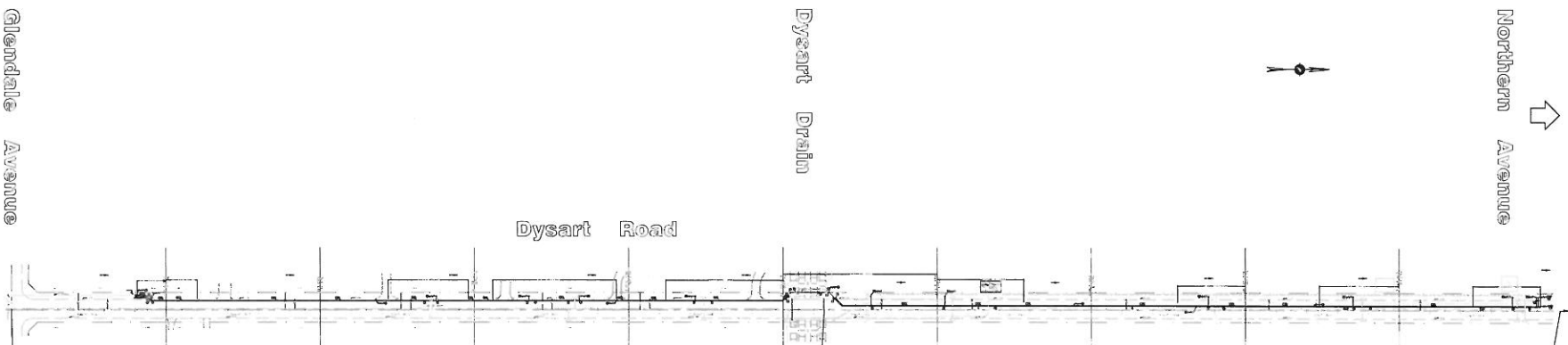
No.	Date	Description

111203
Valley Utilities Dysart Road
Waterline Extension
Cover Sheet

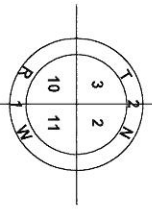
No Scale

602.263.1100

SHT. 1
OF 17



SHEET 5	SHEET 6	SHEET 7	SHEET 8	SHEET 9	SHEET 10	SHEET 11	SHEET 12	SHEET 13	SHEET 14
Sta. 1+00 To 6+00	Sta. 6+00 To 11+00	Sta. 11+00 To 16+00	Sta. 16+00 To 21+00	Sta. 21+00 To 26+00	Sta. 26+00 To 31+00	Sta. 31+00 To 36+00	Sta. 36+00 To 41+00	Sta. 41+00 To 46+00	Sta. 46+00 To 50+59

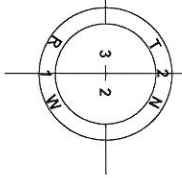


BENCH MARK

Brass Cap In Handhole. 0.5' Dn. El. 1084.72 (Int., Ft.)

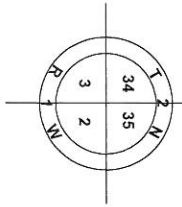
The Elevation Benchmark For This Project Is An Existing Brass Cap In A Handhole Located At The Intersection Of Glendale Avenue And Dysart Road.

Sta. 1+00.00



¾" Rebar

Sta. 27+33.96



Maricopa County Brass Cap In Handhole.

0.5' Dn. El. 1080.56

Sta. 53+66.18

FILE NAME C:__Old Computer\Dysart Waterline PLOTTING DATE: 8-24-12
REVISION DATE 6-06-12 AUTOCAD VER.: 2006

CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (623) 930-3630

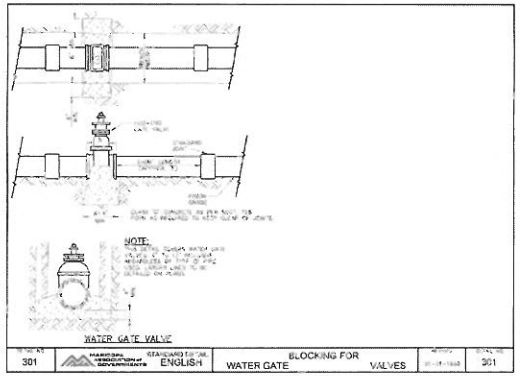
DESIGNED MI DRAWN DK CHECKED MI

NO.	DATE	DESCRIPTION
		REVISIONS

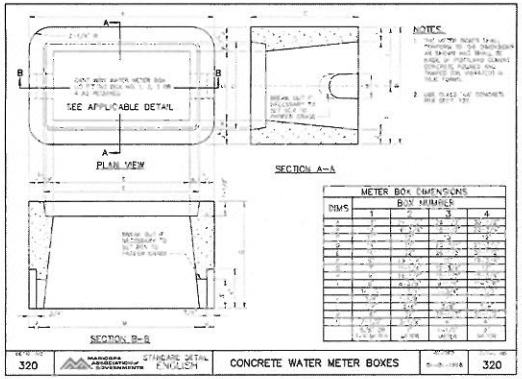
111203
Valley Utilities
Dysart Road Waterline Extension
Index Sheet

CALL THE WORLDS BEST UNDERGROUND 602-263-1100 1-800-STAKE-IT (NOT FOR MARICOPA COUNTY)

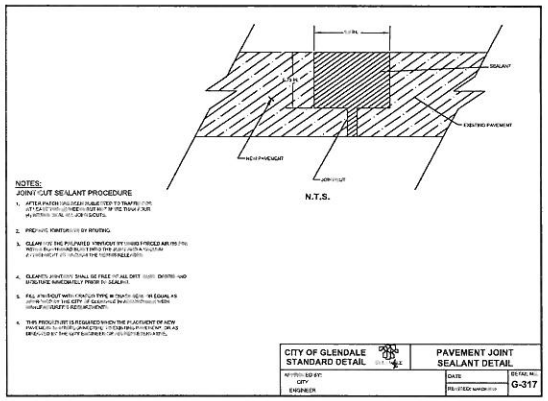
SHT. 2 OF 17



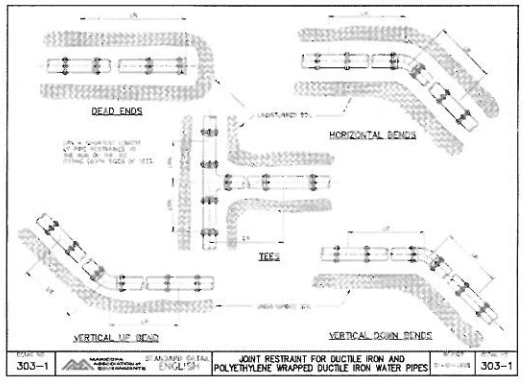
301	MARICOPA ASSOCIATION OF GOVERNMENTS	STANDARD DETAIL ENGLISH	BLOCKING FOR WATER GATE VALVES	301



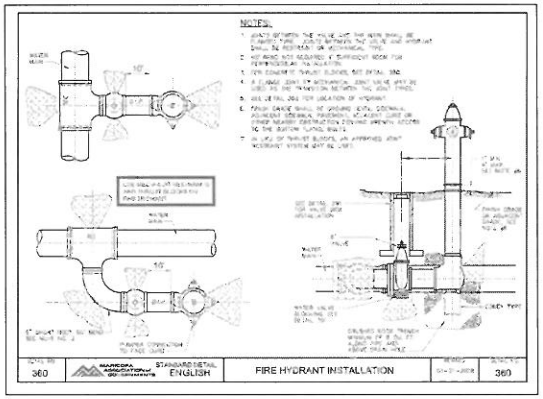
320	MARICOPA ASSOCIATION OF GOVERNMENTS	STANDARD DETAIL ENGLISH	CONCRETE WATER METER BOXES	320



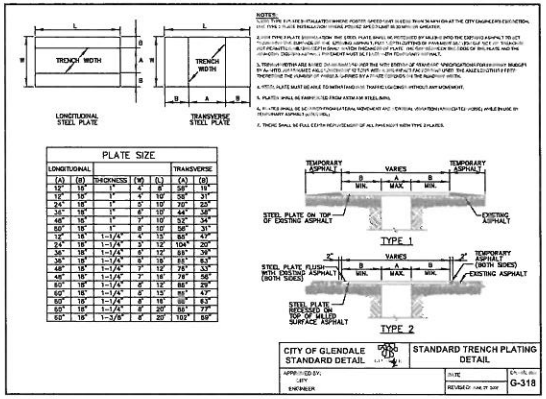
CITY OF GLENDALE STANDARD DETAIL	PAVEMENT JOINT SEALANT DETAIL	G-317



303–1	MARICOPA ASSOCIATION OF GOVERNMENTS	STANDARD DETAIL ENGLISH	JOINT RESTRAINT FOR DUCTILE IRON AND POLYETHYLENE WRAPPED DUCTILE IRON WATER PIPES	303–1



360	MARICOPA ASSOCIATION OF GOVERNMENTS	STANDARD DETAIL ENGLISH	FIRE HYDRANT INSTALLATION	360



CITY OF GLENDALE STANDARD DETAIL	STANDARD TRENCH PLATING DETAIL	G-318

RESTRAINED LENGTHS, LR, FOR DUCTILE IRON PIPE

NOMINAL PIPE SIZE INCHES	HORIZONTAL BENDS		TEES		VERTICAL OFFSETS								DEAD ENDS
4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
6	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
8	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
10	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
12	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
14	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
16	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
18	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
20	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
24	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

RESTRAINED LENGTHS, LR, FOR DUCTILE IRON PIPE WITH POLYETHYLENE WRAP

NOMINAL PIPE SIZE INCHES	HORIZONTAL BENDS		TEES		VERTICAL OFFSETS								DEAD ENDS
4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
6	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
8	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
10	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
12	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
14	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
16	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
18	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
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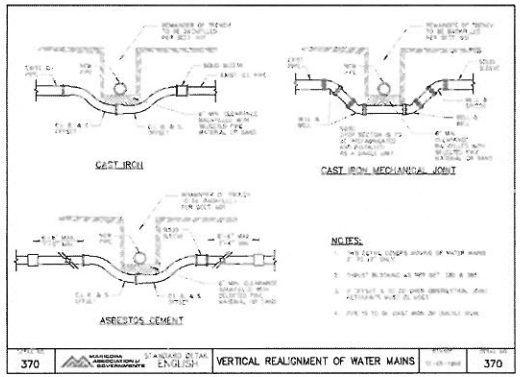
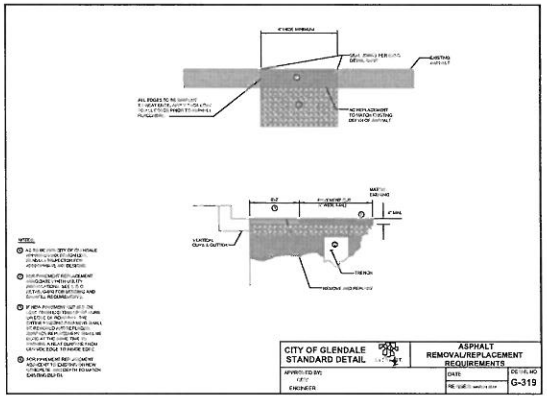
24	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

NOTES:

303–2	MARICOPA ASSOCIATION OF GOVERNMENTS	STANDARD DETAIL ENGLISH	JOINT RESTRAINT FOR DUCTILE IRON AND POLYETHYLENE WRAPPED DUCTILE IRON WATER PIPES	303–2



370	MARICOPA ASSOCIATION OF GOVERNMENTS	STANDARD DETAIL ENGLISH	VERTICAL REALIGNMENT OF WATER MAINS	370



CITY OF GLENDALE STANDARD DETAIL	ASPHALT REMOVAL/REPLACEMENT REQUIREMENTS	G-319

FILE NAME: C:__Old Computer\Dysart Waterline PLOTTING DATE: 8-24-12 REVISION DATE: 7-24-12 AUTOCAD VER.: 2008

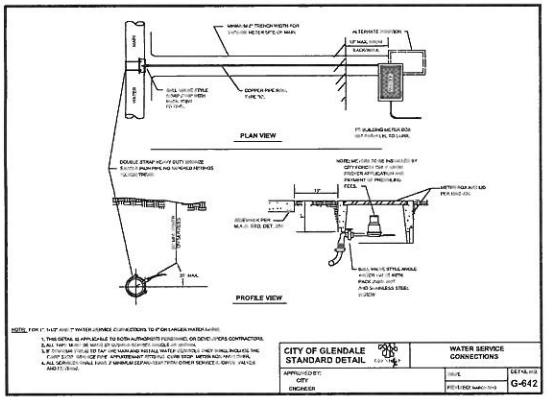
CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (623) 930-3630

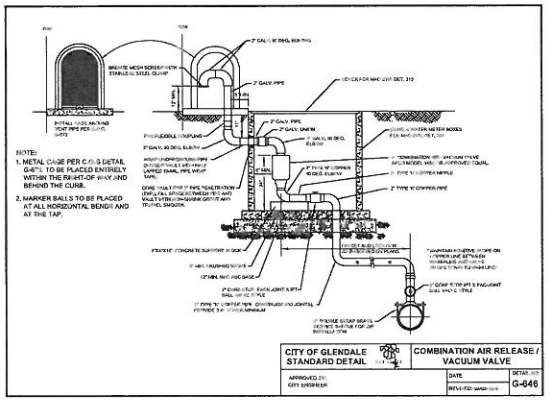
REVISIONS			
BY	DATE	DESCRIPTION	

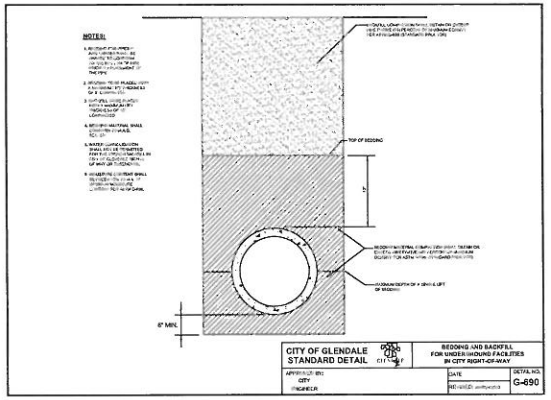
DESIGNED MI
DRAWN DK
CHECKED MI

111203
Valley Utilities
Dysart Road Waterline Extension
Details/Construction Notes

CALL THE NUMBER BELOW BEFORE YOU DIG
602-263-1100
1-800-STAKE-IT
(ARIZONA BLUE STAKE, INC.)







VALLEY UTILITIES WATER CO., INC.

GENERAL CONSTRUCTION NOTES

1. VUWCO SHALL BE CONTACTED 48 HOURS PRIOR TO ANY CONSTRUCTION (623) 935-1100. CONSTRUCTION WORK CONCEALED WITHOUT PRIOR INSPECTION BY VUWCO OR ITS DESIGNATED REPRESENTATIVE SHALL BE SUBJECT TO REMOVAL AND REPLACEMENT AT THE CONTRACTOR'S EXSPENSE.
2. PRESSURE TESTING WILL NOT BE DONE UNTIL AFTER THE CONTRACTOR HAS PRE-TESTED 100% OF THE MAINS. FINAL PRESSURE TESTING OVERSIGHT MUST BE CALLED IN TO VUWCO 24 HOURS IN ADVANCE (623) 935-1100.
3. ALL MAINS SHALL BE CHLORINATED PER M.A.G. SPECIFICATION SECTION 611. MAINS SHALL BE FLUSHED THROUGH FIRE HYDRANT METERS SUPPLIED BY VUWCO AND PAID FOR BY THE CONTRACTOR. FINAL BACTERIA SAMPLING WILL BE PERFORMED BY VUWCO, PAID FOR BY THE CONTRACTOR AND MUST BE COORDINATED 24 HOURS IN ADVANCE.
4. VUWCO WILL PROVIDE METERED WATER FOR USE IN CONSTRUCTION ACTIVITIES AND PAID FOR BY THE CONTRACTOR. VUWCO WILL PROVIDE FIRE HYDRANT METERS TO THE CONTRACTOR FOR USE IN CHARGING AND CHLORINATING WATER LINES ONCE THE PREVAILING FEES ARE PAID. CONTRACTOR SHOULD NOTE THAT THE UNLAWFUL EXTRACTION OF WATER FROM A FIRE HYDRANT IS A CRIMINAL OFFENSE. VUWCO WILL ACTIVELY AND AGRESSIVELY PURSUE PROSECUTION OF PERSONS ILLEGALLY EXTRACTING WATER FROM WATER SYSTEM HYDRANTS. HYDRANT METERS CAN BE OBTAINED BY CALLING (623) 935-1100.
5. ALL DUCTILE IRON WATER PIPE SHALL AT VUWCO'S DISCRESSION, SHALL BE BLACK POLYETHYLENE PROTECTED AND SECURED USING AWWA APPROVED PIPE WRAPPING TAPE. DUCT TAPE WILL NOT BE ALLOWED.
6. THRUST AND JOINT RESTRAINT SHALL BE PROVIDED PER M.A.G. STANDARD DETAIL 303-1 & 303-2. MEG-A-LUG OR FIELD-LOK GASKET OR APPROVED EQUIVALENT MAY BE USED. DEAD END LINES AS FOUND IN CUL-DE-SAC'S WILL USE THE 2" TAPPED CAP FOR THE BLOW OFF TO SERVE AND SERVICE LINE NEEDS FOR WATER METERS, AT THE END OF CUL-DE-SAC, PRECLUDING STAGNANT WATER IN THE DEAD END LINE.
7. THE CONTRACTOR SHALL CONTACT THE BLUESTAKE CENTER (602) 263-1100 AT LEAST 48 HOURS PRIOR TO COMMENCING ANY UNDERGROUND EXCAVATION.
8. THE CONTRACTOR IS RESPONSIBLE TO OBTAIN ALL NECESSARY PERMITS PRIOR TO STARTING CONSTRUCTION.
9. A SIGNED AND VUWCO APPROVED SET OF CONSTRUCTION PLANS MUST BE ON THE JOB SITE AT ALL TIMES.
10. UTILITIY LINE SEPERATION SHALL BE AS DEFINED IN M.A.G. STANDARD DETAIL 404 AND ENGINEERING BULLETIN NO. 10, CHAPTER 7.
11. ALL PIPELINES SHALL BE INSTALLED IN SUCH A MANNER AS TO BE STRAIGHT AND AVOID DIPS OR RISES. PIPELINE DEFLECTION SHALL BE LIMITED TO AWWA GUIDELINES FOR DUCTILE IRON PIPE.
12. THE CONTRACTOR SHALL NOT MAKE MORE THAN ONE CONNECTION TO THE EXISTING VUWCO WATER SYSTEM UNTIL ALL TESTING IS COMPLETE AND HAS PASSED LABORATORY ANALYSIS. VUWCO WILL ADVISE THE CONTRACTOR WHEN LAB RESULTS INDICATE SATISFACTORY COMPLETION.
13. **FINAL MYLAR AND AUTO CADD DRAWING "AS-BUILTS" MUST BE RECEIVED BY VUWCO BEFORE A "LETTER OF ACCEPTANCE" WILL BE ISSUED.**
14. THE CONTRACTOR SHALL FOLLOW OSHA GUIDELINES AND REGULATIONS AT ALL TIMES.
15. EXISTING WATER LINE VALVES SHALL ONLY BE OPERATED BY VUWCO PERSONNEL.
16. VUWCO WILL FURNISH AND INSTALL ALL WATER METERS ONCE THE PREVAILING FEES ARE PAID.
17. ALL PAVEMENT REPLACEMENT SHALL CONFORM TO M.A.G. SPECIFICATIONS AND DETAILS.
18. THE CONTRACTOR IS HEREBY ADVISED THAT THE PRODUCTS AND WORKMANSHIP FOR THIS PROJECT ARE WARRANTED TO VUWCO FOR A PERIOD OF TWO (2) YEARS FROM THE DATE OF THE FINAL SIGNED VUWCO ACCEPTANCE LETTER.
19. THE CONTRACTOR WILL COORDINATE WORK EFFORTS WITH ANY CURB AND GUTTER CONTRACTORS FOR THE PLACEMENT OF STAMPED "W" SYMBOL INTO THE WET CONNCRETE AT TIME OF INSTALLATION. THE "W" SYMBOL WILL BE LOCATED AT EACH LOCATION WHERE A WATER SERVICE CONNECTION CROSSES THE CURB AND GUTTER.
20. THE CONTRACTOR WILL ADVISE VUWCO IMMEDIATELY WHEN A CONFLICT WITH ANY OTHER UTILITY OR OBSTICLE THAT MAY CAUSE A DEVIATION IN THE APPROVED PLANS. ALL CHANGES TO THE APPROVED PLANS MUST BE APPROVED IN WRITING BY VUWCO BEFORE SAID CHANGE OR CHANGES ARE MADE AND AN "AS-BUILT" MUST BE PROVIDED.
21. DETECTABLE WATER LINE WARNING TAPE MUST BE INSTALLED 12 INCHES ABOVE PIPE.

FILE NAME: C:_Old Computer\Dysart Waterline PLOTTING DATE: 8-24-12 REVISION DATE: 7-24-12 AUTOCAD VER.: 2008

CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (623) 930-3630

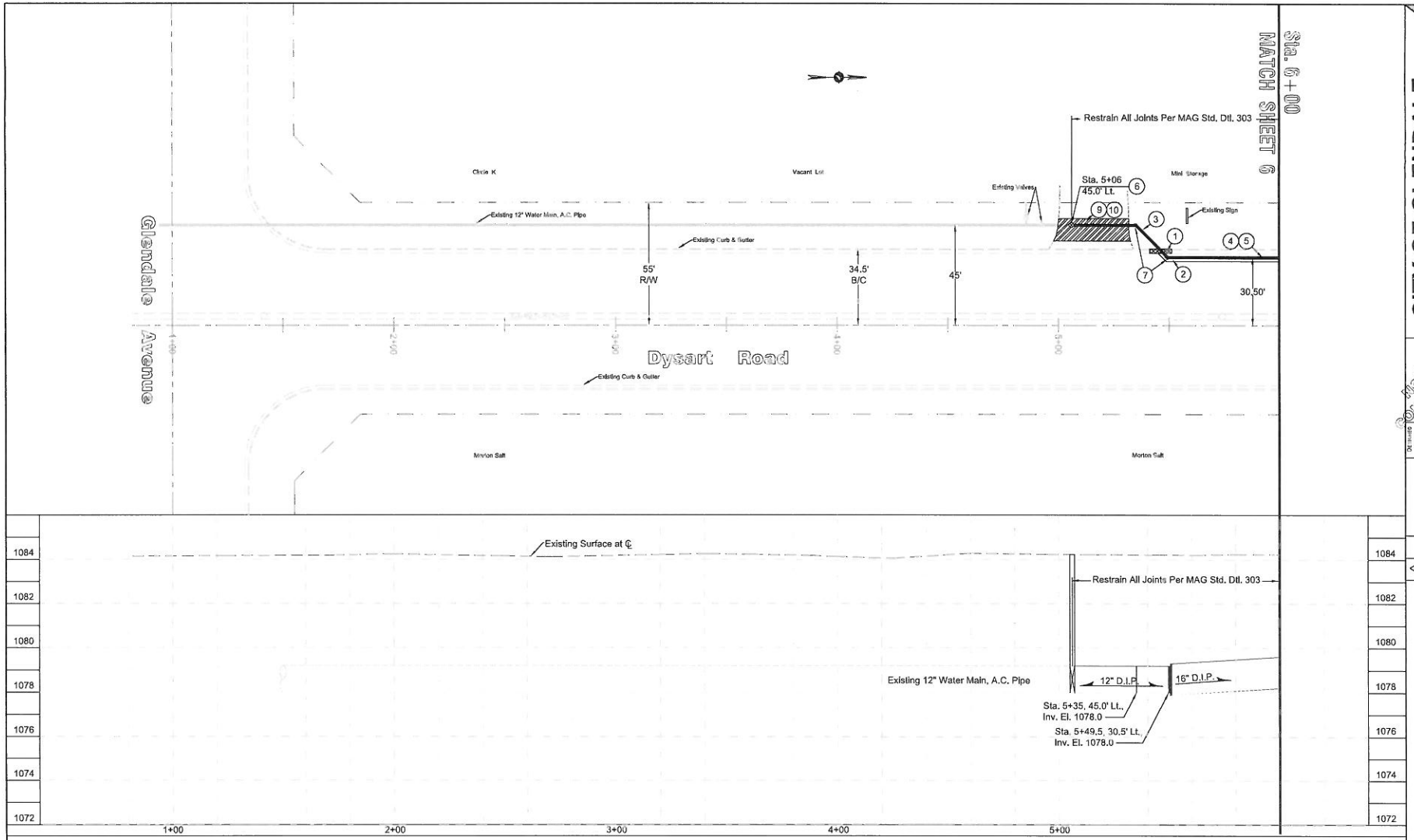
DESIGNED	DRAWN	CHECKED
MI	DK	MI

NO.	DATE	REVISIONS
△		
△		
△		
△		

111203
Valley Utilities
Dysart Road Waterline Extension
Details/Construction Notes

CALL TWO WORKING DAYS BEFORE YOU DIG
602-263-1100
1-800-STAKE-IT
(OUTSIDE MARICOPA COUNTY)

SHT. 4
OF 17



1. Remove & Replace Concrete Curb & Gutter Section. Stamp A "W" In Concrete Above Water Pipe. (10 L.F.)
2. Install 16" x 12" MJ Reducer. Restrain All Joints Per MAG Std. Dtl. 303-1 & 303-2
3. Install 12" Ductile Iron Pipe Waterline Per MAG Std. Spec. 610 & 750. Install Field Lock Gaskets Sta. 5+06 To 5+62. Detectable "Water Main" Tape 12" Above Pipe. (48. L.F.)
4. Remove & Replace Asphalt Per Pavement Section Detail. See Sheet 3. Joint Sealant Per COG Det. G-317 (19 S.Y.)
5. Install 16" Ductile Iron Pipe Waterline Per MAG Std. Spec. 610 & 750. Install Detectable "Water Main" Tape 12" Above Pipe. (46. L.F.)
6. Remove Cap and Thrust Block Install 12" Gate Valve, Telescoping Ductile Iron Type "C", Box & Cover Per MAG Std. Dtl. 391-1 Type "A". Concrete Blocking Per MAG Std. Dtl. 301 (1 EA.)
7. Install 12" x 45° MJ Bends. Restrain All Joints Per MAG Std. Dtl. 303-1 & 303-2
9. Remove & Replace Asphalt Driveway (37 S.Y.)
10. Remove & Replace Extruded Concrete Curb To Nearest Joint. Paint Curb Red (20 L.F.)

FILE NAME: C:__Old Computer\Dysart Waterline PLOTTING DATE: 8-24-12 REVISION DATE: 7-24-12 AUTOCAD VER.: 2008

CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (623) 930-3630

DESIGNED MI
DRAWN DK
CHECKED MI

NO.	DATE	DESCRIPTION

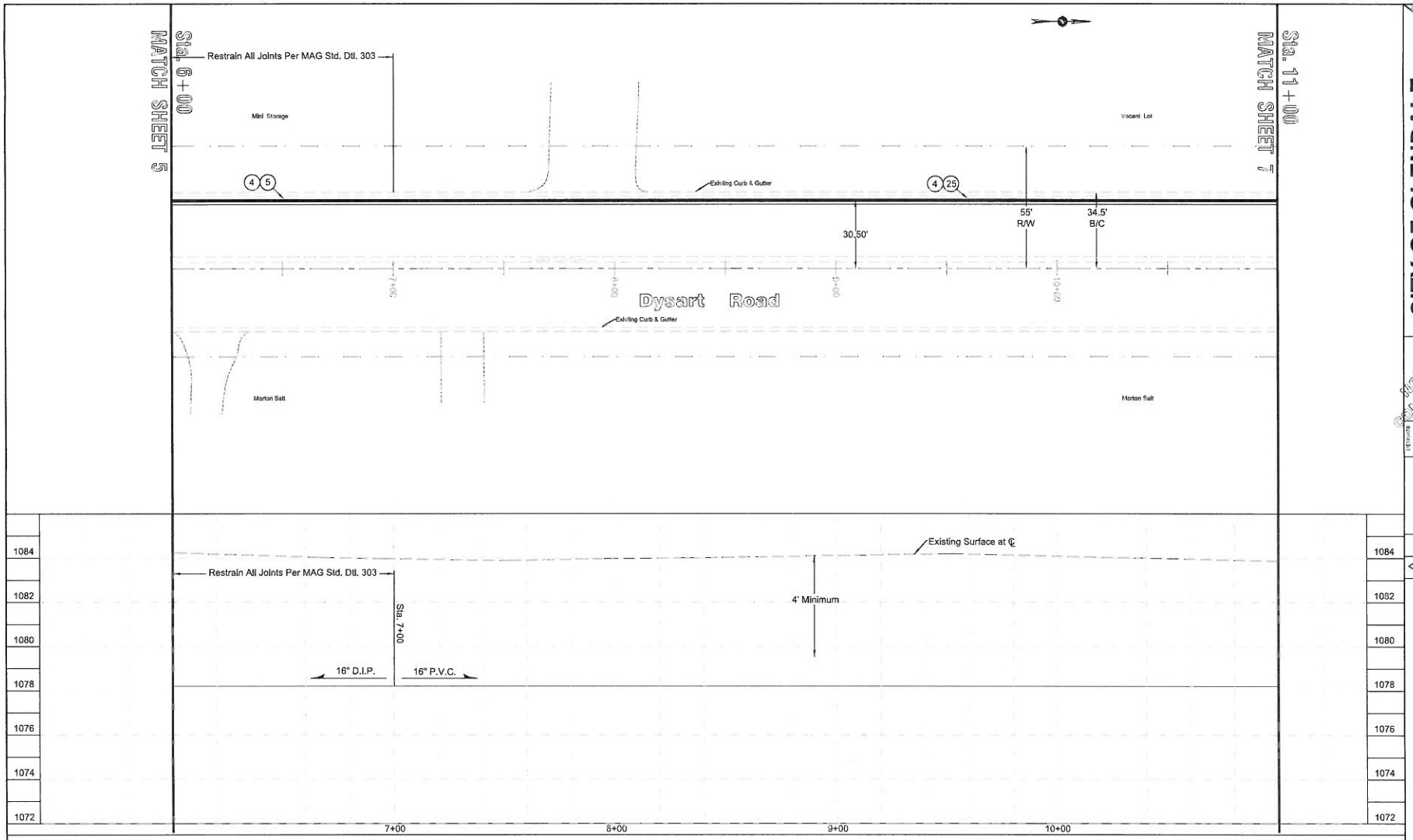
REVISIONS

111203
Valley Utilities
Dysart Road Waterline Extension
Station 1+00 to 6+00

SCALE:
Horiz. 1" = 20'
Vert. 1" = 2'

CALL TWO WORKING DAYS BEFORE YOU DIG
602-263-1100
1-800-STAKE-IT
(ARIZONA BLUE STAKE, INC.)

SHT. 5 OF 17



(4) Remove & Replace Asphalt Per Pavement Section Detail. See Sheet 3. Joint Sealant Per COG Det. G-317 (223 S.Y.)

(5) Install 16" Ductile Iron Pipe Waterline Per MAG Std. Spec. 610 & 750. Install Detectable "Water Main" Tape 12" Above Pipe. (100. L.F.)

(25) Install 16" Class C-905, DR 18-235 PSI P.V.C. Waterline With Detectable "Water Main" Tape 12" Above Pipe (400 L.F.)

FILE NAME: C:_Old Computer\Dysart Waterline PLOTTING DATE: 8-24-12 REVISION DATE: 7-24-12 AUTOCAD VER.: 2008

CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (623) 930-3839

DESIGNED MI
DRAWN DK
CHECKED MI

No.	DATE	DESCRIPTION

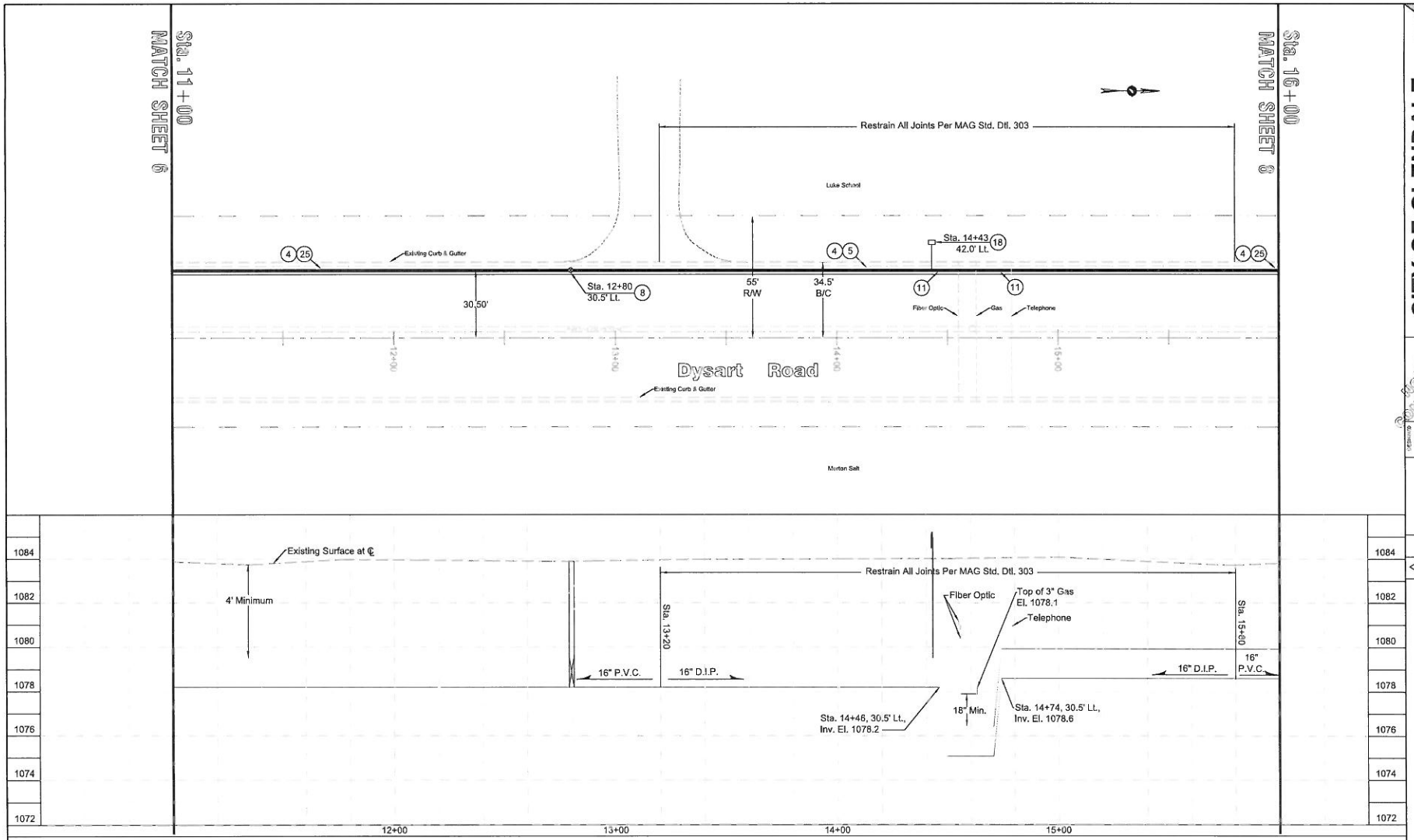
REVISIONS

111203
Valley Utilities
Dysart Road Waterline Extension
Station 6+00 to 11+00

SCALE:
Horiz. 1" = 20'
Vert. 1" = 2'

CALL FOR PROBLEM REPORTS BEFORE YOU DIG
602-263-1100
1-800-STAKE-IT
(WITHIN MARICOPA COUNTY)

SHT. 6
OF 17



(4) Remove & Replace Asphalt Per Pavement Section Detail. See Sheet 3. Joint Sealant Per COG Det. G-317 (223 S.Y.)

(5) Install 16" Ductile Iron Pipe Waterline Per MAG Std. Spec. 610 & 750. Install Detectable "Water Main" Tape 12" Above Pipe. (260. L.F.)

(8) Install 16" Gate Valve, Telescoping Ductile Iron Type "C", Box & Cover Per MAG Std. Dtl. 391-1 Type "A". Concrete Blocking Per MAG Std. Dtl. 301 (1 EA.)

(11) Install 16" Vertical Realignment Per MAG Std. Dtl. 370. Restrain All Joints Per MAG Std. Dtl. 303-1 & 303-2

(18) Install Air Release Valve Per COG Std. Dtl. G-646. See Sheet 4. (1 EA.)

(25) Install 16" Class C-905, DR 18-235 PSI P.V.C. Waterline With Detectable "Water Main" Tape 12" Above Pipe (240 L.F.)

FILE NAME: C:_Old Computer\Dysart Waterline PLOTTING DATE: 8-24-12 REVISION DATE: 7-24-12 AUTOCAD VER.: 2008

CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (623) 930-3630

DESIGNED MI
DRAWN DK
CHECKED MI

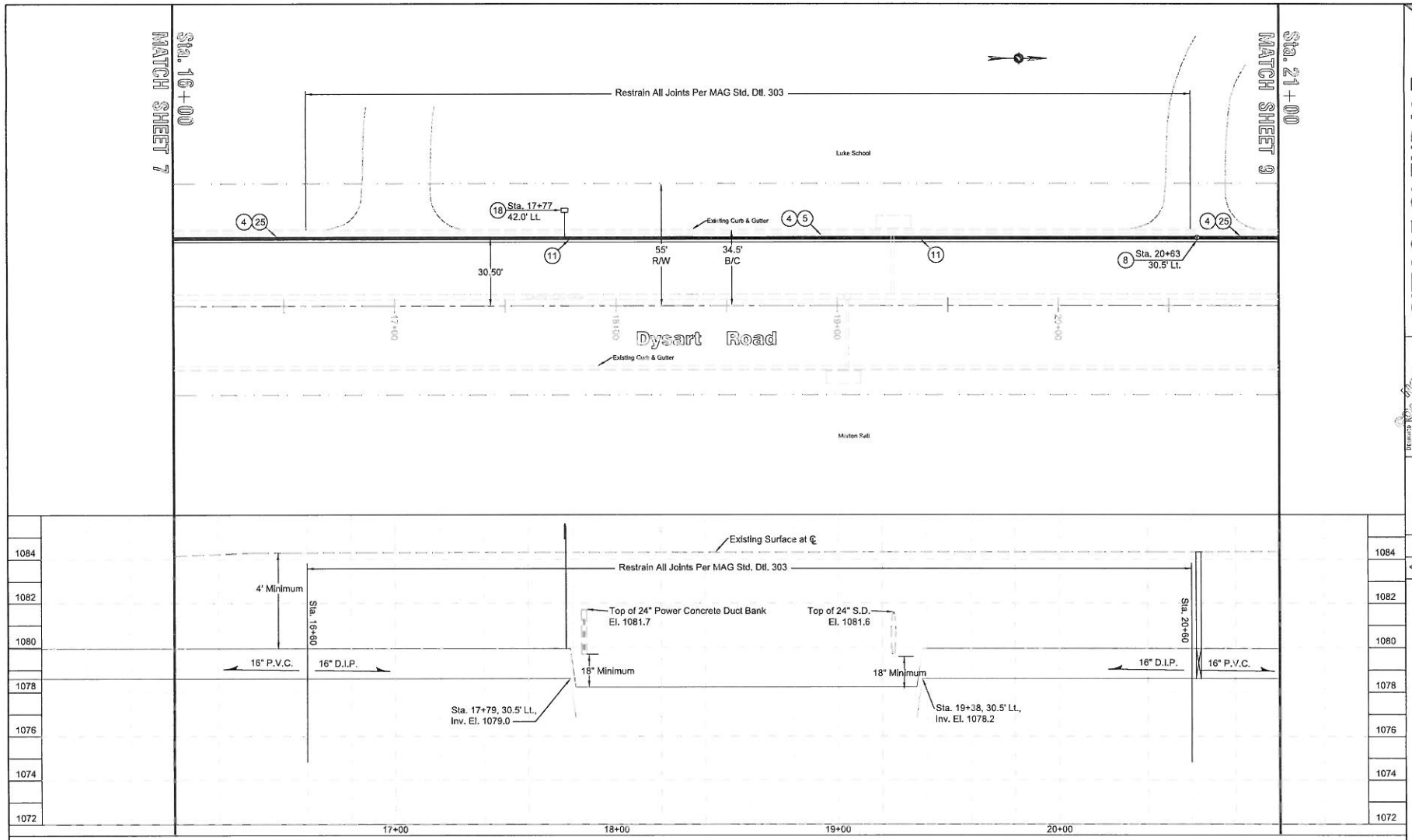
REVISIONS

111203
Valley Utilities
Dysart Road Waterline Extension
Station 11+00 to 16+00

SCALE:
Horiz. 1" = 20'
Vert. 1" = 2'

CALL THE PROCESS SAFE NOTIFY ARIZONA 811
602-263-1100
1-800-STAKE-IT
(NOTICE REQUIRED 48HRS)

SHT. 7
OF 17



(4) Remove & Replace Asphalt Per Pavement Section Detail. See Sheet 3. Joint Sealant Per COG Det. G-317 (223 S.Y.)

(5) Install 16" Ductile Iron Pipe Waterline Per MAG Std. Spec. 610 & 750. Install Detectable "Water Main" Tape 12" Above Pipe. (400. L.F.)

(8) Install 16" Gate Valve, Telescoping Ductile Iron Type "C", Box & Cover Per MAG Std. Dtl. 391-1 Type "A". Concrete Blocking Per MAG Std. Dtl. 301 (1 EA.)

(11) Install 16" Vertical Realignment Per MAG Std. Dtl. 370. Restrain All Joints Per MAG Std. Dtl. 303-1 & 303-2

(18) Install Air Release Valve Per COG Std. Dtl. G-646. See Sheet 4. (1 EA.)

(25) Install 16" Class C-905, DR 18-235 PSI P.V.C. Waterline With Detectable "Water Main" Tape 12" Above Pipe (100 L.F.)

FILE NAME: C:_CM Computer\Dysart Waterline PLOTTING DATE: 8-24-12 REVISION DATE: 7-24-12 AUTOCAD VER: 2009

CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (623) 930-3630

Designed	Drawn	Checked
MI	DK	MI

No.	Date	Description

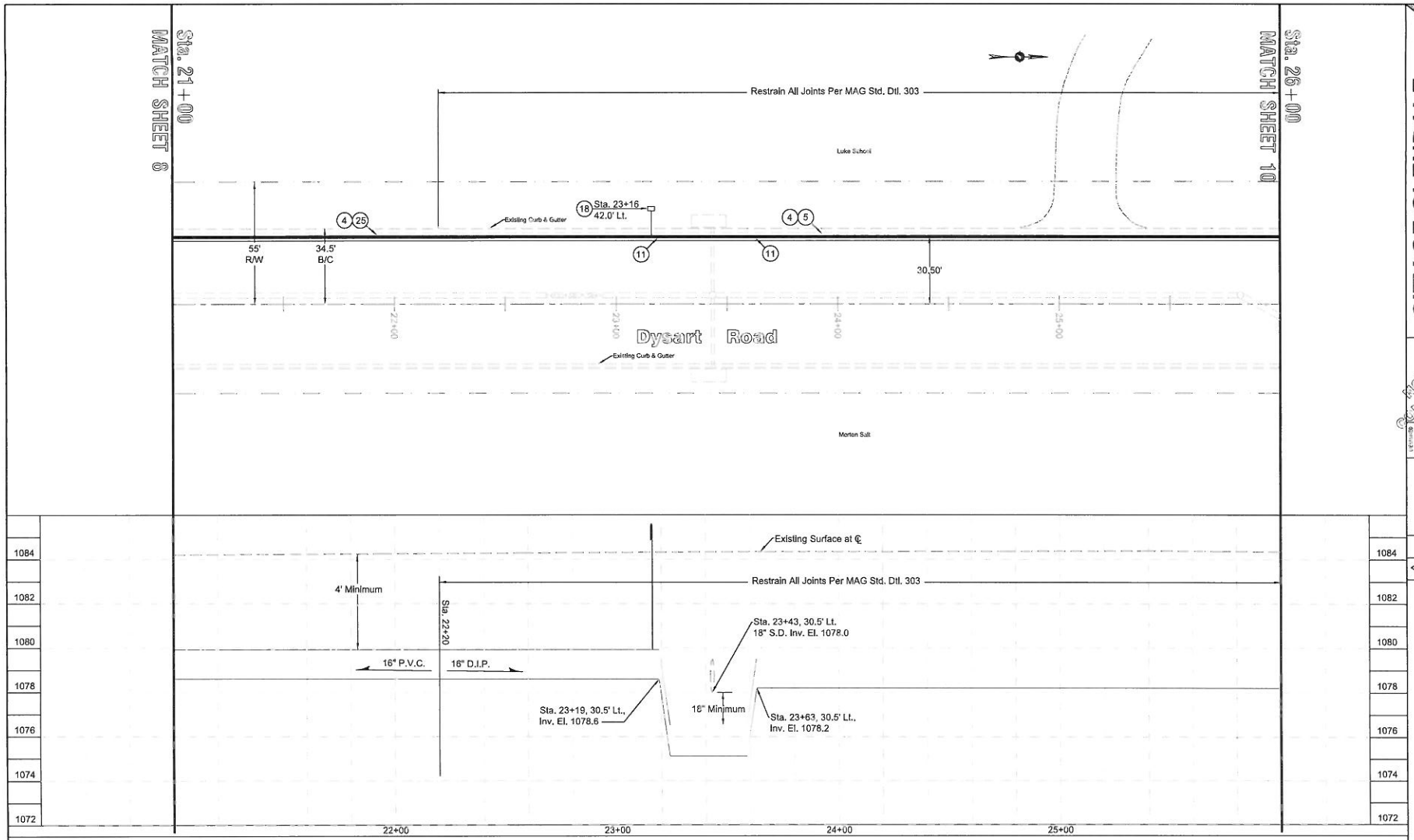
REVISIONS

111203
Valley Utilities
Dysart Road Waterline Extension
Station 16+00 to 21+00

SCALE:
Horiz. 1" = 20'
Vert. 1" = 2'

CALL TWO WORKING DAYS BEFORE YOU DIG!
602-263-1100
1-800-STAKE-IT
(ARIZONA BLUE STAKE, INC.)

SHT. 8
OF 17



(4) Remove & Replace Asphalt Per Pavement Section Detail. See Sheet 3. Joint Sealant Per COG Det. G-317 (223 S.Y.)

(5) Install 16" Ductile Iron Pipe Waterline Per MAG Std. Spec. 610 & 750. Install Detectable "Water Main" Tape 12" Above Pipe. (380. L.F.)

(11) Install 16" Vertical Realignment Per MAG Std. Dtl. 370. Restrain All Joints Per MAG Std. Dtl. 303-1 & 303-2

(18) Install Air Release Valve Per COG Std. Dtl. G-646. See Sheet 4. (1 EA.)

(25) Install 16" Class C-905, DR 18-235 PSI P.V.C. Waterline With Detectable "Water Main" Tape 12" Above Pipe (120 L.F.)

FILE NAME: C:_Old Computer\Dysart Waterline PLOTTING DATE: 8-24-12 REVISION DATE: 7-24-12 AUTOCAD VER 2008

CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (623) 930-3630

DESIGNED MI
DRAWN DK
CHECKED MI

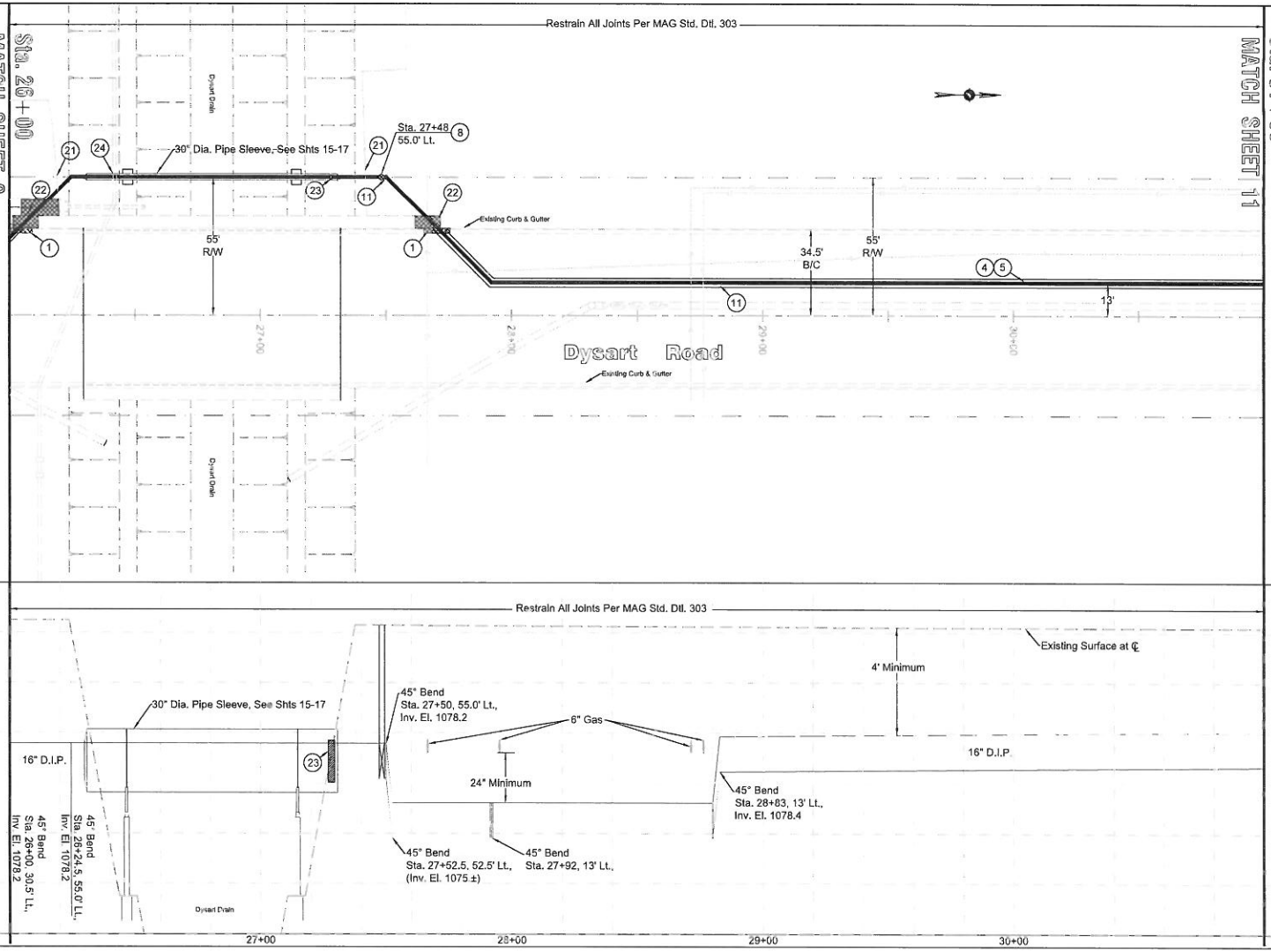
BY	DATE	DESCRIPTION
		REVISIONS

111203
Valley Utilities
Dysart Road Waterline Extension
Station 21+00 to 26+00

SCALE:
Horiz. 1" = 20'
Vert. 1" = 2'

CALL FOR WORKING DAYS BEFORE YOU DIG
602-263-1100
1-800-STAKE-IT
(NOTICE NUMBER REQUIRED)

SHT. 9
OF 17



1. Remove & Replace Concrete Curb & Gutter Section. Stamp A "W" In Concrete Above 16" D.I.P. (20 L.F.)
4. Remove & Replace Asphalt Per Pavement Section Detail. See Sheet 3. Joint Sealant Per COG Det. G-317 (132 S.Y.)
5. Install 16" Ductile Iron Pipe Waterline Per MAG Std. Spec. 610 & 750. Install Detectable "Water Main" Tape 12" Above Pipe. (373. L.F.)
8. Install 16" Gate Valve, Telescoping Ductile Iron Type "C", Box & Cover Per MAG Std. Dtl. 391-1 Type "A". Concrete Blocking Per MAG Std. Dtl. 301 (1 EA.)
11. Install 16" Vertical Realignment Per MAG Std. Dtl. 370. Restrain All Joints Per MAG Std. Dtl. 303-1 & 303-2
21. Remove & Replace Fence in Kind Install 4' Man Access Gate in North Fence (100 L.F.)
22. Remove & Replace Driveway & Modified Valley Gutter Per MAG Std. Dtl. 250-2 & 240. (190 S.F.)
23. Install 16" Expansion Joint Coupling Series 240 Single Sphere, Food Grade As Manufactured By Proco Products Inc. (www.procoproducts.com) or Equivalent As Approved By Valley Utilities Water Co.
24. Luke Air Force Base Effluent Line. Contractor To Pothole And Verify. (N.P.I.)

FILE NAME: C:_Old Computer\Dysart Waterline PLOTTING DATE: 8-24-12 REVISION DATE: 7-24-12 AUTOCAD VER.: 2008

CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (623) 930-3630

Designed	Drawn	Checked
MI	DK	MI

No.	Date	Description

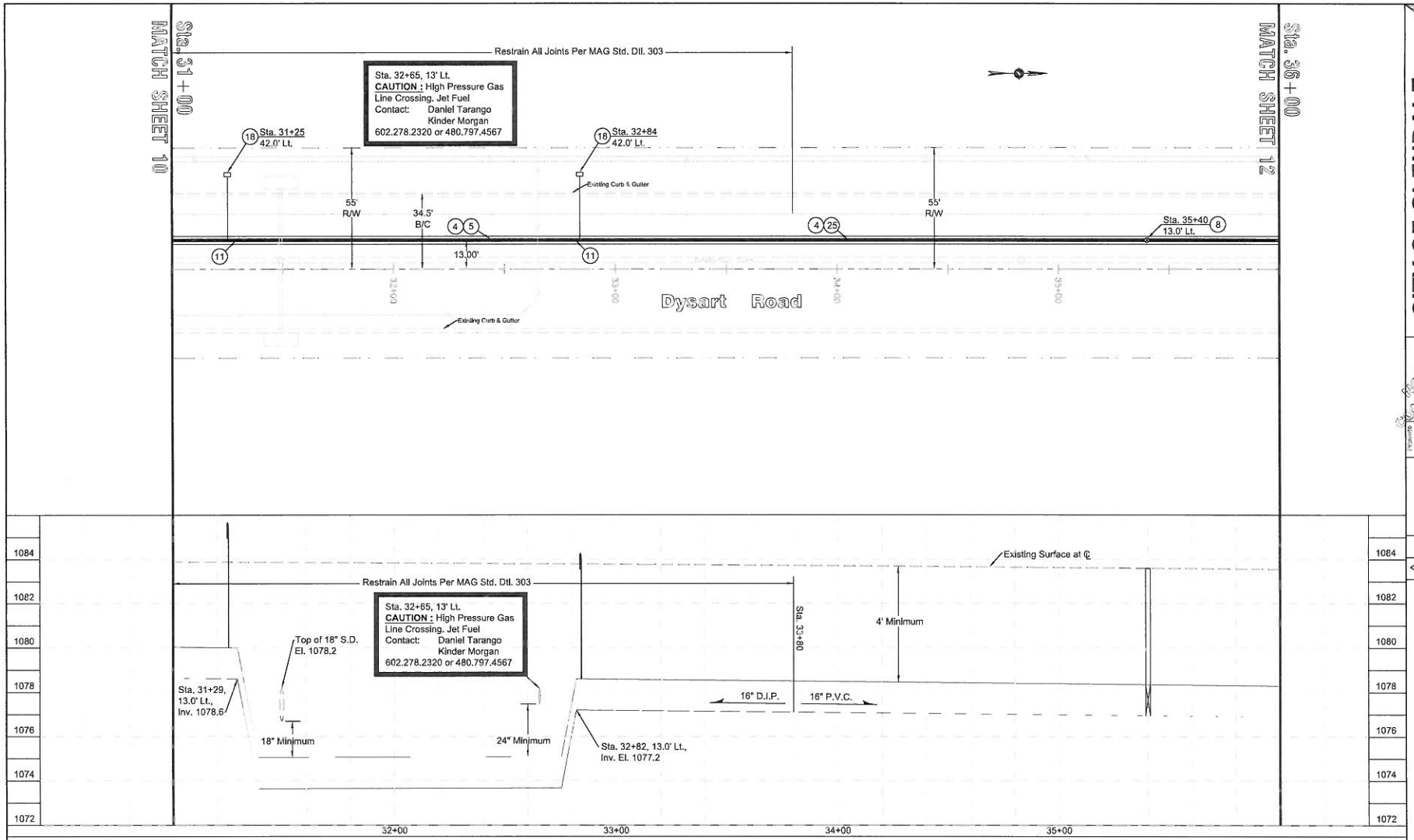
REVISIONS

111203
Valley Utilities
Dysart Road Waterline Extension
Station 26+00 to 31+00

SCALE:
Horiz. 1" = 20'
Vert. 1" = 2'

CALL FOR MARICOPA COUNTY BEFORE YOU DIG
602-263-1100
1-800-STAKE-IT
(NATIONAL WATCH SAVER)

SHT. 10
OF 17



(4) Remove & Replace Asphalt Per Pavement Section Detail. See Sheet 3. Joint Sealant Per COG Det. G-317 (223 S.Y.)

(5) Install 16" Ductile Iron Pipe Waterline Per MAG Std. Spec. 610 & 750. Install Detectable "Water Main" Tape 12" Above Pipe. (280. L.F.)

(8) Install 16" Gate Valve, Telescoping Ductile Iron Type "C", Box & Cover Per MAG Std. Dtl. 391-1 Type "A". Concrete Blocking Per MAG Std. Dtl. 301 (1 EA.)

(11) Install 16" Vertical Realignment Per MAG Std. Dtl. 370. Restrain All Joints Per MAG Std. Dtl. 303-1 & 303-2

(18) Install Air Release Valve Per COG Std. Dtl. G-646. See Sheet 4. (2 EA.)

(25) Install 16" Class C-905, DR 18-235 PSI P.V.C. Waterline With Detectable "Water Main" Tape 12" Above Pipe (220 L.F.)

FILE NAME: C:_Old Computer\Dysart Waterline PLOTTING DATE: 8-24-12 REVISION DATE: 7-24-12 AUTOCAD VER: 2005

CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (623) 930-3630

DESIGNED MI
DRAWN DK
CHECKED MI

NO.	DATE	DESCRIPTION

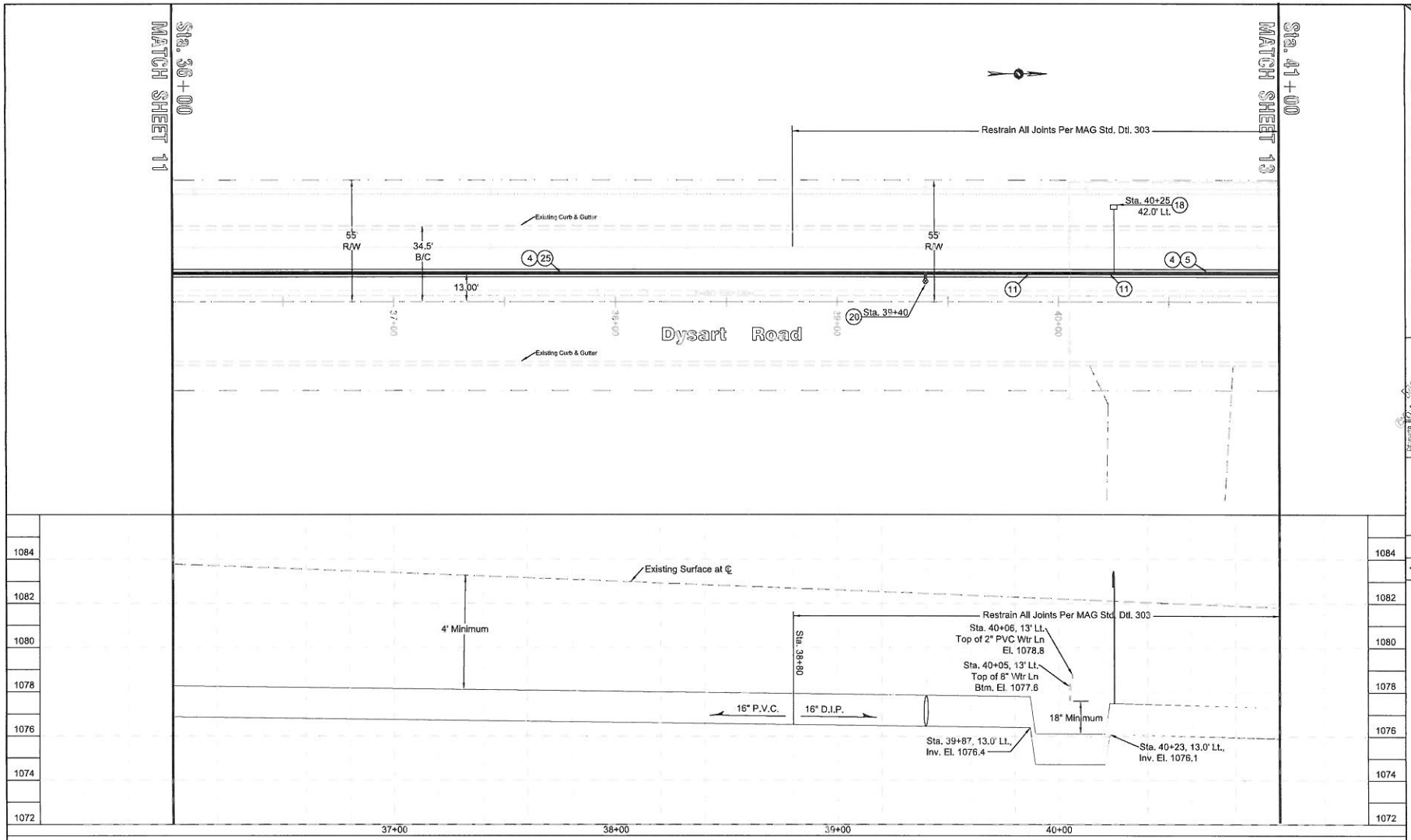
REVISIONS

111203
Valley Utilities
Dysart Road Waterline Extension
Station 31+00 to 36+00

SCALE:
Horiz. 1" = 20'
Vert. 1" = 2'

CALL THE NUMBERS BELOW AT LEAST TWO DAYS BEFORE YOU DIG
602-263-1100
1-800-STAKE-IT
(ARIZONA BLUE STAKE, INC.)

SHT. 11
OF 17



(4) Remove & Replace Asphalt Per Pavement Section Detail. See Sheet 3. Joint Sealant Per COG Det. G-317 (223 S.Y.)

(5) Install 16" Ductile Iron Pipe Waterline Per MAG Std. Spec. 610 & 750. Install Detectable "Water Main" Tape 12" Above Pipe. (220. L.F.)

(8) Install 16" Gate Valve, Telescoping Ductile Iron Type "C", Box & Cover Per MAG Std. Dtl. 391-1 Type "A". Concrete Blocking Per MAG Std. Dtl. 301 (1 EA.)

(11) Install 16" Vertical Realignment Per MAG Std. Dtl. 370. Restrain All Joints Per MAG Std. Dtl. 303-1 & 303-2

(18) Install Air Release Valve Per COG Std. Dtl. G-646. See Sheet 4. (1 EA.)

(20) Install 16" x 16" Tee,Gate Valve, Box & Cover & Blind Flange Provided By Valley Utilities. Concrete Blocking Per MAG Std. Dtl. 391-1 Type "A". Install Concrete Thrust Block At Tee Per MAG Std. Dtl. 380 (1 EA.)

(25) Install 16" Class C-905, DR 18-235 PSI P.V.C. Waterline With Detectable "Water Main" Tape 12" Above Pipe (280 L.F.)

FILE NAME: C:__Old Computer\Dysart Waterline PLOTTING DATE: 8-24-12 REVISION DATE: 7-24-12 AUTOCAD VER.: 2008

CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (623) 930-3630

NOT FOR CONSTRUCTION

Designed	Drawn	Checked
MI	DK	MI

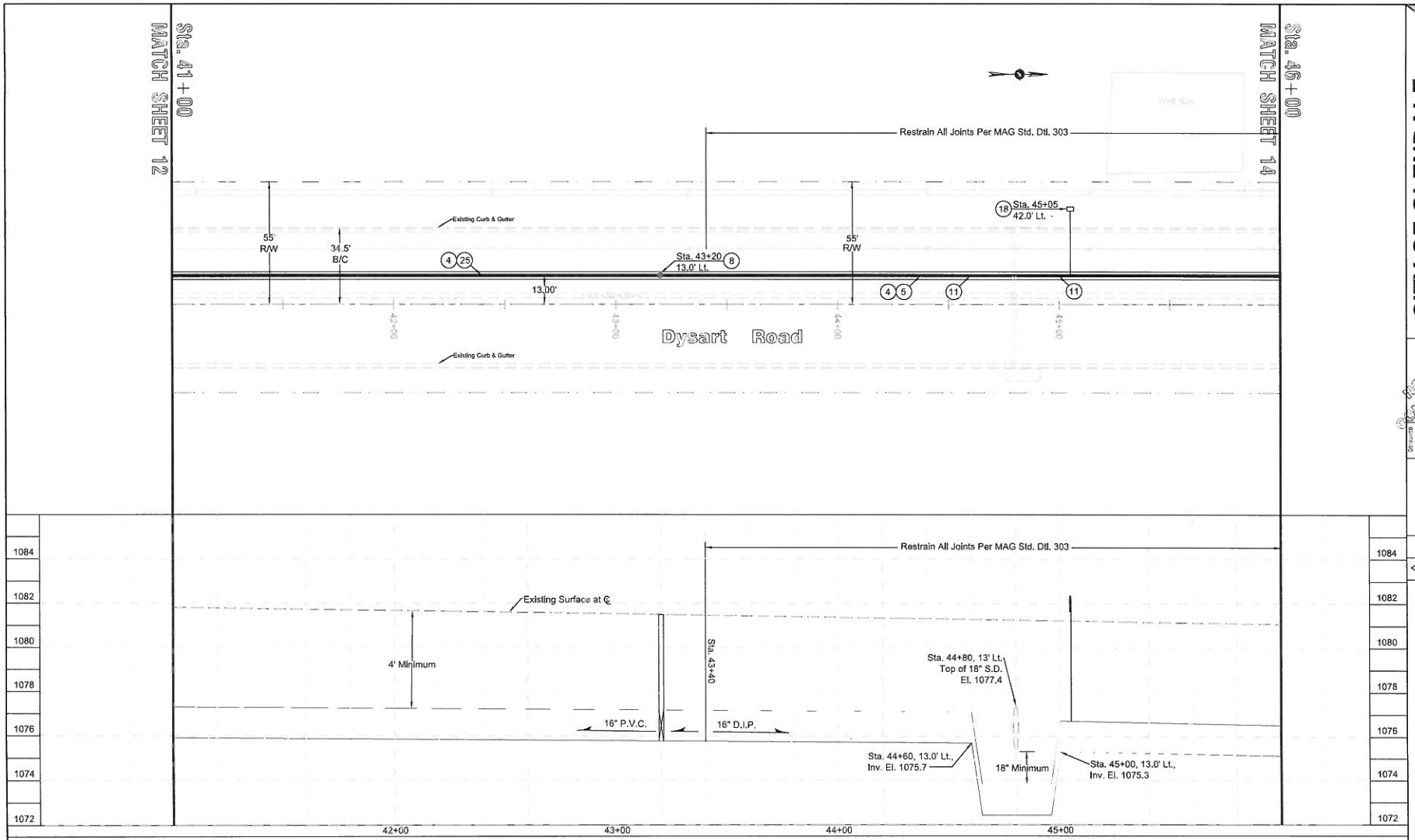
NO.	DATE	DESCRIPTION
		REVISIONS

111203
Valley Utilities
Dysart Road Waterline Extension
Station 36+00 to 41+00

SCALE:
Horiz. 1" = 20'
Vert. 1" = 2'

CALL FOR DIGGING SAFE
602-263-1100
1-800-STAKE-IT

SHT. 12
OF 17



(4) Remove & Replace Asphalt Per Pavement Section Detail. See Sheet 3. Joint Sealant Per COG Det. G-317 (223 S.Y.)

(5) Install 16" Ductile Iron Pipe Waterline Per MAG Std. Spec. 610 & 750. Install Detectable "Water Main" Tape 12" Above Pipe. (260. L.F.)

(8) Install 16" Gate Valve, Telescoping Ductile Iron Type "C", Box & Cover Per MAG Std. Dtl. 391-1 Type "A". Concrete Blocking Per MAG Std. Dtl. 301 (1 EA.)

(11) Install 16" Vertical Realignment Per MAG Std. Dtl. 370. Restrain All Joints Per MAG Std. Dtl. 303-1 & 303-2

(18) Install Air Release Valve Per COG Std. Dtl. G-646. See Sheet 4. (1 EA.)

(25) Install 16" Class C-905, DR 18-235 PSI P.V.C. Waterline With Detectable "Water Main" Tape 12" Above Pipe (240 L.F.)

FILE NAME: C:__Old Computer\Dysart Waterline PLOTTING DATE: 8-24-12 REVISION DATE: 7-24-12 AUTOCAD VER.: 2008

CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (623) 930-3630

DESIGNED MI
DRAWN DK
CHECKED MI

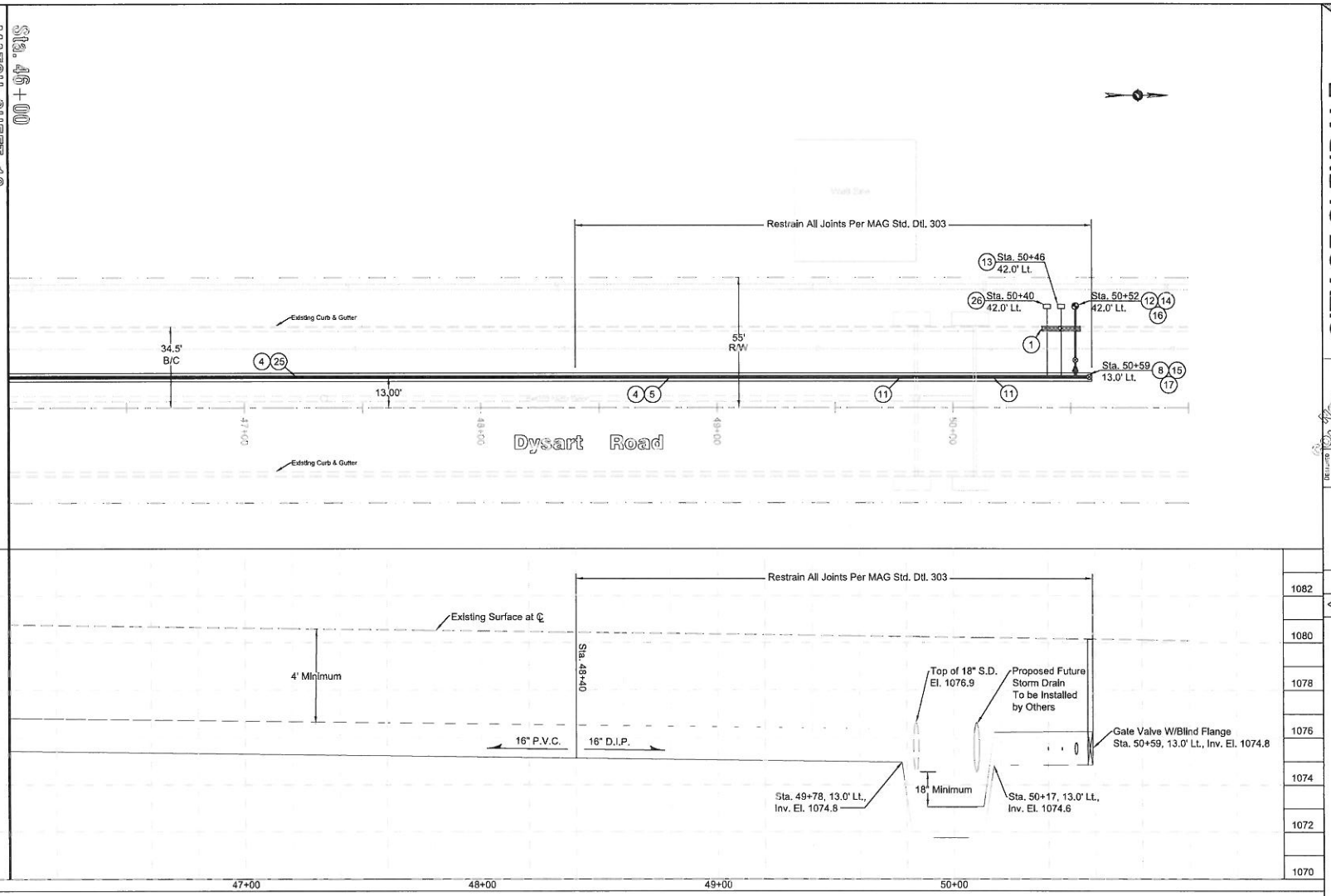
REVISIONS

111203
Valley Utilities
Dysart Road Waterline Extension
Station 41+00 to 46+00

SCALE:
Horiz. 1" = 20'
Vert. 1" = 2'

602-263-1100
1-800-STAKE-IT

SHT. 13
OF 17



1. Remove & Replace Concrete Curb & Gutter Section. Stamp A "W" In Concrete Above Water ¾" Service Pipe & 6" D.I.P. (17 L.F.)
4. Remove & Replace Asphalt Per Pavement Section Detail. See Sheet 3. Joint Sealant Per COG Det. G-317 (234 S.Y.)
5. Install 16" Ductile Iron Pipe Waterline Per MAG Std. Spec. 610 & 750. Install Detectable "Water Main" Tape 12" Above Pipe. (220. L.F.)
8. Install 16" Gate Valve, Telescoping Ductile Iron Type "C", Box & Cover Per MAG Std. Dtl. 391-1 Type "A". Concrete Blocking Per MAG Std. Dtl. 301 (1 EA.)
11. Install 16" Vertical Realignment Per MAG Std. Dtl. 370. Restrain All Joints Per MAG Std. Dtl. 303-1 & 303-2
12. Install Fire Hydrant 6' Behind Back of Curb Per MAG Std. Spec. 360. (1 EA.)
13. Install 1½" Water Service Per COG Std. Dtl. G-642. Angle Curb Stop Must Be Ball Valve Style With Locking Ears. Copper Service Lines Must Be Bedded & Shaded With Sand. VUWCO Personnel Must Be Present Onsite During Service Tap. Meter & Backflow Device To Be Installed By Others. (1 EA.)
14. Install 6" Gate Valve Per MAG Std. Dtl. 391-1, Type "A" Blocking Per MAG Std. Dtl. 301. Valve Must Be 10' From New Fire Hydrant. (1 EA.)
15. Install 16" Blind Flange On Valve (1 EA.)
16. Install 8" x 6" Reducer. (1 EA.)
17. Install 16" x 8" Tee. (1 EA.)
25. Install 16" Class C-905, DR 18-235 PSI P.V.C. Waterline With Detectable "Water Main" Tape 12" Above Pipe (240 L.F.)
26. Install 2" Water Service Per COG Std. Dtl. G-642. Angle Curb Stop Must Be Ball Valve Style With Locking Ears. Copper Service Lines Must Be Bedded & Shaded With Sand. VUWCO Personnel Must Be Present Onsite During Service Tap. (1 EA.) No Meter To Be Set This Project

FILE NAME: C:__Old Computer\Dysart Waterline PLOTTING DATE: 8-24-12 REVISION DATE: 7-24-12 AUTOCAD VER.: 2008

CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (623) 930-3630

DESIGNED MI
DRAWN DK
REVIEWED MI

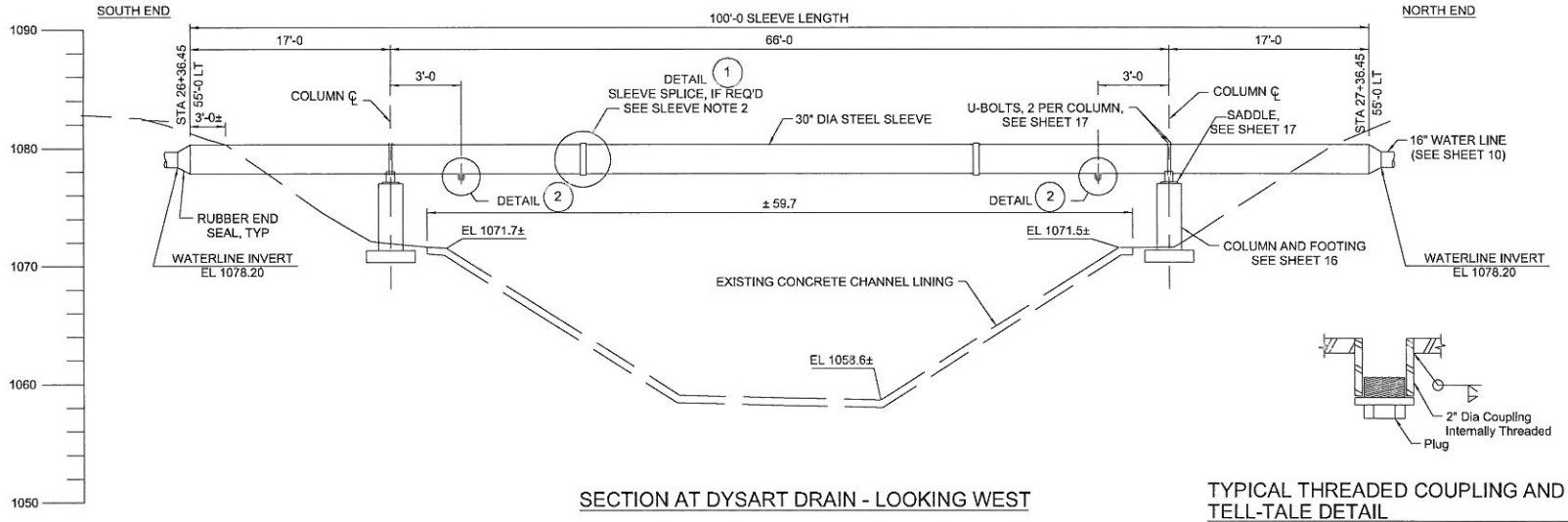
NO. DATE DESCRIPTION
REVISIONS

111203
Valley Utilities
Dysart Road Waterline Extension
Station 46+00 to 50+59

SCALE:
Horiz. 1" = 20'
Vert. 1" = 2'

CALL THE PROJECT DATE BEFORE YOU DIG!
602-263-1100
1-800-STAKE-IT
(OUTSIDE MARICOPA COUNTY)

SHT. 14
OF 17



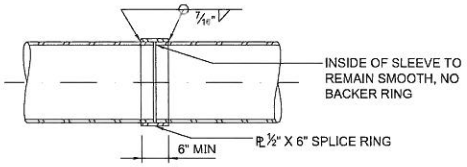
SECTION AT DYSART DRAIN - LOOKING WEST

TYPICAL THREADED COUPLING AND CAP TELL-TALE DETAIL (2)

NOT TO SCALE

SLEEVE NOTES

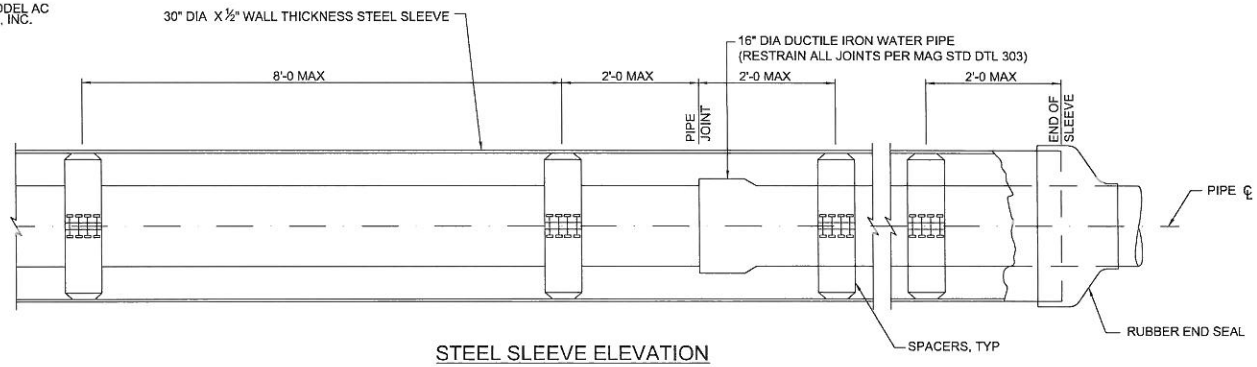
1. SLEEVE MATERIAL SHALL CONFORM TO ONE OF THE FOLLOWING ASTM SPECIFICATIONS:
   A53, GRADE B
   A106, GRADE B
   A139, GRADE B
   A252, GRADE 2
   A572, GRADE 50 / API 2B
2. THE CONTRACTOR SHALL SUBMIT SHOP DRAWINGS OF THE SLEEVE TO THE ENGINEER FOR REVIEW AND APPROVAL PRIOR TO FABRICATION. IF THE SLEEVE IS FABRICATED FROM SEVERAL SHORTER SEGMENTS TO ACHEIVE THE REQUIRED LENGTH, THEN THE SHOP DRAWINGS SHALL INCLUDE THE REQUIRED SPLICE DETAILS. SPLICES SHALL BE LOCATED NEAR THE ⅓ POINTS OF THE TOTAL SLEEVE LENGTH. SEE DETAIL 1 THIS SHEET.
3. SLEEVE SHALL HAVE 3 COAT PAINT SYSTEM IN ACCORDANCE WITH MAG 530. COST OF PAINTING SHALL BE INCLUDED WITH COST OF SLEEVE.
4. THE ANNULAR SPACE BETWEEN THE WATERLINE AND SLEEVE SHALL NOT BE FILLED.
5. INSTALL SLEEVE SPACERS TO KEEP THE WATERLINE CENTERED AND RESTRAINED WITHIN THE SLEEVE. SPACERS SHALL BE MODEL SSI-12 AS MANUFACTURED BY ADVANCE PRODUCTS & SYSTEMS, INC. OR APPROVED EQUAL.
6. INSTALL RUBBER SEALS ON BOTH ENDS OF THE SLEEVE. SEALS SHALL BE MODEL AC PULL-ON END SEAL AS MANUFACTURED BY ADVANCE PRODUCTS & SYSTEMS, INC.



SLEEVE SPLICE DETAIL (1)

NOT TO SCALE

ESTIMATE OF QUANTITIES		
ITEM DESCRIPTION	UNIT	QUANTITY
STRUCTURAL EXCAVATION	CY	5
STRUCTURAL CONCRETE (CLASS A) (f'c=3000psi)	CY	3
REINFORCING STEEL	LBS	400
STEEL SLEEVE, 30" Ø x ½" WALL THICKNESS	LF	100
SPACERS	LSUM	1
END SEALS	EA	2



STEEL SLEEVE ELEVATION

NOT TO SCALE

FILE NUMBER 1203 PLAN SHEETS.DWG
REVISION DATE: REVISIONDATE
PLOTTING DATE: 8/15/2011
AUTOCAD VER. 2010

CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (602) 930-3630

Expires 06/31/2013

Designed MAH
Drawn JJM
Checked RAS

REVISIONS

111203
VALLEY UTILITIES
DYSART ROAD WATERLINE EXTENSION
SECTION & SLEEVE ELEVATION

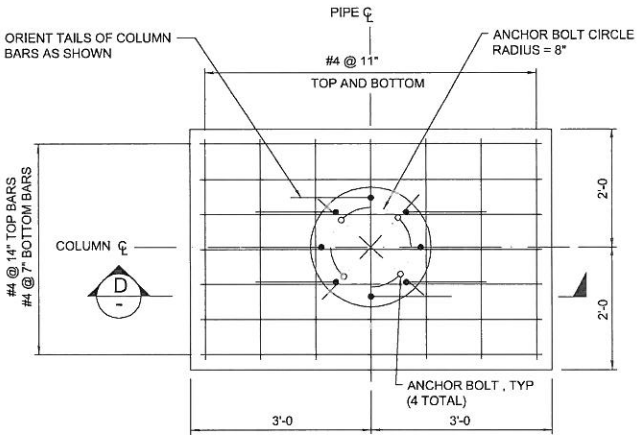
URS
7720 N. 16th St.
Suite 100
Phoenix, AZ 85020
(602) 371-1100

SCALE: 1" = 5'

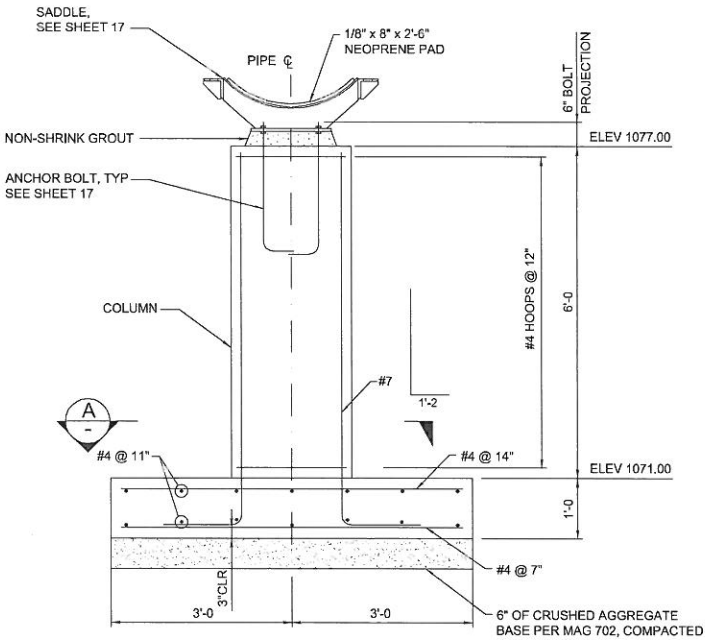
263-1100

SHT. 15
OF 17

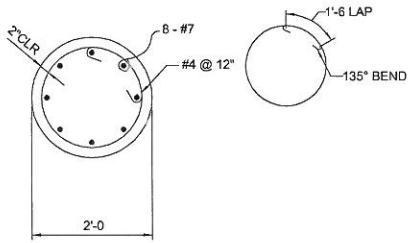
P:\TRANSPORTATION\City_of_Glendale\23445919_GOB_Trans_Program_FY_2010-2012\CADD\Plans\Structures\Client\AutoCAD Converted\Dysart_Drain_gp.dwg, 8/27/2012 10:34:44 AM



COLUMN AND FOOTING PLAN



SECTION D



SECTION A

CONCRETE

ALL CONCRETE SHALL BE MAG CLASS "A" (f'c = 3000 psi)

REINFORCING STEEL

REINFORCING STEEL SHALL CONFORM TO ASTM SPECIFICATION A615, GRADE 60.

ALL BENDS AND HOOKS SHALL MEET THE REQUIREMENTS OF ACI 318.

ALL BEND DIMENSIONS FOR REINFORCING STEEL SHALL BE OUT-TO-OUT OF BARS.

ALL PLACEMENT DIMENSIONS FOR REINFORCING STEEL SHALL BE TO CENTER OF BARS UNLESS NOTED OTHERWISE.

ALL REINFORCING STEEL SHALL HAVE 2 INCHES CLEAR COVER UNLESS NOTED OTHERWISE.

FILE NAME 111203 PLAN SHEET7.DWG
REVISION DATE: FEB15UNDATE
PLOTTING DATE: 8-15-2011
AUTOCAD VER.: 2010

CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (602) 930-3630

Expires 03/31/2013

DESIGNED MAH
DRAWN JJM
CHECKED RAS

NO.	DATE	REVISIONS DESCRIPTION

111203
VALLEY UTILITIES
DYSART ROAD WATERLINE EXTENSION
FOUNDATION DETAILS

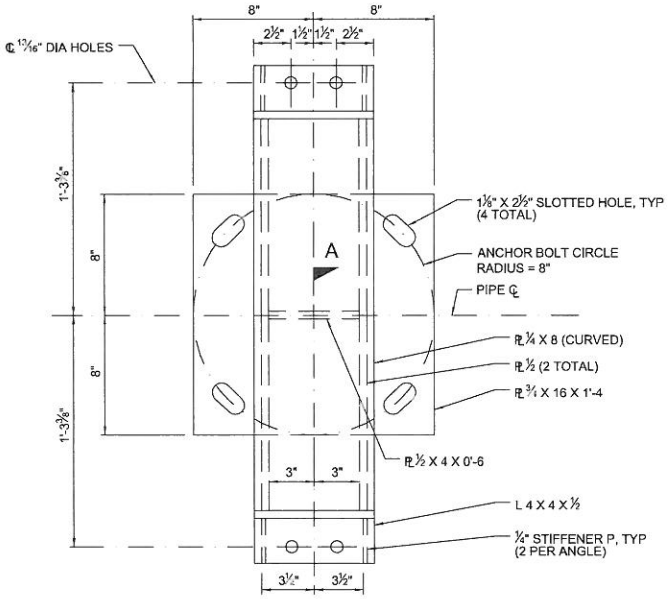
URS
7720 N. 16th St.
Suite 100
Phoenix, AZ 85020
(602) 371-1100

SCALE: 1" = 1'-0

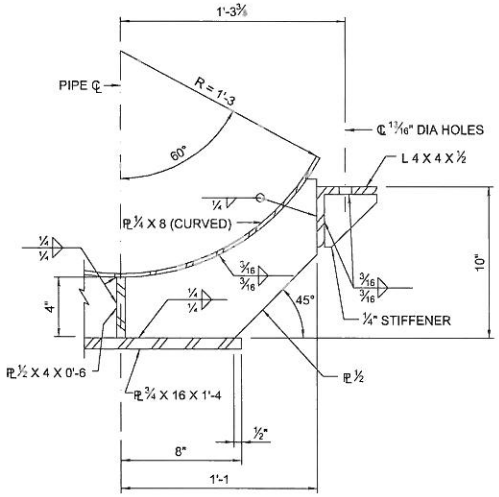
263-1100

SHT. 16
OF 17

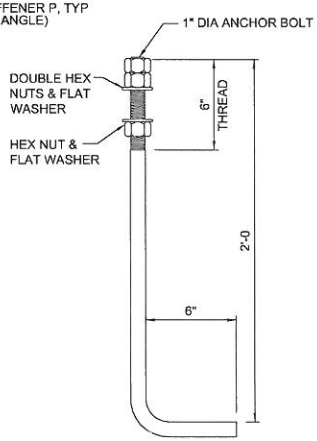
P:\TRANSPORTATION\City_of_Glendale\23445919_GOB_Trans_Program_FY_2010-2012\CADD\Plans\Structures\Client\AutoCAD Converted\Dysart_Drain_dtl2.dwg, 8/21/2012 4:00:00 PM



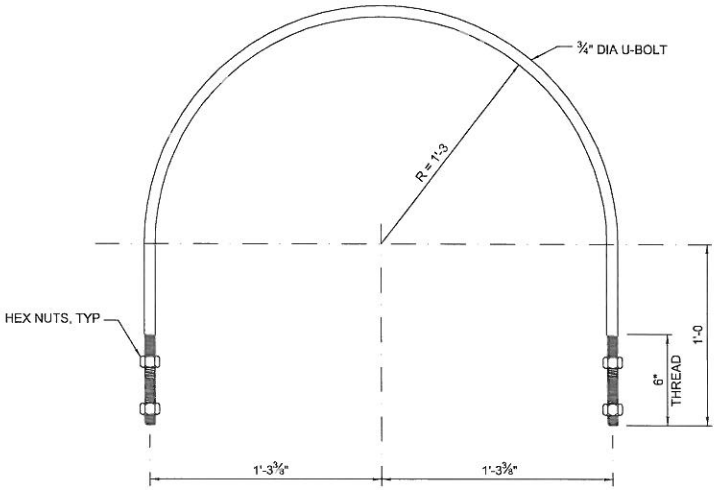
SADDLE PLAN



SECTION A-A



ANCHOR BOLT
(4 PER SADDLE)



U-BOLT
(2 PER SADDLE)

NOTES:

1. MATERIALS:
   SADDLES . . . . . ASTM A36
   U-BOLTS . . . . . ASTM A36
   ANCHOR BOLTS . . . . . ASTM F1446, GRADE 36

2. SADDLES AND U-BOLTS SHALL BE HOT DIPPED GALVANIZED AFTER FABRICATION IN ACCORDANCE WITH ASTM A123 OR A153. ANCHOR BOLTS SHALL BE ZINC-COATED IN ACCORDANCE WITH ASTM F1446.

3. WELDING SHALL BE IN ACCORDANCE WITH ANSI/AWS D1.1 "STRUCTURAL WELDING CODE-STEEL", LATEST EDITION.

4. THE CONTRACTOR SHALL SUBMIT SHOP DRAWING OF SADDLE, U-BOLTS AND ANCHOR BOLTS TO THE ENGINEER FOR REVIEW AND APPROVAL PRIOR TO FABRICATION.

5. THE COST OF FURNISHING AND INSTALLING SADDLE, U-BOLTS AND ANCHOR BOLTS SHALL BE INCLUDED IN THE COST OF THE STEEL SLEEVE.

FILE NAME: 111203 PLAN SHEETS.DWG
REVISION DATE: REVISIONDATE
PLOTTING DATE: 8/15/2012
AUTOCAD VER.: 2010

CITY OF GLENDALE
ENGINEERING DEPARTMENT
5850 W. GLENDALE AVE.
GLENDALE, ARIZONA 85301 (602) 930-3630

Expires 06/30/2013

Designed	Drawn	Checked
MAH	JJM	RAS

NO.	DATE	DESCRIPTION
		REVISIONS

111203
VALLEY UTILITIES
DYSART ROAD WATERLINE EXTENSION
SUPPORT DETAILS

URS
7720 N. 16th St.
Suite 200
Phoenix, AZ 85020
(602) 371-1100

SCALE: 3"=1'-0

263-1100

SHT. 17
OF 17

P:\TRANSPORTATION\City_of_Glendale\23445919_GOB_Trans_Program_FY_2010-2012\CADD\Plans\Structures\Client\AutoCAD Converted\Dysart_Drain_dtl.dwg, 8/21/2012 4:08:21 PM

EXHIBIT 3

ESTIMATED FACILITIES COST [1]

[Attached.]

[1] The size and quantity of the required facilities and the cost of those facilities may be subsequently revised in accordance with the approved engineering plans for this Phase. Thereafter, this Exhibit and the Agreement shall be revised to reflect actual cost pursuant to Paragraph I.B.

ESTIMATED COST FOR MAIN

Valley Utilities Dysart Road Waterline Extension

1/31/2013

Description	Unit	Quantity	Unit Cost	Total
Remove and Replace Concrete Driveway and VG	SF	190	50.00	$9,500
Remove and Replace Extruded Curb	LF	20	40.00	$800
Remove Asphalt Pavement	SY	1,950	8.00	$15,600
Remove and Replace Asphalt Driveway	SY	37	30.00	$1,110
Remove and Replace Fence (Includes 4' Gate)	LF	100	50.00	$5,000
Remove and Replace concrete curb	LF	47	20.00	$940
New Asphalt Concrete Pavement (5" thick)	SY	1,950	70.00	$136,500
Install 12" Ductile Iron Pipe	LF	48	90.00	$4,320
Install 16" Restrained Ductile Iron Pipe	LF	2,596	100.00	$259,600
Install 16" PVC Pipe - Class C-905, DR 18-235 psi	LF	1,840	70.00	$128,800
Install Fire Hydrant per MAG Det. 360	EA	1	3,500.00	$3,500
12" Gate Valve, Box and Cover per MAG 391-1	EA	1	3,500.00	$3,500
16" Gate Valve, Box and Cover per MAG 391-1	EA	6	5,500.00	$33,000
6" Gate Valve, Box and Cover	EA	1	1,500.00	$1,500
16" Tee, Gate Valve, Box and Cover (VUWCO)	EA	1	2,000.00	$2,000
Install 16"x12" Reducer	EA	1	1,000.00	$1,000
Install 8"x6" Reducer	EA	1	800.00	$800
Install 16"x8" Tee	EA	1	3,000.00	$3,000
Install 1.5" Water Service per COG Std. Det. G-642	EA	1	2,000.00	$2,000
Install 2" Water Service per COG Std. Det. G-642	EA	1	2,000.00	$2,000
Install 30" Steel Casing, Spacers and Supports	LF	100	1,000.00	$100,000
Install 1" Air Release Valve	EA	7	2,000.00	$14,000
Pavement Marking	LS	1	4,165.00	$4,165
Total				**$732,635**

Allowance for Owner Construction Contingencies		$75,000
Mobilization/Demobilization		$15,000
Traffic Control		$15,000
Storm Water Pollution Prevention Plan		$5,000
Materials Testing		$10,000
Construction Survey		$10,000
Total		**$862,635**
Valley Utility admin costs		$10,000
Construction Administration (Glendale)	8.0%	$69,011
Design (Glendale)		$7,664
Total Construction Cost		**$949,310**
Maricopa County Environmental Services Permit		$600
Meter Fee (1.5-inch)		$2,720
Meter Set Fee		$9,803
Potholing		$12,422
Engineering, Acquisition and Coordination (URS)		$56,304
Total "Advances in Aid of Construction" (Refundable)		**$1,031,159**
Arsenic Impact Fee		$7,040
Establishment Fee		$43
Application Fee		$14
Total "Contributions in Aid of Construction" (Non-Refundable)		**$7,097**
Total Project Cost Including fees		**$1,038,256**

CITY COUNCIL REPORT

Meeting Date:	**2/12/2013**
Meeting Type:	**Voting**
Title:	**MEMORANDUM OF UNDERSTANDING WITH MARICOPA COUNTY ATTORNEY'S OFFICE FOR THE EQUITABLE SHARING OF RACKETEERING INFLUENCED CORRUPT ORGANIZATIONS ASSETS**
Staff Contact:	**Debora Black, Interim Police Chief**

Purpose and Recommended Action

This is a request for City Council to authorize the City Manager to enter into a Memorandum of Understanding (MOU) with the Maricopa County Attorney's Office (MCAO) for the equitable sharing of Racketeering Influenced Corrupt Organizations (RICO) assets.

Staff is requesting Council waive reading beyond the title and adopt a resolution authoring the City Manager to enter into a MOU with MCAO for the equitable sharing of RICO assets.

Background Summary

The City of Glendale has been participating in this program for at least two decades. Participation in this agreement allows the Glendale Police Department to receive a portion of the RICO assets seized on criminal cases. The majority of municipalities and towns in Maricopa County participate in this agreement. The standard split is 80/20 in the majority of cases, with the law enforcement agency receiving 80% of each case.

Previous Related Council Action

On April 10, 2012, Council approved an MOU with MCAO for the equitable sharing of RICO assets.

Attachments

Staff Report

Resolution

Agreement

STAFF REPORT

To:	**Horatio Skeete, Acting City Manager**
From:	**Debora Black, Interim Police Chief**
Item Title:	**MEMORANDUM OF UNDERSTANDING WITH MARICOPA COUNTY ATTORNEY'S OFFICE FOR THE EQUITABLE SHARING OF RACKETEERING INFLUENCED CORRUPT ORGANIZATIONS ASSETS**
Requested Council Meeting Date:	**2/12/2013**
Meeting Type:	**Voting**

PURPOSE

This report contains information on the proposed Memorandum of Understanding (MOU) with the Maricopa County Attorney's Office (MCAO) for the equitable sharing of Racketeering Influenced Corrupt Organizations (RICO) assets. The purpose of this report is to request the City Manager forward this item to the City Council for their consideration and approval.

BACKGROUND

Asset forfeiture, also known as RICO, allows the government to legally use the proceeds from criminal enterprises forfeited by individuals or organizations and utilize them in approved law enforcement operations. By removing the proceeds from criminal enterprises and other assets relied upon by criminals to perpetuate their criminal activity, the Glendale Police Department is able to dismantle many criminal organizations. The funds are not forfeited unless authorized through the courts after due process, which MCAO assists with.

The City of Glendale has been participating in this program for at least two decades. Participation in this agreement allows the Glendale Police Department to receive a portion of the RICO assets seized on criminal cases. The majority of municipalities and towns in Maricopa County participate in this agreement. The standard split is 80/20 in the majority of cases, with the law enforcement agency receiving 80% of each case.

ANALYSIS

On April 10, 2012, Council approved an MOU with MCAO for the equitable sharing of RICO assets. This is a yearly agreement that needs to be approved by Council. Participation in equitable asset sharing enables the Glendale Police Department to continue to target large-scale operations to suppress drug importation and sales in the city. If this MOU is not signed, the Glendale Police Department will not be able to collect assets seized on criminal cases.

I will be recommending that City Council authorize the City Manager to enter into an MOU with MCAO.

FISCAL IMPACTS

MCAO will be reimbursed 20% of seized assets for their cost to litigate the forfeiture action.

RESOLUTION NO. 4640 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF A MEMORANDUM OF UNDERSTANDING WITH THE MARICOPA COUNTY ATTORNEY'S OFFICE CONCERNING ASSET FORFEITURE SERVICES (RICO) FOR THE GLENDALE POLICE DEPARTMENT.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That it is deemed in the best interest of the City of Glendale and the citizens thereof that a Memorandum of Understanding with the Maricopa County Attorney's Office concerning asset forfeiture services (RICO) for the Glendale Police Department, which agreement is now on file in the office of the City Clerk of the City of Glendale.

SECTION 2. That the Mayor or City Manager and the City Clerk be authorized and directed to execute and deliver said agreement on behalf of the City of Glendale.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this _____ day of _____, 2013.

_____
M A Y O R

ATTEST:

_____
City Clerk (SEAL)

APPROVED AS TO FORM:

_____
City Attorney

REVIEWED BY:

_____
Acting City Manager

iga_pd_mcao_rico.doc

MARICOPA COUNTY ATTORNEY'S MEMORANDUM OF UNDERSTANDING

1. SCOPE AND TERM OF MEMORANDUM

1.1 This memorandum reflects the policies and procedures of the Office of the Maricopa County Attorney [hereafter "MCAO"] as it concerns asset forfeiture services provided by MCAO to any requesting agencies [hereafter "Agency"].

1.2 The following policy and procedures are in effect between September 1, 2012, and August 31, 2013.

2. FORFEITURE SUBMITTAL THRESHOLDS

2.1 MCAO will not set any minimum forfeiture submittal thresholds and will abide by any Agency submittal threshold.

2.2 Notwithstanding the language of paragraph 2.1, MCAO reserves the right to decline any Agency submittal, for any reason, and will provide notice of the declination along with the reasons for the declination to the Agency.

3. HANDLING OF PROPERTY PRE-FORFEITURE

3.1 It is the expectation of MCAO that, as soon as practicable after seizure for forfeiture, and as may be further dictated by the provisions of paragraph 3.2, Agency will ensure that any funds that have been seized for forfeiture are placed into the pre-forfeiture account maintained by MCAO pending further order of the Court.

3.2 MCAO will take those steps necessary to allocate to the Agency's sub-account identified in Paragraph 7.1, as soon as practicable, any currency deposited into the MCAO pre-forfeiture account for which an order of forfeiture has not yet been obtained and to do so in such a manner as to clearly identify the

allocation as currency submitted for forfeiture but not yet subject to a final order of forfeiture.

3.3 It is the expectation of MCAO that, prior to the deposit into the account pursuant to paragraph 3.1, Agency will take those steps reasonably necessary to protect any evidentiary value the funds described in Paragraph 3.1 may have to any forfeiture or criminal proceeding.

3.4 It is the expectation of MCAO that, as to all personal property seized for forfeiture and over which the Agency has custody, the Agency will take those steps reasonably necessary to preserve the value of such property pending the property's disposition.

3.5 Unless otherwise required by extraordinary circumstance, all real property seized for forfeiture, will be made by "constructive seizure" pursuant to the provisions of A.R.S.§ 13-4305(B).

4. FORFEITURE LITIGATION

4.1 MCAO will have the right to control all aspects of the forfeiture action, including but not limited to, the right to decline a submittal; to add or delete property from the submittal; to determine the theory upon which the forfeiture is based; and, to initiate, entertain, and negotiate to conclusion any settlement discussions at any time.

4.2 Notwithstanding the language in paragraph 4.1, MCAO will continue to recognize its partnership with Agency; to give serious consideration to all Agency concerns; and to communicate to Agency all significant litigation and settlement decisions.

5. HANDLING OF FORFEITED PROPERTY

5.1 MCAO will take those steps necessary to transfer to the Agency's sub-account identified in Paragraph 7.1, as soon as practicable, any currency held in an account maintained by MCAO for which an order of forfeiture has been obtained.

5.2 As to all personal property seized for forfeiture and over which the Agency has custody and for which an order has been obtained, the Agency will take those steps reasonably necessary to comply with the terms of the order, including return of the property or disposition of the property.

5.3 Agency will take all steps reasonably necessary to ensure that any property for which an order of forfeiture has been obtained is liquidated in such a manner as to assure its highest value under the circumstances.

6. COST REIMBURSMENT

6.1 As to any forfeiture actions prosecuted by MCAO at Agency's request, MCAO will be reimbursed for its costs, as follows: 20% of the value of all forfeited property, including currency, in all cases; and,

6.2 As to any forfeiture actions not prosecuted by MCAO but for which MCAO was involved, in any way, in the collateral criminal prosecution, 10% of the value of all forfeited property, including currency.

6.3 Notwithstanding the language in paragraph 6.1, on a case-by-case analysis, and only with the consent of Agency, MCAO and Agency may agree to adjust that percentage in order to provide a more equitable reimbursement of costs to MCAO.

6.4 EXTRAORDINARY COSTS

6.4.1 Designation.

6.4.1.1 MCAO may designate certain expenses incurred in forfeiture prosecutions as "Extraordinary Prosecution Costs"; or, "Extraordinary Property Management Costs"; or "Extraordinary Investigative Costs" [hereafter referred to collectively as "Extraordinary Costs"].

6.4.1.2 Such designation shall be made by MCAO to the Agency by providing written notice to the Agency's lead forfeiture detective that identifies the specific expense and the extraordinary expense designation by MCAO.

6.4.1.3 MCAO will assume that the Agency has no objection to the extraordinary expense designation if the Agency has not provided written objection within ten days of the notice provided pursuant to paragraph 6.4.1.2 above.

6.4.2 Responsibility for Payment

6.4.2.1 MCAO will be responsible for timely payment of those expenses designated "Extraordinary Costs."

6.4.3 Reimbursement for Payment

6.4.3.1 Any expenses finally designated as "Extraordinary Costs" that have been paid by MCAO or the Agency shall be reimbursed out of any funds available as a result of the forfeiture action prior to the calculation for reimbursement of ordinary costs called for in paragraph 6.1.

6.4.3.2 Any expenses finally designated as "Extraordinary Costs" that have not been paid at the conclusion of the forfeiture action shall be paid out of any

funds available as a result of the forfeiture action prior to the calculation for reimbursement of ordinary costs called for in paragraph 6.1.

7. COUNTY ANTI-RACKETEERING REVOLVING FUND

7.1 Sub Accounts:

7.1.1 Monies in the Maricopa County Attorney Forfeiture Account shall accrue interest and be held for the benefit of the agencies responsible for the seizure of forfeiture. Interest will be calculated using daily average weighted balances. Each agency will have a separate sub-account within the fund. Each sub-account will have a State and a Federal sub-ledger to insure those funds are kept separate. A monthly activity report will be sent to each sub-account holder.

7.2 Deposits into Revolving Account:

7.2.1 Whenever possible, funds should be paid by check, payable to Maricopa County Attorney Forfeiture Account and sent to Maricopa County Attorney Investigations Division, 301 West Jefferson, Phoenix, Arizona, 85003.

7.2.2 Checks for State forfeitures should have a copy of the Court Order of Forfeiture attached, the agency report number (DR) that initiated the forfeitures, and, the case name and number (CR) of any corresponding criminal case on the order.

7.2.3 Checks for Federal forfeitures should have a copy of the DAG-71, the agency report number (DR), and, the criminal case name and number (CR) on the DAG-71.

7.3 Agency requests for funds from the Fund:

7.3.1 An agency requesting funds from its RICO sub-account shall fill out an "Agency Application for RICO Funds" form, and submit it to the RICO Funds Administrator, 301 West Jefferson, Phoenix, 85003. A copy of this form is provided in the Appendix. This form must contain the following information:

7.3.1.1 Requesting agency name;

7.3.1.2 Intended use of funds. Check the appropriate box or boxes which are A.C.J.C. expenditure categories for County Attorney reporting and disbursement purposes. Check whether the funds are to come from your State (S) or Federal (F) account and the amount requested. If requesting for more than one (1) category, list the amount for each in the appropriate space to the right;

7.3.1.3 The "Explanation" section. Briefly, <u>but specifically</u>, explain the authorized purpose for each expenditure category checked, this section must never be left blank (See, Distribution of Funds, Section V, for permissible uses). If more space is needed, please attach a separate sheet with a continuation of the information.

7.3.1.4 Payment information should include the <u>total</u> amount requested, the <u>exact</u> payee name that should be on the check, and whether to wire the funds, hold the check for an individual, or the address if it is to be mailed.

7.3.1.5 Signature of the authorized agency representative, certifying the request and the date; and,

7.3.1.6 Typed or printed name of the individual.

7.3.1.7 The bottom portion of the form is for Maricopa County Attorney's Office use only.

7.3.2 Faxed Application: An agency may fax its "Agency Application for RICO Funds" to the RICO Funds Administrator, at (602) 594-7127, as follows:

7.3.2.1 The form must be complete when faxed: and,

7.3.2.2 The original form must be immediately mailed to: RICO Funds Administrator, Maricopa County Attorney's Office, 301 W. Jefferson, Suite 800, Phoenix, Arizona, 85003.

7.3.2.3 If the original form is not received within five (5) working days of receipt of the faxed copy, no further funds will be disbursed until the original is received.

7.4 Authorized Signers for Fund Request.

7.4.1 Each agency shall maintain a current "Authorized Signers" list on file with the Maricopa County Attorney's Office. A suggested example is attached. These signers shall be the only persons authorized to request funds from an agency RICO sub-account, and by doing so, certify that the funds shall be expended pursuant to A.R.S. Sections 13-2314.03(E) and 13-4315(C) only. They further certify that the requesting agency is maintaining appropriate documentation relating to the expenditures and that the funds will not be used to replace or supplant existing resources. This list should be sent to the Chief Deputy and will be maintained by the RICO Funds Administrator.

7.4.2 The Maricopa County Attorney's Office will handle specific, single item applications from an agency. However, for recurring expenses or because of various internal agency policies, each agency should project their expenditures by category for one (1) quarter and request a single check.

7.4.3 Each agency is responsible for the maintenance of backup documentation on the internal disbursement of these funds for audit purpose.

7.5 REPORTING REQUIREMENTS

7.5.1. Each Agency is responsible for preparing a quarterly report of that Agency's RICO deposits and withdrawals. This report is to be submitted to MCAO RICO Fund Administrator before the 15th of the month following each quarter end. MCAO has the right to withhold disbursements if a report becomes greater than 45 days past due.

8. USE OF FUNDS

8.1 Unless an exemption pursuant to A.R.S. § 13-2314.03(F) or (G) is applicable, the County Attorney shall distribute the monies to the agency within 30 days of application.

8.2 The funds may be used for any one of the uses authorized by law and identified in A.R.S. § 13-2314.03(E) and A.R.S. § 13-4315(C), which provide generally as follows:

8.2.1 Pursuant to A.R.S. Section 13-2314.03(E), State forfeiture funds may be used for Gang prevention programs and for substance abuse prevention and education programs. In addition, State forfeiture funds may be used for the investigation and prosecution of racketeering offenses as defined in A.R.S. Section 13-2301.

8.2.2 Pursuant to A.R.S. Section 13-4315(C), State forfeiture funds may also be used for expenses necessary to seize, detain, appraise, inventory, protect, maintain, preserve the availability of, advertise or sell property subject to

forfeiture. In addition, 13-4315(C) allows forfeiture monies to be used for payment for information or assistance leading to civil or criminal proceedings under Title 13 and for compensation to injured persons as provided in A.R.S. 13-4311.

8.2.3 Forfeiture funds to be used for any purpose permitted by Federal law. Federal funds must be spent for the purposes stated on Federal form DAG-71 which was submitted when you applied for the Federal asset sharing program. The DAG-71 must accompany all Federal funds deposited into the anti-racketeering fund.

8.3. Supplanting Prohibited. RICO funds shall not be used to replace or to supplant the resources of a recipient agency. RICO funds are intended to directly benefit the recipient agency by adding to the resources already available. If RICO funds are used as a replacement or as a substitute for existing resources then they have been used to supplant.

DATED this _____ day of _____, 2013.

MARICOPA COUNTY ATTORNEY'S OFFICE

_____

Peter Spaw
Bureau Chief
Forfeiture Bureau

CITY OF GLENDALE, an Arizona municipal corporation

_____
Horatio Skeete, Acting City Manager

ATTEST:

_____
Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

_____
Craig Tindall, City Attorney

CITY COUNCIL REPORT

Meeting Date:	**2/12/2013**
Meeting Type:	**Voting**
Title:	**MEMORANDUM OF UNDERSTANDING WITH MARICOPA COUNTY ADULT PROBATION DEPARTMENT FOR EXCHANGE OF PROBATION DATA AND LAW ENFORCEMENT INFORMATION**
Staff Contact:	**Debora Black, Interim Police Chief**

Purpose and Recommended Action

This is a request for City Council to authorize the City Manager to enter into a memorandum of understanding (MOU) with the Maricopa County Adult Probation Department (MCAPD) for exchange of probation data and law enforcement information.

Staff is requesting Council waive reading beyond the title and adopt a resolution authoring the City Manager to enter into a MOU with MCAPD for exchange of probation data and law enforcement information.

Background Summary

Probation data assists the Glendale Police Department in solving crimes by assisting with the identification of suspects who may be on probation. The MCAPD has been sharing probation data with the Glendale Police Department for approximately 10 years. Under this MOU, the MCAPD and Glendale Police Department will continue the exchange of probation data and law enforcement information. The term of this MOU is two years.

Previous Related Council Action

On November 9, 2010, Council approved an MOU with MCAPD for the exchange of probation data and law enforcement information.

Attachments

Staff Report

Resolution

Agreement

STAFF REPORT

To:	**Horatio Skeete, Acting City Manager**
From:	**Debora Black, Interim Police Chief**
Item Title:	**MEMORANDUM OF UNDERSTANDING WITH MARICOPA COUNTY ADULT PROBATION DEPARTMENT FOR EXCHANGE OF PROBATION DATA AND LAW ENFORCEMENT INFORMATION**
Requested Council Meeting Date:	**2/12/2013**
Meeting Type:	**Voting**

PURPOSE

This report contains information on the proposed memorandum of understanding (MOU) with the Maricopa County Adult Probation Department (MCAPD) for exchange of probation data and law enforcement information.

BACKGROUND

Probation data assists the Glendale Police Department in solving crimes by assisting with the identification of suspects who may be on probation. The information has been used to identify several suspects involved in ongoing criminal activity, which led to their arrest. The probation data received from MCAPD also assists the Glendale Police Department with keeping track of probationers in the community. In return, the Glendale Police Department shares law enforcement information with MCAPD, such as details about contacts Glendale Police have had with probationers, which helps MCAPD further their investigations.

The MCAPD has been sharing probation data with the Glendale Police Department for approximately 10 years. Under this MOU, the MCAPD and Glendale Police Department will continue the exchange of probation data and law enforcement information. The term of this MOU is two years.

ANALYSIS

On November 9, 2010, Council approved an MOU with MCAPD for the exchange of probation data and law enforcement information. The MOU expired on December 31, 2012; however, while working on the new MOU, MCAPD has continued to share data with the Glendale Police Department. It is important that the city continues the partnership with MCAPD because it has been very successful in identifying suspects involved in crimes. If the agreement does not continue, the Glendale Police Department will no longer receive data files of adult probationers. The data files include very useful information, such as descriptions of scars, marks, and tattoos on

the probationer. This information has been used to identify suspects in serial crimes, such as robberies.

I will be recommending that City Council authorize the City Manager to enter into a MOU with MCAPD.

FISCAL IMPACTS

There are no costs associated with this MOU.

RESOLUTION NO. 4641 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF A MEMORANDUM OF UNDERSTANDING FOR DATA EXCHANGE WITH THE MARICOPA COUNTY ADULT PROBATION DEPARTMENT.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That it is deemed in the best interest of the City of Glendale and the citizens thereof that a Memorandum of Understanding for Data Exchange with the Maricopa County Adult Probation Department to allow the exchange of probation data and law enforcement data to enhance public safety in the City of Glendale be entered into, which agreement is now on file in the office of the City Clerk of the City of Glendale.

SECTION 2. That the Mayor or City Manager and the City Clerk be authorized and directed to execute and deliver all necessary documents on behalf of the City of Glendale.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this _____ day of _____, 2013.

_____
M A Y O R

ATTEST:

_____
City Clerk (SEAL)

APPROVED AS TO FORM:

_____
City Attorney

REVIEWED BY:

_____
Acting City Manager

iga_pd_mcapd.doc

Maricopa County
Adult Probation Department

Memorandum of Understanding for Data Exchange

This Memorandum of Understanding ("MOU") is between the MARICOPA COUNTY ADULT PROBATION DEPARTMENT ("MCAPD") at 620 W. Jackson Street, Phoenix, Arizona 85003, and the City of Glendale, an Arizona municipal corporation acting through the Glendale Police Department ("GPD"). MCAPD and GPD are referred to herein individually as "Party" and collectively as "Parties".

1. Purpose. This MOU is intended to allow the exchange of probation data and law enforcement data between MCAPD and GPD to enhance public safety in Maricopa County and the City of Glendale.

2. Effective Date. This MOU will become effective once fully executed by the parties.

3. Process to obtain data.

    a. Prior to any exchange of data, MCAPD requires a formal request in writing from the requesting agency listing the following:

        i. Contact information for a single project leader for the agency.

        ii. Contact information for a single technical leader for the agency.

        iii. How the agency will use the requested probation data.

        iv. The agency's willingness to participate in meeting concerning data exchanges (if need be.)

    b. MCAPD will provide each participating criminal agency with data file(s) containing data of its probation population. Generally, the data file(s) are updated on a daily basis as part of a data dump. MCAPD does not provide incremental data.

    c. Data is/will be posted on a file transfer protocol (FTP) site in standard text (.txt) files. MCAPD is unable to fulfill any custom build data requests and provides the same data to all participating agencies.

    d. GPD is advised of the following regarding the data:

        i. Although a termination date may be listed in the case record, it does not necessarily reflect the actual termination date of that individual from probation termination. The termination date, as listed, is only a projected/calculated field.

ii. Much of the data provided is dynamic and can be changed. Although, MCAPD takes measures to ensure that its data is accurate, there are occasions when the data may not have been updated. Prior to taking any action, the information garnered from these records must be verified via a phone call to MCAPD.

e. The FTP address, login, and password will be delivered to the Technical Leader.

f. A Data Dictionary is posted on the FTP site for help understanding the data layout of the files.

4. Reciprocity. MCAPD will only provide data to those agencies willing to allow access by MCAPD to their data. In most cases, if plausible, MCAPD would be interested in data listing contact that a police agency has with individuals on probation (i.e., arrests, field interrogations, departmental reports, etc.) Also, MCAPD would be interested in incident information from a police agency listing the crime in its jurisdiction. And, shape files of the police agency's beats or precincts. Such data shall only be provided as authorized by law.

5. Restrictions and terms for use of MCAPD data.

   a. The information provided pursuant to this MOU is solely for legitimate criminal justice use by the parties. Secondary dissemination to other agencies and individuals is prohibited. This restriction includes probation data on crime maps that may be released to the public if allowed by public records laws.

   b. GPD agrees to comply with all current laws, rules and policies governing the confidentiality of any data provided by the MCAPD.

   c. GPD will not use or resell data for the purpose of commercial solicitation of any individual named in the data.

   d. GPD will not publish or re-disseminate the data for the purpose of unrestricted access on the Internet with the personal identifiers set forth in Rule 123(j)(4), Rules of the Supreme Court of Arizona.

   e. GPD will not publish or re-disseminate the data for the purpose of unrestricted access on the Internet with the personal identifiers set forth in Rule 123(j)(4), Rules of the Supreme Court of Arizona.

   f. GPD agrees that the MCAPD may audit its compliance with the terms and conditions of the dissemination agreement and it will cooperate fully with any law enforcement investigation concerning the use of the data by GPD or any of its subscribers.

g. GPD agrees to provide its users only the most recent data obtained from the MCAPD.

h. Upon notice from the MCAPD, GPD agrees to remove from its files within two business days any data that has been amended, corrected, sealed, or otherwise restricted and notify its subscribers to do the same. The notice from the MCAPD shall identify the cases that are to be corrected, removed, or otherwise restricted.

i. GPD must enter a written subscriber agreement with each of its subscribers that specifically details the authorized uses of the data accessed, conditions access to lawful use, and includes a provision for immediate termination of the agreement in the event of improper use of the data. The agreement shall also require the subscriber to remove from its files any data that has been amended, corrected, sealed, or otherwise restricted, within two business days from receiving notice from GPD. The agreement shall further require the subscriber to provide a disclosure statement to each customer, client, or other third party at the time any of the data obtained under the agreement is provided, which states:

> The MCAPD, the custodian of bulk data, provides no warranties, express or implied, that the data provided is accurate, current, correct, or complete. It is expressly understood that it is the responsibility of the GPD and/or its subscribers, customers, clients, or other third parties to whom the data is supplied to verify the data obtained under this agreement with the official court records.

6. Indemnification. GPD agrees to defend, indemnify, and hold harmless the MCAPD, the supreme court, the court from which the data is disseminated, and the State of Arizona and their officers, agents and employees from all risk of loss and damages incurred because of any claims, judgments, or executions arising out of any use made of the data obtained under the agreement.

7. Termination. MCAPD may immediately terminate the dissemination agreement at any time if, in the MCAPD sole discretion, the data is used improperly. In addition, this MOU may be terminated by either Party with or without cause, upon thirty (30) day written notice to the other Party. If not terminated before this date or extended by mutual agreement of the parties, this MOU shall terminate on December 31, 2014.

8. Insurance. GPD, as a public agency, is exempted from the minimum commercial general liability insurance requirement.

9. Cancellation. This MOU is subject to cancellation provisions pursuant to A.R.S § 38-511. MCAPD may cancel this MOU, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating this MOU on behalf of MCAPD is, at any time while this MOU or any

extension is in effect, an employee or agent of GPD with respect to the subject matter of this Agreement.

10. None of the provisions of the MOU may be waived, changed or altered except in writing signed by both parties.

11. Notwithstanding any provision of the MOU to the contrary, MCAPD is not authorized to indemnify GPD.

12. No payment is due from MCAPD under the Agreement.

13. Pursuant to A.R.S. §§ 35-214 and 35-215, GPD shall retain all data, books and other records ("records") relating to this MOU for a period of five years after completion of the MOU. All records shall be subject to inspection and audit by the State of Arizona at reasonable times. Upon request, GPD shall produce the original of any or all such records.

14. GPD shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. GPD shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

15. Scrutinized Business Operations. Pursuant to A.R.S. § 35-391.06 and 35-393.06, both Parties certify that they do not have a scrutinized business operation in Sudan or Iran. For the purpose of this Section the term "scrutinized business operations" shall have the meanings set forth in A.R.S. § 35-391 or and 35-393, as applicable. If either Party determines that the other Party submitted a false certification, that Party may impose remedies as provided by law including cancellation or termination of this MOU.

16. Compliance requirements for A.R.S. § 41-4401—immigration laws and E-Verify requirement.

    a. Both Parties warrant compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A, which reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program."

    b. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breech of the MOU and both Parties may be subject to penalties up to and including termination of the MOU.

17. This MOU shall be construed in accordance the laws of the State of Arizona.

18. The parties to this MOU agree to resolve all disputes arising out of or relating to this MOU through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518 except as may be required by other applicable statutes.

19. Non-Availability of Funds. Every payment obligation of the State under this MOU is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this MOU, this MOU may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

20. This MOU contains the entire understanding of the parties. There are no representations or other provisions other than those contained herein, and any amendment or modification of this MOU shall be made only in writing and signed by the parties to this MOU.

21. Counterparts. The parties may execute this MOU in two or more counterparts, each of which shall be deemed an original and together which shall constitute one and the same document.

22. Project lead. GPD designates the following individual as the project lead:

    Name: Bryan Hill

    Title: Crime Analyst

    Email address: bhill@glendaleaz.com

23. Technical Lead. GPD designates the following individual as the technical lead:

    Name: Bryan Hill

    Title: Crime Analyst

    Email address: bhill@glendaleaz.com

24. Notices. Changes to the project or technical leads must be submitted in writing to MCAPD.

If to GPD:	Glendale Police Department Attn: Police Chief 6835 North 57th Drive Glendale, AZ 85301

With a copy to: Glendale City Attorney
5850 West Glendale Avenue
Glendale, AZ 85301

If to MCAPD: Maricopa County Adult Probation
Attn: Randy Tirado
620 West Jackson Street, Suite 3098
Phoenix, AZ 85053

Maricopa County Adult Probation Department

By:_____

Name: **Barbara Broderick**

Title: **Chief Probation Officer**

Date:_____

CITY OF GLENDALE, an Arizona municipal corporation

_____
Horatio Skeete, Acting City Manager

ATTEST:

_____
Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

_____
Craig Tindall, City Attorney

CITY COUNCIL REPORT

Meeting Date:	**2/12/2013**
Meeting Type:	**Voting**
Title:	**AMENDED AND RESTATED TRIBAL WATER RIGHTS SETTLEMENT AND LEASE AGREEMENT**
Staff Contact:	**Doug Kukino, Environmental Resources Director**

Purpose and Recommended Action

This is a request for Council to waive reading beyond the title and adopt a resolution approving and authorizing execution of the Amended and Restated White Mountain Apache Tribe Water Rights Quantification Agreement, dated November 1, 2012, and all exhibits to the agreement including the revised Lease Agreement for Central Arizona Project (CAP) Water. Council is also requested to authorize the City Manager to execute all required documentation on behalf of the City of Glendale in this transaction.

Background Summary

Since 2004, Glendale has been actively involved in negotiations with the United States Bureau of Reclamation, the state of Arizona, the Salt River Project Agricultural Improvement and Power District, the Salt River Valley Water Users' Association, the Roosevelt Water Conservation District, and the cities and towns of Avondale, Gilbert, Mesa, Peoria, Phoenix, Scottsdale, Show Low, and Tempe, the Arizona town of Gilbert, Buckeye Irrigation Company, Buckeye Water Conservation and Drainage District, Arizona Water Company, the Central Arizona Water Conservation District and all associated exhibits, to resolve long-standing water rights claims to the Salt River by the White Mountain Apache Tribe (WMAT).

The Council approved and authorized a WMAT Water Rights Settlement Agreement in 2009, including a lease of the White Mountain Apache Tribe's CAP water by Glendale. The Amended and Restated White Mountain Apache Tribe Water Rights Quantification Agreement reaffirms and updates the agreements approved by Council in 2009. Minor changes resulting from Congressional approval require the city to adopt these revised agreements to ensure that they conform to the federal legislation settling the water rights claim.

As part of the Quantification Agreement, the parties agreed to provide certain water resources and other resources to the tribe, and not to contest the tribe's use of those water resources. In exchange, the tribe and the United States, as trustee for the tribe, formally recognize the water rights claims of the other parties, and agree to waive claims that could potentially diminish individual use of water resources by the other parties. This agreement will finalize the WMAT water rights settlement and will avoid years of prolonged uncertainty concerning the availability of water supplies and the related expense of litigation.

The lease will minimize impacts from the loss of Salt River water resources provided to the tribe as part of the settlement. The Quantification Agreement, which is considered permanent, will become enforceable upon the occurrence of several events specified in the Congressional Act authorizing the settlement. The initial lease payment will become due within 30 days after the settlement becomes enforceable, expected in the fourth quarter of calendar year 2014 or early calendar year 2015.

Previous Related Council Action

At the February 5, 2013 Workshop, a presentation was made to Council for their information and study on updates and the status of minor revisions made to the agreements.

On February 24, 2009, Council adopted Resolution No. 4235, New Series, approving and authorizing the WMAT Water Rights Quantification Agreement and all associated exhibits, including the 100-year lease of CAP water by Glendale.

Community Benefit/Public Involvement

The 2012 Ad Hoc Citizen Task Force on Water and Sewer was briefed on the city's water resources and had two recommendations related to the WMAT water lease. The Task Force recommended the city should ensure it has a safe and reliable water supply to meet current and future demand to ensure water resources sustainability. The Task Force also recommended the city should continue to seek opportunities to acquire additional water resources, such as the 100-year lease agreement pursuant to the 2009 White Mountain Apache Tribe Settlement.

Budget and Financial Impacts

Funds have been budgeted under Fund 2400, Water Services Department CIP.

Cost	Fund-Department-Account
$3,197,330	**Upon Council approval, a new account within Fund 2400 will be created for Additional Water Supply by FY 2014**
$3,197,330	**Upon Council approval, a new account within Fund 2400 will be created for Additional Water Supply by FY 2015**

Capital Expense? Yes ☒ No ☐

CITY COUNCIL REPORT

Budgeted? Yes ☒ No ☐

Requesting Budget or Appropriation Transfer? Yes ☐ No ☒

If yes, where will the transfer be taken from?

Attachments

Staff Report

Resolution

Agreement

Other

STAFF REPORT

To:	**Horatio Skeete, Acting City Manager**
From:	**Craig Johnson, P.E., Executive Director, Water Services** **Doug Kukino, Environmental Resources Director**
Item Title:	**AMENDED AND RESTATED TRIBAL WATER RIGHTS SETTLEMENT AND LEASE AGREEMENT**
Requested Council Meeting Date:	**2/12/2013**
Meeting Type:	**Voting**

PURPOSE

Glendale has been actively involved in negotiations with the White Mountain Apache Tribe (WMAT), the State of Arizona, Salt River Project, valley cities and towns, and other parties since 2004 to settle the tribe's water rights claims.

The purpose of this report is to request the City Manager forward this item to the City Council for consideration and approval.

BACKGROUND

The White Mountain Apache Tribe Water Rights Quantification Agreement settles the WMAT's water rights claims in the Gila River and the Little Colorado River General Stream adjudications, and provides certainty to water users in central Arizona about their future water supplies. Parties to the settlement agreement included the United States Bureau of Reclamation, the State of Arizona, the Salt River Project Agricultural Improvement and Power District, the Salt River Valley Water Users' Association, the Roosevelt Water Conservation District, and the cities and towns of Avondale, Gilbert, Mesa, Peoria, Phoenix, Scottsdale, Show Low, and Tempe, the Arizona town of Gilbert, Buckeye Irrigation Company, Buckeye Water Conservation and Drainage District, Arizona Water Company and the Central Arizona Water Conservation District.

This item was presented at the Council Workshop on February 5, 2013 for Council's information and study.

On February 24, 2009, Council adopted Resolution No. 4235, New Series, approving and authorizing the WMAT Water Rights Settlement Agreement. Legislation to authorize the WMAT Settlement Agreement was subsequently enacted by Congress as the White Mountain Apache Tribe Water Rights Quantification Act of 2010 (Act). Federal legislation was required to settle federal reserved water rights and to secure federal funds for the needed water infrastructure. In finalizing the settlement at the federal level, there were certain non-substantive changes made to the agreement. These changes necessitate the city adopt an Amended and Restated White Mountain Apache Tribe Water Quantification Agreement to ensure that the agreement conforms

to the federal legislation settling the water rights claims. An exhibit to the Quantification Agreement allows the city to receive up to 2,363 acre-feet (af) of Central Arizona Project (CAP) water per year through a 100-year lease with the WMAT and the U. S. Bureau of Reclamation.

The Amended and Restated Agreement being presented for Council approval includes minor changes that were made to conform the 2009 version of the settlement agreement to the Act. Those changes include:

- Corrected cross-references to the Act
- Additional cross-references to the Act
- Corrected definitions to conform to the Act
- Incorporated certain language of the Act into the Agreement
- Refined language regarding the firming of CAP Non-Indian Agriculture (NIA) Priority Water to conform to the Act

There were no substantive changes affecting Glendale.

ANALYSIS

The WMAT reservation is located at the headwaters of the Salt River and the tribe has a federal reserved water right with a priority date as early as 1871. The tribe claimed approximately 179,000 af per year of water in the Arizona General Stream Adjudication. Based on the reservation's location within the Salt River system and relatively early priority date, any depletions of Salt River system water by the WMAT has a direct impact on Glendale's water supplies provided through Salt River Project (SRP) and Modified Roosevelt Dam (Plan 6).

The settlement resolves a significant water right claim to the Salt River and leverages a large federal investment. The settlement allocates to the WMAT a total annual water right of 52,000 af through a combination of surface water and CAP water. Of this 52,000 af/year allocation, 27,000 af is surface water and 25,000 af is CAP water. Most of the CAP water for the WMAT settlement was already set aside for future settlements under the Arizona Water Settlement Act of 2004 (AWSA). The SRP agreed to provide 27,000 af, or approximately 3% of its surface water, supply to the Tribe. In addition to the 25,000 af a year of CAP water, the United States is providing several hundred million dollars to the tribe for dam construction and delivery infrastructure.

Almost half of the WMAT water budget comes from CAP water that is allocated to the WMAT. This replaces water that would otherwise have come from the Salt River watershed. This means that less water is being depleted from the Salt River watershed because CAP water is substantially being used to fill the WMAT water budget.

Although the settlement results in a loss of approximately 1,750 af (per year) of surface water to Glendale from the SRP, the agreement provides an opportunity for the city to lease up to 2,363 af of water per year from WMAT through a 100-year lease. This CAP water may be used anywhere within the city's service area and not just within the boundaries of the SRP reservoir district.

The WMAT Quantification Agreement represents a mutually beneficial solution where the WMAT and the cities worked together to resolve competing claims to water. Through the settlement, the WMAT is receiving water and financial resources for their future needs while the tribe is mitigating adverse impacts to the cities by leasing its CAP water to the cities.

As a party to the settlement, Glendale will receive past, present and future waivers from the WMAT and the federal government relating to any water rights claims of the WMAT. This will provide certainty and predictability regarding future water supplies. Glendale will have greater flexibility regarding the location of where WMAT leased water may be used within the city in comparison to SRP water.

FISCAL IMPACTS

The 2,363 af of water is comprised of several types of CAP water, 649 af is high-priority Municipal & Industrial (M&I) and Harquahala Valley Irrigation District (HVID) water while 1,714 af is lower-priority NIA water. The one-time lease cost of $5,209,786 represents the market value of each water supply and is expressed in 2008 dollars when the agreement was negotiated. The actual or final cost will be adjusted by the Consumer Price Index since 2008, and will depend on the final settlement enforceability date which is anticipated to be 2015. The final settlement enforceability date is contingent on obtaining legal approval by the stream adjudication court and federal environmental approval, which could take from 18 months to two years.

The city has calculated the lease amount of the WMAT water settlement using a base year of 2008, as affected by the Consumer Price Index (CPI). This is a total amount not to exceed $6,394,660. The Water Services Department has included the one-time cost of the water lease in its Capital Improvement Plan (CIP) budget in FY 2014 and 2015. Based on a conservative CPI inflation rate since 2008, Water Services has budgeted amounts of $3,197,330 in FY2014 (4th quarter) and $3,197,330 in FY2015 (1st quarter).

The lease information is shown in the following chart:

Sources of Water Leased from WMAT	Amount (per year)	Acquisition Cost (100-year lease in 2008 dollars)	Total (one-time lease cost in 2008 dollars)
HVID CAP Water	91 acre-feet	$2,550 per af	$232,050
CAP NIA M&I Equivalent Priority Water	558 acre-feet	$2,550 per af	$1,422,900
CAP NIA Priority Water	1,714 acre-feet	$2,074 per af	$3,554,836
TOTAL	**2,363 acre-feet**		**$5,209,786**

Once the agreement becomes enforceable, Glendale may pay the full amount without interest within 30 days after the term begins or may pay half the total amount and the remaining amount in four annual payments. These deferred payments include interest. The Water Services Department has budgeted a total of $6,394,660 for the one-time cost of securing the water lease in its CIP budgets divided equally in FY2014 and FY2015.

When the water is delivered, the cities and towns leasing the water will also have to pay all CAP fixed Operation, Maintenance, and Replacement charges and all CAP pumping energy charges associated with the leased water. Funds for these on-going costs of the lease water ordered by the city will be paid from the Water Services Department's raw water account in its annual operational and maintenance budget.

RESOLUTION NO. 4642 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF THE LEASE AGREEMENT FOR CENTRAL ARIZONA PROJECT WATER AMONG THE CITY OF GLENDALE, THE WHITE MOUNTAIN APACHE TRIBE AND THE UNITED STATES; AND THE AMENDED AND RESTATED WHITE MOUNTAIN APACHE TRIBE WATER RIGHTS QUANTIFICATION AGREEMENT AND ALL ASSOCIATED EXHIBITS THERETO.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That it is deemed in the best interest of the City of Glendale and the citizens thereof that the Lease Agreement for Central Arizona Project Water among the City of Glendale, the White Mountain Apache Tribe and the United States be entered into, which Agreement is now on file in the office of the City Clerk of the City of Glendale.

SECTION 2. That the City Council further approves of the Amended and Restated White Mountain Apache Tribe Water Rights Quantification Agreement among the United States of America; the State of Arizona; the White Mountain Apache Tribe; the Salt River Project Agricultural Improvement and Power District; the Salt River Valley Water Users' Association; the Roosevelt Water Conservation District; Arizona Water Company; the Arizona Cities of Phoenix, Mesa, Tempe, Chandler, Scottsdale, Avondale, Peoria and Show Low; the Arizona Town of Gilbert; Buckeye Irrigation Company; Buckeye Water Conservation and Drainage District; and the Central Arizona Water Conservation District and all associated exhibits, which Agreement and exhibits are now on file in the office of the City Clerk of the City of Glendale.

SECTION 3. That the Mayor or City Manager and the City Clerk be authorized and directed to execute and deliver any and all necessary documents on behalf of the City of Glendale.

SECTION 4. That the City officers and employees be and they hereby are authorized and directed to perform all acts necessary to give effect to this Resolution.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this _____ day of _____, 2013.

_____
M A Y O R

ATTEST:

_____
City Clerk (SEAL)

APPROVED AS TO FORM:

_____
City Attorney

REVIEWED BY:

_____
Acting City Manager

iga_whitemtnapachetribe2012.doc

Dated as of November 1, 2012

AMENDED AND RESTATED
WHITE MOUNTAIN APACHE TRIBE WATER RIGHTS
QUANTIFICATION AGREEMENT

TABLE OF CONTENTS

1.0	Recitals	2
2.0	Definitions	3
3.0	Exhibits	16
4.0	White Mountain Apache Tribe Water Rights	22
5.0	Surface Water	27
6.0	Groundwater	32
7.0	CAP Water	33
8.0	Allocation of WMAT Depletions of Water from the Salt River Watershed	41
9.0	Terms and Conditions of Future WMAT CAP Water Lease Agreements	42
10.0	WMAT CAP Water Lease Agreements	44
11.0	Measurement and Calculation of Diversions and of Depletions of Water	48
12.0	Waiver and Release of Claims	58
13.0	Federal Appropriations and Local Contributions	71
14.0	Confirmation of Rights	72
15.0	WMAT Water Code	85
16.0	Other Provisions	87
17.0	Execution Blocks	97

AMENDED AND RESTATED WHITE MOUNTAIN APACHE TRIBE WATER RIGHTS QUANTIFICATION AGREEMENT

This Amended and Restated White Mountain Apache Tribe Water Rights Quantification Agreement, dated as of November 1, 2012, amends and restates the White Mountain Apache Tribe Water Rights Quantification Agreement dated January 13, 2009 in accordance with Section 309(d)(1)(A)(i) of the White Mountain Apache Tribe Water Rights Quantification Act of 2010, P.L. 111-291, Title III, 124 Stat. 3064, 3073 (2010), and is entered into among the United States of America; the State of Arizona; the White Mountain Apache Tribe; the Salt River Project Agricultural Improvement and Power District; the Salt River Valley Water Users' Association; the Roosevelt Water Conservation District; Arizona Water Company; the Arizona Cities of Phoenix, Mesa, Tempe, Chandler, Glendale, Scottsdale, Avondale, Peoria and Show Low; the Arizona town of Gilbert; Buckeye Irrigation Company; Buckeye Water Conservation and Drainage District; and the Central Arizona Water Conservation District.

1.0 RECITALS

1.1 Proceedings to determine the nature and extent of the rights to water of the White Mountain Apache Tribe, its Members, the United States, and other claimants are pending in the Gila River Adjudication Proceedings and the Little Colorado River Adjudication Proceedings.

1.2 Recognizing that final resolution of these pending proceedings may take many years, entail great expense, prolong uncertainty concerning the availability of water supplies, and seriously impair the long-term economic well-being of all Parties, the White

Mountain Apache Tribe, its neighboring non-Indian communities and other Arizona water users have agreed to permanently quantify the water rights of the White Mountain Apache Tribe, its Members and the United States acting in its capacity as trustee for the White Mountain Apache Tribe and its Members as provided in this Agreement and to seek funding, in accordance with applicable law, for the implementation of this Agreement.

1.3 In keeping with its trust responsibility to Indian Tribes and to promote tribal sovereignty and economic self-sufficiency, it is the policy of the United States to wherever possible quantify water rights claims of Indian Tribes without lengthy and costly litigation.

NOW, THEREFORE, the Parties agree as follows:

2.0 DEFINITIONS

For purposes of this Agreement, the following terms shall have the meanings set forth below:

2.1 "Active Conservation Capacity" shall mean that portion of the capacity of a reservoir that may be used to Divert Water or operated to release Water for irrigation, power, M&I, or other Water Diversions.

2.2 "Act" shall mean the White Mountain Apache Tribe Water Rights Quantification Act of 2010, P.L. 111-291, Title III, 124 Stat. 3064, 3073 (2010), a copy of which is attached as Exhibit 2.2.

2.3 "AFY" shall mean acre-feet per Year.

2.4 "Agreement" shall mean: (1) the Amended and Restated White Mountain Apache Tribe Water Rights Quantification Agreement dated as of November 1, 2012, which amends and restates the White Mountain Apache Tribe Water Rights Quantification Agreement dated January 13, 2009 in accordance with Section 309(d)(1)(A)(i) of the Act; and (2) any amendment or exhibit (including exhibit amendments) to the Agreement that are (i) made in accordance with the Act, or (ii) otherwise approved by the Secretary.

2.5 "Arizona Water Banking Authority" shall mean the Arizona Water Banking Authority, formed pursuant to A.R.S. §§45-2401 et seq.

2.6 "Arizona Water Company" shall mean the Arizona corporation of that name, its subsidiaries and affiliates.

2.7 "Available CAP Supply" shall mean for any given Year all Fourth Priority Water available for delivery through the CAP System, Water available from CAP dams and reservoirs other than Modified Roosevelt Dam, and return flows captured by the Secretary for CAP use.

2.8 "AWSA" shall mean the Arizona Water Settlements Act, P.L. 108-451, 118 Stat. 3478 (2004).

2.9 "Buckeye Irrigation Company" shall mean the corporation of that name organized under the laws of the Arizona Territory in 1907.

2.10 "Buckeye Water Conservation and Drainage District" shall mean the entity of that name that is a political subdivision of the State and an irrigation district with the power of drainage organized under the laws of the State.

2.11 "CAP" or "Central Arizona Project" shall mean the reclamation project authorized and constructed by the United States in accordance with Title III of the Colorado River Basin Project Act (43 U.S.C. §1521 et seq.).

2.12 "CAP Contract" shall mean a long-term contract, as that term is used in the CAP Repayment Stipulation, for delivery of CAP Water.

2.13 "CAP Contractor" shall mean an individual or entity that has entered into a long-term contract, as that term is used in the CAP Repayment Stipulation, with the United States for delivery of water through the CAP System.

2.14 "CAP Fixed OM&R Charge" shall mean 'Fixed OM&R Charge' as that term is defined in the CAP Repayment Stipulation.

2.15 "CAP Indian Priority Water" shall mean that CAP Water having an Indian delivery priority under the CAP Repayment Contract.

2.16 "CAP M&I Priority Water" shall mean that CAP Water having a municipal and industrial delivery priority under the CAP Repayment Contract.

2.17 "CAP NIA Priority Water" shall mean that water deliverable under a CAP Contract or CAP Subcontract providing for the delivery of non-Indian agricultural priority water.

2.18 "CAP Operating Agency" shall mean the entity or entities authorized to assume responsibility for the care, operation, maintenance and replacement of the CAP System. CAWCD is the CAP Operating Agency at the time of execution of this Agreement.

2.19 "CAP Pumping Energy Charge" shall mean the 'Pumping Energy Charge' as that term is defined in the CAP Repayment Stipulation.

2.20 "CAP Pumping Energy Costs" shall mean 'Pumping Energy Costs' as that term is defined in the CAP Repayment Stipulation.

2.21 "CAP Repayment Contract" shall mean: (1) the contract between the United States and CAWCD for Delivery of Water and Repayment of Costs of the CAP, numbered 14-06-W-245 (Amendment No. 1), and dated December 1, 1988; and (2) any amendment to, or revision of, that contract.

2.22 "CAP Repayment Stipulation" shall mean the Stipulated Judgment and the Stipulation for Judgment (including any exhibits to those documents) entered on November 21, 2007, in the United States District Court for the District of Arizona in the consolidated civil action styled *Central Arizona Water Conservation District v. United States, et al*., and numbered CIV 95-625-TUC-WDB (EHC) and CIV 95-1720-PHX-EHC.

2.23 "CAP Subcontract" shall mean a long-term subcontract, as that term is used in the CAP Repayment Stipulation, with the United States and the Central Arizona Water Conservation District for the delivery of water through the CAP System.

2.24 "CAP Subcontractor" shall mean an individual or entity that has entered into a long term subcontract, as that term is used in the CAP Repayment Stipulation, with the United States and the Central Arizona Water Conservation District for the delivery of water through the CAP System.

2.25 "CAP System" shall mean: (A) the Mark Wilmer Pumping Plant; (B) the Hayden-Rhodes Aqueduct; (C) the Fannin-McFarland Aqueduct; (D) the Tucson Aqueduct; (E) any pumping plant or appurtenant works of a feature described in any of (A) through (D); and (F) any extension of, addition to, or replacement for a feature described in any of (A) through (E).

2.26 "CAP Water" shall mean 'Project Water' as that term is defined in the CAP Repayment Stipulation.

2.27 "CAWCD" or "Central Arizona Water Conservation District" shall mean the political subdivision of the State that is the contractor under the CAP Repayment Contract.

2.28 "Cities" shall mean the municipalities of Avondale, Chandler, Gilbert, Glendale, Mesa, Peoria, Phoenix, Scottsdale and Tempe.

2.29 "CSIF" shall mean the "CAP/SRP Interconnection Facility" that connects the Hayden-Rhodes Aqueduct of the CAP System to SRP's Water delivery system.

2.30 "Depletion" or "Deplete" shall mean the amount of Water Diverted less return flows to the Salt River or Little Colorado River Watershed from which it was Diverted.

2.31 "Diversion" shall mean the act of Diverting.

2.32 "Divert" or "Diverting" shall mean to receive, withdraw or develop and produce or capture Groundwater, Surface Water, CAP Water or Effluent by means of a ditch, canal, flume, bypass, pipeline, pit, collection or infiltration gallery, conduit, well, pump, turnout, dam, or other mechanical device or any other human act.

2.33 "Effluent" shall mean Water that has been used for domestic, municipal or industrial purposes and that is available for use for any purpose, but Water shall not become Effluent solely as a result of having been used for hydropower generation on the Reservation.

2.34 "Enforceability Date" shall mean the date described in Section 309(d)(1) of the Act.

2.35 "Excess CAP Water" shall mean 'Excess Water' as that term is defined in the CAP Repayment Stipulation.

2.36 "Excess CAP Water Contract" shall mean a contract between any person or entity and CAWCD for the delivery of Excess CAP Water.

2.37 "Excess CAP Water Contractor" or "Excess CAP Water Contractors" shall mean one or more persons or entities having an Excess CAP Water Contract.

2.38 "Exhibit" shall mean an exhibit to this Agreement as set forth in Paragraph 3.0.

2.39 "Fourth Priority Water" shall mean Colorado River water available for delivery within the State of Arizona for satisfaction of entitlements: (1) pursuant to contracts, Secretarial reservations, perfected rights, and other arrangements between the United States and water users in the State entered into or established subsequent to September 30, 1968, for use on Federal, State, or privately owned lands in the State (for a total quantity not to exceed 164,652 acre-feet of diversions annually); and (2) after first providing for the delivery of water under 43 U.S.C. § 1524(e), pursuant to the CAP Repayment Contract for the delivery of Colorado River water for the CAP including use of Colorado River water on Indian lands.

2.40 "Gila River Adjudication Court" shall mean the Superior Court of the State of Arizona in and for the County of Maricopa exercising jurisdiction over the Gila River Adjudication Proceedings.

2.41 "Gila River Adjudication Proceedings" shall mean that action pending in the Superior Court of the State of Arizona in and for the County of Maricopa styled *In re the General Adjudication of All Rights To Use Water In The Gila River System and Source, W-1 (Salt), W-2 (Verde), W-3 (Upper Gila), W-4 (San Pedro) (Consolidated).*

2.42 "Groundwater" shall mean all Water beneath the surface of the Earth other than Surface Water.

2.43 "HVID CAP Water" shall mean that water that was acquired by the Secretary through the permanent relinquishment of the Harquahala Valley Irrigation District CAP Subcontract entitlement in accordance with Contract No. 3-07-30-W0290 among

CAWCD, Harquahala Valley Irrigation District and the United States, and converted to CAP Indian Priority Water pursuant to the Fort McDowell Indian Community Water Rights Settlement Act of 1990, P.L. 101-628 Title IV, 104 Stat. 4468, 4480.

2.44 "Injury to Water Rights" shall mean an interference with, diminution of, or deprivation of, a Water Right under Federal, State or other law. The term "Injury to Water Rights" includes a change in the Groundwater table and any effect of such a change. The term "Injury to Water Rights" does not include any injury to water quality.

2.45 "Large Reservoir" shall mean a Water storage reservoir located entirely on the Reservation with an Active Conservation Capacity exceeding 2,000 acre-feet.

2.46 "Lease Agreement" –

2.46.1 "CAWCD Lease Agreement" shall mean the agreement entered into among the WMAT, the Secretary and CAWCD pursuant to Paragraph 10.0, the form of which is attached as Exhibit 10.2.1.

2.46.2 "City Lease Agreement" shall mean one or more of those agreements entered into among the WMAT, the Secretary, and one or more of the Cities pursuant to Paragraph 10.0, the forms of which are attached as Exhibits 10.1.1A through 10.1.1H.

2.47 "Leased Water" shall mean the WMAT CAP Water that is leased to a City pursuant to a City Lease Agreement or CAWCD pursuant to the CAWCD Lease Agreement.

2.48 "Leasing Cities" for purposes of Paragraph 10.0 shall mean the Cities of Avondale, Chandler, Gilbert, Glendale, Mesa, Peoria, Phoenix, and Tempe.

2.49 "Little Colorado River Adjudication Court" shall mean the Superior Court of the State of Arizona in and for the County of Apache exercising jurisdiction over the Little Colorado River Adjudication Proceedings.

2.50 "Little Colorado River Adjudication Proceedings" shall mean that action pending in the Superior Court of the State of Arizona in and for the County of Apache styled *In re the General Adjudication of All Rights to Use Water in the Little Colorado River System and Source, CIV No. 6417*.

2.51 "Little Colorado River Watershed" shall mean all lands located within the Surface Water drainage of the Little Colorado River and its tributaries within the State of Arizona.

2.52 "M&I Use" or "M&I Uses" shall mean the Diversion of Water for domestic, residential, municipal, industrial, and commercial uses, which are served by a municipal water delivery system.

2.53 "Maximum Annual Depletion Amount" shall mean the maximum amount of Water depleted per Year as set forth in Paragraph 4.0 and Subparagraphs 5.1, 5.2, and 5.3.

2.54 "Maximum Annual Diversion Amount" shall mean the maximum amount of Water Diverted per Year as set forth in Paragraph 4.0 and Subparagraphs 5.1, 5.2, and 5.3.

2.55 "Member" or "Members" shall mean any person or persons duly enrolled as members of the White Mountain Apache Tribe.

2.56 "Net SRP Reservoir Storage" shall mean that amount of Water physically stored in SRP Reservoirs on May 1 of each year less water storage credits calculated by SRP for Water stored for the United States on behalf of the San Carlos Apache Tribe and the Bureau of Reclamation, the Salt River Pima-Maricopa Indian Community, the Fort McDowell Mohave-Apache Indian Community, the Gila River Indian Community, RWCD, the Buckeye Irrigation Company, the Buckeye Water Conservation and Drainage District, the City of Phoenix, the City of Tempe, the City of Scottsdale, the City of Mesa, the City of Glendale, and the City of Chandler. The storage credits referenced in the preceding sentence shall be those credits provided under the terms and conditions of judgments and agreements with the entities specified above as those judgments and agreements exist on January 1, 2008. The amount of Water physically stored in SRP Reservoirs used to perform the calculations of Net SRP Reservoir Storage pursuant to this Agreement shall not exceed SRP's storage rights, as determined in the Gila River Adjudication, for SRP Reservoirs.

2.57 "Off-Reservation Trust Land" shall mean land: (1) located outside the exterior boundaries of the Reservation that is held in trust by the United States for the benefit of the WMAT as of the Enforceability Date; and (2) depicted on the map attached as Exhibit 2.57.

2.58 "Paragraph" shall mean a numbered paragraph of this Agreement including all Subparagraphs in such Paragraph.

2.59 "Party" shall mean an entity represented by a signatory to this Agreement and "Parties" shall mean more than one of such entities. The State's participation as a Party shall be as described in Subparagraph 16.5. The United States' participation as a Party shall be in the capacity as described in Subparagraph 2.72.

2.60 "Plan 6 Cities" shall mean the Arizona cities of Chandler, Glendale, Mesa, Phoenix, Scottsdale, and Tempe.

2.61 **"**Roosevelt Water Conservation District" or "RWCD" shall mean the entity of that name that is a political subdivision of the State and an irrigation district organized under the laws of the State.

2.62 "Salt River Reservoir System" shall mean the four reservoirs operated by SRP on the Salt River created by the impoundment of Water behind Stewart Mountain Dam, Mormon Flat Dam, Horse Mesa Dam, and Modified Theodore Roosevelt Dam and any dams that are constructed after December 31, 2008, to the extent that they replace and do not exceed then-existing storage capacity of any of those four dams.

2.63 "Salt River Watershed" shall mean all lands located within the Surface Water drainage of the Salt River and its tributaries.

2.64 "Secretary" shall mean the Secretary of the United States Department of the Interior.

2.65 "SRP" shall mean the Salt River Project Agricultural Improvement and Power

District, a political subdivision of the State, and the Salt River Valley Water Users' Association, an Arizona Territorial Corporation.

2.66 "SRP Reservoirs" shall mean the Salt River Reservoir System plus the Verde River Reservoir System.

2.67 "SRRD" shall mean the Salt River Reservoir District as defined on December 31, 2007 in Article IV, Section 3, of the Articles of Incorporation of the Salt River Valley Water Users' Association.

2.68 "State" shall mean the State of Arizona.

2.69 "Subparagraph" shall mean a numbered subparagraph of this Agreement.

2.70 "Surface Water" shall mean all Water that is appropriable under State law. For purposes of the definition of "Water Right" in Paragraph 12.0, the term "Surface Water" shall also include Colorado River water.

2.71 "Total Water Lease Charge" shall mean that amount described in Subparagraph 10.1.1.2 and as described in Subparagraph 4.3 of the City Lease Agreement.

2.72 "United States" or "United States of America" in any given reference herein shall mean the United States acting in the capacity as set forth in said reference. When the term "United States" or "United States of America" is used in reference to a particular agreement or contract, the term shall mean the United States acting in the capacity as set forth in such agreement or contract.

2.73 "Use" shall mean any beneficial use including instream flows, recharge, underground storage, recovery or any other use recognized as beneficial under applicable law.

2.74 "Verde River Reservoir System" shall mean the two reservoirs operated by SRP on the Verde River created by the impoundment of Water behind Bartlett Dam and Horseshoe Dam, and any dams that are constructed after December 31, 2008, to the extent that they replace and do not exceed then-existing storage capacity of any of those two dams.

2.75 "Water" when used without a modifying adjective shall mean Groundwater, Surface Water, CAP Water, or Effluent.

2.76 "Water Code" shall mean that tribal ordinance to be adopted by the WMAT pursuant to Paragraph 15.0.

2.77 "Water Right" shall mean any right in or to Groundwater, Surface Water or Effluent under Federal, State, or other law.

2.78 "White Mountain Apache Tribe" or "WMAT" shall mean the White Mountain Apache Tribe, organized under Section 16 of the Act of June 18, 1934, 48 Stat. 984 (commonly known as the "Indian Reorganization Act") (25 U.S.C. § 476).

2.79 "WMAT CAP Water" shall mean CAP Water to which the WMAT is entitled pursuant to the WMAT CAP Water Delivery Contract.

2.80 "WMAT CAP Water Delivery Contract" shall mean (A) Contract No. 08-XX-30-W0529 between the WMAT and the United States dated _____, a copy of which is attached hereto as Exhibit 7.1; and (B) any amendments to that contract.

2.81 **"**WMAT Reservation" or "Reservation" shall mean the land located within the exterior boundaries of the White Mountain Indian Reservation established by Executive Order dated November 9, 1871, as modified by subsequent Executive Orders and Acts of Congress: (1) known on December 8, 2010, the date of enactment of the Act, as the "Fort Apache Reservation" pursuant to chapter 3 of the Act of June 7, 1897 (30 Stat. 62); and (2) generally depicted on the map attached as Exhibit 2.81. The depiction of the Reservation on the map attached as Exhibit 2.81 shall not: (1) be used to affect any dispute between the WMAT and the United States concerning the legal boundary of the Reservation; or (2) constitute an admission by the WMAT with regard to any dispute between the WMAT and the United States concerning the legal boundary of the Reservation.

2.82 "WMAT Rural Water System" shall mean the municipal, rural, and industrial Water Diversion, storage, and delivery system described in Section 307 of the Act.

2.83 "Year" shall mean a calendar year. When not capitalized, the term "year" shall have the meaning in the Paragraph or Subparagraph in which the term is used.

3.0 EXHIBITS

3.1 The following is a list of Exhibits attached to this Agreement, all of which are incorporated herein by reference. All of the Parties have reviewed the Exhibits. Prior to the Enforceability Date, no Party shall object to the terms and conditions of any of the Exhibits in any judicial, administrative or legislative proceedings relating to the approval of this Agreement; provided, however, that each Exhibit shall be binding only on the

specific Parties to such Exhibit unless expressly provided otherwise in Exhibits 12.9.6.1 or 12.9.6.2. Amendments to Exhibits shall be governed by Subparagraph 16.4. No Party shall have any right to object to an amendment to such an Exhibit except as provided in Subparagraph 16.4. No Party shall have, by reason of this Agreement, any third-party enforcement or other rights under any Exhibit to which said Party is not a party, unless otherwise provided in the Exhibit or in Exhibits 12.9.6.1 or 12.9.6.2.

PARAGRAPH NO. – EXHIBIT NO.	**DESCRIPTION**
2.2	White Mountain Apache Tribe Water Rights Quantification Act of 2010, P.L. 111-291, Title III, 124 Stat. 3064, 3073 (2010)
2.57	Map Showing Off-Reservation Trust Land
2.81	Map Showing the WMAT Reservation
5.7.2	Graph of Maximum Storage in Large Reservoirs
7.1	WMAT CAP Water Delivery Contract
9.4	Standard Form of CAP Subcontract for M&I Use

10.1.1A	Lease Agreement among the WMAT, the Secretary and the City of Avondale
10.1.1B	Lease Agreement among the WMAT, the Secretary and the City of Chandler
10.1.1C	Lease Agreement among the WMAT, the Secretary and the City of Gilbert
10.1.1D	Lease Agreement among the WMAT, the Secretary and the City of Glendale
10.1.1E	Lease Agreement among the WMAT, the Secretary and the City of Mesa
10.1.1F	Lease Agreement among the WMAT, the Secretary and the City of Peoria
10.1.1G	Lease Agreement among the WMAT, the Secretary

	and the City of Phoenix
10.1.1H	Lease Agreement among the WMAT, the Secretary and the City of Tempe
10.1.1.1A	Form of Voluntary Assignment and Assumption of Leased Water
10.1.1.1B	Form of Assignment and Assumption of Leased Water
10.2.1	Lease Agreement among the WMAT, the Secretary and the CAWCD
11.2	Sample Report Required by Subparagraph 11.2
11.3.1.1.A	Inventory of Stockponds
11.3.1.1.B	Inventory of Lakes
11.3.1.1.C	Inventory of Other Impoundments
11.3.1.2	Lakes, Stockponds and Other Impoundments Diversion and Depletion Calculation

11.3.2.3	Irrigation Use Diversion and Depletion Calculation
11.3.3.2	Municipal and Industrial Use Diversion and Depletion Calculation
11.3.4.2	Artificial Snow Making Use Depletion Calculation
11.3.7.2	Mining Use Depletion Calculation
12.1	Waiver and Release of Claims by the Parties Other than the WMAT on Behalf of Itself and its Members and the United States Acting in its Capacity as Trustee for the WMAT and its Members
12.2	Waiver and Release of Claims for Water Rights and Injury to Water Rights by the WMAT, on behalf of itself and its Members, and the United States, acting in its capacity as trustee for the WMAT and its Members

12.3	Waiver and Release of Claims By the WMAT, on Behalf of Itself and its Members, Against the United States (Except in the Capacity of the United States as Trustee for Other Indian Tribes)
12.4	Waiver and Release of Claims By the United States in All Capacities (Except as Trustee for an Indian Tribe Other than the WMAT) Against the WMAT and its Members
12.9.6.1	Form of Judgment and Decree in the Gila River Adjudication Proceedings
12.9.6.2	Form of Judgment and Decree in the Little Colorado River Adjudication Proceedings
14.7.2	Land classifications subject to RWCD credit of 5.6% of water diverted at Granite Reef Dam

16.8 Water Commissioner's Report of June 3, 1977

4.0 WHITE MOUNTAIN APACHE TRIBE WATER RIGHTS

4.1 The WMAT and the United States acting in its capacity as trustee for the WMAT shall have the following permanent quantified Water Rights to the Use of Water on the Reservation and on Off-Reservation Trust Land:

Source	Maximum Annual Diversion Amount	Maximum Annual Depletion Amount	Reference
4.1.1 Surface Water and Groundwater Diverted on the Reservation or on Off-Reservation Trust Land from sources within the Salt River Watershed	64,000 AFY	21,800 AFY	As set forth in Paragraphs 5.0, 6.0, and 11.0
4.1.2 Surface Water and Groundwater Diverted on the Reservation or on Off-Reservation Trust Land from sources within the Salt River Watershed or the Little Colorado River Watershed	7,000 AFY	4,000 AFY	As set forth in Paragraphs 5.0, 6.0, and 11.0

4.1.3 Surface Water and Groundwater Diverted on the Reservation or on Off-Reservation Trust Land from sources within the Salt River Watershed the first Use of which shall not commence until after the Year 2100.	3,000 AFY	1,200 AFY	As set forth in Subparagraph 5.2 and Paragraph 11.0
4.1.4 White Mountain Apache Tribe Central Arizona Project Water	At least 25,000 AFY	25,000 AFY	As set forth in Paragraphs 7.0 and 11.0
4.1.5 Total	99,000 AFY Subject to Subparagraph 4.1.4	52,000 AFY	

4.2 The Water Rights of the WMAT described in this Paragraph 4.0 shall be held in trust by the United States acting in its capacity as trustee for the WMAT and shall not be subject to forfeiture or abandonment.

4.3 In accordance with the terms of Subparagraphs 5.1, 5.2, and 5.3 and Paragraph 11.0, the WMAT and the United States acting in its capacity as trustee for the WMAT, collectively, shall not Divert, subject to Subparagraph 4.1.4, more than 99,000 AFY from all available sources of Water on the Reservation or on Off-Reservation Trust Land nor cause the Depletion of the amount Diverted from all available sources of Water on the Reservation or on Off-Reservation Trust Land to exceed 52,000 AFY.

4.4 All Water Diverted or Depleted on the Reservation or on Off-Reservation Trust Land by Members or pursuant to any agreement or authorization by the WMAT or the United States acting in its capacity as trustee for the WMAT shall be considered for the purpose of this Agreement to be Diverted or Depleted by the WMAT or the United States acting in its capacity as trustee for the WMAT.

4.5 The Water Rights of the WMAT and the United States acting in its capacity as trustee for the WMAT as quantified in this Paragraph 4.0 may be used for any Use on the Reservation, including any land finally determined to be part of the Reservation under Subparagraph 4.14, or on Off-Reservation Trust Land; provided, however, that Use of WMAT CAP Water shall be as provided in Paragraph 7.0.

4.6 Surface Water, Groundwater and Effluent purchased or acquired subsequent to the Enforceability Date by the WMAT or the United States acting in its capacity as trustee for the WMAT pursuant to state law from sources outside of the Reservation and outside of Off-Reservation Trust Land shall not be subject to the quantification limits of the WMAT's Water Rights specified in this Paragraph 4.0 or Subparagraphs 5.1, 5.2 and 5.3.

4.7 Except for Use of WMAT CAP Water as provided in Paragraph 7.0, no Water available for Use by the WMAT or by the United States acting in its capacity as trustee for the WMAT under this Agreement and the Act may be sold, leased, transferred or used outside the boundaries of the Reservation or Off-Reservation Trust Land other than pursuant to an exchange.

4.8 All land held by the United States in trust for the WMAT as Off-Reservation Trust Land and all land within the Reservation shall have only those Water Rights specifically quantified in this Paragraph 4.0 for the WMAT and the United States acting in its capacity as trustee for the WMAT.

4.9 Except for CAP Water Diverted from the CAP System, the right of the WMAT and the United States acting in its capacity as trustee for the WMAT to Divert the Water Rights quantified by this Paragraph 4.0 is subject to the physical availability of such Water on the Reservation or on the Off-Reservation Trust Land and is subject to the WMAT's and the United States' acting in its capacity as trustee for the WMAT's priorities for the Diversion of such Water Rights as set forth in Paragraph 5.5 and in the Judgments and Decrees to be entered in the Gila River Adjudication Proceedings and the Little Colorado River Adjudication Proceedings, copies of which are attached hereto as Exhibits 12.9.6.1 and 12.9.6.2.

4.10 All Diversions of Water within the Reservation and on Off-Reservation Trust Land, together with all WMAT CAP Water used by the WMAT outside of the Reservation and outside of Off-Reservation Trust Land, and all WMAT CAP Water leased to others or exchanged pursuant to Paragraph 7.0, shall be counted in determining compliance by the WMAT and the United States acting in its capacity as trustee for the WMAT with the Maximum Annual Diversion Amounts specified in Paragraph 4.0 and Subparagraphs 5.1, 5.2 and 5.3. Diversions shall be measured or calculated as provided in Paragraph 11.0.

4.11 All Depletions of Water in each Year from Diversions of Water within the Reservation and on Off-Reservation Trust Land, together with all WMAT CAP Water used by the WMAT outside of the Reservation and outside of Off-Reservation Trust Land, and all WMAT CAP Water leased to others or exchanged pursuant to Paragraphs 7.0, 9.0 and 10.0 shall be counted in determining compliance by the WMAT and the United States acting in its capacity as trustee for the WMAT with the Maximum Annual Depletion Amounts specified in Paragraph 4.0 and Subparagraphs 5.1, 5.2 and 5.3. Depletions shall be measured or calculated as provided in Paragraph 11.0.

4.12 Notwithstanding anything to the contrary in this Agreement, any Diversions of Water by the WMAT or the United States acting in its capacity as trustee for the WMAT on the Reservation and on Off-Reservation Trust Land within the Salt River Watershed that occur when the Salt River Reservoir System is full and the amount of Water in the Salt River Reservoir System is increasing shall not be counted in determining compliance with the Maximum Annual Diversion Amount from the Salt River Watershed specified in Paragraph 4.0 and Subparagraphs 5.1 and 5.2. Likewise, any Depletions of Water Diverted under the circumstances described in the preceding sentence shall not be counted in determining compliance with the Maximum Annual Depletion Amount from the Salt River Watershed specified in Paragraph 4.0 and Subparagraphs 5.1 and 5.2. The Salt River Reservoir System shall be deemed full for purposes of this Subparagraph when the volume of Water stored in the Salt River Reservoir System is equal to the capacity of the Salt River Reservoir System. For purposes of this Subparagraph 4.12, the capacity of the Salt River Reservoir System shall mean the capacity of those reservoirs, including the new conservation space in Modified Theodore Roosevelt Dam, available to store Water

on a continuous basis for irrigation, power, municipal, industrial or other purposes. SRP shall notify the WMAT and the United States acting in its capacity as trustee for the WMAT of an impending spill as soon as practicable and notify them of the date the spill ends.

4.13 In the event the Maximum Annual Diversion Amounts or the Maximum Annual Depletion Amounts specified in Paragraph 4.0 and Subparagraphs 5.1, 5.2 and 5.3 are exceeded in any Year by the WMAT or the United States acting in its capacity as trustee for the WMAT, then the Maximum Annual Diversion Amounts or the Maximum Annual Depletion Amounts, as applicable, shall be reduced by the amount of any such exceedance for such Water source in the following Year.

4.14 Except as provided in Subparagraph 4.6, all Uses of Water on land outside of the Reservation, if and when that land is subsequently and finally determined to be part of the Reservation through resolution of any dispute between the WMAT and the United States over the location of the Reservation boundary, and any fee land within the Reservation placed into trust and made part of the Reservation, shall be subject to the Maximum Annual Diversion Amounts and the Maximum Annual Depletion Amounts specified in Paragraph 4.0 and Subparagraphs 5.1, 5.2, and 5.3.

5.0 SURFACE WATER

5.1 The WMAT and the United States acting in its capacity as trustee for the WMAT shall have the permanent right to Divert for Use on the Reservation and on Off-Reservation Trust Land the Maximum Annual Diversion Amount of 71,000 AFY from

all sources of Surface Water on the Reservation and on Off-Reservation Trust Land within the Salt River Watershed, provided that the Maximum Annual Depletion Amount of all such Diversions shall not exceed 25,800 AFY. Up to 7,000 AFY of the 71,000 AFY Maximum Annual Diversion Amount and up to 4,000 AFY of the 25,800 AFY Maximum Annual Depletion Amount specified in the preceding sentence may be Diverted and Depleted from sources of Water within the Little Colorado River Watershed.

5.2 Commencing after the Year 2100, the WMAT and the United States acting in its capacity as trustee for the WMAT also shall have the additional permanent right to Divert for Use on the Reservation and on Off-Reservation Trust Land the additional Maximum Annual Diversion Amount of 3,000 AFY from all sources of Surface Water on the Reservation and on Off-Reservation Trust Land within the Salt River Watershed, provided the additional Maximum Annual Depletion Amount of all of such Diversions does not exceed 1,200 AFY.

5.3 In addition to the quantities of Water set forth in Subparagraphs 5.1 and 5.2, the WMAT and the United States acting in its capacity as trustee for the WMAT shall also have the additional permanent right to Divert for Use on the Reservation and on Off-Reservation Trust Land the additional Maximum Annual Diversion Amount of at least 25,000 AFY from all sources of Surface Water on the Reservation and on Off-Reservation Trust Land within the Salt River Watershed pursuant to an exchange of WMAT CAP Water in accordance with the terms of Paragraph 7.0, provided the

additional Maximum Annual Depletion Amount of all of such Diversions does not exceed 25,000 AFY.

5.4 The Maximum Annual Diversion Amounts and the Maximum Annual Depletion Amounts described in Subparagraphs 5.1 and 5.2 shall include in each Year the amounts of Groundwater Diverted and Depleted pursuant to Subparagraph 6.1 in that same Year.

5.5 The priority date for the administration of the Water Rights of the WMAT and the United States acting in its capacity as trustee for the WMAT described in Subparagraphs 4.1.1, 4.1.2, 4.1.3, 5.1, 5.2, and 6.1, for Uses on the Reservation shall be November 9, 1871. The priority date for the administration of the Water Rights of the WMAT and the United States acting in its capacity as trustee for the WMAT described in Subparagraphs 4.1.1, 4.1.2, 4.1.3, 5.1, 5.2, and 6.1 for Uses on Off-Reservation Trust Lands shall be November 4, 1985. The priority for the administration of the WMAT CAP Water shall be as specified in Subparagraphs 7.2.1 and 7.2.2. The priority date for the administration of the Water Rights of the WMAT and the United States acting in its capacity as trustee for the WMAT for lands finally determined to be part of the Reservation through resolutions of any dispute between the WMAT and the United States over the location of the Reservation boundary shall be November 9, 1871.

5.6 All Diversions and Depletions associated with the operation of the White Mountain Apache Tribe Rural Water System, authorized under Section 307 of the Act, shall be subject to the terms of this Agreement.

5.7 RESERVOIRS OTHER THAN MINER FLAT

5.7.1 The United States acting in its capacity as trustee for the WMAT has asserted claims to Water in the Gila River Adjudication Proceedings from the Salt River Watershed. These claims contemplate construction of reservoirs along the White River, Black River, Carrizo Creek, Bonito Creek and Salt River. Except for the White Mountain Apache Tribe Rural Water System as authorized in Section 307 of the Act, this Agreement does not authorize the construction of any such reservoir. Except as provided in this Subparagraph 5.7.1, prior to the construction of any reservoir having a capacity of greater than 2,000 acre-feet, the WMAT and the Secretary shall execute a separate agreement with SRP regarding the operation of any such new reservoir. No such separate agreement shall be required for Large Reservoirs, Miner Flat Dam and Reservoir, and one Large Reservoir on the White River below Miner Flat Dam with an Active Conservation Capacity not exceeding 10,000 acre-feet.

5.7.2 Except as provided in Subparagraph 5.7.3, if the combined aggregate amount of Water stored in Large Reservoirs on May 1 of each Year is greater than the percentage of Active Conservation Capacity shown by the point of intersect of the line on Exhibit 5.7.2 relative to Net SRP Reservoir Storage on May 1 of each Year, the Water in storage in such Large Reservoirs in excess of the percentage of Active Conservation Capacity at the point of intersect on Exhibit 5.7.2 shall be either:

5.7.2.1 Released by the WMAT or the United States acting in its capacity as trustee for the WMAT from one or more of the Large Reservoirs no later than July 1 of such Year to flow off of the Reservation, or

5.7.2.2 Deducted from any existing long term storage credits the WMAT may possess on May 1 of such Year as the result of the recharge and storage of CAP Water, provided that such credits are transferred to SRP by June 1 of such Year and the WMAT or the United States acting in its capacity as trustee for the WMAT pays for the costs and charges associated with such transfer including the cost of recovery of such stored CAP Water, or

5.7.2.3 Reduced to the requisite percentage of Active Conservation Capacity through a combination of releases pursuant to Subparagraph 5.7.2.1 and deductions of existing long term storage credits pursuant to Subparagraph 5.7.2.2.

5.7.3 One Large Reservoir on the White River with an Active Conservation Capacity not exceeding 10,000 acre-feet and Miner Flat Dam and Reservoir located on the north fork of the White River with a capacity of not more than 9,000 acre-feet shall be exempt from the requirements of Subparagraph 5.7.2.

5.7.4 The WMAT may exchange CAP Water for the purpose of storage in reservoirs located on the Reservation. For purposes of the calculation in Subparagraph 5.7.2, the amount of CAP Water exchanged with SRP or others and stored within Large Reservoirs on the Reservation shall not be included within the combined aggregate amount of Water stored in Large Reservoirs on May 1 of each Year.

Any exchange of WMAT CAP Water shall be in accordance with the terms of Paragraph 7.0.

5.7.5 The evaporation losses associated with the storage of Water by the WMAT or the United States acting in its capacity as trustee for the WMAT in any reservoir, calculated as provided in Subparagraph 11.3.1.2 and Exhibit 11.3.1.2, shall be considered Diversions and Depletions by the WMAT and the United States acting in its capacity as trustee for the WMAT for purposes of this Agreement and shall be deducted from the Maximum Annual Diversion Amount and the Maximum Annual Depletion Amount.

5.7.6 In the event the WMAT or the United States acting in its capacity as trustee for the WMAT fail to release by July 2 the requisite amount of Water as required by Subparagraph 5.7.2, then by June 1 of the following Year the WMAT or the United States on their behalf shall release from storage the amount of Water which otherwise would have been required to be released from storage the prior Year pursuant to Subparagraph 5.7.2, in addition to any Water required to be released for the current Year.

6.0 GROUNDWATER

6.1 The WMAT and the United States acting in its capacity as trustee for the WMAT shall have the permanent right to Divert Groundwater from any location within the Reservation, including any land finally determined to be part of the Reservation under Subparagraph 4.14, and on Off-Reservation Trust Land, subject to the Maximum Annual Diversion Amounts and the Maximum Annual Depletion Amounts specified in Paragraph

4.0 and Subparagraphs 5.1 and 5.2. This Agreement does not prevent the WMAT from transporting onto the Reservation, Groundwater obtained from Off-Reservation Trust Land pumping activities.

7.0 CAP WATER

7.1 Pursuant to Section 306 of the Act, and in accordance with Section 104 (d) (1) of the AWSA, the Secretary shall execute the WMAT CAP Water Delivery Contract, a copy of which is attached hereto as Exhibit 7.1.

7.2 Pursuant to Sections 305 and 306 of the Act, the Secretary shall deliver to WMAT, directly or through an exchange with an individual or entity acceptable to the WMAT and the Secretary, upon the terms and conditions set forth in the WMAT CAP Water Delivery Contract, the following described CAP Water, which is also referenced in Subparagraph 4.1.4:

7.2.1 23,782 AFY of CAP NIA Priority Water that was previously allocated to non-Indian agricultural entities, that was retained by the Secretary for reallocation to Arizona Indian tribes pursuant to Section 104 (a) (1) (A) (iii) of the AWSA, and reallocated by the Secretary to the WMAT pursuant to Section 305(b)(1)(A) of the Act.

7.2.2 1,218 AFY of HVID CAP Water reallocated by the Secretary to the WMAT pursuant to Section 305(b)(1)(B) of the Act.

7.3 Pursuant to Section 306(b)(1) of the Act, the WMAT CAP Water Delivery Contract shall be for permanent service, as that term is used in Section 5 of the Boulder Canyon Project Act of 1928, 43 U.S.C. § 617d, and shall be without limit as to term.

7.4 Pursuant to Section 306(a)(1)(A) of the Act and Paragraph 9.0, the WMAT may, on approval of the Secretary, enter into contracts or options to lease, contracts to exchange, or options to exchange WMAT CAP Water within Maricopa, Pinal, Pima and Yavapai counties, Arizona, providing for the temporary delivery to any individual or entity of any portion of the WMAT CAP Water. The term of a contract or option to lease shall not be longer than one hundred (100) years. A contract or option to exchange shall be for the term provided for in the contract or option. A lease or option to lease providing for the temporary delivery of WMAT CAP Water shall require the lessee to pay to the CAP Operating Agency all CAP Fixed OM&R Charges and all CAP Pumping Energy Charges associated with the leased water. The WMAT may, with the approval of the Secretary, renegotiate any lease at any time during the term of that lease, subject to the condition that the term of the renegotiated lease shall not exceed one hundred (100) years. No portion of the WMAT's CAP Water may be permanently alienated.

7.5 Exchanges of the WMAT CAP Water for Water from the Salt River Watershed upstream of Modified Roosevelt Dam shall be subject to the terms and conditions of one or more agreements to be negotiated among the WMAT, the United States, SRP, Plan 6 Cities, and any other necessary parties. Upon the WMAT's request, SRP, the Plan 6 Cities, and any other necessary parties will negotiate the terms of an exchange agreement with the WMAT. SRP and the Plan 6 Cities will not unreasonably withhold agreement to

such an exchange. In accordance with Section 306(a)(1)(A) of the Act, any such exchange agreement shall be subject to the approval of the Secretary. SRP shall accept delivery of WMAT CAP Water from WMAT in exchange for Diversions of Water from the Salt River Watershed by WMAT, pursuant to an exchange agreement to be negotiated between WMAT and SRP, unless SRP cannot receive or beneficially use the WMAT CAP Water. SRP and the Plan 6 Cities agree that they will not charge the WMAT for losses associated with foregone hydropower generation on the Salt River for exchanges of CAP Water between the WMAT and SRP for Water Uses on the Reservation by the WMAT.

7.6 No WMAT CAP Water may be leased, exchanged, forborne or otherwise transferred in any way by the WMAT for Use directly or indirectly outside of the State of Arizona.

7.7 Pursuant to Section 306(a)(3)(A) of the Act, the WMAT, and not the United States in any capacity, shall be entitled to all consideration due to the WMAT under any contract or option to lease or exchange WMAT CAP Water entered into by the WMAT. The United States in any capacity shall have no trust obligation or other obligation to monitor, administer or account for, in any manner: (1) any funds received by the WMAT as consideration under a contract or option to lease or exchange WMAT CAP Water; or (2) the expenditure of those funds.

7.8 Pursuant to Sections 306(a)(4)(A) and (B) of the Act, all WMAT CAP Water shall be delivered through the CAP System; and if the delivery capacity of the CAP System is significantly reduced or anticipated to be significantly reduced for an extended

period of time, the WMAT shall have the same CAP delivery rights as a CAP Contractor or CAP Subcontractor that is allowed to take delivery of Water other than through the CAP System.

7.9 Pursuant to Section 306(a)(5) of the Act, the WMAT may use WMAT CAP Water on or off the Reservation for any purpose but all such Uses shall be considered Diversions and Depletions under Paragraph 4.0 and Subparagraph 5.3 and accounted as provided for in Paragraph 11.0.

7.10 The charges for delivery of WMAT CAP Water pursuant to the WMAT CAP Water Delivery Contract shall be calculated in accordance with the CAP Repayment Stipulation.

7.11 PAYMENT OF CAP WATER DELIVERY CHARGES

7.11.1 Pursuant to Section 305(d) of the Act, for the purpose of determining the allocation and repayment of costs of any stage of the CAP constructed after November 21, 2007, the costs associated with the delivery of WMAT CAP Water, whether such Water is delivered for Use by the WMAT or in accordance with any assignment, exchange, lease, option to lease, or other agreement for the temporary disposition of WMAT CAP Water entered into by the WMAT, shall be (1) non-reimbursable and (2) excluded from the repayment obligation of the CAWCD.

7.11.2 Pursuant to Sections 305(c) and 306(a)(8) of the Act, no CAP Water service capital charges shall be due or payable for WMAT CAP Water, whether such

Water is delivered for Use by the WMAT or pursuant to a contract or option to lease or exchange WMAT CAP Water entered into by the WMAT.

7.11.3 Pursuant to Section 306(a)(1)(A)(iii) of the Act, any lease or option to lease providing for the temporary delivery to others of any WMAT CAP Water shall require the lessee to pay the CAP Operating Agency all CAP Fixed OM&R Charges and all CAP Pumping Energy Charges associated with the delivery of the leased water. Neither the WMAT nor the United States in any capacity shall be responsible for the payment of any charges for the delivery of WMAT CAP Water leased to others.

7.11.4 The CAP Operating Agency shall be paid the CAP Fixed OM&R Charges associated with the delivery of all WMAT CAP Water. Pursuant to Section 306(a)(6) of the Act, as authorized by 43 U.S.C. §1543(f)(2)(A), as amended, to the extent that funds are available in the Lower Colorado River Basin Development Fund established by subsection (a) of that section, the Secretary shall pay to the CAP Operating Agency the CAP Fixed OM&R Charges associated with the delivery of WMAT CAP Water, and to the extent that funds are not available from the Lower Colorado River Basin Development Fund, such charges shall be paid by the WMAT. CAP Fixed OM&R Charges associated with the delivery of WMAT CAP Water leased to others shall be paid as provided in Subparagraph 7.11.3.

7.11.5 The WMAT shall pay the CAP Operating Agency all CAP Pumping Energy Charges associated with the delivery of WMAT CAP Water, except for WMAT

CAP Water leased to others. Notwithstanding the preceding sentence, other persons or entities with whom the WMAT may exchange WMAT CAP Water may agree with the WMAT to pay the CAP Operating Agency the CAP Pumping Energy Charges associated with the delivery of WMAT CAP Water pursuant to such exchange. CAP Pumping Energy Charges associated with the delivery of WMAT CAP Water leased to others shall be paid as provided in Subparagraph 7.11.3.

7.12 The CAP Operating Agency shall have no responsibility to deliver any WMAT CAP Water for which CAP Fixed OM&R Charges and CAP Pumping Energy Charges have not been paid in advance. The charges for delivery of WMAT CAP Water shall be calculated in accordance with the CAP Repayment Stipulation.

7.13 The WMAT shall schedule delivery of WMAT CAP Water in accordance with the WMAT CAP Water Delivery Contract.

7.14 The WMAT shall be entitled to enter into contracts for Excess CAP Water as provided in the CAP Repayment Stipulation. The WMAT may use such Excess CAP Water on or off the Reservation for any purpose and such Use does not constitute a Diversion or Depletion for purposes of Paragraph 4.0.

7.15 Nothing in this Agreement limits the right of the WMAT to enter into an agreement with the Arizona Water Banking Authority (or any successor entity) established by section 45-2421 of the Arizona Revised Statutes in accordance with State law.

7.16 DELIVERY OF CAP WATER IN TIMES OF SHORTAGE

7.16.1 CAP NIA PRIORITY WATER. If, in any Year, the Available CAP Supply is insufficient to meet all demands under CAP Contracts or CAP Subcontracts for the delivery of CAP NIA Priority Water, then the Secretary and the CAP Operating Agency shall pro-rate the CAP NIA Priority Water among the CAP Contractors and CAP Subcontractors holding such entitlements on the basis of the quantity of CAP NIA Priority Water used by each such CAP Contractor or CAP Subcontractor in the last Year in which the Available CAP Supply was sufficient to fill all orders for CAP NIA Priority Water. The Secretary shall determine the quantity of CAP NIA Priority Water used by the Gila River Indian Community and the Tohono O'odham Nation in the last Year in which the Available CAP Supply was sufficient to fill all orders for CAP NIA Priority Water, in a manner consistent with the settlement agreements with these tribes.

7.16.2 HVID CAP WATER. HVID CAP Water has the priority of CAP Indian Priority Water. If a time of shortage exists, as described in the WMAT CAP Water Delivery Contract, the amount of HVID CAP Water available to the WMAT in such Year shall be computed in accordance with subsection 5.8 of the WMAT CAP Water Delivery Contract.

7.17 FIRMING OF WMAT CAP WATER

7.17.1 The United States shall firm three thousand seven hundred fifty (3,750) AFY of WMAT CAP NIA Priority Water for the benefit of WMAT for the one hundred (100) Year period beginning on January 1, 2008, with priority equivalent to CAP

M&I Priority Water, as provided in Sections 105(a) and 105(b)(1)(B) of the AWSA and Section 305(b)(1)(A)(i) of the Act, to be delivered in the same manner as water with a municipal and industrial delivery priority in the Central Arizona Project system is delivered during water shortages.

7.17.2 The State shall firm three thousand seven hundred fifty (3,750) AFY of WMAT CAP NIA Priority Water for the benefit of WMAT for the one hundred Year period beginning on January 1, 2008, with priority equivalent to CAP M&I Priority Water, as provided in Sections 105(a) and 105(b)(2)(B) of the AWSA and Section 305(b)(1)(A)(ii) of the Act and in accordance with the terms of the Agreement between the Secretary of the Interior and the State of Arizona for the Firming of Central Arizona Project Indian Water, dated November 15, 2007, to be delivered in the same manner as water with a municipal and industrial delivery priority in the Central Arizona Project system is delivered during water shortages.

7.17.3 The United States' and the State of Arizona's obligation under Subparagraphs 7.17.1 and 7.17.2, respectively, to provide water to firm certain amounts of WMAT CAP NIA Priority Water to be delivered under this Agreement, under the WMAT CAP Water Delivery Contract, or under any leases or exchanges entered into under this Agreement or the WMAT CAP Water Delivery Contract does not extend beyond December 31, 2107; provided, however, that neither the United States nor the State of Arizona is prohibited by this Subparagraph 7.17.3 from providing water to firm any deliveries of WMAT CAP NIA Priority Water beyond December 31, 2107, if, subject to the enactment of any necessary additional statutory authorization, either agrees to do so in any future agreements.

7.18 Pursuant to Section 306(a)(7) of the Act, the Secretary waives the right of the Secretary to capture all Return Flow from WMAT CAP Water delivered to the WMAT through an exchange with SRP or any other individual or entity acceptable to the WMAT and the Secretary, flowing from the exterior boundaries of the WMAT Reservation. WMAT may recapture and reuse Return Flow within the WMAT Reservation. Return Flow for purposes of this Subparagraph 7.18 shall mean all waste water, seepage, and Groundwater which originates or results from WMAT CAP Water delivered to the WMAT through an exchange with SRP or any other individual or entity acceptable to the WMAT and the Secretary.

8.0 ALLOCATION OF WMAT DEPLETIONS OF WATER FROM THE SALT RIVER WATERSHED

8.1 For each Year following the Year in which the Enforceability Date occurs, fourteen and eighty-one one hundredths (14.81) percent of the actual Annual Depletion Amount from all sources of Water Diverted on the Reservation and on Off-Reservation Trust Land within the Salt River Watershed, other than Depletions resulting from the exchange of WMAT CAP Water, calculated as provided in Paragraph 11.0, shall be allocated to RWCD up to a maximum of 4,000 AFY.

8.1.1 RWCD hereby authorizes SRP to transfer to SRP on an annual basis from the credits accruing to RWCD under RWCD's entitlement, as defined in Subparagraph 14.7, the number of credits on an acre-foot-for-acre-foot basis equal to fourteen and eighty-one one hundredths (14.81) percent of the total number of acre-feet of Water Depleted during the prior Year by WMAT Diversions on the

Reservation and on Off-Reservation Trust Land within the Salt River Watershed, other than Depletions resulting from the exchange of WMAT CAP Water.

8.1.2 RWCD credits shall be considered accrued for the purposes of Subparagraph 8.1 at the time the credits are earned by RWCD under Subparagraph 14.7, regardless of when the credits are added to RWCD's water account by SRP. In the event RWCD has insufficient credits in its water account with SRP to fully off-set its share of the WMAT Depletions in any Year, the RWCD credit deficit shall be carried forward by SRP to the next Year in which RWCD has sufficient credits in its water account with SRP to reduce or eliminate the deficit, as applicable.

8.2 RWCD's direction for the transfer of water credits to SRP pursuant to the terms of Subparagraph 8.1 shall be binding upon its successors and assigns. Should any other entity succeed to all of RWCD's entitlement, it shall assume RWCD's rights and obligations to SRP under Subparagraph 8.1.

8.3 Neither the WMAT nor SRP shall be charged any fees by RWCD for the performance of the obligations of Subparagraph 8.1.

9.0 TERMS AND CONDITIONS OF FUTURE WMAT CAP WATER LEASE AGREEMENTS

9.1 The WMAT may enter into leases of WMAT CAP Water as provided in Subparagraph 7.4. Such leases shall conform to the provisions of Paragraph 9.0.

9.2 The lessee shall pay all CAP Fixed OM&R Charges and all CAP Pumping Energy Charges to the CAP Operating Agency for the leased WMAT CAP Water.

9.3 The Secretary or the CAP Operating Agency shall deliver the leased WMAT CAP Water to the lessee as further provided herein. Neither the Secretary nor the CAP Operating Agency shall be obligated to make deliveries to such lessee if, in the judgment of the Secretary or the CAP Operating Agency, such deliveries would limit deliveries of CAP Water to other CAP Contractors, including the WMAT, or CAP Subcontractors to a degree greater than would direct deliveries to the WMAT at the CSIF.

9.4 Subject to the provisions of the lease, the Secretary or the CAP Operating Agency shall deliver WMAT CAP Water to the lessee in accordance with water delivery schedules provided by the lessee to the Secretary or the CAP Operating Agency. The lease shall include water ordering procedures equivalent to those contained in Article 4.4 of the standard form of CAP Subcontract for M&I Use, a copy of which is attached hereto as Exhibit 9.4.

9.5 In no event shall the Secretary or the CAP Operating Agency be required to deliver to the lessee from the CAP System in any one (1) month a total amount of WMAT CAP Water greater than eleven percent (11.0%) of the lessee's maximum annual entitlement under the lease; provided however, that that Secretary or the CAP Operating Agency may deliver a greater percentage in any month if such increased delivery is compatible with the overall delivery of CAP Water to other CAP Contractors, CAP Subcontractors and Excess CAP Water Contractors as determined by the Secretary and the CAP Operating Agency if the lessee agrees to accept such increased deliveries.

9.6 WMAT CAP Water to be delivered to the lessee pursuant to the lease shall be delivered at such turnouts on the CAP System as are agreed by the Secretary, the CAP Operating Agency and the lessee.

9.7 Except as provided in Subparagraph 10.1.1.1, the lessee may not transfer, assign or sublease its leased WMAT CAP Water.

9.8 The lease shall impose upon the lessee terms and conditions equivalent to those contained in Subarticles 4.3(a), 4.3(b), 4.3(c), 4.5(b), 4.5(c), and 4.5(d), and Articles 4.6, 4.10 and 6.9 of Exhibit 9.4. Although Exhibit 9.4 is the standard form of CAP Subcontract for M&I Use, nothing in this Agreement is intended to preclude leases of WMAT CAP Water for Irrigation Use.

9.9 The Leased Water shall always be deemed to be held in trust for the benefit of the WMAT to which the lessee has acquired only a leasehold interest for the term of the lease.

10.0 WMAT CAP WATER LEASE AGREEMENTS

10.1 CITIES' CAP WATER LEASE AGREEMENTS

10.1.1 Beginning thirty (30) days after the Enforceability Date, the WMAT shall lease to any or all of the Cities, and the Cities shall lease from the WMAT for a continuous term of one hundred (100) years: (1) one thousand two hundred eighteen (1,218) acre-feet per year of HVID CAP Water reallocated to the WMAT pursuant to Subparagraph 7.2.2; (2) seven thousand five hundred (7,500)

acre-feet per year of CAP NIA Priority Water reallocated to the WMAT pursuant to Subparagraph 7.2.1 and that has been firmed pursuant to Subparagraph 7.17; and (3) thirteen thousand seven hundred eighty-two (13,782) acre-feet of CAP NIA Priority Water per year that was reallocated to the WMAT pursuant to Subparagraph 7.2.1, and which is not firmed pursuant to Subparagraph 7.17. The terms and conditions of the WMAT leases to the Cities referenced herein shall be in accordance with the City Lease Agreements attached as Exhibits 10.1.1A through 10.1.1H.

10.1.1.1 The Leasing Cities, the City of Scottsdale, and CAWCD may assume a City Lease Agreement in accordance with the terms of the assignment and assumption agreements attached as Exhibits 10.1.1.1A and 10.1.1.1B. The City Lease Agreements shall bind the Cities to those provisions of each City's CAP Subcontract that are enumerated in the City Lease Agreement. The City Lease Agreements shall not obligate either the Cities or the WMAT to pay CAP capital repayment charges or any other charges, payments or fees, except as specifically provided in the City Lease Agreements. The Cities shall pay all CAP Fixed OM&R Charges and all CAP Pumping Energy Charges to the CAP Operating Agency in accordance with the terms of the City Lease Agreements.

10.1.1.2 Each of the Cities that elects to lease WMAT CAP Water in accordance with this Subparagraph 10.1 shall pay its Total Water Lease Charge amount to the WMAT pursuant to the terms and conditions of Paragraph 4.0 of the City Lease Agreements.

10.1.2 The WMAT shall direct the Secretary to deliver the Leased Water in accordance with each City Lease Agreement.

10.1.3 The following shall occur if the WMAT, the State or a City imposes a tax on: (1) a City Lease Agreement or transactions or operations undertaken pursuant to a City Lease Agreement; (2) WMAT CAP Water; (3) the value of the Leased Water; or (4) the transportation of the Leased Water:

10.1.3.1 If the WMAT imposes such a tax on a City and such tax is lawfully owed by that City, that amount shall be paid by the WMAT to that City not less than thirty (30) days prior to the date that such tax amount is to be paid by that City to the WMAT;

10.1.3.2 If the State imposes such a tax on the WMAT and such tax is lawfully owed by the WMAT, that amount shall be paid by the Cities to the WMAT in proportion to the amount of WMAT CAP Water each City has leased not less than thirty (30) days prior to the date that such tax amount is to be paid by the WMAT to the State; and

10.1.3.3 If a City imposes such a tax on the WMAT and such tax is lawfully owed by the WMAT, that amount shall be paid by that City to the WMAT not less than thirty (30) days prior to the date that such tax amount is to be paid by the WMAT to that City.

10.1.4 The quantity of WMAT CAP Water initially made available for lease to each of the Leasing Cities is as set forth in the City Lease Agreements.

10.1.5 The Leased Water shall always be deemed to be held in trust for the benefit of the WMAT to which the Cities have acquired only a leasehold interest for the term of the City Lease Agreements.

10.1.6 Subject to Subparagraph 16.4 of this Agreement, in the event of a conflict between the terms of this Agreement and the terms of Exhibits 10.1.1A through 10.1.1H and Exhibits 10.1.1.1A and 10.1.1.1B, the terms of Exhibits 10.1.1A through 10.1.1H and Exhibits 10.1.1.1A and 10.1.1.1B shall prevail as among the parties to such Exhibits.

10.1.7 Notwithstanding any other provision of this Agreement, no Party shall challenge the validity or enforceability of Exhibits 10.1.1A through 10.1.1H or Exhibits 10.1.1.1A and 10.1.1.1B in any judicial, administrative or legislative proceeding.

10.2 CAWCD'S CAP WATER LEASE AGREEMENT

10.2.1 Beginning thirty (30) days after the Enforceability Date, the WMAT shall lease to the CAWCD, and the CAWCD shall lease from the WMAT for a continuous term of one hundred (100) years two thousand five hundred (2,500) acre-feet of CAP NIA Priority Water per year that was reallocated to the WMAT pursuant to Subparagraph 7.2.1, and which is not firmed pursuant to Subparagraph 7.17. The terms and conditions of the WMAT lease to the CAWCD referenced herein shall be in accordance with the CAWCD Lease Agreement attached as Exhibit 10.2.1.

10.2.2 The WMAT shall direct the Secretary to deliver the Leased Water in accordance with the CAWCD Lease Agreement.

10.2.3 The quantity of WMAT CAP Water initially made available for lease to CAWCD is as set forth in the Lease Agreement.

10.2.4 The Leased Water shall always be deemed to be held in trust for the benefit of the WMAT to which CAWCD has acquired only a leasehold interest for the term of the CAWCD Lease Agreement.

10.2.5 Subject to Subparagraph 16.4 of this Agreement, in the event of a conflict between the terms of this Agreement and the terms of Exhibit 10.2.1, the terms of Exhibit 10.2.1 shall prevail as among the parties to the Exhibit.

10.2.6 Notwithstanding any other provision of this Agreement, no Party shall challenge the validity or enforceability of Exhibit 10.2.1 in any judicial, administrative or legislative proceeding.

11.0 MEASUREMENT AND CALCULATION OF DIVERSIONS AND OF DEPLETIONS OF WATER

11.1 DIVERSIONS

11.1.1 Except as provided in Subparagraph 11.3, the WMAT shall install and maintain devices capable of measuring and recording all Diversions of Water on the Reservation and on Off-Reservation Trust Land, or wherever WMAT CAP Water is used by the WMAT, other than livestock consumption and annual lake, stockpond or other impoundment Water Use. The accuracy of these measuring and recording devices shall be commensurate with measuring and recording devices and procedures used by SRP for similar purposes but the accuracy required shall not be more stringent than industry standards. At least annually for three (3) Years after the installation of the devices required pursuant to this Subparagraph 11.1, the WMAT shall retain a registered professional engineer or similarly qualified person to inspect, and, if necessary, correct the accuracy of the

measuring and recording devices and procedures used by WMAT under this Subparagraph. After the third anniversary of the installation of the devices, inspections shall occur at least every three (3) years. Within thirty (30) days of the inspections, the WMAT or the United States acting in its capacity as trustee for the WMAT shall file in the Gila River Adjudication Proceeding or the Little Colorado River Adjudication Proceedings, as applicable determined by the location of the point of Diversion of Water to be measured by the particular device, a certified copy of the report by the registered professional engineer or similarly qualified person that sets forth the findings of the inspection and verification that the measuring and recording devices and procedures satisfy industry standards. At any time upon ten (10) days written notice, SRP may require an inspection by a registered professional engineer of any of the measuring devices required by this Subparagraph. If the results of the inspections show that a device's measurement accuracy is within industry standards, then SRP shall pay all costs incurred for the inspection of that device, otherwise WMAT shall bear such costs. If such measuring device is not within the industry standards for measurement accuracy, then the WMAT shall use due diligence, and in no event more than six (6) months to correct the operation of the non-conforming device in order to bring it into compliance with industry standards.

11.1.2 WMAT shall also implement procedures to record and collect data concerning all such Diversions of Water.

11.2 REPORTING

No later than March 1 of the second Year following the Year in which the Enforceability Date occurs, and on March 1 of each Year thereafter, the WMAT or the United States acting in its capacity as trustee for the WMAT shall file in the Gila River Adjudication Proceedings and the Little Colorado River Adjudication Proceedings a report, in the form set forth as Exhibit 11.2 or as may otherwise be required by the Gila River Adjudication Court or the Little Colorado River Adjudication Court, showing: (1) all amounts of Water, by source, Diverted on the Reservation and on Off-Reservation Trust Land under Subparagraphs 5.0 and 6.0 in the Year immediately preceding the Year in which the report is filed; (2) all Depletions of Water, by source, measured or calculated as provided in Subparagraphs 11.3, 11.4 and 11.5; (3) all amounts of WMAT CAP Water delivered to others in exchange for the Diversion of Water on the Reservation and on Off-Reservation Trust Land by WMAT from sources located within the Salt River Watershed; (4) all amounts of WMAT CAP Water recharged; (5) all amounts of WMAT CAP Water leased to others; and (6) all amounts of WMAT CAP Water otherwise used by the WMAT. WMAT shall give notice by serving a copy of each such report to each Party as provided in Subparagraph 16.19 and as may otherwise by required by the Gila River Adjudication Court or the Little Colorado River Adjudication Court. The WMAT shall prepare and maintain such records as may be necessary to file and audit such reports. Any Party may petition the Gila River Adjudication Court or the Little Colorado River Adjudication Court to modify the form set forth in Exhibit 11.2 to ensure accurate reporting of the WMAT Water Diversions and Depletions. Any other Party may object to such petition.

11.3 CALCULATION OF DIVERSIONS AND DEPLETIONS

11.3.1 LAKES, STOCKPONDS AND OTHER IMPOUNDMENTS

11.3.1.1 The inventories of all lakes, stockponds and other impoundments of Water on the Reservation and on Off-Reservation Trust Land existing as of the Enforceability Date are attached as Exhibits 11.3.1.1.A, 11.3.1.1.B, and 11.3.1.1.C. The inventories on Exhibits 11.3.1.1.A, 11.3.1.1.B, and 11.3.1.1.C shall be amended, as necessary, (1) to add or modify the description of any lakes, stockponds and other impoundments of Water enlarged or constructed on the Reservation after the Enforceability Date, and (2) to delete or modify the description of any lakes, stockponds and other impoundments of Water no longer physically and permanently capable of partially or completely impounding Water.

11.3.1.2 Diversions and Depletions of Water resulting from the lakes, stockponds and other impoundments of Water on the Reservation and on Off-Reservation Trust Land shall be computed annually as provided in Exhibit 11.3.1.2. Release of Water stored in lakes, stockponds and other impoundments of Water shall be measured at the point of subsequent Diversion as set forth in Subparagraph 11.1, and subsequent Depletions associated with such Diversions shall be computed in accordance with the particular Use as set forth in Subparagraphs 11.3.2 through 11.3.8.

11.3.1.3 Upon reasonable notice to the WMAT, representatives of SRP shall be authorized to visit each lake, stockpond and other impoundment of Water on the

Reservation or Off-Reservation Trust Land for the purposes of verifying the surface area and capacity.

11.3.2 IRRIGATION

11.3.2.1 No later than December 1 of the Year following the Year in which the Enforceability Date occurs, the WMAT or the United States acting in its capacity as trustee for the WMAT shall identify all lands on the Reservation and on Off-Reservation Trust Land and prepare appropriate maps of all of such lands which have been irrigated at any time prior to January 1, 2007. The parcels of irrigated lands and ditches serving those parcels shall be accurately mapped at a scale of 1:12,000. Copies of these maps shall be provided to all Parties.

11.3.2.2 No later than December 1 of each Year following the Year in which the Enforceability Date occurs, the WMAT or the United States acting in its capacity as trustee for the WMAT shall provide to each Party a written inventory of all irrigated lands on the Reservation and on Off-Reservation Trust Land irrigated at any time during the Year. The inventory shall include the number of acres irrigated by parcel, the acres of each crop grown on such parcel, the location of each parcel, the point of Diversion of all Water delivered to each parcel, the method of delivery of Water to each parcel, the distance from the point of Diversion to the turnout for the parcel, the method of irrigation of each parcel, the AFY of Water Diverted for each parcel, and the first and last dates of Diversion of Water for each parcel.

11.3.2.3 Depletions of Water resulting from the irrigation of lands on the Reservation and on Off-Reservation Trust Land shall be computed annually as provided by Exhibit 11.3.2.3.

11.3.3 MUNICIPAL AND INDUSTRIAL USES

11.3.3.1 No later than January 30 of the second Year following the Year in which the Enforceability Date occurs, and no later than January 30 of each Year thereafter, the WMAT or the United States acting in its capacity as trustee for the WMAT shall provide to each Party a written report of all Diversions of Water on the Reservation and on Off-Reservation Trust Land for all M&I Uses of Water during the prior Year. The report shall include for each M&I Use the following: the point of Diversion, the place of Use and purpose of Use, the AFY Diverted, the method of Diversion, the amount of Effluent and method of treatment, if any, of such Effluent following its initial Use, and the amount and means of disposal of any Effluent from such treatment or Use.

11.3.3.2 Depletions of Water used for M&I Uses on the Reservation and on Off-Reservation Trust Land shall be computed annually as provided by Exhibit 11.3.3.2.

11.3.4 ARTIFICIAL SNOW MAKING

11.3.4.1 No later than January 30 of the second Year following the Year in which the Enforceability Date occurs, and no later than January 30 of each Year thereafter, the WMAT or the United States acting in its capacity as trustee for the

WMAT shall provide each Party a written report of all Diversions of Water on the Reservation and on Off-Reservation Trust Land for artificial snow making Uses during the prior Year. Reports shall include the point of Diversion and the AFY Diverted.

11.3.4.2 Depletions of Water used for artificial snow making shall be computed annually as provided by Exhibit 11.3.4.2.

11.3.5 LIVESTOCK CONSUMPTION

11.3.5.1 The Diversions of Water on the Reservation and on Off-Reservation Trust Land for livestock consumption shall be deemed for the purposes of this Agreement, to be equal to the Depletions for such Uses.

11.3.5.2 No later than January 30 of the second Year following the Year in which the Enforceability Date occurs, and no later than January 30 of each Year thereafter, the WMAT or the United States acting in its capacity as trustee for the WMAT shall provide to each Party a written report estimating all Depletions of Water on the Reservation and on Off-Reservation Trust Land for livestock watering purposes. The report shall include an estimate of the greatest number of livestock on the Reservation and on Off-Reservation Trust Land during the prior Year and the methodology used in calculating the estimated Depletions of Water for this purpose.

11.3.6 FISH HATCHERIES

11.3.6.1 No later than January 30 of the second Year following the Year in which the Enforceability Date occurs, and no later than January 30 of each Year thereafter, the WMAT or the United States acting in its capacity as trustee for the WMAT shall provide each Party a written report of all Diversions of Water on the Reservation and on Off-Reservation Trust Land for fish hatchery Uses during the prior Year. The report shall include the point of Diversion for each such Use and the AFY Diverted for each hatchery Use.

11.3.6.2 It shall be presumed that there will be no Depletions of Water used for fish hatchery purposes if all Diversions are returned to the source. If all Diversions are not returned to the source, the Depletions of such Uses shall be computed annually as provided in Subparagraph 11.3.3.2.

11.3.7 MINING USES

11.3.7.1 No later than January 30 of the second Year following the Year in which the Enforceability Date occurs, and no later than January 30 of each Year thereafter, the WMAT or the United States acting in its capacity as trustee for the WMAT shall provide each Party a written report of all Diversions of Water on the Reservation and on Off-Reservation Trust land for all mining Uses of Water during the prior Year. The report shall include the point and method of Diversion, the place of Use, the AFY Diverted, the amount of Effluent and method of

treatment, if any, of such Effluent following its initial Use, and the amount and means of disposal of any Effluent following such treatment or Use.

11.3.7.2 Depletions of Water used for mining purposes on the Reservation and on Off-Reservation Trust land shall be computed annually as provided by Exhibit 11.3.7.2.

11.3.8 WMAT CAP WATER

11.3.8.1 All WMAT CAP Water leased to others in any Year shall be counted as a Diversion and Depletion by WMAT in such Year for the purposes of Paragraph 4.0 and Subparagraph 5.3 without regard to the quantity of water actually delivered under the terms of any such lease agreement.

11.3.8.2 For WMAT CAP Water exchanged to others for Use by the WMAT, the Diversion of Water in any Year shall be the greater of: (1) the quantity of WMAT CAP Water delivered to an exchanging party in exchange for exchange credits to be utilized by the WMAT, or (2) the quantity of exchange credits Diverted for Use by the WMAT.

11.3.8.3 For WMAT CAP Water exchanged to others for Use by the WMAT, the Depletion of Water in any Year shall be calculated as provided in Subparagraphs 11.3.1 through 11.3.7, inclusive, resulting from the Diversion of exchange credits for Use by the WMAT during such Year, plus any additional Depletions specified in the exchange agreement between the WMAT and the exchanging party.

11.3.8.4 All WMAT CAP Water used by the WMAT in any Year shall be counted as a Diversion and Depletion by the WMAT in such Year for the purpose of Paragraph 4.0 and Subparagraph 5.3.

11.4 Any reuse of Effluent or other return flows following the first Use of such Water on the Reservation and on Off-Reservation Trust Land shall be considered another separate Diversion for purposes of Paragraph 4.0 and Subparagraphs 5.1, 5.2, and 5.3. Depletions from such additional Diversions and Uses shall be computed in accordance with Subparagraph 11.3 and shall be considered separate Depletions for purposes of Paragraph 4.0 and Subparagraphs 5.1, 5.2 and 5.3.

11.5 Any Diversion of Water, the Use of which does not result in return flow to the Salt River or Little Colorado River Watershed from which it was Diverted shall be considered a Depletion for purposes of Paragraph 4.0 and Subparagraphs 5.1, 5.2, and 5.3.

11.6 In the event any Party believes the calculation of Diversions or Depletions as provided in Subparagraph 11.2 or 11.3 is no longer the most accurate measure of such Diversions or Depletions, such Party may request the other Parties to consider amending Subparagraphs 11.2 or 11.3 as applicable, including their Exhibits, to provide a more accurate measure of calculating such Diversions or Depletions. Any such requests shall include the proposed change in methodology for measuring Diversions or Depletions. In the event the Parties cannot agree on any such requested change, the requesting Party may petition the Gila River Adjudication Court and the Little Colorado River

Adjudication Court to review the calculation of Diversions or Depletions as provided in Subparagraphs 11.2 or 11.3 and modify the calculation for future reports to the Courts.

11.7 Notwithstanding any other provisions of this Paragraph 11.0, the Diversion or Depletion of Water shall not be counted more than once for a single Use of Water.

12.0 WAIVER AND RELEASE OF CLAIMS

12.1 WAIVER AND RELEASE OF CLAIMS BY PARTIES OTHER THAN THE WMAT ON BEHALF OF ITSELF AND ITS MEMBERS AND THE UNITED STATES ACTING IN ITS CAPACITY AS TRUSTEE FOR THE WMAT AND ITS MEMBERS

12.1.1 Except as provided in Subparagraph 12.5, the Parties, except the WMAT on behalf of itself and its Members and the United States acting in its capacity as trustee for the WMAT and its Members, shall execute a waiver and release of any claims against the WMAT and its Members and the United States acting in its capacity as trustee for the WMAT and its Members, under Federal, State or other law for all:

12.1.1.1 Past and present claims for Injury to Water Rights resulting from the Diversion or Use of Water on the Reservation and on Off-Reservation Trust Land arising from time immemorial through the Enforceability Date;

12.1.1.2 Claims for Injury to Water Rights arising after the Enforceability Date resulting from the Diversion or Use of Water on or for the Reservation and on Off-Reservation Trust Land in a manner not in violation of this Agreement;

12.1.1.3 Past, present, and future claims arising out of, or relating in any manner to, the negotiation, execution, or adoption of this Agreement, an applicable settlement judgment or decree, or the Act.

12.1.1.4 The waiver and release of claims described in Subparagraph 12.1 shall be in the form set forth in Exhibit 12.1 and shall become effective upon the Enforceability Date.

12.2 WAIVER AND RELEASE OF CLAIMS FOR WATER RIGHTS AND INJURY TO WATER RIGHTS BY THE WMAT ON BEHALF OF ITSELF AND ITS MEMBERS AND BY THE UNITED STATES ACTING IN ITS CAPACITY AS TRUSTEE FOR THE WMAT AND ITS MEMBERS

12.2.1 Except for the specifically retained claims described in Subparagraph 12.6, the WMAT, on behalf of itself and its Members, and the United States, acting in its capacity as trustee for the WMAT and its Members, as part of the performance of the respective obligations of the United States and the WMAT under this Agreement, shall execute a waiver and release of any claims against the State (or any agency or political subdivision of the State) or any other person, entity, corporation, or municipal corporation under Federal, State, or other law for all:

(a)(i) past, present, and future claims for Water Rights for the Reservation and Off-Reservation Trust Land arising from time immemorial and, thereafter, forever; and

(ii) past, present, and future claims for Water Rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the WMAT, its Members, or their predecessors;

(b)(i) past and present claims for Injury to Water Rights for the Reservation and Off-Reservation Trust Land arising from time immemorial through the Enforceability Date;

(ii) past, present, and future claims for Injury to Water Rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the WMAT, its Members, or their predecessors; and

(iii) claims for Injury to Water Rights arising after the Enforceability Date for the Reservation and Off-Reservation Trust Land resulting from Off-Reservation Diversion or Use of Water in a manner that is not in violation of this Agreement or State law; and

(c) past, present, and future claims arising out of, or relating in any manner to, the negotiation, execution, or adoption of this Agreement, an applicable settlement judgment or decree, or the Act.

12.2.2 The waiver and release of claims described in Subparagraph 12.2.1 shall be in the form set forth in Exhibit 12.2 and shall become effective upon the Enforceability Date.

12.3 WAIVER AND RELEASE OF CLAIMS BY THE WMAT ON BEHALF OF ITSELF AND ITS MEMBERS AGAINST THE UNITED STATES (EXCEPT IN THE CAPACITY OF THE UNITED STATES AS TRUSTEE FOR OTHER INDIAN TRIBES)

12.3.1 Except for the specifically retained claims described in Subparagraph 12.7, the WMAT, on behalf of itself and its Members, as part of the performance of the obligations of the WMAT under this Agreement, shall execute a waiver and release of any claim against the United States, including agencies, officials, or

employees of the United States (except in the capacity of the United States as trustee for other Indian tribes), under Federal, State, or other law for any and all:

(a)(i) past, present, and future claims for Water Rights for the Reservation and Off-Reservation Trust Land arising from time immemorial and, thereafter, forever; and

(ii) past, present, and future claims for Water Rights arising from time immemorial and, thereafter, forever that are based on aboriginal occupancy of land by the WMAT, its Members, or their predecessors;

(b)(i) past and present claims relating in any manner to damages, losses, or injuries to Water, Water Rights, land, or other resources due to loss of Water or Water Rights (including damages, losses, or injuries to hunting, fishing, gathering, or cultural rights due to loss of Water or Water Rights, claims relating to interference with, Diversion, or taking of Water, or claims relating to failure to protect, acquire, or develop Water, Water Rights, or Water infrastructure) within the Reservation and Off-Reservation Trust Land that first accrued at any time prior to the Enforceability Date;

(ii) past, present, and future claims for Injury to Water Rights arising from time immemorial and, thereafter, forever that are based on aboriginal occupancy of land by the WMAT, its Members, or their predecessors; and

(iii) claims for Injury to Water Rights arising after the Enforceability Date for the Reservation and Off-Reservation Trust Land resulting from the Off-

Reservation Diversion or Use of Water in a manner that is not in violation of this Agreement or applicable law;

(c) past, present, and future claims arising out of or relating in any manner to, the negotiation, execution, or adoption of this Agreement, an applicable settlement judgment or decree, or the Act;

(d) past and present claims relating in any manner to pending litigation of claims relating to the Water Rights of the WMAT for the Reservation and Off-Reservation Trust Land;

(e) past and present claims relating to the operation, maintenance, and replacement of existing irrigation systems on the Reservation constructed prior to the Enforceability Date that first accrued at any time prior to the Enforceability Date, which waiver shall only become effective on the full appropriation and payment to the WMAT of $4,950,000 of the amounts made available under Section 312(b)(2)(B) of the Act;

(f) any claims relating to operation, maintenance, and replacement of the WMAT Rural Water System, which waiver shall only become effective on the date on which the funds are made available under Section 312(b)(3)(B) of the Act and deposited in the WMAT Maintenance Fund;

(g) past and present breach of trust and negligence claims for damage to the land and natural resources of the WMAT caused by riparian and other vegetative manipulation by the United States for the purpose of increasing Water runoff from the Reservation that first accrued at any time prior to the Enforceability Date; and

(h) past and present claims for trespass, use, and occupancy of the Reservation in, on, and along the Black River that first accrued at any time prior to the Enforceability Date.

12.3.2 The waiver and release of claims described in Subparagraph 12.3.1 shall be in the form set forth in Exhibit 12.3, and, except where otherwise specifically provided in 12.3.1(e) and 12.3.1(f), shall become effective upon the Enforceability Date.

12.4 WAIVER AND RELEASE OF CLAIMS BY THE UNITED STATES IN ALL CAPACITIES (EXCEPT AS TRUSTEE FOR AN INDIAN TRIBE OTHER THAN THE WMAT) AGAINST THE WMAT AND ITS MEMBERS

12.4.1 Except for the specifically retained claims described in Paragraph 12.8, the United States, in all capacities (except as trustee for an Indian tribe other than the WMAT), as part of the performance of its obligations under this Agreement, shall execute a waiver and release of any and all claims against the WMAT, its Members, or any agency, official, or employee of the WMAT, under Federal, State or any other law for all:

(a) past and present claims for Injury to Water Rights resulting from the Diversion or Use of Water on the Reservation and on Off- Reservation Trust Land arising from time immemorial through the Enforceability Date;

(b) claims for Injury to Water Rights arising after the Enforceability Date resulting from the Diversion or Use of Water on the Reservation and on Off-Reservation Trust Land in a manner that is not in violation of this Agreement; and

(c) past, present, and future claims arising out of or related in any manner to, the negotiation, execution, or adoption of this Agreement, an applicable settlement judgment or decree, or the Act.

12.4.2 The waiver and release of claims described in Subparagraph 12.4.1 shall be in the form set forth in Exhibit 12.4 and shall become effective upon the Enforceability Date.

12.5 RESERVATION OF RIGHTS AND RETENTION OF CLAIMS BY THE PARTIES OTHER THAN THE WMAT ON BEHALF OF ITSELF AND ITS MEMBERS OR THE UNITED STATES ACTING AS TRUSTEE FOR THE WMAT AND ITS MEMBERS

12.5.1 Notwithstanding the waiver and release of claims described in Subparagraph 12.1 and Exhibit 12.1, the Parties, other than the WMAT on behalf of itself and its Members and the United States acting in its capacity as trustee for the WMAT and its Members, shall retain any right to:

12.5.1.1 Subject to Subparagraph 16.9, assert claims for injuries to, and seek enforcement of, their rights under this Agreement or the Act in any State court or Federal court of competent jurisdiction;

12.5.1.2 Assert claims for injuries to, and seek enforcement of, their rights under the Judgment and Decree entered by the court in the Gila River Adjudication Proceedings, the form of which is attached hereto as Exhibit 12.9.6.1;

12.5.1.3 Assert claims for injuries to, and seek enforcement of, their rights under the Judgment and Decree entered by the court in the Little Colorado River Adjudication Proceedings, the form of which is attached hereto as Exhibit 12.9.6.2;

12.5.1.4 Assert past, present, and future claims to Surface Water that are not inconsistent with this Agreement;

12.5.1.5 Assert any claims to Groundwater that are subject to the Gila River Adjudication Proceedings or the Little Colorado River Adjudication Proceedings, or other applicable law;

12.5.1.6 Assert any claims arising after the Enforceability Date for Injury to Water Rights not specifically waived herein;

12.6 RESERVATION OF RIGHTS AND RETENTION OF CLAIMS BY THE WMAT ON BEHALF OF ITSELF AND ITS MEMBERS AND THE UNITED STATES ACTING AS TRUSTEE FOR THE WMAT AND ITS MEMBERS

12.6.1 Notwithstanding the waiver and release of claims set forth in Subparagraph 12.2, the WMAT, on behalf of itself and its Members, and the United States, acting as trustee for the WMAT and its Members, shall retain any right:

(a) subject to Subparagraph 16.9, to assert claims for injuries to, and seek enforcement of, the rights of the WMAT and its Members under this Agreement or the Act in any Federal or State court of competent jurisdiction;

(b) to assert claims for injuries to, and seek enforcement of, the rights of the WMAT under the Judgment and Decree entered by the court in the Gila River Adjudication Proceedings, the form of which is attached as Exhibit 12.9.6.1;

(c) to assert claims for injuries to, and seek enforcement of, the rights of the WMAT under the Judgment and Decree entered by the court in the Little

Colorado River Adjudication Proceedings, the form of which is attached as Exhibit 12.9.6.2;

(d) to object to any claims by or for any other Indian tribe, Indian community or nation, or dependent Indian community, or the United States on behalf of such a tribe, community, or nation;

(e) to participate in the Gila River Adjudication Proceedings and the Little Colorado River Adjudication Proceedings to the extent provided in Subparagraph 14.1;

(f) to assert any claims arising after the Enforceability Date for Injury to Water Rights not specifically waived in Subparagraph 12.2;

(g) to assert any past, present, or future claim for Injury to Water Rights against any other Indian tribe, Indian community or nation, dependent Indian community, allottee, or the United States on behalf of such a tribe, community, nation or allottee;

(h) to assert any past, present, or future claim for trespass, use, and occupancy of the Reservation in, on, or along the Black River against Freeport-McMoran Copper & Gold, Inc., Phelps Dodge Corporation, or Phelps Dodge Morenci, Inc., (or a predecessor or successor of those entities), including all subsidiaries and affiliates of those entities; and

(i) to assert claims arising after the Enforceability Date for Injury to Water Rights resulting from the pumping of Water from land located within national forest land as of January 13, 2009 in the south ½ of T. 9 N., R. 24 E., the south ½ of T. 9 N., R. 25 E., the north ½ of T. 8 N., R. 24 E., or the

north ½ of T.8 N., R. 25 E., if Water from that land is used on the land or is transported off the land for municipal, commercial, or industrial Use.

12.7 RESERVATION OF RIGHTS AND RETENTION OF CLAIMS BY THE WMAT ON BEHALF OF ITSELF AND ITS MEMBERS AGAINST THE UNITED STATES

12.7.1 Notwithstanding the waiver and release of claims set forth in Subparagraph 12.3, the WMAT, on behalf of itself and its Members, shall retain any right:

(a) subject to Subparagraph 16.9, to assert claims for injuries to, and seek enforcement of, the rights of the WMAT and its Members under this Agreement or the Act in any Federal or State court of competent jurisdiction;

(b) to assert claims for injuries to, and seek enforcement of, the rights of the WMAT and Members under the Judgment and Decree entered by the court in the Gila River Adjudication Proceedings, the form of which is attached as Exhibit 12.9.6.1;

(c) to assert claims for injuries to, and seek enforcement of, the rights of the WMAT and Members under the Judgment and Decree entered by the court in the Little Colorado River Adjudication Proceedings, the form of which is attached as Exhibit 12.9.6.2;

(d) to object to any claims by or for any other Indian tribe, Indian community or nation, or dependent Indian community, or the United States on behalf of such a tribe, community, or nation;

(e) to assert past, present or future claims for Injury to Water Rights, or any other claims other than a claim to Water Rights, against any other Indian

tribe, Indian community or nation, or dependent Indian community, or the United States on behalf of such a tribe, community, or nation;

(f) to assert claims arising after the Enforceability Date for Injury to Water Rights resulting from the pumping of Water from land located within national forest land as of January 13, 2009 in the south ½ of T. 9 N., R. 24 E., the south ½ of T. 9 N., R. 25 E., the north ½ of T. 8 N., R. 24 E., or the north ½ of T.8 N., R. 25 E., if Water from that land is used on the land or is transported off the land for municipal, commercial, or industrial Use;

(g) to assert any claims arising after the Enforceability Date for Injury to Water Rights not specifically waived in Subparagraph 12.3;

(h) to seek remedies and assert any other claims not specifically waived in Subparagraph 12.3; and

(i) to assert any claim arising after the Enforceability Date for a future taking by the United States of Reservation land, Off-Reservation Trust Land, or any property rights appurtenant to that land, including any Water Rights set forth in Paragraph 4.0.

12.8 UNITED STATES' RESERVATION OF RIGHTS AND RETENTION OF CLAIMS

12.8.1 Notwithstanding the waiver and release of claims described in Subparagraph 12.4, the United States shall retain any right to assert any claims not specifically waived in Subparagraph 12.4.

12.9 GENERAL

12.9.1 Except as provided in Subparagraphs 4.14, 12.2.1(a)(ii), 12.2.1(b)(ii), 12.3.1(a)(ii) and 12.3.1(b)(ii), nothing in the Act or this Agreement shall affect any rights to Water of the WMAT, its Members, or the United States acting in its capacity as trustee for the WMAT and its Members, for land outside the boundaries of the Reservation or Off-Reservation Trust Land.

12.9.2 Beginning on the Enforceability Date all land held by the United States in trust for the WMAT and its Members shall have no rights to Water other than those specifically quantified for the WMAT and the United States, acting in its capacity as trustee for the WMAT and its Members, for the Reservation and Off-Reservation Trust Land pursuant to Paragraph 4.0. Except as set forth in this Agreement, the benefits realized by the WMAT and its Members under this Agreement and the Act shall be in full satisfaction of all claims of the WMAT, its Members and the United States acting as trustee for benefit of the WMAT and its Members, for Water Rights and Injury to Water Rights, under Federal, State, or other law with respect to the Reservation and Off-Reservation Trust Land. Notwithstanding the preceding sentence, nothing in this Agreement or the Act recognizes or establishes any right of a Member to Water on the Reservation or on Off-Reservation Trust Land.

12.9.3 Any entitlement to Water of the WMAT or its Members or the United States acting in its capacity as trustee for the WMAT and its Members for the Reservation and Off-Reservation Trust Land shall be satisfied out of the Water

resources granted, quantified, confirmed or recognized to or for the WMAT and the United States acting in its capacity as trustee for the WMAT by this Agreement and the Act.

12.9.4 Except as provided in Subparagraph 12.6.1(i) and 12.7.1(f), the WMAT and the United States acting in its capacity as trustee for the WMAT shall not: (1) object to the use of any well located outside the boundaries of the Reservation or the Off-Reservation Trust Land in existence on the Enforceability Date; or (2) object to, dispute or challenge after the Enforceability Date the drilling of any well or the withdrawal and Use of Water from any well in the Little Colorado River Adjudication Proceedings, the Gila River Adjudication Proceedings or in any other judicial or administrative proceeding.

12.9.5 Nothing in this Agreement or the Act affects any right of the United States to take any action, including environmental actions, under any laws (including regulations and the common law) relating to human health, safety, or the environment.

12.9.6 FORMS OF JUDGMENT

12.9.6.1 The Parties that are parties to the Gila River Adjudication Proceedings shall file and seek approval of a Judgment and Decree in the Gila River Adjudication Proceedings substantially in the form of Exhibit 12.9.6.1.

12.9.6.2 The Parties that are parties to the Little Colorado River Adjudication Proceedings shall file and seek approval of a Judgment and Decree in the Little

Colorado River Adjudication Proceedings substantially in the form of Exhibit 12.9.6.2.

12.9.7 Nothing in this Agreement or the Act expands, diminishes, or impacts any claims the WMAT may assert, or any defense the United States may assert, concerning title to land outside the most current survey, as of December 8, 2010, of the northern boundary of the Reservation.

13.0 FEDERAL APPROPRIATIONS AND LOCAL CONTRIBUTIONS

13.1 The Parties, excluding the United States, agree to use their good faith efforts to support the appropriations authorized in Sections 312(b)(2) and 312(e)(2)(B) of the Act. The Parties, excluding the United States, agree to establish a communication process for notifying the Parties when the WMAT requests legislative support. The Parties, excluding the United States, agree to support implementation of this Agreement and the Act by including WMAT Congressional legislation in the legislative agendas approved by their governing bodies or other means as appropriate.

13.2 A combination of funding will be made available and deposited as provided in the Act.

13.3 The State of Arizona shall provide $2 million for the implementation of this Agreement, which in accordance with Section 310(a)(2) of the Act will be deposited into the WMAT Water Rights Settlement Subaccount established by Section 310(a) of the Act.

13.4 Enforceability of this Agreement is conditioned upon the satisfaction of all of the conditions set forth in Section 309(d)(1) of the Act, including the deposit of the State's contribution of funds as provided in Section 309(d)(1)(D) of the Act and Subparagraph 13.3 and the deposit of Federal funds into the White Mountain Apache Water Rights Settlement Subaccount as provided in Section 312(a) of the Act.

13.5 Neither the Federal funds authorized, appropriated, or transferred in or under the Act, nor any contribution pursuant to this Paragraph, nor any interest or income accruing on the principal of the Federal or contributed funds, shall be distributed to any Member on a per capita basis.

14.0 CONFIRMATION OF RIGHTS

14.1 Status of WMATs' claims:

14.1.1 The WMAT agrees to intervene in the Gila River Adjudication Proceedings for at least the limited purposes of seeking the court's approval of the Judgment and Decree, pursuant to the Arizona Supreme Court's May 16, 1991, Special Procedural Order Providing for the Approval of Federal Water Rights Settlements, Including Those of Indian Tribes, substantially in the form of Exhibit 12.9.6.1, and to the court's continuing jurisdiction for enforcement purposes. The WMAT agrees to intervene in the Little Colorado Adjudication Proceedings for at least the limited purposes of seeking the court's approval of the Judgment and Decree, pursuant to the Arizona Supreme Court's September 27, 2000,

Administrative Order, substantially in the form of Exhibit 12.9.6.2, and to the court's continuing jurisdiction for enforcement purposes.

14.1.2 The Parties, including the United States in all its capacities except as trustee for Indian tribes other than the WMAT, ratify, confirm, declare to be valid, and shall not object to, dispute or challenge in the Gila River Adjudication Proceedings or in the Little Colorado River Adjudication Proceedings, or in any other judicial or administrative proceeding, the rights of the WMAT and the United States acting in its capacity as trustee for the WMAT to the Water Rights or to the Use of Water, quantified in this Agreement and in the Act.

14.1.3 Except as provided in Subparagraphs 12.6.1 and 14.1.4, the WMAT and the United States acting in its capacity as trustee for the WMAT shall neither challenge nor object to claims of other persons for the Use of Water from the Salt River and the Little Colorado River and their tributaries in the Gila River Adjudication Proceedings, the Little Colorado River Adjudication Proceedings or in any other judicial or administrative proceedings.

14.1.4 The WMAT and the United States acting in its capacity as trustee for the WMAT reserve and retain the right to challenge or object to any claim for Use of Water by or on behalf of the following persons or entities:

14.1.4.1 The Gila River Indian Community of the Gila River Indian Reservation, Arizona;

14.1.4.2 The Tonto Apache Tribe of Arizona;

14.1.4.3 The San Carlos Apache Tribe of the San Carlos Reservation, Arizona;

14.1.4.4 The Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona;

14.1.4.5 Freeport-McMoRan Copper & Gold, Inc., Phelps Dodge Corporation, Phelps Dodge Morenci, Inc., their predecessors and successors, including all subsidiaries and affiliates;

14.1.4.6 Such persons or entities responsible for Injury to Water Rights arising after the Enforceability Date resulting from the drilling of wells or pumping of Water from lands located within national forest lands as of the date of this Agreement in the south half of T. 9 N., R. 24 E.; south half of T. 9 N., R. 25 E., north half of T. 8 N., R. 24 E.; north half of T. 8 N., R. 25 E., in the event title to such lands is no longer retained by the United States or Water from such lands is transported off such lands for M&I Use.

14.2 SRP RIGHTS

14.2.1 All of the Parties, including the United States in all of its capacities except as trustee for Indian tribes other than the WMAT, ratify, confirm, declare to be valid, and agree not to object to, dispute, or challenge in the Gila River Adjudication Proceedings, or in any other judicial or administrative proceeding, the rights of SRP and its shareholders to the Waters of the Salt and Verde rivers, which rights

are appurtenant to the lands of SRP and its shareholders, and are described, stated, confirmed or established in the following documents:

14.2.1.1 Notices of Appropriation of Water posted and subsequently recorded by the Hudson Reservoir and Canal Company on April 22, 1893, with the Gila County, Arizona, Recorder's Office in Book of Miscellaneous Records No. 1 at Pages 478 to 480; on April 25, 1893, with the Maricopa County, Arizona, Recorder's Office in Book of Canals No. 1 at Pages 283-285; on April 29, 1893, with the Yuma County, Arizona, Recorder's Office in Book of Homestead and Pre-emption Claims No. 1 at Pages 76-78; on May 1, 1893, with the Office of the Secretary of the Arizona Territory in Book of Water Filings and Locations No. 1 at Pages 8-13; on August 26, 1893, with the Maricopa County, Arizona, Recorder's Office in Book of Canals No. 1 at Pages 310-312; on August 26, 1893, with the Gila County, Arizona, Recorder's Office in Book of Miscellaneous Records, No. 1 at Pages 534-538; on February 1, 1894, with the Office of the Secretary of the Arizona Territory in Book of Water Filings and Locations No. 1 at Pages 53-57; on August 30, 1901, with the Gila County, Arizona, Recorder's Office in Book of Miscellaneous Records No. 2 at Pages 292-293; on August 31, 1901, with the Maricopa County, Arizona, Recorder's Office in Book of Canals No. 2 at Pages 74-76; on August 31, 1901, with the Office of the Secretary of the Arizona Territory in Book of Water Filings and Locations No. 2 at Pages 191-195; on August 31, 1901, in the Office of the Secretary of the Arizona Territory in Book of Water Filings and Locations No. 2 at Pages 239-242; on February 26, 1900, in the Office of the Secretary of the Arizona Territory in Book of Filings and

Locations No. 2 at Pages 131-133; on March 3, 1900, in the Office of the Secretary of the Arizona Territory in Book of Water Filings and Locations No. 2 at Pages 154-157.

14.2.1.2 Notice of Appropriation of Water posted and recorded by Frank H. Parker, Secretary of the Salt River Valley Water Users' Association, with the Maricopa County, Arizona, Recorder's Office in Book of Canals No. 2 at page 155 on February 8, 1906.

14.2.1.3 Notice of Appropriation of Water posted on February 6, 1906 and recorded by Louis C. Hill, Supervising Engineer, United States Geological Survey, with the Maricopa County, Arizona, Recorder's Office in Book of Canals No. 2 at page 156 on February 8, 1906.

14.2.1.4 Notice of Appropriation of Water posted on March 4, 1914, and recorded by John P. Orme, President of the Salt River Valley Water Users' Association, with the Maricopa County, Arizona, Recorder's Office in Book of Canals No. 2 at page 379 on March 6, 1914.

14.2.1.5 Decision and Decree, and all Decrees supplemental thereto, entered in *Hurley v. Abbott*, in the District Court of the Third Judicial District of the Territory of Arizona in and for the County of Maricopa, No. 4564, March 1, 1910.

14.2.1.6 Decision and Decree, and all supplemental Decrees thereto, entered in *Benson v. Allison*, in the Superior Court of Maricopa County, State of Arizona,

No. 7589, November 14, 1917, solely as applied to the Northeast ¼ of Section 25, Township 1 North, Range 1 East, G&SRB&M.

14.2.1.7 Salt River Valley Water Users' Association Articles of Incorporation, as amended, in existence on the Enforceability Date.

14.2.1.8 Water right applications approved and accepted by the authority of the Secretary of the Interior for homestead lands under the Reclamation Act and for Lands in Private Ownership and Lands Other than Homesteads under the Reclamation Act between the United States of America, Department of Interior, Bureau of Reclamation and individual shareholders of the Salt River Valley Water Users' Association.

14.2.1.9 Agreement between the United States of America and the Salt River Valley Water Users' Association, dated June 25, 1904.

14.2.1.10 Contract between the United States of America and Salt River Valley Water Users' Association dated September 6, 1917, as amended on July 26, 1922, April 25, 1928, June 30, 1930, November 29, 1930, September 10, 1941, and June 30, 1950.

14.2.1.11 Contract between the United States of America and Salt River Valley Water Users' Association, dated June 3, 1935 (Verde River Storage Works).

14.2.1.12 Contract between the United States of America and Salt River Valley Water Users' Association, dated November 26, 1935, as amended on October 14, 1936, October 2, 1939, and September 10, 1941 (Construction of Bartlett Dam).

14.2.1.13 Contract between Salt River Valley Water Users' Association and Salt River Project Agricultural Improvement and Power District, dated March 22, 1937, as amended on February 28, 1944, and September 12, 1949.

14.2.1.14 Agreement between Salt River Valley Water Users' Association, Phelps Dodge Corporation and Defense Plant Corporation, dated March 1, 1944 (Horseshoe Dam Construction and Operation).

14.2.2 All of the Parties, including the United States in its capacity as trustee for the WMAT, agree not to object to, dispute or challenge in the Little Colorado River Adjudication Proceedings, or in any other judicial or administrative proceeding, the right of SRP to withdraw up to 21,000 AFY of Underground Water for Use at the Coronado Generating Station, located in Apache County, Arizona.

14.3 BUCKEYE RIGHTS

14.3.1 All of the Parties, including the United States in all of its capacities except as trustee for Indian tribes other than the WMAT, ratify, confirm, declare to be valid, and agree not to object to, dispute, or challenge in the Gila River Adjudication Proceedings, or in any other judicial or administrative proceeding, the rights of the Buckeye Water Conservation & Drainage District, and the Buckeye Irrigation Company and its shareholders, to the Waters of the Salt, Verde and Gila rivers,

which rights are appurtenant to lands currently provided with Water by the Buckeye Irrigation Company or within Buckeye Water Conservation & Drainage District, and which rights are described, confirmed, or established by virtue of the following documents, decrees and enactments:

14.3.1.1 Notices of location and appropriation of waters of the Gila River posted March 10, 1877, and recorded March 12, 1877, in Book 1 of Canals, page 22, and posted May 28, 1885, and recorded June 3, 1885, in Book 1 of Canals, Page 80, and posted July 24, 1886, and recorded October 8, 1886, in Book 1 of Canals, page 94, in the records of Maricopa County, Arizona.

14.3.1.2 The Articles of Incorporation and Bylaws of the Buckeye Irrigation Company, as amended and in effect as of the Enforceability Date.

14.3.1.3 The decree of November 14, 1917, and all amendments and supplements thereto, entered in *Benson v. Allison, et al.*, No. 7589 in the Superior Court of Maricopa County, Arizona, as applicable to all lands described therein and now provided with Water diverted from the Gila River at the head gate of the Buckeye Canal in Section 28, Twp. 1 N., R. 1 W., G&SRB&M, Maricopa County, Arizona.

14.3.1.4 The order of the Board of Supervisors of Maricopa County, Arizona, dated November 6, 1922, creating the Buckeye Water Conservation & Drainage District and including specified lands within the boundaries thereof, and the provisions of Chapter 19, Title 48, Arizona Revised Statutes, establishing the rights of lands to

Waters available for distribution within such District as in effect at the time of the Enforceability Date.

14.3.1.5 The stipulations, judgments and decrees made and entered in *Buckeye Irrigation Company v. Salt River Valley Water Users' Association, et al.*, No. 30869-B in the Superior Court of Maricopa County, Arizona, including, but not limited to the judgment in favor of Buckeye Irrigation Company and against Salt River Valley Water Users' Association entered September 29, 1944.

14.4 CITY OF PHOENIX RIGHTS

14.4.1 All of the Parties, including the United States in all of its capacities except as trustee for Indian tribes other than the WMAT, ratify, confirm, declare to be valid and agree not to object to, dispute or challenge, in the Gila River Adjudication Proceedings, or otherwise, the rights of the City of Phoenix in the Waters of the Salt and Verde rivers, which rights are described, stated, confirmed or established in the following documents:

14.4.1.1 Contract No. 1830 between the United States of America, the City of Phoenix and the Salt River Valley Water Users' Association dated October 7, 1948.

14.4.1.2 Contract No. 1604 between the Salt River Valley Water Users' Association and the City of Phoenix dated November 22, 1946, to the extent that Contract No. 1604 is in accordance with and consistent with Contract No. 1830 described in Subparagraph 14.4.1.1.

14.4.1.3 Certificate of Water Right No. 1999 from the State of Arizona to the City of Phoenix.

14.5 PLAN 6 BUREAU OF RECLAMATION STORAGE AND APPROPRIATIVE RIGHTS

14.5.1 MODIFIED ROOSEVELT DAM

All of the Parties, including the United States in all of its capacities except as trustee for Indian tribes other than the WMAT, ratify, confirm, declare to be valid and agree not to object to, dispute or challenge, in the Gila River Adjudication Proceedings, or otherwise, the rights of the United States in the Waters of the Salt River, which rights are described, stated, confirmed or established in Permit to Appropriate Surface Waters of the State of Arizona No. R-2128 issued by the State of Arizona to the U.S. Bureau of Reclamation.

14.5.2 NEW WADDELL DAM

All of the Parties, including the United States in all of its capacities except as trustee for Indian tribes other than the WMAT, ratify, confirm, declare to be valid and agree not to object to, dispute or challenge, in the Gila River Adjudication Proceedings, or otherwise, the rights of the United States in the Waters of the Agua Fria River, which rights are described, stated, confirmed or established in Permit to Appropriate Surface Waters of the State of Arizona No. 33-87832 issued by the State of Arizona to the U.S. Bureau of Reclamation.

14.6 PLAN 6 STATE APPROPRIATIVE RIGHTS

14.6.1 MODIFIED ROOSEVELT DAM

All of the Parties, including the United States in all of its capacities except as trustee on behalf of any Indian tribe other than the WMAT, ratify, confirm, declare to be valid and agree not to object to, dispute or challenge, in the Gila River Adjudication Proceedings, or otherwise, the rights of the cities of Phoenix, Scottsdale, Mesa, Chandler, Glendale and Tempe in the Waters of the Salt River, which rights are described, stated, confirmed or established in the following documents:

14.6.1.1 Permit to Appropriate Surface Waters of the State of Arizona No. 33-96226 issued by the State of Arizona to the City of Tempe;

14.6.1.2 Permit to Appropriate Surface Waters of the State of Arizona No. 33-96227 issued by the State of Arizona to the City of Scottsdale;

14.6.1.3 Permit to Appropriate Surface Waters of the State of Arizona No. 33-96228 issued by the State of Arizona to the City of Phoenix;

14.6.1.4 Permit to Appropriate Surface Waters of the State of Arizona No. 33-96229 issued by the State of Arizona to the City of Mesa;

14.6.1.5 Permit to Appropriate Surface Waters of the State of Arizona No. 33-96230 issued by the State of Arizona to the City of Glendale; and

14.6.1.6 Permit to Appropriate Surface Waters of the State of Arizona No. 33-96231 issued by the State of Arizona to the City of Chandler.

14.6.2 NEW WADDELL DAM

All of the Parties, including the United States in all of its capacities except as trustee on behalf of any Indian tribe other than WMAT, ratify, confirm, declare to be valid and agree not to object to, dispute or challenge in the Gila River Adjudication Proceedings, or otherwise, the rights of CAWCD in the Waters of the Agua Fria River, which rights are described, stated, confirmed or established in Permit to Appropriate Surface Waters of the State of Arizona No. 33-89719 issued by the State of Arizona to the CAWCD.

14.7 RWCD RIGHTS

14.7.1 All of the Parties, including the United States in all of its capacities except as trustee for Indian tribes other than the WMAT, ratify, confirm and declare to be valid the rights of RWCD under and as defined in that agreement between the Salt River Valley Water Users' Association and RWCD dated October 24, 1924, and approved by the Secretary on December 2, 1924, and all amendments and modifications thereto as of the Enforceability Date. All of the Parties, including the United States in all of its capacities except for the United States acting as trustee for Indian tribes other than the WMAT, recognize and confirm the entitlement of RWCD to Surface Water from the Salt and Verde River systems and agree not to object to, dispute or challenge, in the Gila River Adjudication Proceedings, or in any other judicial or administrative proceeding, such rights, which rights are evidenced by, described, stated, confirmed or established in the following documents and instruments: the agreement between the Salt River Valley Water Users' Association and RWCD dated October 24, 1924, and

approved by the Secretary on December 2, 1924; the stipulation dated September 18, 1940, the decision dated on or about September 18, 1940, the judgment dated September 19, 1940, and the order dated September 19, 1940, in *W.C. Lehane v. Salt River Valley Water Users' Association, et al.*, Cause No. 32021-C in the Superior Court of Maricopa County, Arizona; and the agreement between SRP and RWCD dated September 9, 1954.

14.7.2 All of the Parties, including the United States in all of its capacities except as trustee for Indian tribes other than the WMAT, recognize and confirm that the measure of RWCD's Surface Water entitlement under the documents and instruments identified in Subparagraph 14.7.1 is five and six-tenths percent (5.6%) of the sum of all Surface Water, except Spill Water, diverted at Granite Reef Dam or other points on the Salt and Verde Rivers (a) for Use on the lands within the SRRD described in Exhibit 14.7.2, (b) for distribution by Glendale, Mesa, Phoenix, Tempe, and Chandler, or other cities, or towns, or their successors, to the lands within the SRRD listed on Exhibit 14.7.2, and (c) all Surface Water delivered to SRP below Granite Reef Dam for Use on the lands within the SRRD listed on Exhibit 14.7.2 in exchange for Surface Water that otherwise would have been diverted at Granite Reef Dam for delivery to such lands; minus the first 19,427 acre-feet of Surface Water delivered by SRP each year to the City of Phoenix domestic water treatment plants. Except as provided in this Subparagraph 14.7.2, all rights and obligations contained in the documents and instruments referred to in Subparagraph 14.7.1 hereof shall remain in full force and effect. RWCD's entitlement as set forth in this Subparagraph 14.7 shall

not include any yield from additional active conservation capacity (increases in reservoir capacity assigned to regulate reservoir outflow for irrigation, power and municipal and industrial use which result from modifications of Roosevelt Dam) in Plan 6 facilities (Plan 6 for the regulatory storage division of the CAP, which, for purposes of this Subparagraph 14.7.2 is limited to modifications to Roosevelt Dam on the Salt River).

14.7.3 All of the Parties, including the United States in all of its capacities except as trustee for Indian tribes other than the WMAT, acknowledge that RWCD's Water Rights as described in the documents and instruments referred to in Subparagraph 14.7.1 hereof are appropriative rights and are appurtenant to RWCD lands. Should any other entity succeed to all of RWCD's Water entitlement and system capacity, it shall assume RWCD's rights and obligations to the WMAT and SRP under this Agreement. Nothing in this Agreement shall be construed as a grant of rights between SRP and RWCD for the use of SRP facilities to deliver RWCD's entitlement.

14.7.4 "Spill Water" for purposes of Subparagraph 14.7.2, shall mean flood flow waters from the Salt and Verde Rivers in excess of the storage capacity of SRP reservoirs as such reservoirs existed on February 12, 1988.

15.0 WMAT WATER CODE

15.1 The WMAT shall have the right to allocate Water to all users on the Reservation and on Off-Reservation Trust Lands pursuant to the Water Code and to manage, regulate

and control the Use on the Reservation and on Off-Reservation Trust Land, of all of the Water Rights quantified to the WMAT by this Agreement.

15.2 No later than eighteen (18) months following the Enforceability Date, the WMAT shall have enacted a Water Code governing all of the Water Rights quantified to the WMAT by this Agreement. The Water Code shall include, at a minimum, the following provisions:

15.2.1 Provisions requiring the measurement, calculation and recordation of all Diversions and Depletions of Water on the Reservation and on Off-Reservation Trust Land.

15.2.2 Terms of a water conservation plan, including objectives, conservation measures and an implementation timeline, as provided in Section 305(e)(2)(B) of the Act.

15.2.3 Provisions requiring the approval of the WMAT for the severance and transfer of rights to the Use of Water from historically irrigated lands identified in accordance with Subparagraph 11.3.2.1 to Diversions and Depletions on other non-historically irrigated lands not located on the watershed of the same Water source.

15.2.4 Provisions requiring the authorization of the WMAT for all Diversions of Water on the Reservation and on Off-Reservation Trust Land by any individual or entity other than the WMAT.

16.0 OTHER PROVISIONS

16.1 RECLAMATION REFORM ACT

Pursuant to Section 311(d) of the Act, the Reclamation Reform Act of 1982 (43 U.S.C. §§ 390aa, et seq.) and any other acreage limitation or full cost pricing provision under Federal law shall not apply to any individual, entity or land solely on the basis of: (A) receipt of any benefit under the Act, (B) execution or performance of this Agreement, or (C) the Use, storage, delivery, lease, or exchange of CAP Water.

16.2 NO STANDARD FOR USE FOR QUANTIFICATION OF OTHER INDIAN RIGHTS OR CLAIMS

Nothing in this Agreement shall be construed as establishing any standard to be used for the quantification of Federal reserved rights, aboriginal claims, or any other Indian claims to Water in any judicial or administrative proceeding.

16.3 ENTIRE UNDERSTANDING

This Agreement constitutes the entire understanding among the Parties. Evidence of conduct or statements made in the course of negotiating this Agreement, including, but not limited to previous drafts of this Agreement, is inadmissible in any legal proceedings other than one for approval or confirmation of this Agreement.

16.4 MODIFICATIONS TO AGREEMENT AND AMENDMENTS TO EXHIBITS

No modification of this Agreement shall be effective unless it is in writing, signed by all Parties, and is approved by the Gila River Adjudication Court or the Little Colorado River Adjudication Court, as applicable. Notwithstanding the foregoing, Exhibits to this Agreement may be amended by the parties to such Exhibits in accordance

with their terms, without court approval, unless such approval is required in the Exhibit or by law; provided, however, that no amendment of any Exhibit may violate any provisions of the Act, or this Agreement, or adversely affect the rights under this Agreement of any Party who is not a signatory of such an amendment.

16.5 STATE CAPACITY

Execution of this Agreement by the Governor of the State constitutes the commitment of the State to carry out the terms and conditions of Subparagraphs 7.17, 12.1, and 16.6. Except as provided in the preceding sentence, it is not intended that this Agreement shall be determinative of any decision to be made by any State agency in any administrative, adjudicatory, rule making, or other proceeding or matter. The State's participation as a Party shall be as described herein and shall not bind the State as to a waiver of rights or release of claims, if any, for lands received by the State from the United States pursuant to the provisions of:

(a) The Act of September 9, 1850, 9 Stat. 446 (creating the Territory of New Mexico);

(b) The December 30, 1853 Treaty with Mexico, 10 Stat. 1031 (the Gadsden Purchase);

(c) The Act of 1863, 12 Stat. 664 (creating the Territory of Arizona);

(d) The Act of February 18, 1881, 21 Stat. 326 (University of Arizona 1881 Grant);

(e) The Arizona-New Mexico Enabling Act of June 20, 1910, 36 Stat. 557; and

(f) The Act of February 20, 1929, c. 280, § 2, 45 Stat. 1252 (land for miners' hospitals for disabled miners within said State).

16.6 OBLIGATION TO WORK IN GOOD FAITH TO ACHIEVE ENFORCEABILITY OF AGREEMENT

As of December 31, 2008, each Party shall have the obligation to work in good faith to satisfy the conditions set forth in Section 309(d) of the Act. Except as provided in the preceding sentence, no Party, by reason of its execution of this Agreement, shall be required to perform any of the obligations or be entitled to receive any of the benefits under this Agreement until the Enforceability Date.

16.7 AUTHORITY TO EXECUTE

Each Party represents that the person signing this Agreement on behalf of such Party has the authority to execute it.

16.8 CHANGES IN USES ON SRRD AND RWCD LANDS

All of the Parties, including the United States in all of its capacities except as trustee for Indian tribes other than the WMAT, recognize that Water Uses on the urbanized portions of the lands within SRRD and RWCD have changed and will continue to change from agricultural Uses to M&I Uses. The Parties including the United States in all of its capacities except as trustee for Indian tribes other than the WMAT agree that such changes in Use are valid, and that Water appurtenant to lands that are now or will become urbanized within a particular municipal or other water service area may be delivered for M&I Uses on such urbanized lands and the Water Rights appurtenant to such urbanized lands shall carry the original priority dates. With the exception of type of Use, these Water Rights are as described in the Kent Decree, the Lehane decision (*W.C. Lehane v. Salt River Valley Water Users' Assoc., et al.*, Cause No. 32021-C) and the

documents referred to therein. No Party, including the United States in all of its capacities except as trustee for Indian tribes other than the WMAT, shall challenge or otherwise object to these rights on the basis of change of Use, nature of delivery, or on any other bases in any judicial or administrative proceeding. As to urbanized lands within the SRRD, the Parties including the United States in all of its capacities except as trustee for Indian tribes other than the WMAT agree that the historical practices of the cities and towns located within the geographic limits of SRRD and SRP and the general nature of the rights are appropriately described in the Water Commissioner's Report of June 3, 1977, a copy of which is attached as Exhibit 16.8. Nothing in this Subparagraph 16.8 shall be construed as authorizing the delivery of Water to any municipality by SRP or RWCD for M&I Uses within the SRRD or RWCD, respectively, in the absence of a written delivery agreement between any such municipality and SRP or RWCD.

16.9 RIGHT TO PETITION ANY COURT OF COMPETENT JURISDICTION

Any Party shall have the right to petition any State court or Federal court of competent jurisdiction for such declaratory and injunctive relief as may be necessary to enforce the terms, conditions, and limitations of this Agreement. Nothing contained herein waives the right of the United States or the WMAT to object to the jurisdiction of the courts of the State to adjudicate any dispute arising under this Agreement or the Act. Furthermore, nothing herein waives the right of any Party to object to the jurisdiction of any Federal court to adjudicate any dispute arising under this Agreement or the Act.

16.10 GOVERNING LAW

This Agreement shall be construed in accordance with applicable State and Federal law.

16.11 SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Parties.

16.12 ANTI-DEFICIENCY ACT

The United States shall not be liable for failure to carry out any obligation or activity authorized to be carried out under the Act (including any such obligation or activity under this Agreement) if adequate appropriations are not provided by Congress expressly to carry out the purposes of the Act.

16.13 NO BENEFIT TO MEMBERS OF CONGRESS OR RESIDENT COMMISSIONERS

No Member of or delegate to Congress or Resident Commissioner shall be admitted to any share of this Agreement or to any benefit that may arise herefrom. This restriction shall not be construed to extend to this Agreement if made with a corporation or company for its general benefit.

16.14 FEDERAL AUTHORITY

Exhibit 2.2 is the Act that authorizes the Federal action required to carry out this Agreement. If any amendment of the Act is enacted prior to the Enforceability Date that materially and adversely affects a Party's rights or interests under this Agreement without the written consent of that Party, then that Party, upon its written notice to all other

Parties, shall be relieved of its rights, obligations, and entitlements hereunder; provided, however, that such written notice must be given to all Parties no later than the Enforceability Date.

16.15 DUPLICATE ORIGINALS AND COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall constitute an original, and all of which, when taken together, shall constitute one and the same instrument. This Agreement also may be executed in duplicate originals, each of which shall constitute an original Agreement.

16.16 NO QUANTIFICATION OR EFFECT ON WATER RIGHTS, CLAIMS OR ENTITLEMENTS TO WATER OF OTHER TRIBES

Nothing in this Agreement shall be construed to quantify or otherwise affect the Water Rights, claims or entitlements to Water of any tribe, band or community other than the WMAT.

16.17 NO EFFECT ON FUTURE ALLOCATIONS

Water received under a lease or exchange of WMAT CAP Water under the Act shall not affect any future allocation or reallocation of CAP Water by the Secretary.

16.18 CONSTRUCTION AND EFFECT

The Paragraph and Subparagraph titles used in this Agreement are for convenience only and shall not be considered in the construction of this Agreement.

16.19 NOTICES AND REPORTS

All notices and reports required to be given hereunder shall be in writing and may be given in person, by facsimile transmission, or by United States mail postage prepaid, and shall become effective at the earliest date of actual receipt by the Party to whom notice is given, when delivered to the designated address of the Party, or if mailed, forty-eight (48) hours after deposit in the United States mail addressed as shown below or to such other address as such Party may from time to time designate in writing. Any notice or report required to be given hereunder, if due on a date certain that falls on a Saturday, Sunday or federally recognized holiday, shall be due the next following business day.

As to the United States of America:

Secretary of the Interior
Department of the Interior
1849 C Street, N.W., Mail Stop 4100-MIB
Washington, D.C. 20240

Regional Director
Bureau of Indian Affairs
Western Regional Office
2600 N. Central Avenue, 4th Floor
Phoenix, Arizona 85001

Regional Director
Bureau of Reclamation
Lower Colorado Region
P.O. Box 61470
Boulder City, Nevada 89006-1470

As to the State of Arizona:

Office of the Governor
1700 West Washington Street
Phoenix, Arizona 85007

Arizona Department of Water Resources
3550 N. Central Avenue
Phoenix, Arizona 85012
Attn: Director

As to the White Mountain Apache Tribe:

Office of the Tribal Chairman
P.O. Box 1150
Whiteriver, Arizona 85941

Alternatively, for Federal Express and UPS delivery:
Office of the Tribal Chairman
201 East Walnut Street
Whiteriver, Arizona 85941

As to the Salt River Project Agricultural Improvement and Power District:

Salt River Project
Agricultural Improvement and Power District
P.O. Box 52025
Phoenix, Arizona 85072-2025
Attn: General Manager

As to the Salt River Valley Water Users' Association:

Salt River Valley Water Users' Association
P.O. Box 52025
Phoenix, Arizona 85072-2025
Attn: General Manager

As to Roosevelt Water Conservation District:

P.O. Box 100
Higley, Arizona 85236
Attn: General Manager

As to the Arizona Water Company:

Arizona Water Company
P.O. Box 29006
Phoenix, Arizona 85038-9006
Attn: President

As to the City of Avondale:

City of Avondale
11465 W. Civic Center Dr.
Avondale, AZ 85323
Attn: Avondale City Manager

As to the City of Chandler:

City of Chandler
Mail Stop 605
P.O. Box 4008
Chandler, Arizona 85244-4008
Attn: City Manager

As to the City of Glendale:

City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301
Attn: City Manager

As to the City of Peoria:

City of Peoria
8401 West Monroe Street
Peoria, Arizona 85345
Attn: City Manager

As to the City of Mesa:

City of Mesa
20 E. Main, Suite 750
Mesa, Arizona 85201
Attn: City Manager

As to the City of Phoenix:

City of Phoenix
200 West Washington, Suite 1200
Phoenix, Arizona 85003-1611
Attn: City Manager

As to the City of Show Low:

City of Show Low
550 N. 9th Place
Show Low, Arizona 85901
Attn: City Manager

As to the City of Scottsdale:

City of Scottsdale
3939 Drinkwater Blvd.
Scottsdale, Arizona 85251
Attn: City Manager

As to the City of Tempe:

City of Tempe
31 East 5th Street
Tempe, Arizona 85281
Attn: City Manager

As to the Town of Gilbert:

Town of Gilbert
50 E Civic Center Drive
Gilbert, Arizona 85299
Attn: Town Manager

As to the Buckeye Irrigation Company:

Buckeye Irrigation Company
P.O. Box 1726
Buckeye, Arizona 85236
Attn: General Manager

As to the Buckeye Water Conservation and Drainage District:

Buckeye Water Conservation and Drainage District
P.O. Box 1726
Buckeye, Arizona 85236
Attn: General Manager

As to the CAWCD:

Central Arizona Water Conservation District
P.O. Box 43020
Phoenix, Arizona 85080-3020
Attn: General Manager

or addressed to such other address as the Party to receive such notice shall have designated by written notice given as required by Subparagraph 16.19.

17.0 EXECUTION BLOCKS

IN WITNESS WHEREOF, the Parties have executed this Agreement dated as of the day and year first above written.

THE UNITED STATES OF AMERICA

By:_____

Dated:_____

Secretary of the Interior

Dated as of November 1, 2012

THE STATE OF ARIZONA

By:_____

Dated:_____

Governor

Attest:_____

Secretary of State

Dated as of November 1, 2012

WHITE MOUNTAIN APACHE TRIBE

By:_____

Dated:_____

Chairman

Attest:_____

Approved as to form:

_____

Attorney

Dated as of November 1, 2012

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

By:_____

Dated:_____

President

Attest and Countersigned: _____

Secretary

Approved as to form:

_____

Attorney

Dated as of November 1, 2012

SALT RIVER VALLEY WATER USERS' ASSOCIATION

By: _____

Dated:_____

President

Attest and Countersigned: _____

Secretary

Approved as to form:

_____

Attorney

Dated as of November 1, 2012

THE ROOSEVELT WATER CONSERVATION DISTRICT

By:_____

Dated: _____

President

Attest:_____

Secretary

Approved as to form:

_____

General Counsel

Dated as of November 1, 2012

ARIZONA WATER COMPANY

By: _____

Dated:_____

President

Attest: _____

Secretary

Approved as to form:

_____

General Counsel

Dated as of November 1, 2012

CITY OF CHANDLER

By: _____

Dated:_____

Mayor

Attest: _____

City Clerk

Approved as to form:

_____

City Attorney

Dated as of November 1, 2012

CITY OF GLENDALE

By: _____

Dated:_____

City Manager

Attest: _____

City Clerk

Approved as to form:

_____

City Attorney

Dated as of November 1, 2012

CITY OF MESA

By: _____

Dated:_____

City Manager

Attest: _____

City Clerk

Approved as to form:

_____

City Attorney

Dated as of November 1, 2012

CITY OF PEORIA

By: _____

Dated:_____

Mayor

Attest: _____

City Clerk

Approved as to form:

_____

City Attorney

Dated as of November 1, 2012

CITY OF PHOENIX

By: _____

Dated: _____

City Manager, City of Phoenix

Attest: _____

City Clerk

Approved as to form:

By: _____

City Attorney

Dated as of November 1, 2012

CITY OF SHOW LOW

By: _____

Dated: _____

Mayor

Attest: _____

City Clerk

Approved as to form:

_____

City Attorney

Dated as of November 1, 2012

CITY OF SCOTTSDALE

By: _____

Dated:_____

Mayor

Attest: _____

City Clerk

Approved as to form:

_____

City Attorney

Dated as of November 1, 2012

CITY OF TEMPE

By: _____

Dated:_____

Mayor

Attest: _____

City Clerk

Approved as to form:

_____

City Attorney

Dated as of November 1, 2012

CITY OF AVONDALE

By: _____

Dated:_____

City Manager

Attest: _____

City Clerk

Approved as to form:

_____

City Attorney

Dated as of November 1, 2012

TOWN OF GILBERT

By: _____

Dated:_____

Town Mayor

Attest: _____

Town Clerk

Approved as to form:

_____

Town Attorney

Dated as of November 1, 2012

BUCKEYE IRRIGATION COMPANY

By: _____

Dated:_____

President

Attest: _____

Secretary

Approved as to form:

_____

General Counsel

Dated as of November 1, 2012

BUCKEYE WATER CONSERVATION AND DRAINAGE DISTRICT

By: _____

Dated:_____

President

Attest: _____

Secretary

Approved as to form:

_____

General Counsel

Dated as of November 1, 2012

CENTRAL ARIZONA WATER CONSERVATION DISTRICT

By: _____

Dated:_____

President

Attest: _____

Secretary

Approved as to form:

_____

General Counsel

EXHIBIT 10.1.1D

LEASE AGREEMENT FOR CAP WATER AMONG THE CITY OF GLENDALE, THE WHITE MOUNTAIN APACHE TRIBE, AND THE UNITED STATES

1. PREAMBLE

This agreement providing for the lease of Central Arizona Project water ("Lease Agreement"), made this _____ day of _____, 201_, is among the United States of America (hereinafter "United States"), the White Mountain Apache Tribe (hereinafter "WMAT") and the City of Glendale, Arizona (hereinafter "Glendale").

2. RECITALS

2.1 The Parties to this Lease Agreement are also parties to the Quantification Agreement as defined under Subparagraph 3.31 herein.

2.2 As partial consideration for entering into the Quantification Agreement, the WMAT and Glendale are entering into this Lease Agreement by which the WMAT will lease to Glendale a portion of the WMAT CAP Water in accordance with the WMAT CAP Water Delivery Contract No. 08-XX-30-W0529. The Parties acknowledge that the consideration received by the WMAT in exchange for the Leased Water represents fair market value.

2.3 The White Mountain Apache Tribe Water Rights Quantification Act of 2010, P.L. 111-291, Title III, 124 Stat. 3064, 3073 (2010) ("Act"), a copy of which is attached as Exhibit 2.2 to the Quantification Agreement, confirms the Quantification Agreement and specifically authorizes the WMAT to lease WMAT CAP Water.

2.4 The WMAT CAP Water Delivery Contract, which authorizes the WMAT to enter into this Lease Agreement, is attached to the Quantification Agreement as Exhibit 7.1.

3.0 DEFINITIONS

The following terms when capitalized shall have the following meaning:

3.1 "CAP" or "Central Arizona Project" shall mean the reclamation project authorized and constructed by the United States in accordance with Title III of the Colorado River Basin Project Act (43 U.S.C.§§ 1521 et seq.).

3.2 "CAP Contract" shall mean a long-term contract, as that term is used in the CAP Repayment Stipulation, for delivery of CAP Water.

3.3 "CAP Contractor" shall mean an individual or entity that has entered into a long-term contract, as that term is used in the CAP Repayment Stipulation, with the United States for delivery of water through the CAP System.

3.4 "CAP Indian Priority Water" shall mean that CAP Water having an Indian delivery priority under the CAP Repayment Contract.

3.5 "CAP M&I Priority Water" shall mean that CAP Water having a municipal and industrial delivery priority under the CAP Repayment Contract.

3.6 "CAP NIA M&I Equivalent Priority Water" shall mean, through December 31, 2107, that CAP NIA Priority Water firmed with priority equivalent to CAP M&I Priority Water as provided in Subparagraph 7.17 of the Quantification Agreement, and, after December 31, 2107, shall mean CAP NIA Priority Water that is not firmed with priority equivalent to CAP M&I Priority Water unless the United States or the State have agreed to firm CAP NIA Priority

Water with priority equivalent to CAP M&I Priority Water beyond December 31, 2107 as provided in Subparagraph 7.17.3 of the Quantification Agreement.

3.7 "CAP NIA Priority Water" shall mean that water deliverable under a CAP Contract or CAP Subcontract providing for the delivery of non-Indian agricultural priority water.

3.8 "CAP NIA Priority Water Lease Charge" shall be that amount of money paid to the WMAT for CAP NIA Priority Water as calculated pursuant to Subparagraph 4.3.1.2 of this Lease Agreement.

3.9 "CAP NIA Priority Water Lease Rate" is defined in Subparagraph 4.3.1.2 of this Lease Agreement.

3.10 "CAP Repayment Contract" shall mean: (1) the contract between the United States and the Central Arizona Water Conservation District for Delivery of Water and Repayment of Costs of the CAP, numbered 14-06-W-245 (Amendment No. 1), and dated December 1, 1988; and (2) any amendment to, or revision of, that contract.

3.11 "CAP Repayment Stipulation" shall mean the Stipulated Judgment and the Stipulation for Judgment (including any exhibits to those documents) entered on November 21, 2007, in the United States District Court for the District of Arizona in the consolidated civil action styled *Central Arizona Water Conservation District v. United States, et al*., and numbered CIV 95-625-TUC-WDB (EHC) and CIV 95-1720-PHX-EHC.

3.12 "CAP Service Area" or "District" shall mean the area included within the Central Arizona Water Conservation District, consisting of Maricopa, Pinal and Pima Counties, as well as any other counties, or portions thereof, that may hereafter become part of the District.

3.13 "CAP Subcontract" shall mean a long-term subcontract, as that term is used in the CAP Repayment Stipulation, with the United States and the Central Arizona Water Conservation District for the delivery of water through the CAP System.

3.14 "CAP Subcontractor" shall mean an individual or entity that has entered into a long-term subcontract, as that term is used in the CAP Repayment Stipulation, with the United States and the Central Arizona Water Conservation District for the delivery of water through the CAP System.

3.15 "CAP System" shall mean: (A) the Mark Wilmer Pumping Plant; (B) the Hayden-Rhodes Aqueduct; (C) the Fannin-McFarland Aqueduct; (D) the Tucson Aqueduct; (E) any pumping plant or appurtenant works of a feature described in any of (A) through (D); and (F) any extension of, addition to, or replacement for a feature described in any of (A) through (E).

3.16 "CAP Water" shall mean 'Project Water' as that term is defined in the CAP Repayment Stipulation.

3.17 "CAWCD" or "Central Arizona Water Conservation District" shall mean the political subdivision of the State that is the contractor under the CAP Repayment Contract.

3.18 "Cities" shall mean the municipalities of Avondale, Chandler, Gilbert, Glendale, Mesa, Peoria, Phoenix, Scottsdale and Tempe.

3.19 "Glendale" shall mean the City of Glendale, an Arizona Municipal Corporation, its predecessors, successors and assigns.

3.20 "CPI-U" shall mean the All Items Consumer Price Index All Urban Consumers, U.S. City Average (1982-84 = 100), which is published by the U.S. Department of Labor, Bureau of Labor Statistics.

3.21 "Enforceability Date" shall mean the date described in Section 309(d)(1) of the Act.

3.22 "Gila River Adjudication Proceedings" shall mean that action pending in the Superior Court of the State of Arizona in and for the County of Maricopa styled *In Re the General Adjudication of All Rights To Use Water In The Gila River System and Source, W-1 (Salt), W-2 (Verde), W-3 (Upper Gila), W-4 (San Pedro) (Consolidated).*

3.23 "HVID CAP Water" shall mean that water that was acquired by the Secretary through the permanent relinquishment of the Harquahala Valley Irrigation District CAP Subcontract entitlement in accordance with Contract No. 3-07-30-W0290 among CAWCD, Harquahala Valley Irrigation District and the United States, and converted to CAP Indian Priority Water pursuant to the Fort McDowell Indian Community Water Rights Settlement Act of 1990, P.L. 101-628 Title IV, 104 Stat. 4468, 4480.

3.24 "HVID CAP Water and CAP NIA M&I Equivalent Priority Water Lease Charge" shall be that amount of money paid to the WMAT for HVID CAP Water and CAP NIA M&I Equivalent Priority Water as calculated pursuant to Subparagraph 4.3.1.1 of this Lease Agreement.

3.25 "HVID CAP Water and CAP NIA M&I Equivalent Priority Water Lease Rate" is defined in Subparagraph 4.3.1.1 of this Lease Agreement.

3.26 "Leased Water" shall mean that portion of the WMAT CAP Water that is leased by the WMAT to Glendale pursuant to this Lease Agreement.

3.27 "OM&R" shall mean the care, operation, maintenance, and replacement of the CAP System or any part thereof.

3.28 "Operating Agency" shall mean the entity or entities authorized to assume responsibility for the care, operation, maintenance, and replacement of the CAP System. CAWCD is the Operating Agency at the time of execution of this Lease Agreement.

3.29 "Other Cities" shall mean the municipalities of Avondale, Chandler, Gilbert, Mesa, Peoria, Phoenix, Scottsdale and Tempe.

3.30 "Party" shall mean an entity represented by a signatory to this Lease Agreement. "Parties" shall mean more than one of these entities.

3.31 "Quantification Agreement" shall mean: (1) the Amended and Restated White Mountain Apache Tribe Water Rights Quantification Agreement dated as of November 1, 2012; and (2) any amendment or exhibit (including exhibit amendments) to that Agreement that are (i) made in accordance with the Act, or (ii) otherwise approved by the Secretary. This Lease Agreement constitutes Exhibit 10.1.1D to the Quantification Agreement.

3.32 "Secretary" shall mean the Secretary of the United States Department of the Interior.

3.33 "Subparagraph" shall mean a numbered subparagraph of this Lease Agreement.

3.34 "Total Water Lease Charge" shall mean the sum of the HVID CAP Water and CAP NIA M&I Equivalent Priority Water Lease Charge and the CAP NIA Priority Water Lease

Charge.

3.35 "United States" or "United States of America" in any given reference herein shall mean the United States acting in the capacity as set forth in said reference. When the term "United States" or "United States of America" is used in reference to a particular agreement or contract, the term shall mean the United States acting in the capacity as set forth in such agreement or contract.

3.36 "White Mountain Apache Tribe" or "the WMAT" shall mean the White Mountain Apache Tribe, organized under Section 16 of the Act of June 18, 1934, 48 Stat. 984 (commonly known as the "Indian Reorganization Act") (25 U.S.C. § 476).

3.37 "WMAT CAP Water" shall mean CAP Water to which the WMAT is entitled pursuant to the WMAT CAP Water Delivery Contract.

3.38 "WMAT CAP Water Delivery Contract" shall mean: (A) Contract No. 08-XX-30-W0529 between the WMAT and the United States dated _____, a copy of which is attached to the Quantification Agreement as Exhibit 7.1; and (B) any amendment to that contract.

3.39 "WMAT Reservation" or "Reservation" shall mean the land located within the exterior boundaries of the White Mountain Indian Reservation established by Executive Order dated November 9, 1871, as modified by subsequent Executive Orders and Acts of Congress: (1) known on December 8, 2010, the date of enactment of the Act, as the "Fort Apache Reservation" pursuant to chapter 3 of the Act of June 7, 1897 (30 Stat. 62); and (2) generally depicted on the map attached as Exhibit 2.81 to the Quantification Agreement. The depiction of

the Reservation on the map attached as Exhibit 2.81 to the Quantification Agreement shall not: (1) be used to affect any dispute between the WMAT and the United States concerning the legal boundary of the Reservation; or (2) constitute an admission by the WMAT with regard to any dispute between the WMAT and the United States concerning the legal boundary of the Reservation.

3.40 "Year" shall mean a calendar year. When not capitalized, the term "year" shall have the meaning in the Paragraph or Subparagraph in which the term is used.

NOW, THEREFORE, in consideration of the mutual covenants contained in this and other pertinent agreements, it is agreed as follows:

4.0 LEASE OF WATER

4.1 Subject of Lease. The WMAT hereby leases to Glendale (1) Ninety-One (91) acre-feet per year of its HVID CAP Water and (2) Five Hundred Fifty Eight (558) acre-feet per year of its CAP NIA M&I Equivalent Priority Water and (3) One Thousand Seven Hundred Fourteen (1,714) acre-feet per year of its CAP NIA Priority Water that is not firmed under Section 7.17 of the Quantification Agreement. The Leased Water is subject to the terms and conditions of the WMAT CAP Water Delivery Contract except as agreed to herein. Glendale shall not be subject to amendments to the WMAT CAP Delivery Contract subsequent to the execution of this Lease Agreement that adversely affect this Lease Agreement unless Glendale agrees to such amended terms in writing.

4.2 Term of Lease Agreement. The term of this Lease Agreement shall begin thirty (30) days after the Enforceability Date and end one hundred (100) years thereafter. At the WMAT's sole

discretion and with the approval of the Secretary, the WMAT may enter into a separate lease agreement with Glendale for WMAT CAP Water upon such terms and conditions as may be negotiated at that time either during the term of this Lease Agreement or thereafter, provided however, that the term of any such separate lease shall not exceed one hundred (100) years.

4.3 Glendale's Consideration During Initial Term of Lease Agreement.

4.3.1 Total Water Lease Charge. In consideration for the Leased Water during the term of the Lease Agreement, Glendale shall pay to the WMAT a one-time Total Water Lease Charge which is equal to the sum of the HVID CAP and CAP NIA M&I Equivalent Priority Water Lease Charge and the CAP NIA Priority Water Lease Charge as hereafter determined under Subparagraphs 4.3.1.1 and 4.3.1.2 respectively:

4.3.1.1 HVID CAP and CAP NIA M&I Equivalent Priority Water Lease Charge. The HVID CAP and CAP NIA M&I Equivalent Priority Water Lease Charge shall be the amount of money paid to WMAT by Glendale under this Lease Agreement for HVID CAP Water and CAP NIA M&I Equivalent Priority Water. The HVID CAP and CAP NIA M&I Equivalent Priority Water Lease Charge shall be determined by dividing the CPI-U most recently published and available prior to the Enforceability Date by the CPI-U as published for the month of October, 2008 to determine the ratio (hereafter "ratio"), then multiplying the ratio as determined above by the HVID CAP Water and CAP NIA M&I Equivalent Priority Water base payment of Two Thousand Five Hundred Fifty Dollars ($2,550) to determine the HVID CAP and CAP NIA M&I Equivalent Priority Water Lease Rate, and then multiplying the HVID CAP and CAP NIA M&I Equivalent Priority Water Lease Rate, as determined above, by Six Hundred Forty-Nine (649) acre-feet ("AF")

to determine the HVID CAP and CAP NIA M&I Equivalent Priority Water Lease Charge.

4.3.1.2 CAP NIA Priority Water Lease Charge. The CAP NIA Priority Water Lease Charge shall be the amount of money paid to WMAT by Glendale under this Lease Agreement for CAP NIA Priority Water that is not firmed under Section 7.17 of the Quantification Agreement. The CAP NIA Priority Water Lease Charge shall be determined by multiplying the ratio by the CAP NIA Priority Water base payment of Two Thousand Seventy Four Dollars ($2,074) to determine the CAP NIA Priority Water Lease Rate, and then multiplying the CAP NIA Priority Water Lease Rate, as determined above, by One Thousand Seven Hundred Fourteen (1,714) AF to determine the CAP NIA Priority Water Lease Charge.

4.3.1.3. An example showing the manner in which the calculation required by this Subparagraph 4.3.1 shall be made, is as follows:

Assuming, solely for purposes of this example, that: (1) the amount of HVID CAP Water and CAP NIA M&I Equivalent Priority Water leased is 1,000 AF per year; (2) the amount of CAP NIA Priority Water leased that is not firmed under Section 7.17 of the Quantification Agreement is 1,000 AF per year; (3) the most recently published CPI-U available prior to the Enforceability Date is 240.69; (4) the CPI-U for October 1, 2008 is 211.69; and (5) the HVID CAP Water and CAP NIA M&I Equivalent Priority Water base payment is $2,550.00; and the CAP NIA Priority Water base payment is $2,074.00.

Calculation (all numbers rounded to the nearest hundredth):

Most recently published CPI-U available prior to Enforceability Date	240.69
CPI-U as of October 2008	211.69

Ratio equals (240.69 divided by 211.69)	1.14
Base payment for HVID CAP Water and CAP NIA M&I Equivalent Priority Water	$2,550.00
HVID CAP and CAP NIA M&I Equivalent Priority Water Lease Rate (1.14 x $2,550.00)	$2,907.00
HVID CAP and CAP NIA M&I Equivalent Priority Water Lease Charge ($2,907.00 x 1,000 AF)	$2,907,000.00
Base payment for CAP NIA Priority Water (non-firmed)	$2,074.00
CAP NIA Priority Water Lease Rate (1.14 x $2,074.00)	$2,364.36
CAP NIA Priority Water Lease Charge ($2,364.36 x 1,000 AF)	$2,364,360.00
Total Water Lease Charge ($2,907,000.00 + $2,364,360.00) =	$5,271,360.00

In the event the CPI-U is discontinued or not otherwise available as of the month in which the term begins, the Parties shall select a comparable index.

4.3.2 Glendale may, at its election, pay the Total Water Lease Charge in full (without interest) within thirty (30) days after the date that the term begins. In lieu of making such payment, Glendale may elect to make payment as follows:

4.3.2.1 An initial payment of one-half (1/2) of the Total Water Lease Charge (as determined pursuant to Subparagraph 4.3.1) within thirty (30) days after the date that the term begins, with the remaining balance to be paid in four (4) annual payments, payable on the next four (4) anniversary dates of the date that the term begins. Each such payment shall be one-eighth (1/8) of the Total Water Lease Charge plus interest on the unpaid balance at an annual rate determined as follows: one percent (1%) over the net interest rate paid by the City of Phoenix on its most recently issued Water System Improvement Junior Lien Revenue Bonds, as of the Enforceability Date.

Interest accrued shall not be added to principal and shall not itself bear interest unless delinquent. An example showing the manner in which the payment contemplated by this Subparagraph 4.3.2.1 shall be made is as follows:

> Assume, solely for purposes of this example, that the Total Water Lease Charge is $1,000,000 and the net interest rate paid by the City of Phoenix on its most recently issued Water System Improvement Junior Lien Revenue Bonds, as of the Enforceability Date is five percent (5%). Under this example, the applicable resulting interest rate would be six percent (6%) [5% + 1% = 6%] and payments including interest under this Subparagraph 4.3.2.1 would be calculated as follows: Glendale would make an initial payment of $500,000. The first annual installment would be in the principal amount of [$1,000,000 x 1/8 = $125,000] plus interest on the unpaid balance of [$1,000,000 - $500,000 = $500,000] in the amount of [$500,000 x .06 = $30,000], for a total payment of [$125,000 + $30,000 = $155,000]. The second annual installment would be in the principal amount of $125,000 plus interest on the unpaid balance of [$1,000,000 - $625,000 = $375,000] in the amount of [$375,000 x .06 = $22,500], for a total payment of [$125,000 + $22,500 = $147,500]. The third annual installment would be in the principal amount of $125,000 plus interest on the unpaid balance of [$1,000,000 - $750,000 = $250,000] in the amount of [$250,000 x .06 = $15,000], for a total payment of [$125,000 + $15,000 = $140,000]. The fourth and final annual installment would be in the principal amount of $125,000 plus

interest on the unpaid balance of [$1,000,000 - $875,000 = $125,000] in the amount of [$125,000 x .06 = $7,500], for a total payment of [$125,000 + 7,500 = $132,500].

4.3.3 Under the payment option set forth in Subparagraph 4.3.2.1 without any prepayment penalty, Glendale may, at any time, elect to pay the remaining balance in full together with interest on the unpaid balance to the date of such payment.

4.4 CAP Fixed OM&R Charges and CAP Pumping Energy Charges. Glendale shall pay all CAP Fixed OM&R Charges and CAP Pumping Energy Charges for the delivery of the Leased Water to the Operating Agency as mandated by Section 306 (a) (1) (A) (iii) of the Act and upon the same terms and conditions as are mandated by article 5.1 of Glendale's CAP M&I Water Service Subcontract No. 07-XX-30-W0493, as amended, ("Glendale's CAP M&I Water Service Subcontract") except that Glendale's obligation to pay such CAP Fixed OM&R Charges and CAP Pumping Energy Charges shall not begin earlier than the date that Glendale is entitled to receive water under this Lease Agreement, but in no event unless and until the water is scheduled for delivery by Glendale. CAP Fixed OM&R Charges and CAP Pumping Energy Charges are described as "OM&R Costs" in article 5.1 of Glendale's CAP M&I Water Service Subcontract. Prior to the date that the term of this Lease Agreement (as described in Subparagraph 4.2) begins, the WMAT may use the WMAT CAP Water in accordance with the WMAT CAP Water Delivery Contract.

4.5 Other Charges or Payments. Pursuant to Sections 306 (a)(8) and 306(e) of the Act, neither the WMAT nor Glendale shall be obligated to pay water service capital charges or any other

charges, payments, or fees for the Leased Water other than as provided in Subparagraphs 4.3, 4.4, and 4.12, and Paragraph 6.0 of this Lease Agreement.

4.6 Delivery of Water. The United States or the Operating Agency shall deliver the WMAT's Leased Water to Glendale through the CAP System as further provided herein; however, neither the United States nor the Operating Agency shall be obligated to make such deliveries if, in the judgment of the Operating Agency or the Secretary, delivery or schedule of deliveries to Glendale would limit deliveries of CAP water to any CAP Contractor, including the WMAT, or CAP Subcontractor to a degree greater than would direct deliveries to the WMAT at the CAP/SRP Interconnection Facility that connects the Hayden-Rhodes Aqueduct of the CAP System to SRP's water delivery system. The United States or the Operating Agency shall deliver the Leased Water to Glendale in accordance with water delivery schedules provided by Glendale to the United States and the Operating Agency, and the Operating Agency shall inform the WMAT of the amount of Leased Water delivered in the previous year. The water ordering procedures contained in article 4.4 of Glendale's CAP M&I Water Service Subcontract (or any replacement subcontracts) shall apply to Glendale's ordering of water under this Lease Agreement. In no event shall the United States or the Operating Agency be required to deliver to Glendale under this Lease Agreement, in any one month, a total amount of Leased Water greater than eleven percent (11%) of Glendale's annual maximum entitlement under this Lease Agreement; provided, however, that the United States or the Operating Agency may deliver a greater percentage in any month if such increased delivery is compatible with the overall delivery of CAP water to other CAP Contractors and CAP Subcontractors, as determined by the

United States and the Operating Agency if Glendale agrees to accept such increased deliveries.

4.6.1 Delivery of Water During Times of Shortages. If a time of shortage exists, as described at Subparagraphs 7.16.1 and 7.16.2 of the Quantification Agreement (1) the amount of Leased Water that is HVID CAP Water shall be reduced by the same percentage by which water available for delivery as CAP Indian Priority Water is reduced in that Year as provided in subsection 5.8 of the WMAT CAP Water Delivery Contract , Section 4 of Amendment No. 2 of the CAP Repayment Contract dated November 30, 2007 and as further provided in Subparagraph 7.16.2 of the Quantification Agreement; (2) the amount of Leased Water that is CAP NIA M&I Equivalent Priority Water available to Glendale under this Lease Agreement, if required to be firmed under the Quantification Agreement or other future agreement, shall be reduced by the same percentage by which water available for delivery as CAP M&I Priority Water is reduced in that Year in accordance with Subparagraph 7.17 of the Quantification Agreement and as provided in Section 4 of Amendment No. 2 of the CAP Repayment Contract dated November 30, 2007, and as provided in subsection 5.8 of the WMAT CAP Water Delivery Contract, and if not required to be firmed under the Quantification Agreement or other future agreement, shall be reduced as provided in (3) herein; and (3) the amount of Leased Water that is CAP NIA Priority Water that is not firmed under Subparagraph 7.17 of the Quantification Agreement available to Glendale under this Lease Agreement shall be reduced by the same percentage by which water available for delivery as CAP NIA Priority Water is reduced in that year in accordance with Subparagraph 7.16.1 of the Quantification Agreement and as provided in subsection 5.8 of the WMAT CAP Water Delivery Contract. Subject to Subparagraph 4.12, any shortage of HVID

CAP Water leased from the WMAT and CAP NIA M&I Equivalent Priority Water leased from the WMAT shall be shared among the Leasing Cities (as that term is defined in Subparagraph 2.48 of the Quantification Agreement) according to the actual percentages leased, which initially are: Avondale, 2.77%; Chandler, 14.47%; Gilbert, 13.31%; Glendale, 7.44%; Mesa, 9.93%; Peoria, 4.06%; Phoenix, 40.21%; Tempe, 7.81%. Subject to Subparagraph 4.12, any shortage of CAP NIA Priority Water leased from WMAT that is not firmed under Section 7.17 of the Quantification Agreement shall be shared among the Leasing Cities (as that term is defined in Subparagraph 2.48 of the Quantification Agreement), CAWCD and any other entity leasing CAP NIA Priority Water from the WMAT according to the actual percentages leased, which initially are: Avondale, 3.93%; Chandler, 20.49%; Gilbert, 18.83%; Glendale, 10.53%; Mesa, 14.07%; Peoria, 5.74%; Tempe, 11.06%; and CAWCD, 15.35%. Notwithstanding anything to the contrary in this Subparagraph 4.6.1, the United States' and the State of Arizona's obligation to provide water to firm any deliveries of WMAT CAP NIA Priority Water under this Lease Agreement does not extend beyond December 31, 2107; provided, however, that neither the United States nor the State of Arizona is prohibited by this Subparagraph 4.6.1 from providing water to firm any deliveries of WMAT CAP NIA Priority Water beyond December 31, 2107, if, subject to the enactment of any necessary additional authorizing legislation, either agrees to do so in any future agreements.

4.7 Use of Leased Water Outside Reservation. Glendale may use or deliver Leased Water for use outside the boundaries of the Reservation, but may not use, lease, transfer the use of, or otherwise cause the Leased Water to be delivered for use outside of the boundaries of the CAP

Service Area, except for use within Glendale's water service area when Glendale's water service area extends beyond the CAP Service Area.

4.8 Conditions Relating to Delivery and Use. Glendale shall have the right to use Leased Water for any purpose that is consistent with Arizona law and not expressly prohibited by this Lease Agreement, including exchanges of the Leased Water for other types of water, and groundwater recharge as that term is defined in the CAP Repayment Contract. Except to the extent that this Lease Agreement conflicts with the terms of Glendale's CAP M&I Water Service Subcontract, deliveries of Leased Water to Glendale and its use by Glendale shall be subject to the Conditions Relating to Delivery and Use in article 4.3 of Glendale's CAP M&I Water Service Subcontract. During the term of this Lease Agreement, the following subarticles or articles of Glendale's CAP M&I Water Service Subcontract shall apply to Glendale and to Glendale's use of water under this Lease Agreement: subarticles 4.5(c), 4.5(d), and 5.2(d); articles 4.6, 4.9, 5.3, 5.4, 5.5, 6.4, 6.6, 6.9, 6.10, 6.11, and 6.13. Glendale expressly approves and agrees to all the terms presently set out in the CAP Repayment Contract, or as such terms may be hereafter amended, and agrees to be bound by the actions to be taken and the determinations to be made under that CAP Repayment Contract, to the extent not inconsistent with the express provisions of this Lease Agreement.

4.9 Quality of Water. The OM&R of the CAP System shall be performed in such manner as is practicable to maintain the quality of water made available through such facilities at the highest level reasonably attainable as determined by the Secretary. The United States, the WMAT, and the Operating Agency make no warranty as to the quality of water and are under no

obligation to construct or furnish water treatment facilities to maintain or better the quality of water. Glendale waives its right to make a claim against the United States, the Operating Agency, the WMAT, other lessee(s), or CAP Subcontractor(s) because of changes in water quality caused by the commingling of Leased Water with other water.

4.10 Points of Delivery. The Leased Water to be delivered to Glendale pursuant to the provisions of this Lease Agreement shall be delivered at turnouts on the CAP System or such other points that may be agreed upon by Glendale, the United States and the Operating Agency.

4.11 WMAT's Covenants. The WMAT agrees:

(A) To observe and perform all obligations imposed on the WMAT by the WMAT CAP Water Delivery Contract which are not assumed by Glendale so that Glendale's rights and duties are not in any way impaired;

(B) Not to execute any other lease of the WMAT Water, that would impair Glendale's rights and duties hereunder;

(C) Not to alter or modify the terms of the WMAT CAP Water Delivery Contract in such a way as to impair Glendale's rights hereunder or exercise any right or action permitted by the WMAT CAP Water Delivery Contract so as to interfere with or change the rights and obligations of Glendale hereunder; and

(D) Not to terminate or cancel the WMAT CAP Water Delivery Contract or transfer, convey or permit a transfer or conveyance of such contract so as to cause a termination of, interference with, or modification of the rights and obligations of the WMAT under it.

4.12 Assignment of Interest in Leased Water.

(A) General. Glendale may not transfer, assign, sublease or otherwise designate or authorize for the use of others all or any part of the Leased Water without the written approval of the WMAT and the Secretary.

(B) Assignment to the Cities and CAWCD. Notwithstanding the prohibition of Subparagraph 4.12(A) above, approval is hereby granted by the Secretary and the WMAT to Glendale, if Glendale is not in default of its payment obligations to the WMAT, to assign all or any part of its interest in Leased Water under this Lease Agreement to one or more of the Other Cities, or to CAWCD, as provided in this Subparagraph, or to their successor(s) in interest within the boundaries of their existing or future service areas. Before assigning any part of its interest in Leased Water under this Lease Agreement, Glendale shall offer such interest to all the Other Cities in equal shares. In the event that any of the Other Cities elects not to take its share of Glendale's assignment, the water shall then be offered to all of the remaining Other Cities in equal shares until the full amount of the water is so assigned. If CAP NIA M&I Equivalent Priority Water or HVID CAP Water leased from the WMAT and available for assignment is declined by all of the Other Cities, such interest may be assigned to CAWCD. If CAP NIA Priority Water that is not firmed under Section 7.17 of the Quantification Agreement is being made available for assignment, then CAWCD may participate in equal shares with the Other Cities. Such assignment shall be effective only upon the execution by the assignor and the assignee of a Voluntary Assignment and Assumption Agreement, the form of which is attached to this Lease Agreement as Exhibit 4.12 (Exhibit 10.1.1.1A of the Quantification Agreement). A copy of such Voluntary Assignment and

Assumption Agreement shall be provided to the Operating Agency, the WMAT and the United States.

(C) Recovery of Costs Allowed. Glendale shall not assign all or any part of its interest in Leased Water hereunder for an amount in excess of that portion of the Total Water Lease Charge that is attributable to the portion of the Leased Water that is assigned. Nothing in this Lease Agreement shall affect Glendale's ability to recover actual future costs, if any, incurred by Glendale for the transportation, treatment, and distribution of the assigned Leased Water.

4.13 Allocation and Repayment of CAP Costs. Pursuant to Section 305(d) of the Act, for the purposes of determining the allocation and repayment of costs of any stage of the CAP constructed after November 21, 2007, the costs associated with the delivery of Leased Water shall be nonreimbursable and shall be excluded from the repayment obligation of CAWCD. Pursuant to Section 306(a)(8) of the Act, no CAP water service capital charges shall be due or payable for the Leased Water.

5. [Intentionally not used].

6. DEFAULT AND REMEDIES

6.1 Events of Default. Any failure by Glendale to pay the consideration specified in Subparagraph 4.3 for the Leased Water within thirty (30) days after any such payments become due shall constitute a default of Glendale's obligations under this Lease Agreement.

6.2 Notice of Default. In the event of a default by Glendale as defined in Subparagraph 6.1 above, the WMAT shall provide written notice ("Notice of Default") to Glendale and contemporaneously, shall send copies of such notice to the Other Cities and CAWCD specifying the

default and demanding that the default be cured within ninety (90) days of the notice. Notice shall be given in the manner and to the Glendale officers specified in Subparagraph 8.10 of this Lease Agreement. The Notice of Default shall specifically describe the default and state the amount due from Glendale, which amount shall be the sum of all payments due the WMAT that should have been paid, but were not paid ("Default Amount"). The purpose of this Subparagraph is to put Glendale, the Other Cities and CAWCD on notice as to the time and cause of default. De minimis mistakes in the Notice of Default shall not invalidate the effectiveness of the Notice of Default.

6.3 Remedies for Failure to Pay. If Glendale fails to cure a non-payment default in accordance with Subparagraph 6.4(A), and if none of the Other Cities or CAWCD cures the non-payment default pursuant to Subparagraph 6.4(B), the WMAT may terminate this Lease Agreement. If the WMAT terminates this Lease Agreement for non-payment of the Total Water Lease Charge required by Subparagraph 4.3, the WMAT shall be entitled to judgment as provided at Subparagraph 6.4(D), but shall not be entitled to any other remedy as a result of such a default.

6.4 Curing for Glendale's Non-payment. After Notice of Default, the default may be cured as follows:

(A) First Grace Period. During the first thirty (30) days following the Notice of Default ("First Grace Period"), Glendale shall have the exclusive right to cure any such default by tendering the Default Amount to the WMAT together with interest on the Default Amount accrued at the annual rate of ten percent (10%) calculated from the date that the missed payment became due ("Due Date"). During the first fifteen (15) days following the Notice of Default, Glendale shall provide written notice to the Other Cities and CAWCD declaring its intent whether it will cure the

default, provided that all payments becoming due during the First Grace Period shall be automatically added to and become a part of the Default Amount and interest thereupon shall accrue in accordance with this provision.

(B) Second Grace Period. In the event that Glendale has not cured the default within thirty (30) days following the Notice of Default, Glendale, any of the Other Cities, CAWCD (for CAP NIA Priority Water that is not firmed under Section 7.17 of the Quantification Agreement only) and/or any combination thereof, may thereafter, but only within sixty (60) days following the end of the First Grace Period ("Second Grace Period"), cure the default by tendering the Default Amount to the WMAT together with interest on the Default Amount accrued at the annual rate of ten percent (10%) calculated from the Due Date. Each of the Other Cities and CAWCD (for CAP NIA Priority Water that is not firmed under Section 7.17 of the Quantification Agreement only) that desires to succeed to the interest of Glendale shall, within sixty (60) days of the Notice of Default, give notice to the Other Cities, CAWCD (for CAP NIA Priority Water that is not firmed under Section 7.17 of the Quantification Agreement only) and Glendale that it will be a curing entity and declare the maximum amount of water that it will lease and succeed to the interest of Glendale.

(C) Third Grace Period. If the Other Cities do not cure Glendale's default for CAP NIA M&I Equivalent Priority Water or HVID CAP Water by the end of the Second Grace Period, then CAWCD may then cure the default by tendering any remaining portion of the Default Amount within fifteen (15) days after the end of the Second Grace Period ("Third Grace Period").

Each curing entity shall succeed to the interest and obligation of Glendale to the extent of its contribution, and Glendale and each curing entity shall execute an Assignment and Assumption

Agreement in the form attached hereto as Exhibit 6.4 (Exhibit 10.1.1.1B of the Quantification Agreement) whereby the curing entity or entities agree to be bound by the terms of this Lease Agreement to the extent of its/their contribution. Glendale shall be responsible for any proportionate remainder of any Default amount not cured by the Other Cities or CAWCD pursuant to Subparagraphs 6.4(B) and (C). A copy of such Assignment and Assumption Agreement(s) shall be provided by the curing entity to the Operating Agency, the WMAT and the United States. The WMAT shall accept payment from such curing entity or entities in lieu of payment by Glendale. If the curing entities collectively request more water than what is available for assignment and assumption under this Subparagraph, such curing entities shall succeed to the interest of Glendale in equal shares ("Equal Share Amount"); provided, however, if any of the curing entities requests less water than its Equal Share Amount, then the difference between that curing entity's Equal Share Amount and the amount it requested shall be divided among the other curing entities in equal shares.

If Glendale fails to cure its default within the time-period set forth in Subparagraphs 6.4(B) and (C) it shall execute an Assignment and Assumption Agreement, the form of which is attached hereto as Exhibit 6.4 with each curing entity; provided, however, that if the default is not fully cured by the end of the Third Grace Period, Glendale's right to Leased Water that has not been assigned pursuant to Subparagraphs 6.4(B) and (C) shall be forfeited back to the WMAT and the WMAT shall be entitled to the remedy described in Subparagraph 6.4(D) of this Lease Agreement *pro rata* for that portion that has not been cured as provided for herein. If Glendale, or Glendale and any combination of the Other Cities, and CAWCD have arranged to cure the default and the curing

entities have signed all necessary Assignment and Assumption Agreements, but Glendale has either failed or refused to sign such agreement(s) before the end of the Third Grace Period, the Assignment and Assumption Agreements(s) shall be self-executing without the need for Glendale to sign an Assignment and Assumption Agreement, the form of which is attached hereto as Exhibit 6.4. A cure effected pursuant to this Subparagraph shall constitute full performance of such default payment obligation to the extent of the amount of Leased Water assigned and assumed.

(D) Default Amount. After Notice of Default and after failure to cure as provided for in Subparagraphs 6.4(A), (B) and (C) hereof, Glendale will be indebted to the WMAT and the WMAT will be entitled to judgment for the Default Amount plus an amount equal to three percent (3%) of the balance of the Total Water Lease Charge not yet due and payable, together with interest on the three percent (3%) of the balance of the Total Water Lease Charge not yet due and payable, from the time of default until judgment is obtained, and such costs and reasonable attorneys fees as the WMAT incurs after the due date for obtaining and collecting judgment for the unpaid amounts as a result of such default. The balance of such amount shall continue to accrue interest at the rate of ten percent (10%) per annum until paid in full. Payment of this amount plus such accrued interest as provided in this Subparagraph shall constitute full performance of Glendale's obligations under Subparagraph 4.3 of this Lease Agreement.

7.0 TERMINATION AND SURRENDER OF WATER

7.1 Voluntary Termination of this Lease. After offering to assign the Leased Water in accordance with Subparagraph 4.12, Glendale may terminate this Lease Agreement at any time by submitting written notice to the WMAT of its decision to terminate at least one year prior to

the date that it intends the Lease Agreement to be terminated, provided, however, Glendale must receive the written approval of the WMAT before it may terminate this Lease Agreement pursuant to this Subparagraph 7.1 unless Glendale has paid the WMAT at least one-fourth of the Total Water Lease Charge (plus any interest due) set forth in Subparagraph 4.3 of this Lease Agreement. Such notice is irrevocable except upon the WMAT's agreement that Glendale may withdraw its notice. Glendale shall continue to make all payments required by this Lease Agreement during that one-year period and shall not use any Leased Water beyond the day for which the last payment is intended to pay. If Glendale terminates this Lease Agreement, all sums paid by Glendale to the WMAT prior to the date of termination shall remain the property of the WMAT and shall be non-refundable to Glendale.

7.2 Voluntary Surrender of a Portion of the Leased Water. After offering to transfer, assign or sublease the Leased Water in accordance with Subparagraph 4.12, Glendale may elect, at any time during the term of this Lease Agreement to surrender its interest in any portion of the Leased Water by providing written notice to the WMAT of its decision to surrender such interest at least one year prior to the time that it intends to surrender its interest. However, Glendale must receive the written approval of the WMAT before it may surrender any portion of its interest under this Lease Agreement pursuant to this Subparagraph 7.2 unless Glendale has paid the WMAT at least one-fourth of the Total Water Lease Charge set forth in Subparagraph 4.3 of this Lease Agreement. Such notice is irrevocable except upon the WMAT's agreement that Glendale may withdraw its notification. Glendale shall continue to make all payments required of this Lease Agreement during that one year period of time and shall not use any Leased Water

that will be surrendered pursuant to this Subparagraph 7.2 beyond the day for which the last payment is intended to pay. If Glendale surrenders its interest in all or any portion of the Leased Water, all sums paid by Glendale to the WMAT for such water prior to the date of surrender shall remain the property of the WMAT and shall be non-refundable to Glendale. All portions of the Lease Agreement shall remain in effect for all the portions of the Leased Water that are not surrendered. To the extent that the retained portion of the Leased Water has not already been paid for by Glendale, payment shall be in proportion to the amount of water retained by Glendale, charged at the per acre-foot charge, including applicable interest, for Leased Water as calculated pursuant to Subparagraph 4.3 of this Lease Agreement for the years remaining on the term of this Lease Agreement. At the time of the surrender of Leased Water pursuant to this Subparagraph 7.2, Glendale shall pay to the WMAT an amount equal to three percent (3%) of the principal payment for the portion of the Leased Water surrendered.

8. GENERAL PROVISIONS

8.1 United States Consent to Lease Agreement. The United States hereby approves and consents to this Lease Agreement.

8.2 Lease Agreement Renegotiation. The Parties to this Lease Agreement agree that the WMAT and Glendale may renegotiate this Lease Agreement at any time during its term, as provided in and subject to the provisions of Subparagraph 7.4 of the Quantification Agreement.

8.3 Lease Agreement Extension. If the ADWR has adopted a final rule or substantive policy statement that enables the Lease Water to be counted as part of Glendale's Assured Water Supply if the term of this Lease is extended, the WMAT agrees to meet with Glendale and discuss

the extension of the term of the Lease Agreement within the time-frame required by the applicable ADWR rule or substantive policy statement.

8.4 Effective Date. This Lease Agreement shall become effective upon the occurrence of the last of the following events: (1) a date thirty (30) days after the Enforceability Date; or (2) the execution of this Lease Agreement by all Parties.

8.5 Rejection of Lease Agreement. Thirty (30) days after the Enforceability Date Glendale at its option may, upon written notice to the WMAT, reject this Lease Agreement. In the event Glendale rejects this Lease Agreement pursuant to this Subparagraph 8.5, Glendale shall have no obligations under this Lease Agreement and Glendale's entitlement shall be offered to the Other Cities and CAWCD as provided in Subparagraph 4.12(B) until that water is fully leased, provided, however, the assignment of the entitlement as provided in Subparagraph 4.12(B) must be completed no later than ninety (90) days after the date of the Rejection Notice. If the assignment of the entitlement to Leased Water is not completed within ninety (90) days after the date of the Rejection Notice, the Leased Water entitlement shall revert back to the WMAT for disposition by the WMAT at its sole discretion, including leasing the water entitlement to any person or entity within the CAP Service Area.

8.6 Enforceability of Lease Agreement. Upon the occurrence of the events listed in Subparagraph 8.4, this Lease Agreement shall be enforceable between the WMAT and Glendale notwithstanding the performance or non-performance of other provisions of the Quantification Agreement not related to this Lease Agreement. The provisions of the Quantification Agreement that relate to this Lease Agreement include, without limitation, Paragraphs 7.0 and 10.0.

8.7 Invalidity of Lease Agreement. If, as a result of any acts or omissions by a person or entity not a Party to this Lease Agreement, Glendale's entitlement to Leased Water under this Lease Agreement is determined to be invalid by a final judgment entered over the opposition of Glendale with the result that the Lease Agreement is deemed null and void, the WMAT shall refund to Glendale that portion of the lease payment that the number of years remaining in the lease term at the time of such determination bears to the total lease term. In the event this Lease Agreement becomes null and void as contemplated by this Subparagraph 8.7, Glendale's entitlement shall be offered to the Other Cities and CAWCD as provided in Subparagraph 4.12(B) until that water is fully leased, provided, however the assignment of the entitlement as provided in Subparagraph 4.12(B) must be completed no later than ninety (90) days after the WMAT serves written notice that this Lease Agreement by a final judgment has been deemed to be null and void; and further provided, that the Other Cities or CAWCD, as the case may be, accepting the assignment must pay to the WMAT an amount equal to the amount of money refunded by WMAT to Glendale. If the assignment to the Other Cities or CAWCD and payment to the WMAT for the assigned entitlement to Leased Water is not completed within ninety (90) days after the WMAT serves written notice that this Lease Agreement by a final judgment has been deemed null and void, the Leased Water entitlement shall revert back to the WMAT for disposition by the WMAT at its sole discretion, subject to the requirements of the Act and the Quantification Agreement, including leasing the water entitlement in accordance with the provisions of Paragraph 9.0 of the Quantification Agreement.

8.8 Approval, Consent and Ratification. Each Party to this Lease Agreement does by execution of the signature pages hereto, approve, endorse, consent to and ratify this Lease

Agreement.

8.9 Counterparts. This Lease Agreement may be executed in multiple counterparts, each of which shall be considered an original and all of which, taken together, shall constitute one agreement.

8.10 Notice. Any notice to be given or payment to be made under this Lease Agreement shall be properly given or made when received by the officer designated below, or when deposited in the United States mail, certified or registered, postage prepaid, addressed as follows (or addressed to such other address as the Party to receive such notice shall have designated by written notice given as required by this Section 8.10):

(a) As to the United States:

The Secretary of the Interior
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Regional Director
Western Region Office
Bureau of Indian Affairs
2600 N. Central Avenue, 4th Floor
Phoenix, Arizona 89006-1470

Regional Director
Bureau of Reclamation
Lower Colorado Region
P.O. Box 61470
Boulder City, Nevada 89005

(b) As to the WMAT:

Office of the Tribal Chairman
White Mountain Apache Tribe
P.O. Box 1150
Whiteriver, Arizona 85941

Alternatively, for Federal Express and UPS delivery:
Office of the Tribal Chairman
201 East Walnut Street
Whiteriver, Arizona 85941

Office of the Tribal Attorney
White Mountain Apache Tribe
P.O. Box 2110
Whiteriver, AZ 85941

(c) As to the Cities:

Avondale City Manager
11465 W. Civic Center Dr.
Avondale, AZ 85323

Avondale City Attorney
Gust Rosenfeld P.L.C.
Attention: Andrew McGuire
1 E. Washington, Suite 1600
Phoenix, AZ 85004-2553

Chandler City Manager
P.0. Box 4008 Mail Stop 605
Chandler, AZ 85244-4008

Chandler City Attorney
P.O. Box 4008 Mail Stop 602
Chandler, Arizona 85225- 4008

Gilbert Town Manager
50 East Civic Center Drive
Gilbert, AZ 85296

Gilbert Town Attorney
Curtis, Goodwin, Sullivan,
Udall and Schwab P.L.C.
501 East Thomas Road
Phoenix, AZ 85012

Glendale City Manager
5850 West Glendale Ave.
Glendale, AZ 85301

Glendale City Attorney
5850 West Glendale Avenue
Glendale, Arizona 85301

Mesa City Manager
P.O. Box 1466
Mesa, AZ 85211-1466

Mesa City Attorney
P.O. Box 1466
Mesa, Arizona 85211-1466

Peoria City Manager
8401 West Monroe
Peoria, Arizona 85345

Peoria City Attorney
8401 West Monroe
Peoria, Arizona 85345-6560

Phoenix City Manager
200 West Washington, Suite 1200
Phoenix, Arizona 85003

Phoenix City Attorney
200 W. Washington, Suite 1300
Phoenix, Arizona 85003-1611

Scottsdale City Manager
3939 North Drinkwater Blvd.
Scottsdale, AZ 85251

Scottsdale City Attorney
3939 North Drinkwater Blvd.
Scottsdale, Arizona 85251

Tempe City Manager
31 East 5th Street
Tempe, Arizona 85281

Tempe City Attorney
21 E. 6th St., Suite 201
Tempe, Arizona 85281

(d) As to CAWCD:

Central Arizona Water Conservation District
23636 North 7th Street
Phoenix, Arizona 85024-3801
Attn: General Manager

8.11 Governing Law. This Lease Agreement shall be governed by and construed in accordance with applicable Arizona and federal law.

8.12 Waiver. No waiver of any breach of any of the terms or conditions of this Lease Agreement shall be construed as a waiver of any subsequent breach of the same or other terms or conditions of this Lease Agreement.

8.13 Severability. If any provision or clause of this Lease Agreement or application thereof to any person or circumstance is held invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions, clauses or applications of this Lease Agreement which can be given effect without the invalid or unenforceable provision, clause or application, and to this end, the provisions and clauses of this Lease Agreement are severable; provided, however, that no provision or clause shall be severed if the severance would deprive any Party of its material benefits under this Lease Agreement.

8.14 Construction and Effect. This Lease Agreement and each of its provisions are to be construed fairly and reasonably and not strictly for or against any Party. The Paragraph and Subparagraph titles used in this Lease Agreement are for convenience only and shall not be considered in the construction of this Lease Agreement.

8.15 Successors and Assigns. Each of the terms and conditions of this Lease Agreement shall be binding on and inure to the benefit of the Parties and their successors and assigns.

8.16 Benefits of Lease Agreement. No member or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Lease Agreement or to any benefit that may arise herefrom. This restriction shall not be construed to extend to this Lease Agreement if made with a corporation or company for its general benefit.

8.17 Third Party Beneficiaries. With the exception of the Other Cities and CAWCD, which shall be third party beneficiaries for enforcement of Subparagraphs 4.12, 6.4, 8.5 and 8.7, there shall be no third party beneficiaries of this Lease Agreement.

8.18 Good Faith Negotiations. This Lease Agreement has been negotiated in good faith for the purposes of advancing the settlement of legal disputes, including pending litigation, and all of the Parties agree that no information exchanged or offered, or compromises made, in the course of negotiating this Lease Agreement may be used as either evidence or argument by any Party hereto in any legal or administrative proceeding other than a proceeding for the interpretation or enforcement of this Lease Agreement.

8.19 Attorneys' Fees. In the event of litigation between the Parties to enforce this Lease Agreement, the prevailing Party in any such action shall be entitled to recover reasonable costs and

expenses of suit, including, without limitation, court costs, attorneys' fees and discovery costs; provided, however, that this Subparagraph 8.19 shall not apply to the United States.

8.20 Remedies for Default on Matters other than Failure to Pay. The WMAT may enforce by the remedy of specific performance any City obligation, other than an obligation to pay which is addressed in Subparagraphs 6.3 and 6.4(D) of this Lease Agreement. The WMAT shall not be entitled to any other remedy as a result of such default. Actions to enforce the terms and conditions of this Lease Agreement are subject to the provisions of Subparagraph 8.19.

IN WITNESS WHEREOF the Parties have executed this Lease Agreement on the date written above.

[SIGNATURE PAGES FOLLOW]

FOR THE WHITE MOUNTAIN APACHE TRIBE

By: _____
Chairman

Attest_____

Dated:_____

Approved as to form:

By: _____

FOR THE UNITED STATES OF AMERICA

By: _____
Regional Director
Lower Colorado Region
Bureau of Reclamation

Dated:_____

By: _____
Regional Director
Western Region
Bureau of Indian Affairs

Dated:_____

FOR THE CITY OF GLENDALE

By: _____
Mayor, City of Glendale

Dated: _____

Attest: _____
City Clerk

Approved as to form:

By: _____
City Attorney

Exhibit 4.12 of the _____ Lease Agreement
(Form of which is Exhibit 10.1.1.1A of the Quantification Agreement)

VOLUNTARY ASSIGNMENT AND ASSUMPTION OF LEASED WATER

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the undersigned _____ ("Assignor"), hereby transfers, assigns and conveys to the _____("Assignee") ____ percent (__%) of the following:

> Assignor's right and interest in and to the Leased Water provided for in the Lease Agreement dated _____ between Assignor and the White Mountain Apache Tribe (the "WMAT") and the United States ("Lease Agreement"). This ___ percent (__%) equals ___ acre-feet of Leased Water.

1. <u>Voluntary Assignment and Assumption Pursuant to Subparagraph 4.12 of Lease Agreement</u>.

This Voluntary Assignment and Assumption Agreement is executed pursuant to, and is valid only if executed in accordance with, Subparagraph 4.12 of the Lease Agreement. Except as provided in Paragraph 2 of this Voluntary Assignment and Assumption Agreement, the covenants, agreements and limitations provided in the Lease Agreement are hereby incorporated herein by this reference as if herein set out in full and shall inure to the benefit of and shall be binding upon Assignor and Assignee, and their respective successors and assigns.

2. <u>Assumption of Rights and Obligations Under Lease Agreement</u>. Assignee agrees to pay all applicable water service charges associated with the delivery of Assignee's share of the Leased Water and otherwise assumes, in accordance with the terms of the Assignor's Lease Agreement, the benefits, burdens and obligations of Assignor thereunder to the extent of Assignee's

percentage interest of the Leased Water assumed, and to the extent such benefits, burdens and obligations arise from and after the date hereof. Assignor shall and hereby does agree to continue to be responsible and indemnify Assignee for all the burdens and obligations of Assignor's Lease Agreement for the period prior to the date hereof and Assignee shall have no liability therefor. Assignor shall have no right to the benefits and no responsibility for the burdens or obligations that arise after the date of this Voluntary Assignment and Assumption Agreement for the assigned portion of the Leased Water. Nothing herein shall affect the WMAT's rights as against the Assignor for acts or omissions arising before the date of this Voluntary Assignment and Assumption Agreement.

3. **Other Acts.** Each Party will, whenever and as often as it shall be requested so to do by the other, perform such acts and cause to be executed, acknowledged or delivered any and all such further instruments and documents as may be necessary or proper, in the reasonable opinion of the requesting Party, in order to carry out the intent and purpose of this Voluntary Assignment and Assumption Agreement.

4. **Water Assigned Becomes a Part of Any Pre-Existing Lease Agreement.** If the Assignee is a party to a pre-existing Lease Agreement with the WMAT pursuant to Paragraph 10.0. of the Quantification Agreement, that Lease Agreement is hereby deemed amended, without further action, to include the additional rights and interest in the Leased Water assigned to Assignee by this Voluntary Assignment and Assumption Agreement and shall be subject to enforcement pursuant to that pre-existing Lease Agreement as well as by its assumption of the Assignor's burdens and obligations as provided for herein.

5. **Counterparts.** This Voluntary Assignment and Assumption Agreement may be executed in one or more counterparts, each of which shall constitute an original, and all of which, when taken together, shall constitute one and the same instrument.

6. **Attorneys' Fees.** In the event of litigation between the parties to enforce this Voluntary Assignment and Assumption Agreement, the prevailing party in any such action shall be entitled to recover reasonable costs and expenses of suit, including, but not limited to, court costs, attorneys' fees and discovery costs; provided, however, that this Paragraph 6.0 shall not apply to the United States.

7. **Effective Date.** This Voluntary Assignment and Assumption Agreement shall become effective when it is signed by the parties hereto.

IN WITNESS WHEREOF the parties have executed this Voluntary Assignment and Assumption Agreement on the ____ day of _____, 2___.

_____ (Assignor)

By _____

Its _____

Dated: _____

Attest:_____

Its_____

Approved as to form:_____

Its_____

_____ (Assignee)

By _____

Its _____

Dated: _____

Attest:_____

Its _____

Approved as to form:_____

Its_____

The parties to this Voluntary Assignment and Assumption Agreement certify that a copy of this Voluntary Assignment and Assumption Agreement was provided in accordance with Subparagraphs 4.12 (B) and 8.10 of the Lease Agreement to the White Mountain Apache Tribe, the United States and the Operating Agency on _____ __, 2___.

Exhibit 6.4 of the _____Lease Agreement
(Form of which is Exhibit 10.1.1.1B of the Quantification Agreement)

ASSIGNMENT AND ASSUMPTION OF LEASED WATER

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the undersigned _____ ("Assignor"), hereby transfers, assigns and conveys to the _____("Assignee") ____ percent (__%) of the following:

> Assignor's right and interest in and to the Leased Water provided for in the Lease Agreement dated _____ between Assignor and the White Mountain Apache Tribe (the "WMAT") and the United States ("Lease Agreement"). This ___ percent (__ %) equals ___ acre-feet of Leased Water.

1. <u>Assignment and Assumption Pursuant to Subparagraph 6.4 of Lease Agreement</u>. This Assignment and Assumption Agreement is executed pursuant to, and is valid only if executed in accordance with, Subparagraph 6.4 of the Lease Agreement. Except as provided in Paragraph 2 of this Assignment and Assumption Agreement, the covenants, agreements and limitations provided in the Lease Agreement are hereby incorporated herein by this reference as if herein set out in full and shall inure to the benefit of and shall be binding upon Assignor and Assignee, and their respective successors and assigns.

2. <u>Assumption of Rights and Obligations Under Lease Agreement</u>. Assignee agrees to pay all applicable water service charges associated with the delivery of Assignee's share of the Leased Water and otherwise assumes, in accordance with the terms of the Assignor's Lease Agreement, the benefits, burdens and obligations of Assignor thereunder to the extent of Assignee's percentage interest of the Leased Water assumed, and to the extent such benefits, burdens and obligations arise from and after the date hereof, except that Assignee agrees to pay and be

responsible to the WMAT for the Assignee's share of the Default Amount set forth in Subparagraph 6.2 of the Lease Agreement. Assignor shall and hereby does agree to continue to be responsible and indemnify Assignee for all the burdens and obligations of Assignor under the Lease Agreement for the period prior to the date of default under Subparagraph 6.1 of the Lease Agreement and Assignee shall have no liability therefor. For the assigned portion of the Leased Water, Assignor shall have no right to the benefits and no responsibility for the burdens or obligations that arise after the date that this Assignment and Assumption Agreement is effective. Nothing herein shall affect the WMAT's rights as against the Assignor for acts or omissions arising before the date of this Assignment and Assumption Agreement.

3. **Other Acts.** Each Party will, whenever and as often as it shall be requested so to do by the other, perform such acts and cause to be executed, acknowledged or delivered any and all such further instruments and documents as may be necessary or proper, in the reasonable opinion of the requesting Party, in order to carry out the intent and purpose of this Assignment and Assumption Agreement.

4. **Water Assigned Becomes a Part of Any Pre-Existing Lease Agreement.** If the Assignee is a party to a pre-existing Lease Agreement with the WMAT pursuant to Paragraph 10.0 of the Quantification Agreement, that Lease Agreement is hereby deemed amended, without further action, to include the additional rights and interest in the Leased Water assigned by this Assignment and Assumption Agreement and shall be subject to enforcement pursuant to that pre-existing Lease Agreement as well as by its assumption of the Assignor’s burdens and obligations as provided for herein.

5. **Counterparts.** This Assignment and Assumption Agreement may be executed in one or more counterparts, each of which shall constitute an original, and all of which, when taken together, shall constitute one and the same instrument.

6. **Attorneys' Fees.** In the event of litigation between the parties to enforce this Assignment and Assumption Agreement, the prevailing party in any such action shall be entitled to recover reasonable costs and expenses of suit, including, but not limited to, court costs, attorneys' fees and discovery costs; provided, however, that this Paragraph 6.0 shall not apply to the United States.

7. **Effective Date.** This Assignment and Assumption Agreement shall become effective when it is signed by the parties hereto and the Assignee has paid its share of the Default Amount in accordance with Subparagraph 6.4 (B) of the Lease Agreement, or if not signed by Assignor, upon Assignee's signature in accordance with the provisions of Subparagraph 6.4 (B) of the Lease Agreement describing "self execution", and the Assignee's payment of its share of the Default Amount.

IN WITNESS WHEREOF the parties have executed this Assignment and Assumption Agreement on the ____ day of _____, 2___.

_____ (Assignor)

By _____
Its _____

Dated: _____

Attest:_____
Its _____

Approved as to form:_____

Its _____

_____ (Assignee)

By _____
Its _____

Dated: _____

Attest:_____
Its _____

Approved as to form:_____
Its _____

The parties to this Assignment and Assumption Agreement certify that a copy of this Assignment and Assumption Agreement was provided in accordance with Subparagraphs 6.4(B) and 8.10 of the Lease Agreement to the White Mountain Apache Tribe, the United States and the Operating Agency on _____ __, 2___.

CITY COUNCIL REPORT

Meeting Date: **2/12/2013**
Meeting Type: **Voting**
Title: **AWARD OF PROPOSAL 13-07, LIBRARY BOOKS**
Staff Contact: **Erik Strunk, Executive Director, Parks, Recreation and Library Services**

Purpose and Recommended Action

This is a request for City Council to award proposal 13-07 authorizing the City Manager to enter into an agreement for Library Print Materials with Baker & Taylor, Inc. for one year, with the option to extend the agreement for an additional four, one-year increments.

Background Summary

Each year, the Glendale Public Library spends approximately $570,000 for the purchase of new books and reading materials. These materials are purchased based on patron interest and for printed materials at the end of their useful life. To accomplish this, the Library has different print material vendors to provide books and magazines to meet the diverse reading interests of the citizens of Glendale.

The Parks, Recreation and Library Services Department have been working with the Materials Management Division since October 2012 to coordinate a Request for Proposals (RFP) process. The RFP was issued in November and a total of three bid responses were received. The bids were reviewed by a six-member committee based on the following criteria: compliance with specifications; capability of the vendor's experience, programs and references; capability of the vendor to provide ordering, cataloging and other services; inventory and availability; and cost. After an interview with the two highest scoring finalists, Baker & Taylor, Inc. was selected by the committee based on the highest score and is being recommended for approval.

Community Benefit/Public Involvement

The award of this contract will position the library to meet the needs of the community and to ensure a continuation of the best prices in order to maximize the Library's book budget. All members of the community will have access to print resources in all formats. Library users will have access to best-selling fiction and non-fiction titles, covering all subjects and genres, large print materials, adult and youth foreign language materials, youth picture and board books, beginning readers and chapter books, books with media, graphic novels for adults, youth and teens, pop-up and novelty books, movie and TV tie-ins titles and adult and youth reference materials. Baker and Taylor, Inc. provides electronic ordering and processing which will ensure that library users have access to materials more quickly.

CITY COUNCIL REPORT

Budget and Financial Impacts

Funds in the amount of $570,886 are available in the Fiscal Year 2012-13 Library Operating Budget in accounts 1000-15520-527400, 1000-15520-528000, and 1500-74751-527400.

Cost	Fund-Department-Account
$349,886	**1000-15520-527400, Books**
$21,000	**1000-15520-528000, Replacement Books**
$200,000	**1500-74751-527400, DIF – Library Books**

Capital Expense? Yes ☐ No ☒

Budgeted? Yes ☒ No ☐

Requesting Budget or Appropriation Transfer? Yes ☐ No ☒

If yes, where will the transfer be taken from?

Attachments

Staff Report

Agreement

Bid Tab

STAFF REPORT

To:	**Horatio Skeete, Acting City Manager**
From:	**Erik Strunk, Executive Director, Parks, Recreation and Library Services**
Item Title:	**AWARD OF PROPOSAL 13-07, LIBRARY BOOKS**
Requested Council Meeting Date:	**2/12/2013**
Meeting Type:	**Voting**

PURPOSE

The information provided in this report relates to the proposed contract for library print materials with Baker & Taylor, Inc. The purpose of the report is to request the City Manager to forward this proposed contract with Baker & Taylor, Inc. to City Council for approval.

BACKGROUND

Each year, the Glendale Public Library circulates approximately two million items to its patrons. These items consist of printed and multi-media (videos and music) materials that make up the bulk of the library collection. Of this amount, approximately 1,133,652 of the items are printed materials. Because of their use and handling, printed materials wear out and eventually need to be replaced. Additionally, the literary world is constantly creating and publishing new printed materials for which patrons have an interest and ultimately seek at the city's three Glendale Public Library branches. In order to accommodate this need, each year the Glendale Public Library budgets for the acquisition of new print materials. In fiscal year (FY) 2012-13, the total amount is $570,886.

Because the Glendale Public Library purchases such a large quantity of printed material each year (approximately 18,602 items), it routinely orders and receives needed items via several print material vendors. Over the past five years, the library has had a print contract with two different print material vendors (Baker & Taylor, Inc. and the Brodart Company), to meet the needs of the library system. These contracts recently expired and it is necessary to award a new contract for printed materials.

Based on the need to seek competitive bids for a new printed materials contract, the Parks, Recreation and Library Services Department worked with the Materials Management Division in the fall of 2012 to coordinate an RFP process for proposal 13-07. A total of three bids were received. Each bid was reviewed by a six-member committee based on the following criteria: the vendor's compliance with specifications; capability of the vendor's experience, programs and references; capabilities of the vendors to provide ordering, cataloging and other services; inventory, availability and cost. The top two high scoring vendors were interviewed for additional scoring before a final selection was made. After the interview with the finalists, Baker & Taylor,

Inc. was selected by the committee based on the highest score and is being recommended for approval.

ANALYSIS

The award of this contract will ensure the library can provide access to print materials in all formats to meet the needs of the community. The agreement will position the library to maximize the library's book budget through discounted pricing for materials. The agreement also includes electronic ordering and processing of materials which will enable the efficiency of ordering and processing of materials, thereby ensuring that materials are accessible to library users more quickly. The contract agreement shall begin on January 1, 2013 and continue for one year. Because the actual number of items purchased each year will vary, the actual final cost will not exceed the amount approved by the City Council in the FY 2012-13 Library budget of $570,886. The contract also contains an option that will permit the City Manager, at his discretion, to extend this contract for four additional years, in one-year increments.

FISCAL IMPACTS

Funds are available in the FY 2012-13 budget in accounts 1000-15520-527400, 1000-15520-528000 and 1500-74751-527400.

AGREEMENT FOR
PRINTING SERVICES
City of Glendale Solicitation No. RFP 13-07

This Agreement for Printing Services ("Agreement") is effective and entered into between CITY OF GLENDALE, an Arizona municipal corporation ("City"), and Baker & Taylor, Inc., a North Carolina corporation, authorized to do business in Arizona, (the "Contractor"), as of the _____ day of _____, 2013.

RECITALS

A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in **Exhibit A**, pursuant to Solicitation No. RFP 13-07 (the "Project");

B. City desires to retain the services of Contractor to perform those specific duties and produce the specific work as set forth in the Project attached hereto;

C. City and Contractor 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 Contractor agree as follows:

1. Key Personnel; Sub-contractors.

1.1 Services. Contractor will provide all services necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors or consultants, retained by City.

1.2 Project Team.

a. Project Manager.

(1) Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's option, complete the Project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement;

(2) The City must approve the designated Project Manager; and

(3) To assure the Project schedule is met, Project Manager may be required to devote no less than a specific amount of time as set out in Exhibit A.

b. Project Team.

(1) The Project manager and all other employees assigned to the project by Contractor will comprise the "Project Team."

(2) Project Manager will have responsibility for and will supervise all other employees assigned to the project by Contractor.

c. Discharge, Reassign, Replacement.

(1) Contractor acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in the response to the Project's solicitation.

(2) Contractor will not discharge, reassign or replace or diminish the responsibilities of any of the employees assigned to the Project who have been approved by City without City's prior written consent unless that person leaves the employment of Contractor, in which event the substitute must first be approved in writing by City.

(3) Contractor will change any of the members of the Project Team at the City's request if an employee's performance does not equal or exceed the level of competence that the City may reasonably expect of a person performing those duties or if the acts or omissions of that person are detrimental to the development of the Project.

d. Sub-contractors.

(1) Contractor may engage specific technical contractor (each a "Sub-contractor") to furnish certain service functions.

(2) Contractor will remain fully responsible for Sub-contractor's services.

(3) Sub-contractors must be approved by the City, unless the Sub-contractor was previously mentioned in the response to the solicitation.

(4) Contractor shall certify by letter that contracts with Sub-contractors have been executed incorporating requirements and standards as set forth in this Agreement.

2. Schedule. The services will be undertaken in a manner that ensures the Project is completed timely and efficiently in accordance with the Project.

3. Contractor's Work.

3.1 Standard. Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 Licensing. Contractor warrants that:

a. Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and

b. Neither Contractor nor any Sub-contractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").

(1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.

(2) Contractor must notify City immediately if any Approvals or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default under the Agreement.

3.3 Compliance. Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by City.

3.4 Coordination; Interaction.

a. For projects that the City believes requires the coordination of various professional services, Contractor will work in close consultation with City to proactively interact with any other professionals retained by City on the Project ("Coordinating Project Professionals").

b. Subject to any limitations expressly stated in the Project Budget, Contractor will meet to review the Project, Schedule, Project Budget, and in-progress work with Coordinating

Project Professionals and City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.

c. For projects not involving Coordinating Project Professionals, Contractor will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.

3.5 Work Product.

a. Ownership. Upon receipt of payment for services furnished, Contractor grants to City, and will cause its Sub-contractors to grant to the City, the exclusive ownership of and all copyrights, if any, to evaluations, reports, drawings, specifications, project manuals, surveys, estimates, reviews, minutes, all "architectural work" as defined in the United States Copyright Act, 17 U.S.C § 101, *et seq.*, and other intellectual work product as may be applicable ("Work Product").

(1) This grant is effective whether the Work Product is on paper (e.g., a "hard copy"), in electronic format, or in some other form.

(2) Contractor warrants, and agrees to indemnify, hold harmless and defend City for, from and against any claim that any Work Product infringes on third-party proprietary interests.

b. Delivery. Contractor will deliver to City copies of the preliminary and completed Work Product promptly as they are prepared.

c. City Use.

(1) City may reuse the Work Product at its sole discretion.

(2) In the event the Work Product is used for another project without further consultations with Contractor, the City agrees to indemnify and hold Contractor harmless from any claim arising out of the Work Product.

(3) In such case, City shall also remove any seal and title block from the Work Product.

4. Compensation for the Project.

4.1 Compensation. Contractor's compensation for the Project, including those furnished by its Sub-contractors will not exceed $570,886, as specifically detailed in **Exhibit B** (the "Compensation").

4.2 Change in Scope of Project. The Compensation may be equitably adjusted if the originally contemplated scope of services as outlined in the Project is significantly modified.

a. Adjustments to the Compensation require a written amendment to this Agreement and may require City Council approval.

b. Additional services which are outside the scope of the Project contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.

c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take priority and govern the conduct of the parties.

5. Billings and Payment.

5.1 Applications.

a. Contractor will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.

b. The period covered by each Payment Application will be one calendar month ending on the last day of the month or as specified in the solicitation.

5.2 Payment.

a. After a full and complete Payment Application is received, City will process and remit payment within 30 days.

b. Payment may be subject to or conditioned upon City's receipt of:

(1) Completed work generated by Contractor and its Sub-contractors; and

(2) Unconditional waivers and releases on final payment from Sub-contractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

5.3 Review and Withholding. City's Project Manager will timely review and certify Payment Applications.

a. If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.

b. City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.

6. Termination.

6.1 For Convenience. City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 30 days following the date of delivery.

a. Contractor will be equitably compensated for Service and Repair furnished prior to receipt of the termination notice and for reasonable costs incurred.

b. Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with project closeout and delivery of the required items to the City.

6.2 For Cause. City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

a. Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages, in accordance with the provision of § 5.

b. If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand; however, Contractor will not be subject to consequential damages of more than $1,000,000 or the amount of this Agreement, whichever is greater.

7. Conflict. Contractor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

8. Insurance.

8.1 Requirements. Contractor must obtain and maintain the following insurance ("Required Insurance"):

a. Contractor and Sub-contractors. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance

coverages described below (collectively referred to herein as the "Contractor's Policies"), until each Party's obligations under this Agreement are completed.

b. General Liability.

(1) Contractor 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 for each property damage and contractual property damage.

(2) Sub-contactors 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.

(3) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, XCU hazards if requested by the City, and a separation of insurance provision.

(4) These limits may be met through a combination of primary and excess liability coverage.

c. Auto. A business auto policy providing a liability limit of at least $1,000,000 per accident for Contractor and $1,000,000 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.

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

e. Notice of Changes. Contractor's Policies must provide for not less than 30 days' advance written notice to City Representative of:

(1) Cancellation or termination of Contractor or Sub-contractor's Policies;

(2) Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and

(3) Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.

f. Certificates of Insurance.

(1) Within 10 business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which will confirm the existence or issuance of Contractor and Sub-contractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Sub-contractor's Policies in accordance with the provisions of this section.

(2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.

(3) Contractor's failure to secure and maintain Contractor Policies and to assure Sub-contractor policies as required will constitute a material default under the Agreement.

g. Other Contractors or Vendors.

(1) Other contractors or vendors that may be contracted with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular contract.

(2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).

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

(1) 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.

(2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and reasonably acceptable to all parties.

8.2 Sub-contractors.

a. Contractor must also cause its Sub-contractors to obtain and maintain the Required Insurance.

b. City may consider waiving these insurance requirements for a specific Sub-contractor if City is satisfied the amounts required are not commercially available to the Sub-contractor and the insurance the Sub-contractor does have is appropriate for the Sub-contractor's work under this Agreement.

c. Contractor and Sub-contractors must provide to the City proof of the Required Insurance whenever requested.

8.3 Indemnification.

a. To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and 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 Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.

b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.

c. Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

9. Immigration Law Compliance.

9.1 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.

9.2 Any breach of warranty under subsection 9.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.

9.3 City retains the legal right to inspect the papers of any Contractor or subcontractor employee who performs work under this Agreement to ensure that the Contractor or any subcontractor is compliant with the warranty under subsection 9.1 above.

9.4 City may conduct random inspections, and upon request of City, Contractor shall provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under subsection 9.1 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 section.

9.5 Contractor agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Contractor 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 this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.

9.6 Contractor'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.

9.7 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.

10. Foreign Prohibitions. Contractor 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 statutes, in the countries of Sudan or Iran.

11. Notices.

11.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:

a. The Notice is in writing; and

b. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested); and

c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:

(1) Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service on or before 5:00 p.m.; or

(2) As of the next business day after receipt, if received after 5:00 p.m.

d. The burden of proof of the place and time of delivery is upon the Party giving the Notice; and

e. Digitalized signatures and copies of signatures will have the same effect as original signatures.

11.2 Representatives.

a. Contractor. Contractor's representative (the "Contractor's Representative") authorized to act on Contractor's behalf with respect to the Project, and his or her address for Notice delivery is:

Baker & Taylor, Inc.
c/o Jeffrey W. McDaniel
2550 West Tyvola Road, Suite 3000
Charlotte, North Carolina 28217

b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale
c/o Cheryl Kennedy, Chief Librarian
5959 West Brown Street
Glendale, Arizona 85302
623-930-3587

With required copy to:

City Manager
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

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

c. Concurrent Notices.

(1) All notices to City's representative must be given concurrently to City Manager and City Attorney.

(2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.

(3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.

d. Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

12. Financing Assignment. City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

13. Entire Agreement; Survival; Counterparts; Signatures.

13.1 Integration. This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.

b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.

c. The solicitation, any addendums and the response submitted by the Contractor are incorporated into this Agreement as if attached hereto. Any Contractor response modifies the original solicitation as stated. Inconsistencies between the solicitation, any addendums

and the response or any excerpts attached as Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

13.2 Interpretation.

a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.

b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.

c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.

13.3 Survival. Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

13.4 Amendment. No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval. Electronic signature blocks do not constitute execution.

13.5 Remedies. All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

13.6 Severability. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be deemed reformed to conform to applicable law.

13.7 Counterparts. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

14. **Term.** The term of this Agreement commences upon the effective date and continues for a one (1)-year initial period. The City may, at its option and with the approval of the Contractor, extend the term of this Agreement for four (4) additional one (1)-year terms, renewable on an annual basis. Contractor will be notified in writing by the City of its intent to extend the Agreement period at least 30 calendar days prior to the expiration of the original or any renewal Agreement period. There are no automatic renewals of this Agreement.

15. **Dispute Resolution.** Each claim, controversy and dispute (each a "Dispute") between Contractor and City will be resolved in accordance with Exhibit C. The final determination will be made by the City.

16. **Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A	Project
Exhibit B	Compensation
Exhibit C	Dispute Resolution

(Signatures appear on the following page.)

The parties enter into this Agreement as of the effective date shown above.

City of Glendale,
an Arizona municipal corporation

_____

By: Horatio Skeete
Its: Acting City Manager

ATTEST:

_____

City Clerk (SEAL)

APPROVED AS TO FORM:

_____

City Attorney

Baker & Taylor, Inc.,
a North Carolina corporation

_____

By: Jeffrey W. McDaniel
Its: Vice President, Customized Library Services and Internal Public Libraries

EXHIBIT A

Agreement for Printing Services

PROJECT

[See attached]

PROJECT

1. **Contractor shall provide all formats of print materials.**
   1.1. Contractor will provide print materials
      1.1.1. Materials will include but not limited to books for adults, teens and youth in all binding formats, genres, fiction, non-fiction, best-selling titles, large print, languages, youth picture and board books, chapter books, beginning readers, books with media, graphic novels for all age ranges, novelty books, media tie-in titles, reference materials, and serial publications (excluding periodicals).
   1.2. Contractor will provide a print materials leasing program for our library
      1.2.1. This program will include 4,800 annual units per year with a monthly allowance of 400 units.
      1.2.2. The lease program can utilize customized library, services if requested.
   1.3. Contractor will provide a continuations program
      1.3.1. Library staff will have access to manage and view current titles in the continuations program through the Compass online database.
      1.3.2. Various reports can be compiled at the library staff's request and delivered using email or US mail.
   1.4. Inventory and fill rate
      1.4.1. Contractor will maintain a fill rate of at least 85% of their displayed inventory for all items ordered for each year of the contract.
      1.4.2. Contractor will supply and deliver at least 75% of all in-stock inventory titles ordered within eight weeks of the order date.
      1.4.3. Contractor can provide an overall fill rate of 98% for Spanish language materials.
2. **Contractor shall provide various outsourcing services.**
   2.1. Contractor shall provide collection development services
      2.1.1. Contractor can provide various collection development services, if requested, from selection lists and carts to full service collection development services.
      2.1.2. Contractor can perform duplicate management to avoid title duplication.
   2.2. Contractor shall provide cataloging services
      2.2.1. Contractor can perform copy cataloging as well as original cataloging through Customized Library Services.

2.2.2. Contractor can interface with the library's Polaris Library System to verify bibliographic record information.

2.2.3. Contractor shall use OCLC bibliographic record utility.

2.2.4. Contractor agreed to all cataloging specifications as outlined in the RFP including standard practices such as the set up of fiction call numbers, series statement fields, and the general material designation.

2.2.5. The Contractor agreed to use Library of Congress subject headings rather than Sears subject headings and to use genre headings where specified.

2.2.6. The Contractor agreed to catalog following library local practices such as the use of series main entry, if library provides exceptions to the general cataloging rule and cataloging special non-fiction collections with unique call numbers.

2.2.7. The Contractor shall catalog with item in hand.

2.2.8. The Contractor cannot select genre from the library's cataloging specifications, they will catalog from the main title, subtitle, series, subject or genre heading.

2.3. <u>Contractor shall provide processing services.</u>

2.3.1. Contractor shall provide mylar jackets to all materials with dust covers and affix the covers with Scotch adhesive transfer tape or equivalent.

2.3.2. Contractor shall affix either 1" J-Lar or 2" Permacel tape or equivalent to all paperbacks on the spines, covering author and genre labels, and inside gutters.

2.3.3. Contractor shall affix barcode labels underneath mylar jackets, if possible. If not possible, barcodes will be covered with 1" J-Lar tape or equivalent.

2.3.4. Contractor shall affix all labels underneath mylar jackets, if possible. If not possible, labels will be covered with 2" Permacel tape or equivalent.

2.3.5. Contractor shall affix and link RFID tags to materials using library specifications, for an added cost.

2.4. <u>Contractor shall provide opening day collection services</u>

2.4.1. Contractor can provide full collection development services for an opening day collection.

2.4.2. Contractor will store items in a fully insured, climate-controlled area for an opening day collection.

2.4.3. Contractor will provide a company liaison when items are delivered in order to manage the process.

3. **Contractor shall comply with acquisitions specifications.**
   3.1. Contractor shall have the ability to interface with the library's Polaris Library System in order to utilize EDIFACT standard so orders and invoices can be received electronically.
   3.2. Contractor will provide a printed copy of an invoice, either by email or US mail, when a duplicate is transmitted electronically.
   3.3. Contractor will accept returns for credit if items are defective at no cost to the library.
   3.4. If items are defective, the contractor will accept returns for credit for up to one year of purchase even if the item has been circulated.
   3.5. Contractor will include shipping on all orders at no cost to the library.
   3.6. Contractor will ship all items to the inside of the library free of any pallets.
   3.7. Contractor shall provide a turnaround timeframe, from date of receipt of order by contractor to date of receipt of processed shipment by the library of no more than 15 working days for ninety percent of all in-stock items ordered. Priority, rush pre-processed materials shall be mailed or shipped by the contractor so that materials arrive at the library within five working days of receipt of order. (Exception: Pre-publication orders)
   3.8. Contractor shall schedule delivery of leased book plan and pre-processed materials to arrive at the library on or prior to street release date.
   3.9. The contractor shall supply 80% of all items back ordered and available from the publisher, within one hundred twenty (120) days of receipt of library order.
   3.10. The contractor shall provide MARC catalog records with appended holdings data that can be loaded, indexed and retrieved by the library's Polaris Library System.
4. **Contractor shall provide access to vendor website and inventory system.**
   4.1. Contractor shall provide access for at least twenty-five library staff members.
   4.2. Access to contractor's website and inventory system shall be free of charge to the library.
   4.3. The contractor's website and inventory system will be updated daily.
   4.4. Technical support will be available Monday-Friday 8:00 a.m. to 5:00 p.m. MST free of charge to library.
   4.5. Contractor shall provide timely notification of any upgrades or new releases to their website and/or inventory system and provide assistance in their implementation.

EXHIBIT B

Agreement for Printing Services

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

The City will pay per invoice upon receipt of materials from Contractor.

NOT-TO-EXCEED AMOUNT

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the entire term of the Project must not exceed $570,886.

DETAILED PROJECT COMPENSATION

As specified in the attached document entitled "Plan Size and Annual Rate," the City has chosen to use "Option B: Customized Library Services Shelf-Ready Cataloging & Processing." For Contract Year 1, the City has chosen to use "Option 1: Free Month of Quota" and for Contract Year 2, the standard terms defined in the "Plan Size and Annual Rate" document.

Plan Size and Annual Rate

Baker & Taylor is pleased to propose the following Book Leasing services available to the Glendale Public Library:

OPTION A: Standard B&T Cataloging & Processing

Contract Year 1

Quota Limit **	Unit Cost	Monthly Allowance	Units Annually	Annual Cost	Unit Cost with Bonus	Annual Prepay Discount ***	Annual Cost	First Year Unit Cost
$30	$15.49	400	5,200*	$74,352.00	$14.30	$1,487.04	$72,864.96	$14.01

CONTRACT YEAR 1 ALSO INCLUDES LIBRARY'S CHOICE OF THE FOLLOWING:

Option 1: Free Month of Quota (Valued at $6,196.00 for 400 units)
Option 2: Buyout Credit of $5,000.00

Contract Year 2

Quota Limit **	Unit Cost	Monthly Allowance	Units Annually	Annual Cost	Annual Prepay Discount ***	Annual Cost	Second Year Unit Cost
$30	$15.49	400	4,800	$74,352.00	$1,487.04	$72,864.96	$15.18

* Bonus Allowance – The Library will receive an extra 400 book quotas during 1st contract year
** Books with a list price over the stated quota limit count as 2 (two) quota up to $40.00, 3 (three) quota up to $50.00.
*** There is a 2.0% discount off of the total plan price if the annual invoice is paid within 60 days.

OPTION B: Customized Library Services Shelf-Ready Cataloging & Processing*
**includes full shelf-ready cataloging and processing as outlined in the RFP*

Contract Year 1

Quota Limit **	Unit Cost	Monthly Allowance	Units Annually	Annual Cost	Unit Cost with Bonus	Annual Prepay Discount ***	Annual Cost	First Year Unit Cost
$30	$18.19	400	5,200*	$87,312.00	$16.79	$1,746.24	$85,565.76	$16.45

CONTRACT YEAR 1 ALSO INCLUDES LIBRARY'S CHOICE OF THE FOLLOWING:

Option 1: Free Month of Quota (Valued at $7,276.00 for 400 units)
Option 2: Buyout Credit of $5,000.00

Contract Year 2

Quota Limit **	Unit Cost	Monthly Allowance	Units Annually	Annual Cost	Annual Prepay Discount ***	Annual Cost	Second Year Unit Cost
$30	$18.19	400	4,800	$87,312.00	$1,746.24	$85,565.76	$17.83

* Bonus Allowance – The Library will receive an extra 400 book quotas during 1st contract year

** Books with a list price over the stated quota limit count as 2 (two) quota up to $40.00, 3 (three) quota up to $50.00.

*** There is a 2.0% discount off of the total plan price if the annual invoice is paid within 60 days.

EXHIBIT C

Agreement for Printing Services

DISPUTE RESOLUTION

1. Disputes.

1.1 Commitment. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.

1.2 Application. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.

1.3 Initiation. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.

1.4 Informal Resolution. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.

a. The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;

b. The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and

c. The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

2. Arbitration.

2.1 Rules. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the parties may agree, in writing, that the Dispute will be decided by binding arbitration in accordance with Commercial Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.

a. The parties will exercise best efforts to select an arbitrator within 5 business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.

b. The arbitrator selected must be an attorney with at least 10 years experience, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.

2.2 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten (10) days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.

2.3 Hearing. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.

2.4 Award. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.

2.5 Final Decision. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.

2.6 Costs. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party shall pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.

3. Services to Continue Pending Dispute. Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of required services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Contractor in accordance with this Agreement.

4. Exceptions.

4.1 Third Party Claims. City and Contractor are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third-party who is not obligated by contract to arbitrate disputes with City and Contractor.

4.2 Liens. City or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.

4.3 Governmental Actions. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.

EVALUATION COMMITTEE SCORES

RFP 13-07

Library Print Material

	MAXIMUM POINTS	The Gale Group	Brodart	Baker & Taylor
Compliance with Specifications				
CONSENSUS SCORE	300	171.7	283.3	290.0
Capability of Firm's Experience, Programs and References				
CONSENSUS SCORE	200	161.7	190.8	191.7
Capability of Firm to Provide Ordering, Cataloging and Other Services				
CONSENSUS SCORE	200	108.3	187.5	186.7
Inventory and Availability				
CONSENSUS SCORE	150	84.2	116.7	143.3
Cost Comparison				
CALCULATION SCORE	150	143.0	77.0	78.0
TOTAL PROPOSAL SCORE	1,000	668.8	855.3	889.7
Best and Final: Interview and Presentation				
CONSENSUS SCORE	150		92.0	86.0
SUBTOTAL PROPOSAL AND INTERVIEW / PRESENTATION SCORE		0	947.3	975.7
Best and Final offers				
CALCULATION SCORE	50		28.0	30.0
TOTAL EVALUTION SCORE		0	975.3	1005.7

CITY COUNCIL REPORT

Meeting Date: **2/12/2013**
Meeting Type: **Voting**
Title: **PROFESSIONAL SERVICES AGREEMENT WITH RITOCH–POWELL & ASSOCIATES CONSULTING ENGINEERS, INC. FOR THE 2012/2013 SLURRY SEAL PROGRAM**
Staff Contact: **Gregory Rodzenko, P.E., Acting City Engineer**

Purpose and Recommended Action

This is a request for City Council to authorize the City Manager to enter into a professional services agreement with Ritoch–Powell & Associates Consulting Engineers, Inc. in an amount not to exceed $95,698.57 for the purpose of providing engineering design services and developing project specifications and bid documents for the 2012/2013 Slurry Seal Program.

Background Summary

Proper maintenance of the city's streets maximizes their serviceable life. The city utilizes a pavement management system to track the condition of the existing streets and to prioritize the necessary reconditioning and repairs. The 2012/2013 Slurry Seal Program focuses on neighborhood and collector streets and includes asphalt repairs, crack sealing, and the application of slurry seal. Ritoch-Powell & Associates Consulting Engineers, Inc. will perform field reviews of approximately 21 miles of streets to gather accurate information so that technical specifications and detailed exhibits can be developed before putting work out to bid.

Ritoch–Powell & Associates Consulting Engineers, Inc. was selected from the pre-qualified Engineering Consultants On-Call List to perform this work.

Community Benefit/Public Involvement

Addressing the streets identified for repairs and maintenance by the city's pavement management system allows for a prioritized approach to maintaining the integrity and extending the serviceable life of existing city streets.

Budget and Financial Impacts

Cost	Fund-Department-Account
$95,698.57	**2210-65089-550800, Pavement Management**

CITY COUNCIL REPORT

Capital Expense? Yes ☒ No ☐

Budgeted? Yes ☒ No ☐

Requesting Budget or Appropriation Transfer? Yes ☐ No ☒

If yes, where will the transfer be taken from?

Attachments

Staff Report

Agreement

STAFF REPORT

To:	**Horatio Skeete, Acting City Manager**
From:	**Gregory Rodzenko, P.E., Acting City Engineer**
Item Title:	**PROFESSIONAL SERVICES AGREEMENT WITH RITOCH–POWELL & ASSOCIATES CONSULTING ENGINEERS, INC. FOR THE 2012/2013 SLURRY SEAL PROGRAM**
Requested Council Meeting Date:	**02/12/2013**
Meeting Type:	**Voting**

PURPOSE

The purpose of this report is to request the City Manager to forward this item for City Council consideration and action. Staff plans to request the City Council authorize the city to enter into a professional services agreement with Ritoch–Powell & Associates Consulting Engineers, Inc. to provide engineering design services and to develop project specifications and bid documents for the 2012/2013 Slurry Seal Program.

BACKGROUND

Proper maintenance of the city's streets maximizes their serviceable life. The city utilizes a pavement management system to track the condition of the existing streets and to prioritize the necessary reconditioning and repairs. The 2012/2013 Slurry Seal Program focuses on neighborhood and collector streets and includes asphalt repairs, crack sealing, and the application of slurry seal. Ritoch-Powell & Associates Consulting Engineers, Inc. will perform field reviews of approximately 21 miles of streets. Based on the field reviews, they will develop technical specifications and detailed exhibits of each location as part of the bid documents.

Ritoch–Powell & Associates Consulting Engineers, Inc. was selected from the pre-qualified Engineering Consultants On-Call List to perform this work. The list was developed from a formal solicitation process, and the selection criteria included experience on similar projects, and capabilities of the firm.

ANALYSIS

- Staff recommends entering into a professional services agreement with Ritoch–Powell & Associates Consulting Engineers, Inc. to develop the project specifications and bid documents for the 2012/2013 Slurry Seal Program.
- Addressing the streets identified for repairs and maintenance by the city's pavement management system allows for a prioritized approach to maintaining the integrity and extending the serviceable life of existing city streets.

- Staff recommends having project specifications and bid documents developed at this time to avoid more costly street maintenance issues in the future.

FISCAL IMPACTS

The professional services agreement with Ritoch–Powell & Associates Consulting Engineers, Inc. for this project is in an amount not to exceed $95,698.57. Funding is available for this budgeted item in the Fiscal Year 2012-13 capital improvements program.

PROFESSIONAL SERVICES AGREEMENT

Slurry Seal Program
City Project No. 121312

This Professional Services Agreement ("Agreement") is entered into and effective between CITY OF GLENDALE, an Arizona municipal corporation ("City") and Ritoch-Powell & Associates Consulting Engineers, Inc., an Arizona corporation, ("Consultant") as of the _____ day of _____, 20 ("Effective Date").

RECITALS

A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in **Exhibit A**, Project (the "Project");

B. City desires to retain the professional services of Consultant to perform certain specific duties and produce the specific work as set forth in the attached **Exhibit B**, Project Scope of Work ("Scope");

C. Consultant desires to provide City with professional services ("Services") consistent with best consulting or architectural practices and the standards set forth in this Agreement, in order to complete the Project; and

D. City and Consultant desire to memorialize their agreement with this document.

AGREEMENT

The parties hereby agree as follows:

1. Key Personnel; Other Consultants and Subcontractors.

1.1 Professional Services. Consultant will provide all Services necessary to assure the Project is completed timely and efficiently consistent within Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other consultants or contractors, retained by City.

1.2 Project Team.

a. Project Manager.

(1) Consultant will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, complete the project and handle all aspects of the Project such that the work produced by Consultant is consistent with applicable standards as detailed in this Agreement; and

(2) The City must approve the designated Project Manager.

b. Project Team.

(1) The Project Manager and all other employees assigned to the Project by Consultant will comprise the "Project Team."

(2) Project Manager will have responsibility for and will supervise all other employees assigned to the Project by Consultant.

c. Discharge, Reassign, Replacement.

(1) Consultant acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in **Exhibit A**.

(2) Consultant will not discharge, reassign, replace or diminish the responsibilities of any of the employees assigned to the Project who have been approved by City without City's prior written consent unless that person leaves the employment of Consultant, in which event the substitute must first be approved in writing by City.

(3) Consultant will change any of the members of the Project Team at the City's request if an employee's performance does not equal or exceed the level of competence that the City may reasonably expect of a person performing those duties, or if the acts or omissions of that person are detrimental to the development of the Project.

d. Subcontractors.

(1) Consultant may engage specific technical contractors (each a "Subcontractor") to furnish certain service functions.

(2) Consultant will remain fully responsible for Subcontractor's services.

(3) Subcontractors must be approved by the City.

(4) Consultant will certify by letter that all contracts with Subcontractors have been executed incorporating requirements and standards as set forth in this Agreement.

2. Schedule. The Services will be undertaken in a manner that ensures the Project is completed timely and efficiently in accordance with the Project.

3. Consultant's Work.

3.1 Standard. Consultant must perform Services in accordance with the standards of due diligence, care, and quality prevailing among consultants having substantial experience with the successful furnishing of Services for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 Licensing. Consultant warrants that:

a. Consultant and its Subconsultants or Subcontractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of Services ("Approvals"); and

b. Neither Consultant nor any Subconsultant or Subcontractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").

(1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments, or to examine Consultant's contracting ability.

(2) Consultant must notify City immediately if any Approvals or Debarment changes during the Agreement's duration. The failure of the Consultant to notify City as required will constitute a material default under the Agreement.

3.3 Compliance. Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by City.

3.4 Coordination; Interaction.

a. For projects that the City believes requires the coordination of various professional services, Consultant will work in close consultation with City to proactively interact with any other professionals retained by City on the Project ("Coordinating Project Professionals").

b. Consultant will meet to review the Project, Schedule and in-progress work with Coordinating Project Professionals and City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.

c. For projects not involving Coordinating Project Professionals, Consultant will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.

3.5 Work Product.

a. Ownership. Upon receipt of payment for Services furnished, Consultant grants to City, and will cause its Subconsultants or Subcontractors to grant to the City, the exclusive ownership of and all copyrights, if any, to evaluations, reports, drawings, specifications, project manuals, surveys, estimates, reviews, minutes, all "architectural work" as defined in the United States Copyright Act, 17 U.S.C § 101, *et seq.*, and other intellectual work product as may be applicable ("Work Product").

(1) This grant is effective whether the Work Product is on paper (e.g., a "hard copy"), in electronic format, or in some other form.

(2) Consultant warrants, and agrees to indemnify, hold harmless and defend City for, from and against any claim that any Work Product infringes on third-party proprietary interests.

b. Delivery. Consultant will deliver to City copies of the preliminary and completed Work Product promptly as they are prepared.

c. City Use.

(1) City may reuse the Work Product at its sole discretion.

(2) In the event the Work Product is used for another project without further consultations with Consultant, the City agrees to indemnify and hold Consultant harmless from any claim arising out of the Work Product.

(3) In such case, City will also remove any seal and title block from the Work Product.

4. Compensation for the Project.

4.1 Compensation. Consultant's compensation for the Project, including those furnished by its Subconsultants or Subcontractors will not exceed $95,698.57 as specifically detailed in **Exhibit D** ("Compensation").

4.2 Change in Scope of Project. The Compensation may be equitably adjusted if the originally contemplated Scope as outlined in the Project is significantly modified.

a. Adjustments to Compensation require a written amendment to this Agreement and may require City Council approval.

b. Additional services which are outside the Scope of the Project contained in this Agreement may not be performed by the Consultant without prior written authorization from the City.

c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take priority and govern the conduct of the parties.

4.3 Allowances. An "Allowance" may be identified in **Exhibit D** only for work that is required by the Scope and the value of which cannot reasonably be quantified at the time of this Agreement.

a. As stated in Sec. 4.1 above, the Compensation must incorporate all Allowance amounts identified in **Exhibit D** and any unused allowance at the completion of the Project will remain with City.

b. Consultant may not add any mark-up for work identified as an Allowance and which is to be performed by a Subconsultant.

c. Consultant will not use any portion of an Allowance without prior written authorization from the City.

d. Examples of Allowance items include, but are not limited to, subsurface pothole investigations, survey, geotechnical investigations, public participation, radio path studies and material testing.

4.4 Expenses. City will reimburse Consultant for certain out-of-pocket expenses necessarily incurred by Consultant in connection with this Agreement, without mark-up (the "Reimbursable Expenses"), including, but not limited to, document reproduction, materials for book preparation, postage, courier and overnight delivery costs incurred with Federal Express or similar carriers, travel and car mileage, subject to the following:

a. Mileage, airfare, lodging and other travel expenses will be reimbursable only to the extent these would, if incurred, be reimbursed to City of Glendale personnel under its policies and procedures for business travel expense reimbursement made available to Consultant for review prior to the Agreement's execution, and which policies and procedures will be furnished to Consultant;

b. The Reimbursable Expenses in this section are approved in advance by City in writing; and

c. The total of all Reimbursable Expenses paid to Consultant in connection with this Agreement will not exceed the "not to exceed" amount identified for Reimbursable Services in the Compensation.

5. Billings and Payment.

5.1 Applications.

a. Consultant will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.

b. The period covered by each Payment Application will be one calendar month ending on the last day of the month.

5.2 Payment.

a. After a full and complete Payment Application is received, City will process and remit payment within 30 days.

b. Payment may be subject to or conditioned upon City's receipt of:

(1) Completed work generated by Consultant and its Subconsultants and Subcontractors; and

(2) Unconditional waivers and releases on final payment from all Subconsultants and Subcontractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

5.3 Review and Withholding. City's Project Manager will timely review and certify Payment Applications.

a. If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.

b. City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.

6. Termination.

6.1 For Convenience. City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 15 days following the date of delivery.

a. Consultant will be equitably compensated for Services furnished prior to receipt of the termination notice and for reasonable costs incurred.

b. Consultant will also be similarly compensated for any approved effort expended, and approved costs incurred, that are directly associated with Project closeout and delivery of the required items to the City.

6.2 For Cause. City may terminate this Agreement for cause if Consultant fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

a. Consultant will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Consultant for Services furnished, City will pay the amount due to Consultant, less City's damages, in accordance with the provision of Sec. 5.

b. If City's direct damages exceed amounts otherwise due to Consultant, Consultant must pay the difference to City immediately upon demand; however, Consultant will not be subject to consequential damages more than $1,000,000 or the amount of this Agreement, whichever is greater.

7. Conflict. Consultant acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

8. Insurance.

8.1 Requirements. Consultant must obtain and maintain the following insurance ("Required Insurance"):

a. Consultant and Subconsultants and Subcontractors. Consultant, and each Subconsultant or Subcontractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively referred to herein as the "Consultant's Policies"), until each Party's obligations under this Agreement are completed.

b. General Liability.

(1) Consultant 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 limit.

(2) Subconsultants and 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.

(3) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, XCU hazards if requested by the City, and a separation of insurance provision.

(4) These limits may be met through a combination of primary and excess liability coverage.

c. Professional Liability. Consultant must maintain a professional errors and omissions liability policy providing a minimum limit of $1,000,000 for each claim and a $2,000,000 annual aggregate limit.

d. Auto. A business auto policy providing a liability limit of at least $1,000,000 per accident for Consultant and $1,000,000 per accident for Subconsultants and Subcontractors and covering owned, non-owned and hired automobiles.

e. Workers' Compensation and Employer's Liability. Consultant must also maintain a workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.

f. Notice of Changes. Consultant's Policies must provide for not less than 30 days' advance written notice to City Representative of:

(1) Cancellation or termination of Consultant's Policies;

(2) Reduction of the coverage limits of any of Consultant's Policies; and

(3) Any other material modification of Consultant's Policies related to this Agreement.

g. Certificates of Insurance.

(1) Within 10 business days after the execution of the Agreement, Consultant must deliver to City Representative certificates of insurance for each of Consultant's Policies, which will confirm the existence or issuance of Consultant's Policies in accordance with the provisions of this section, and copies of the endorsements of Consultant's Policies in accordance with the provisions of this section.

(2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Consultant's Policies, or to examine Consultant's Policies, or to inform Consultant, Subconsultant, or Subcontractor in the event that any coverage does not comply with the requirements of this section.

(3) Consultant's failure to secure and maintain Consultant's Policies and to assure Consultant's Policies as required will constitute a material default under the Agreement.

h. Other Contractors or Vendors.

(1) Other contractors or vendors that may be contracted with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular contract.

(2) This insurance coverage must comply with the requirements set forth above for Consultant's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).

i. Policies. Except with respect to workers' compensation and Consultant's professional liability coverages, City must be named and properly endorsed as additional insureds on all liability policies required by this section.

(1) 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.

(2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and reasonably acceptable to all parties.

8.2 Subconsultants and Subcontractors.

a. Consultant must also cause its Subconsultants and Subcontractors to obtain and maintain the Required Insurance.

b. City may consider waiving these insurance requirements for a specific Subconsultant or Subcontractor if City is satisfied the amounts required are not commercially available to the Subconsultant or Subcontractor and the insurance the Subconsultant or Subcontractor does have is appropriate for the Subconsultant or Subcontractor's work under this Agreement.

c. Consultant and Subcontractors must provide to the City proof of the Required Insurance whenever requested.

8.3 Indemnification.

a. To the fullest extent permitted by law, Consultant must defend, indemnify, and hold harmless City and its elected officials, officers, employees and 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 Consultant) and that arises out of or results from the breach of this Agreement by the Consultant or the Consultant's negligent actions, errors or omissions (including any Subconsultant or Subcontractor or other person or firm employed by Consultant), whether sustained before or after completion of the Project.

b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Consultant will be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Consultant or of any person or entity for whom Consultant is responsible.

c. Consultant is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

9. Immigration Law Compliance.

9.1 Consultant, and on behalf of any Subconsultant or 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.

9.2 Any breach of warranty under this section is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.

9.3 City retains the legal right to inspect the papers of any Consultant, Subconsultant, or Subcontractor employee who performs work under this Agreement to ensure that the Consultant, Subconsultant or any Subcontractor is compliant with the warranty under this section.

9.4 City may conduct random inspections, and upon request of City, Consultant will provide copies of papers and records of Consultant demonstrating continued compliance with the warranty under this section. Consultant 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.

9.5 Consultant agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Consultant and expressly accrue those obligations directly to the benefit of the City. Consultant also agrees to require any Subconsultant or 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.

9.6 Consultant'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.

9.7 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.

10. **Prohibitions.** Consultant 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.

11. **Notices.**

11.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:

a. The Notice is in writing; and

b. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested).

c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:

(1) Received on a business day before 5:00 p.m. at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service; or

(2) As of the next business day after receipt, if received after 5:00 p.m.

d. The burden of proof of the place and time of delivery is upon the Party giving the Notice.

e. Digitalized signatures and copies of signatures will have the same effect as original signatures.

11.2 Representatives.

a. Consultant. Consultant's representative (the "Consultant's Representative") authorized to act on Consultant's behalf with respect to the Project, and his or her address for Notice delivery is:

Ritoch - Powell & Associates, Inc.
3838 N. Central Avenue, Suite 1250
Phoenix, AZ 85012

b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale
c/o Engineering Department
5850 W. Glendale Avenue, Suite 315
Glendale, Arizona 85301

With required copy to:

City Manager
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

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

c. Concurrent Notices.

(1) All notices to City's representative must be given concurrently to City Manager and City Attorney.

(2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by the City Manager and the City Attorney.

(3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Consultant identifying the designee(s) and their respective addresses for notices.

d. Changes. Consultant or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

12. Financing Assignment. City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

13. Entire Agreement; Survival; Counterparts; Signatures.

13.1 Integration. This Agreement contains, except as stated below, the entire agreement between City and Consultant and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.

b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.

c. Inconsistencies between the solicitation, any addenda attached to the solicitation, the response or any excerpts attached as **Exhibit A**, and this Agreement, will be resolved by the terms and conditions stated in this Agreement.

13.2 Interpretation.

a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.

b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.

c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.

13.3 Survival. Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

13.4 Amendment. No amendment to this Agreement will be binding unless in writing and executed by the parties. Electronic signature blocks do not constitute execution for purposes of this Agreement. Any amendment may be subject to City Council approval.

13.5 Remedies. All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

13.6 Severability. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform with applicable law.

13.7 Counterparts. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

14. Term. The term of this Agreement commences upon the Effective Date and continues for a year initial period. The City may, at its option and with the approval of the Consultant, extend the term of this Agreement an additional 0 year, renewable on an annual basis. Consultant will be notified in writing by the City of its intent to extend the Agreement period at least 30 calendar days prior to the expiration of the original or any renewal Agreement period. Price adjustments will only be reviewed during the Agreement renewal period. There are no automatic renewals of this Agreement.

15. Dispute Resolution. Each claim, controversy and dispute (each a "Dispute") between Consultant and City will be resolved in accordance with **Exhibit E**. The final determination will be made by the City.

16. **Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A	Project
Exhibit B	Scope of Work
Exhibit C	Schedule
Exhibit D	Compensation
Exhibit E	Dispute Resolution

(Signatures appear on the following page.)

The parties enter into this Agreement effective as of the date shown above.

City of Glendale,
an Arizona municipal corporation

_____

By: Horatio Skeete
Its: Acting City Manager

ATTEST:

_____

Pam Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

_____

Craig Tindall, City Attorney

Ritoch-Powell & Associates Consulting
Engineers, Inc.,
an Arizona corporation

_____

By: Karl G. Obergh
Its: President

EXHIBIT A
Professional Services Agreement

PROJECT

(Cover Page)

Exhibit A
Project Description
City of Glendale
Engineering Department
2012/2013 Slurry Seal Program
City of Glendale Project No. 121312

The City's annual street maintenance program includes providing asphalt repairs throughout the City. The City's street maintenance staff identified and prioritized residential street maintenance activities (crack seal, patch, slurry seal and microseal) based on available funds.

EXHIBIT B
Professional Services Agreement

SCOPE OF WORK

(Cover Page)

Exhibit B
Scope of Work
City of Glendale
Engineering Department
2012/2013 Slurry Seal Program
City of Glendale Project No. 121312

1.0 Meetings & Coordination

RPA will coordinate with City staff as required to ensure successful project completion. Meetings shall consist of:

1. One kick-off meeting
2. One design meeting
3. One comment resolution meeting

2.0 Data Collection & Field Reconnaissance

The City shall provide Street Maintenance Department documents showing street repair locations and quantities, most current Bid Documents "front ends" and any pertinent existing data that may be useful on this project such as as-builts, reports, right-of-way maps, GIS shape files, etc. RPA will field review designated street maintenance locations to confirm:

1. Pavement crack quantities (linear feet);
2. Slurry area quantities (square feet);
3. Microseal area quantities (square feet);
4. Asphalt patch areas (square feet).

3.0 Construction Bid Documents

The City's standard Bid Documents will be utilized for this project. RPA will prepare and provide technical specifications and exhibits showing street maintenance area to adequately describe and graphically depict each proposed maintenance location. The Bid Package will be one bound 8-1/2"x11" document to consist of:

1. Roadway Plans
    a. Plans shall consist of a graphical depiction of each site with enough detailed information for the contractor to locate the site and determine the termini points.
    b. Typical striping details
2. Specifications
    a. General Notes describing the technical reference materials to be used.
    b. Technical Specifications describing the work to be performed for each type of improvements to include crack seal, slurry seal, microseal, and asphalt repair areas.
    c. Special Provisions describing the traffic control and access requirements for each site.
    d. Pavement Markings describing the surface treatments required for each site and the equipment to be used.
3. Construction Cost Estimate/Bid Tab
    a. A construction cost estimate for each site describing the item, quantity and the unit price for each item.
    b. A bid tab for each site describing the item and quantity for each item.

4. Deliverables
    a. 95% complete submittal of Bid Package, associated construction documents, cost estimate and a CD with all electronic files. Six hard copies (8-1/2"x11") will be provided.
    b. Final, sealed submittal of Bid Package, associated construction documents, cost estimate and a CD with all electronic files. One sealed hard copy (8-1/2"x11") will e provided.

Exclusions

The following items are not part of this contract:

1. Topographic survey and base mapping
2. Utility design/relocation/coordination and base mapping
3. Existing/new right-of-way base mapping
4. Drainage/SWPPP design and report
5. Traffic control design
6. Permits and clearances (utility, environmental, right-of-way, or geotechnical)

*** END SCOPE OF WORK ***

EXHIBIT C
Professional Services Agreement

SCHEDULE

(Cover Page)

Exhibit C
Project Schedule
City of Glendale
Engineering Department
Slurry Seal Program
City of Glendale Project No. 121312

The following schedule itemizes RPA's Scope of Work tasks durations.

Slurry Seal Program Project Schedule	
Task Description	**Duration**
Prepare Construction Documents	40 Days
Advertise and Bid	14 Days
Award Contract	30 Days
Construction	90 Days

It is understood that this schedule may be modified to meet City deadlines and financial requirements.

EXHIBIT D
Professional Services Agreement

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

Compensation shall be hourly rates plus alloable reimbursable expenses.

NOT-TO-EXCEED AMOUNT

The total amount of compensation paid to Consultant for full completion of all work required by the Project during the entire term of the Project must not exceed $95,698.57.

DETAILED PROJECT COMPENSATION

See attached.

EXHIBIT D
Professional Services Agreement

CITY OF GLENDALE
PROJECT #121312
SLURRY SEAL PROGRAM
COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

Compensation shall be hourly rates plus allowable reimbursable expenses.

NOT-TO-EXCEED AMOUNT

The total amount of compensation paid to Ritoch Powell & Associates (RPA) for full completion of all work required by the Project during the entire term of the Project must not exceed $95,698.57.

TOTAL LIFE-CYCLE COST (TLCC) ASSESSMENT COMPENSATION

Task No.	Task	Task Costs
1.0	Meetings	$ 6,841.30
2.0	Data Collection & Field Reconnaissance	$ 30,025.69
3.0	Construction Bid Documents	$ 49,061.86
	Sub-Total:	**$ 85,928.85**
4.0	Reimbursable Expenses (Allowance)	$ 769.72
5.0	Owner Contingency (Allowance)	$ 9,000.00
	Sub-Total:	**$ 9,769.72**
	TOTAL PROJECT COST:	**$95,698.57**

CLARIFICATIONS

The proposed compensation reflects the preparation a set of construction bid documents for only the residential street areas shown on the City provided GIS single line diagrams.

EXHIBIT E
Professional Services Agreement

DISPUTE RESOLUTION

1. Disputes.

1.1 Commitment. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.

1.2 Application. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.

1.3 Initiation. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.

1.4 Informal Resolution. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.

a. The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;

b. The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and

c. The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

2. Arbitration.

2.1 Rules. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the Dispute will be decided by binding arbitration in accordance with Construction Industry Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.

a. The parties will exercise best efforts to select an arbitrator within five business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.

b. The arbitrator selected must be an attorney with at least 15 years' experience with commercial construction legal matters in Maricopa County, Arizona, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.

2.2 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within 10 days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.

2.3 Hearing. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.

2.4 Award. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.

2.5 Final Decision. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.

2.6 Costs. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party will pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.

3. Services to Continue Pending Dispute. Unless otherwise agreed to in writing, Consultant must continue to perform and maintain progress of required Services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Consultant in accordance with this Agreement.

4. Exceptions.

4.1 Third Party Claims. City and Consultant are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third party who is not obligated by contract to arbitrate disputes with City and Consultant.

4.2 Liens. City or Consultant may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.

4.3 Governmental Actions. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.

CITY COUNCIL REPORT

Meeting Date: **2/12/2013**
Meeting Type: **Voting**
Title: **MAINTENANCE AGREEMENT WITH TCS AMERICA AND IMPRESSION TECHNOLOGY INCORPORATED FOR TAX MANTRA**
Staff Contact: **Diane Goke, Chief Financial Officer**

Purpose and Recommended Action

This is a request for City Council to approve maintenance support expenditures for the Tax Mantra System for one year.

Background Summary

On August 11, 2009, City Council awarded proposal 09-15 with TCS America and Impression Technology Incorporated for the sales tax and license system software and the electronic document processing component. The city utilizes the sales tax and license software to manage taxpayer information, process tax returns and business license renewals, monitor outstanding receivables and delinquencies, and identify potential audit cases. Annual maintenance provides technical support, software updates and fixes, and upgrade rights.

The cost for one year of maintenance is $147,300 and covers the period of February 2013 through January 2014. Staff is currently in contact with TCS America on a weekly basis to assist with system updates, fixes, and changes. For example, their services were heavily utilized during the sales tax increase process. Taxpayer's frequent filing had to be changed during the third quarter, rates had to be adjusted, and fund distributions set up. Finally, the city will need TCS America's assistance to move forward with the implementation of e-tax.

Previous Related Council Action

On August 11, 2009, City Council awarded proposal 09-15 (Contract No. C-7108) with TCS America and Impression Technology Incorporated for the sales tax and license system software and the electronic document processing component.

Budget and Financial Impacts

Cost	Fund-Department-Account
$147,300	**1140-11530-522700, Technology Replacement Fund**

CITY COUNCIL REPORT

Capital Expense? Yes ☐ No ☒

Budgeted? Yes ☒ No ☐

Requesting Budget or Appropriation Transfer? Yes ☐ No ☒

If yes, where will the transfer be taken from?

Attachments

Staff Report

Agreement

STAFF REPORT

To:	**Horatio Skeete, Acting City Manager**
From:	**Diane Goke, Chief Financial Officer**
Item Title:	**MAINTENANCE AGREEMENT WITH TCS AMERICA AND IMPRESSION TECHNOLOGY INCORPORATED FOR TAX MANTRA**
Requested Council Meeting Date:	**2/12/2013**
Meeting Type:	**Voting**

PURPOSE

The purpose of this report is to request the City Manager forward this item to the City Council for their consideration and approval for maintenance support expenditures for the Tax Mantra System for one year.

BACKGROUND

On August 11, 2009, City Council awarded proposal 09-15 with TCS America and Impression Technology Incorporated for the sales tax and license system software and the electronic document processing component. The city utilizes the sales tax and license software to manage taxpayer information, process tax returns and business license renewals, monitor outstanding receivables and delinquencies, and identify potential audit cases. Annual maintenance provides technical support, software updates and fixes, and upgrade rights.

Staff is currently in contact with TCS America on a weekly basis to assist with system updates, fixes, and changes. For example, their services were heavily utilized during the sales tax increase process. Taxpayer's frequency of filing had to be changed during the third quarter, rates had to be adjusted, and fund distributions set up. Finally, the city will need TCS America's assistance to move forward with the implementation of e-tax.

ANALYSIS

TCS American is the provider of this particular software and currently provides the much needed maintenance and support. It is common in the software industry for the software maintenance to be provided only by the creator of the system as the software is proprietary and the firms tend not to license other companies to provide the services.

Staff contacted other cities (Chandler, Phoenix, Tempe, and Tucson) that currently use Tax Mantra and learned that each city uses TCS America for software maintenance support. For the future, staff will continue to research this issue to determine if any licensed contractors become available.

FISCAL IMPACTS

The annual maintenance cost for February 2013 through January 2014 is $147,300 and is budgeted in the Technology Replacement Fund.

C-7108
11/13/2009

CITY CLERK
ORIGINAL

TAX MANTRA MASTER SERVICES AGREEMENT

BETWEEN

TATA AMERICA INTERNATIONAL CORPORATION

OPERATING AS TCS AMERICA
[Collectively, "Company"]

AND

CITY OF GLENDALE, ARIZONA
["City"]

EFFECTIVE AS OF

November 10th, 2009

TAX MANTRA MASTER SERVICES AGREEMENT

THIS TAX MANTRA MASTER SERVICES AGREEMENT ("**Agreement**") is entered into and effective as of November ___, 2009 ("**Effective Date**") by and between the City of Glendale, Arizona, an Arizona municipal corporation ("**City**"), and Tata America International Corporation, operating as TCS America, a New York corporation, with its offices located at 101 Park Avenue, New York, New York 10178, representing itself and its corporate parent Tata Consultancy Services Limited, a company registered under the laws of the Republic of India, having its principal offices at Air India Building, 11th Floor, Nariman Point, Mumbai 400 021, India ("**Company**"). City and Company are individually referred to as a ("**Party**") and collectively as ("**Parties**") throughout this Agreement, and the words Party and Parties shall be construed accordingly.

I. RECITALS

WHEREAS, in May 2009, City issued Request for Proposal ("RFP") No. 09-15-Revised for a Tax and License Information System (TALIS) to replace its existing Tax License Revenue (TLR) System; and

WHEREAS, on June 4, 2009, Company submitted its proposal ("Proposal") to the City for the TALIS project as described in RFP No. 09-15-Revised; and

WHEREAS, with approval of its City Council, City has selected Company to provide City with the TCS TAX MANTRA Software solution to replace City's tax and license information system; and

WHEREAS, Company and City are Parties to the certain TAX MANTRA Software License Agreement ("License Agreement") dated the Effective Date of this Agreement, pursuant to which Company has granted license to City for Company's Licensed Software and other Licensed Material on the terms and conditions set forth in the License Agreement; and

WHEREAS, City desires to obtain from Company, and Company is willing to provide to City, professional services for all customization, development, implementation, training, maintenance and support services relating to City's implementation of Licensed Software and other licensed material upon the terms and conditions set forth in this Agreement and the other Contract Documents.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

II. AGREEMENT

1. DEFINITIONS.

1.1 Capitalized terms used in this Agreement which are not specifically defined in this Agreement but defined in the License shall have the meaning given in the License. In addition, the following capitalized terms shall have the meaning set forth below for all purposes of this Agreement:

(a) "**Acceptance**" shall mean, with respect to any Company Deliverables, the acceptance of such Company Deliverables by City as being in compliance with the applicable Acceptance Criteria as determined in accordance with the Acceptance Tests and in accordance with Article 3.

(b) "**Acceptance Criteria**" shall mean, as applicable, the acceptance criteria mutually agreed to between the Company and City in the Statement of Work applicable to the Company Deliverables to which such criteria relate.

(c) "**Acceptance Tests**" shall mean the procedure for determining Acceptance of applicable Company Deliverables as set out in Article 3 of the Agreement and the applicable Statement of Work.

(d) "**Agreement**" shall mean this Agreement including all Schedules attached hereto, all Statements of Work and attachments and exhibits to such Statements of Work. Agreement will also include Contract Documents as and to the extent they are relevant to the Statement of Work.

(e) "**Contract Documents**" shall mean the Parties' TAX MANTRA Software License Agreement, Company's Proposal for Tax and License Information System dated June 4, 2009, and City's RFP No. 09-15-Revised.

(f) "**Documentation**" shall mean the User Manual, Installation Manual, Training Manual and any additional documentation that is described in the Initial Statement of Work or otherwise agreed and identified in any Statement of Work ("SOW") executed pursuant to this Agreement.

(g) "**Initial Statement of Work**" shall mean the Statement of Work attached in Schedule A hereto, for the Services to be provided by Company in connection with delivery, installation, implementation, customization and testing of Company's Licensed

Software as customized in accordance with the Specifications and requirements set forth in the Contract Documents.

(h) "**Maintenance Fees**" shall mean the costs associated with the levels of support specified in Appendix E – Project Cost of the Initial Statement of Work and the Support Plan for Annual Maintenance Contract for City of Glendale (Schedule B).

(i) "**Maintenance Period**" shall mean the annual period during which Company is required to provide the Maintenance Services to City under this Agreement.

(j) "**Maintenance Services**" shall mean the maintenance and support services described in the Support Plan for Annual Maintenance Contract for the City of Glendale attached in Schedule B hereto.

(k) "**Project**" shall mean a project for the performance of Services and delivery of Company Deliverables as described in an applicable Statement of Work under this Agreement (including any schedule, exhibit or appendices to the Statement of Work, whether now existing or subsequently executed by the Parties), and shall include those Statement of Work for Services relating to enhancement, implementation, maintenance, and production support of the Licensed Material.

(l) "**Services**" shall mean professional services of the Company relating to enhancements, customization, implementation, testing support, or production support of Licensed Material, as more particularly described in each relevant Statement of Work. Services also includes Maintenance Services when the context so requires.

(m) "**Services Fee**" shall mean: (i) the fixed amount of fees set forth in a Statement of Work, where Services under such SOW are agreed by the Parties to be performed by Company on a fixed fee basis; and (ii) the amount of fees determined in accordance with the rates set forth in the applicable Statement of Work in all other cases.

(n) "**Specifications**" shall mean: (i) with respect to the Company Deliverables under the Initial Statement of Work, the functional and technical requirements identified in the Initial Statement of Work and Contract Documents; and (ii) with respect to any other Company Deliverables, the requirements identified in the applicable Statement of Work and Contract Documents; in each case as such requirements may be modified by mutual agreement of the Parties in accordance with the Change Control Procedure set forth in Section 2.2.

(o) "**Statement of Work**" or "**SOW**" means a work order or other similar document executed by the Parties pursuant to the terms of this Agreement.

(p) "**Warranty Period**" means: (i) with respect to Software Deliverables under the Initial Statement of Work, the period of one (1) year commencing on the date of final Acceptance; and (ii) with respect to any other Company Deliverable, the warranty period, if any, identified and agreed for such Company Deliverable under the applicable Statement of Work.

1.2 Interpretations.

(a) Where any payment falls due for payment on a non-Business Day, then payment shall be made by the paying Party on the next succeeding Business Day.

(b) Reference to a person includes any individual, firm, body corporate, association (whether incorporated or not) and authority or agency (whether government, semi-government or local).

(c) The singular includes the plural and vice versa.

(d) A reference to any documents or agreements (and, where applicable, any of their respective provisions) means those documents or agreements as amended, notated, supplemented or replaced from time to time providing they are amended, notated, supplemented or replaced in the manner envisaged in the relevant documents or agreements.

(e) A reference to any statute, regulation, rule or other legislative provision includes any amendment to the statutory modification or re-enactment or, legislative provisions substituted for, and any statutory instrument issued under that statute, regulation, rule or other legislative provision.

(f) Reference to a Party includes that Party's employees, agents or consultants.

(g) The term "or" shall include the conjugate form so that where appropriate, the use of the term "or" should be interpreted as "and/or."

1.3 Recitals and Priority of Contract Documents. The Recitals set forth above, the Initial Statement of Work and attachments and exhibits thereto, the Support Plan for Annual

Maintenance Contract for City of Glendale, Company's Proposal for Tax and License Information Systems (dated June 4, 2009) and City's RFP No. 09-15-Revised are fully incorporated into this Agreement by this reference. In the event of any conflict among the Contract Documents, the documents comprising the Contract Documents will control in the following order:

(a) This Agreement and its schedules, exhibits and appendices, except that the provisions of the TAX MANTRA Software License Agreement shall prevail with respect to any matters relating to scope of license, ownership of Intellectual Property and Intellectual Property Rights, confidentiality obligations, limitation of liability and indemnification obligations.

(b) The Initial Statement of Work and all attachments and exhibits thereto.

(c) The Support Plan for Annual Maintenance Contract for City of Glendale and all attachments and exhibits thereto.

(d) TAX MANTRA Software License Agreement (other than as stated in 1.3.1).

(e) Company's Proposal (dated June 4, 2009) for Tax and License Information System.

(f) City's RFP No. 09-15-Revised.

1.3.7 The failure of this Agreement to include any reference to any matter contained in any other Contract Document shall not be deemed a conflict.

2. SERVICES.

2.1 Services Generally. Company and City agree that any Services related to the implementation as well as any additional services related to the Licensed Material as more particularly described in each relevant Statement of Work, will be provided by Company in accordance with the provisions set forth in this Article 2.

2.2 Change Control Procedure. The baseline for determining the applicability of the Change Control Procedure with respect to a Statement of Work shall be the scope and description of Services, Company Deliverables and Specifications (if applicable) as described in such Statement of Work. If City or Company makes any proposal for any change, alteration or

modification (a "**Change Request**") of the agreed Specifications or scope of Services and Company Deliverables in a Statement of Work, as soon as practicable after Company's receipt of a Change Request from City, or if Company on its own desires to propose a Change Request, Company shall prepare and submit to City a written change order proposal. Such change order proposal shall include terms and conditions proposed by Company in order to implement the Change Request as soon as reasonably practicable. Such terms and conditions shall include, without limitation, a description of the requested change (the "**Change**") and an estimate of: (i) additional fees and Expenses payable by City to Company as a result of the implementation of the Change Request; and (ii) any expected impact, if any, the Change Request shall have on the Project schedule. On City's written approval of the change order proposal, the approved change order proposal ("**Change Order**") shall become effective, and Company shall take such steps as are necessary to implement the Change Order. No Change to this Agreement or a Statement of Work shall be binding on the Parties unless the Change is embodied in a written Change Order. Each of City and Company, acting reasonably, shall negotiate the terms and conditions of any Change Request with a view to reaching agreement on such terms and conditions and executing and delivering a Change Order as soon as practicable. Parties agree to use the change request form set forth in Appendix F to Schedule A hereto, for the Change Control Procedure described in this Section 2.2.

2.3 Executive Contact and Escalation Working Group. The City and Company shall each appoint an "Executive Contact" who shall be the person responsible for addressing relationship issues between the Parties and shall participate in the dispute resolution procedures described in Article 10. Each Executive Contact shall possess or be able to obtain the requisite corporate power and authority to negotiate, subject to the approval of the City Council or City Manager when required by law (e.g. contract amendment, disbursement of funds in excess of that previously authorized) and implement on behalf of the applicable Party, a settlement of any dispute between the Parties hereunder that is brought to its attention to resolve. The initial Executive Contact for City shall be Horatio Skeete, and the initial Executive Contact for Company shall be Ravi Nandivada, US Government Delivery Executive TCS. City and Company shall each have the right from time to time, and upon prior written notice to the other Party, to change their respective Executive Contact by written notice provided to the other Party. Representatives of the Parties filling the position of Executive Contact during the relevant period shall automatically become members of the Escalation Working Group. The Escalation Working Group shall consist of equal number of representatives from Company and City consisting of: (i) the Executive Contacts of the Parties; (ii) Susan Matousek, Diane Goke, and Diana Bundschuh of City; and (iii) Bob Carberry, Rohit Srivastava, and Atul Srivastava of Company. Each of

Company and City shall have the right from time to time upon a reasonable prior written notice to the other Party, to appoint a successor to its then current member(s) of the Escalation Working Group, provided that the replacement is of equal or higher rank. The Escalation Working Group will meet only as necessary to resolve disputes between both parties when such disputes cannot be mutually resolved between the Executive Contacts. Decisions shall be made by majority vote; provided, however, that such vote shall not be effective unless: (i) an equal number of voting committee members from each side are present in person or are participating by telephone or videoconference; or (ii) votes in favor or against constitute a majority of the votes of the total voting members of both Parties. Notwithstanding the foregoing, no decision of the Escalation Working Group will be effective to amend this Agreement unless embodied in a written amendment executed by the Parties in accordance with Section 12.5, or to effect any change that would be required to be embodied in a Change Request and Change Order under Section 2.2.

2.4 Project and Relationship Management.

(a) The Project Manager will be Company's principal representative in connection with the performance and management of the Services and delivery of the Company Deliverables under the relevant SOW. The Project Manager is authorized to act for and bind Company in all matters pertaining to the Services and Company Deliverables, except for amendments to this Agreement or the applicable Statement of Work, which must be signed by an authorized signatory of Company. Company will not change the Project Manager without City's prior written consent, such consent not to be unreasonably withheld, unless the Project Manager becomes unavailable due to death, disability, illness, termination of employment or other cause beyond Company's control.

(b) City, by prior written notice to Company, shall appoint a person as the Project Director in connection with the Initial Statement of Work and subsequent Statement(s) of Work. The Project Director is authorized to act for and bind City in all matters pertaining to this Agreement, except for amendments, which must be signed by an authorized signatory of City. City, by prior written notice to Company, may revoke any appointment made under this subsection 2.4(b) and appoint another person as the Project Director.

(c) The Project Manager and Project Director will organize and hold weekly meetings of the Project teams to review the progress of the Services, Company Deliverables and City Deliverables against the Project timeline, to discuss issues and challenges, and for such other purposes as the Project Manager and Project Director may

determine.

(d) The Company and City will each appoint a Relationship Manager who will be their respective primary contacts in managing the ongoing relationship under this Agreement. Each Party's Relationship Manager is authorized to act for and bind that Party in all matters pertaining to this Agreement, except for amendments, which must be signed by an authorized signatory of that Party. Company will not change its Relationship Manager without City's prior written consent, such consent not to be unreasonably withheld, unless the Party's Relationship Manager becomes unavailable due to death, disability, illness, termination of employment or other cause beyond the Party's control. City may change its Relationship Manager and will provide Company notice of the change.

2.5 Reports. Company will require its Project Manager to submit written reports on the progress of the Project (including with respect to the progress of the Company Deliverables and the identification of problems) to the Project Director on a weekly basis and other reports on such other matters as are determined by the Project Manager and Project Director at a mutually agreed-upon frequency. Company shall provide any additional reports that may be reasonably requested by City from time to time. The format and details to be included in such reports will be as specified by the Project Director, acting reasonably.

2.6 Company Facilities; Security Procedures.

(a) Company shall perform the Services from Company's facilities in India specified below ("**Offshore Locations**") except for those Services that it will perform onsite at City's locations as described in this Agreement. Company will not perform Services from any other location without first obtaining the written consent of City. Company is responsible for providing all required office space, equipment, and other facilities, reasonably necessary to perform the Services to be performed at Offshore Locations. City will be responsible to provide access to City technical environment relevant to the performance of the Services, such as documentation, data, information and computer programs, all access being restricted to the extent relevant to the Services to be performed by Company.

(b) Company will perform the Offshore Services at the following Offshore Location and reserves the right to change the Location upon prior written notice to the City:

TATA Consultancy Services Limited,
154 B, Block A,
Sector 63, Phase III,
Noida - 201301, UP
India

2.7 Use of City Facilities. With respect to those Services that Company proposes to perform onsite, Company shall perform such Services at City's facilities, 5850 W. Glendale Avenue, Glendale, AZ 85301, and such other City facilities that are specified by City and mutually agreed-to by the Parties ("**Onsite Services**"). With respect to Onsite Services, City shall be responsible to provide, at no cost to Company, an appropriate work environment including without limitation, office space, equipment, computer resources, facilities and communication facilities (phone, fax, internet access etc.) reasonably required for Company personnel to perform the onsite activity at City facilities. The foregoing shall be provided by City as reasonably necessary for the performance of the Services. City shall provide access to its premises and systems, during its normal business hours, as reasonably necessary for the Onsite Services being provided by Company. Company shall use City's facilities and resources solely for the purpose of performing Onsite Services for City. Company shall ensure that all Company Personnel comply with all of City's work environment regulations and security requirements.

2.8 Communication Link (FTP Access).

(a) City shall provide at its cost a communication link involving File Transfer Protocol ("**FTP**") access (including associated software and equipment) between City's designated location(s) and Company's Offshore Location for use by City, Company's onsite Personnel and Company's offshore Personnel solely in connection with the Services under this Agreement.

(b) Company will be responsible for complying with City's security standards provided to Company by City with respect to access to City's network, computer systems and data, and will implement adequate security measures to prevent unauthorized use or access to City's network, computer systems or data by Company's Personnel.

(c) Company will be required to notify City of the security measures taken to prevent unauthorized use or access to Citys' network, computer systems or data.

2.9 Company Personnel.

(a) The individuals assigned by Company to perform the Services

("**Personnel**") shall have appropriate technical and professional skills to enable them to perform their duties in a professional manner, consistent with generally accepted industry standards. The Personnel shall perform their assignments under the direction of the Company. Upon a request, the City may seek removal of any of the Personnel engaged for Onsite Services from performing the Services if any such personnel is found to have indulged in unacceptable conduct, and Company if satisfied with the reasons assigned to such request, shall make reasonable efforts to replace such individual within a reasonable time, with a person having appropriate technical and professional skills required to perform the Services.

(b) While at City's facilities, all Personnel assigned by Company to perform the Onsite Services shall strictly abide by all applicable rules, regulations, and policies concerning such matters as health, security, safety, conduct and workplace rules and requirements provided that Company is informed of such rules, regulations and policies.

(c) Security Measures. The parties acknowledge that security measures required in this Section are necessary in order to preserve and protect the public health, safety and welfare. In addition to the specific measures set forth below, Company shall take such other measures as it deems reasonable and necessary to further preserve and protect the public health, safety and welfare.

(d) Security Inquiries. Company acknowledges that all of the Personnel that it provides pursuant to this Agreement shall, at the request of the City, be subject to background and security checks and screening at City's cost ("**Security Inquiries**"). Company shall perform all such security inquiries and shall make the results available to the City for all Personnel considered for performing work (including supervision and oversight) under this Agreement. The City may make further security inquiries at their own cost. The Company agrees not to engage Personnel that do not successfully pass through the Security Inquiries, to render any Services to the City.

2.10 Third Party Components.

(a) The applicable Statement of Work (as the same may be amended during the term of such Statement of Work by mutual agreement of the Parties) shall specify any third party products or materials to be incorporated into any Company Deliverables ("**Third Party Components**"). Procurement, setting up and maintenance of Target Environment shall be the responsibility solely of the City. Notwithstanding the

foregoing, in the event that Company cannot at the time of the execution of the applicable Statement of Work determine whether any Third Party Component is required to be incorporated into a Company Deliverables, Company shall, as early as possible, but prior to the incorporation of any such Third Party Component into a Company Deliverable or other work product, notify City and obtain City's written approval for incorporation of such Third Party Component.

(b) Unless otherwise agreed in the Agreement or a Statement of Work, any and all consents and licenses required for use or incorporation of any Third Party Components shall be procured and provided by City with reasonable assistance from Company, at City's cost and expense.

2.11 City Personnel Availability. City will use reasonable efforts to ensure that appropriate City personnel are available as required to facilitate or enable Company's performance under this Agreement and applicable Statement of Work.

2.12 Delay Caused by City. Company shall not be responsible for any failure to meet the timetable and deadlines set out in the Statement of Work caused by anything done or failed to be done by City, and all dates by which Company is required to perform any obligation under the Statement of Work will be deemed to be changed to a subsequent date determined by the Parties, each acting reasonably and taking into account the availability of the required Company resources, and such change (including the additional cost, if any, payable by City as a result of such delay) shall be implemented pursuant to the Change Control Procedure in Section 2.2.

2.13 Maintenance Services.

(a) As long as this Agreement is in effect, Company will provide to City, and City will purchase from Company, Maintenance Services during the initial Maintenance Period commencing on the first day after the Warranty Period under the Initial Statement of Work and ending two (2) years thereafter (Year 1 and 2) and continuing for a further three (3) successive Maintenance Periods (Years 3-5), all as provided in the Support Plan for Annual Maintenance Contract for City of Glendale. Thereafter, City will have the option of purchasing Maintenance Services from Company for additional five (5) year Maintenance Periods in accordance with this Section 2.13.

(b) The fees for Maintenance Services ("**Maintenance Fees**") shall be as set forth in or calculated in accordance with the Support Plan for Annual Maintenance Contract for City of Glendale and the Initial Statement of Work. For each Maintenance

Period after the first five year optional Maintenance Period, such Maintenance may be continued by mutual consent, at a cost to be negotiated, and City may exercise its option to purchase an additional five (5) year Maintenance Services for that Maintenance Period by notice to Company any time prior to the commencement of that Maintenance Period. City and Company have listed in the Statement of Work at Section 12, the agreed to Maintenance Fees for the Initial Term of the Contract (seven (7) years), the first five (5) years optional Maintenance period, and any subsequent five (5) year option periods.

2.14 Additional Services. City may request Company to provide additional services relating to the Licensed Material. If such requests are made prior to final Acceptance of the Company Deliverables under the Initial Statement of Work, Company and City will mutually determine whether such request is a change in scope to be handled in accordance with Section 2.2 or whether such request should be handled as a separate project under a separate Statement of Work under this Agreement. If City makes any request for additional Services after the final Acceptance that are not part of the Services under the Initial Statement of Work or the Maintenance Services, including any City specific Enhancements of the Licensed Material, and unless otherwise agreed by City and Company, Company will provide such additional Services pursuant to a separate Statement of Work at the time and materials rate to be mutually agreed by the Parties.

3. COMPANY DELIVERABLES.

3.1 Delivery, Review and Acceptance of Non-Software Deliverables.

(a) The review and acceptance by City of the Company Deliverables that are not software ("**Non-Software Deliverables**" or "**NSD**") identified in any Statement of Work shall be based upon whether or not they conform to the Specifications, if any, in the applicable Statement of Work ("**NSD Acceptance Criteria**"). Unless a different period is set forth in the applicable Statement of Work, City shall review each Non-Software Deliverable within five (5) Business Days after the delivery of the applicable Non-Software Deliverable ("**NSD Review and Testing Period**"). City will notify Company in writing if City reasonably determines that such Non-Software Deliverable does not conform to the NSD Acceptance Criteria (a "**NSD Non-Conformity**") with reasonable details of such NSD Non-Conformity. Company shall correct the NSD Non-Conformity within fifteen (15) Business Days after Company's receipt of such notification and shall provide City with the corrected Non-Software Deliverable, upon receipt of which the NSD Review and Testing Period will recommence and the foregoing

procedure shall apply to the corrected Non-Software Deliverable.

(b) City shall not be required to accept any Non-Software Deliverable unless Company has corrected all NSD Non-Conformities reported by City during the NSD Review and Testing Period. If City does not notify Company of a NSD Non-Conformity before the end of the initial NSD Review and Testing Period, or at the end of a further NSD Review and Testing Period after redelivery of the corrected Non-Software Deliverable, the Non-Software Deliverable shall be deemed accepted and signed-off. Complete or partial commencement of the processing of its operations by the City using all or part of the Non-Software Deliverable shall be deemed to be immediate acceptance of all the Deliverable.

3.2 Delivery, Review and Acceptance of Software Deliverables. City shall be responsible to set up and make available the computer equipment, software and system that conforms to the Target Environment and to provide all City Deliverables in accordance with the Project plan. Company shall deliver Company Deliverables that are software deliverables as identified in the applicable Statement of Work ("**Software Deliverables**" or "**SD**") on suitable media and upon request by City shall reasonably assist City to install the Software Deliverables in the Target Environment. City shall be responsible to review and conduct acceptance testing prior to its acceptance of the Software Deliverables in accordance with Section 3.3. Company will provide assistance and support in installation and City's review and acceptance testing as described in the applicable Acceptance Test Plan or in the Statement of Work.

3.3 Review and Testing of Software Deliverables. City shall provide the applicable test cases and test plan and test data to Company as per the Project plan. Upon completion and delivery of each Software Deliverable (the "**Commencement Date**"), City shall promptly begin its review and, if appropriate, test each Software Deliverable to determine whether it conforms to the Specifications or other mutually agreed acceptance criteria (the "**SD Acceptance Criteria**"). City shall promptly provide written acceptance of the Software Deliverable if City has not found any non-conformity of the Software Deliverable with the SD Acceptance Criteria during the SD Review and Testing Period. If City reasonably determines that the Software Deliverable has not met the SD Acceptance Criteria, City shall notify Company in writing of any such non-conformity (each, a "**SD Non-Conformity**") within the period of time following the Commencement Date specified in the Project plan or, if no period is specified therein, within the thirty (30) days following the Commencement Date (the "**SD Review and Testing Period**") along with reasonable details of the SD Non-Conformities.

3.4 Correction of SD Non-Conformities. Company shall promptly remedy each SD Non-Conformity that is reported by City in writing during the SD Review and Testing Period, as soon as possible but no later than the time as is specified in the Project plan or, if not specified therein, no later than thirty (30) days after Company's receipt of City's report identifying the SD Non-Conformity. Upon receipt by City of the corrected Software Deliverable to address the reported SD Non-Conformities, the SD Review and Testing Period will recommence and City shall review and, if appropriate, test the revised Software Deliverable in accordance with the provisions of Section 3.3.

3.5 Acceptance of Software Deliverables. Acceptance of a Software Deliverable shall be considered to have occurred when City provides written notification of acceptance during the SD Review and Testing Period or if City has not notified Company of any SD Non-Conformities during the SD Review and Testing Period. Complete or partial commencement of the processing of its operations by the City using all or part of the Software Deliverable shall be deemed to be immediate acceptance of all the Deliverable.

3.6 Alternate or Amended Acceptance Procedures. The Parties may, in respect of the Company Deliverables to be provided by Company under a Statement of Work, adopt alternate acceptance procedures or amend the acceptance procedures set out in this Article 3 in respect of those Company Deliverables by setting out such alternate acceptance procedures or amendments in the Statement of Work.

4. FEES, EXPENSES, TAXES, INVOICING AND PAYMENT.

4.1 Services Fee. City shall pay Company the Services Fee in accordance with the Fees set forth in the applicable Statement of Work for the Services under such Statement of Work and any Change Order applicable thereto.

4.2 Expenses. With respect to any Personnel assigned to work onsite at a City location, if such Personnel is required to travel outside the City of Glendale limits, City shall pay or reimburse Company for actual travel expenses reasonably incurred by the Personnel in connection with such travel; provided that such travel was approved in advance by the Project Director and expenses conform to City's travel expense guidelines.

4.3 Taxes. City shall be responsible for any sales, use, value added, excise, service or other similar taxes that may be imposed by any applicable taxing jurisdictions upon City or Company based on or measured by the Services or Company Deliverables provided to City hereunder or the Services Fee or License Fee paid hereunder. Company agrees to separately

itemize such taxes on its invoices to City and to remit the tax amounts received from City to the appropriate taxing authority. Company shall be solely responsible for any corporate taxes and income taxes based upon the income or revenue of Company. The City is exempt from Federal Excise Tax and will furnish an Exemption Certificate upon Company's request.

4.4 Invoices and Payment. Company shall submit invoices along with Project Deliverables for the Services Fee in accordance with the payment schedule set forth in the applicable Statement of Work or an applicable Change Order. Payment of invoices shall be made by City to Company within 45 days following receipt of each such invoice and Project Deliverable; provided that City may withhold payment of any amounts that are reasonably disputed by City pending resolution of the dispute. In the event that City reasonably disputes any amount invoiced by Company, City shall notify Company of City's reasons for disputing the amount as soon as possible but within 10 days after receipt of applicable invoice, whereupon City and Company shall promptly seek to resolve the dispute by mutual discussion. Any such dispute shall not relieve City from paying when due any undisputed portion of the invoice. The approval or payment of invoices, including final payment, shall not otherwise operate as a waiver of any rights or remedies of City under this Agreement or the Parties' TAX MANTRA Software License Agreement, including but not limited to any of City's separate warranty rights, or a waiver of any cause of action in favor of City arising out of Company's performance of services.

4.5 Records. Company shall maintain and retain all books, accounts, reports, files and other records and supporting documentation relating to the Services provided to, and any fees and Expenses paid or payable by, City under this Agreement. All such records and documents shall be subject at all reasonable times to inspection and audit by City for five (5) years after final Acceptance or, in the case of Maintenance Services, after termination or expiration of the annual Maintenance period. Company shall make available such records upon request by the City to the City auditors at the Company Location. All such documents and records shall be maintained in English. Upon City's request during the term of the Agreement or upon the termination or after the termination of the Agreement, for so long as the records subject to record retention obligations under this Section 4.5 have not previously been delivered to City, Company will turn over to City all such records and supporting documentation, and upon such delivery, Company shall be relieved of its obligation to retain the records. Company reserves the right to turn over to City at any time after final Acceptance, but upon reasonable prior written notice to City, all such records and supporting documentation that are subject to this Section 4.5 and which have not been previously delivered to City and upon such delivery, Company shall be relieved of its obligation to retain the records. No audit of records and documentation relating to

the calculation of fees and Expenses payable by City under this Agreement shall apply to payments made more than five (5) years prior to the audit. If any such audit reveals a miscalculation of fees or Expenses, City will provide a copy of the auditor's report to Company, and any overpayment or underpayment will promptly be adjusted between Company and City.

5. CERTAIN REPRESENTATIONS, WARRANTIES AND COVENANTS.

5.1 Mutual Representations, Warranties and Covenants. Each Party represents, warrants and covenants to the other that:

(a) This Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy laws and other similar laws affecting creditors' rights generally and by general principles of equity;

(b) The execution, delivery and performance of this Agreement by it does not and will not conflict with, or constitute a breach or default under, its charter documents or any agreement, contract, commitment or instrument to which it is a party; and

(c) There is no action or proceeding pending or, in so far as it knows or ought to know, threatened in writing against it before any court, administrative agency or other tribunal that: (i) could impact upon its right, power and authority to enter into this Agreement, to grant the rights and licenses granted by it to the other Party hereunder, or to otherwise carry out its obligations hereunder; or (ii) might have a material adverse effect on its business or condition, financial or otherwise, that would materially impact a Party's ability to perform under this Agreement.

5.2 Company's General Warranties and Covenants. Company represents, warrants and covenants to City that the Services performed by Company hereunder shall be of professional quality, consistent with generally accepted industry standards for work of a similar nature.

5.3 Company's Licensed Software Warranties and Covenants.

(a) Company represents, warrants and covenants to City that, except as agreed by the Parties as part of the Specifications, Company shall not intentionally introduce in any Company Deliverable any lock, clock, timer, counter, copy protection feature, replication device, monitoring code or other features that are intended to permit

Company to monitor the activities of the system without City's knowledge and consent, and shall before delivery, screen the Company Deliverables using industry standard virus detection software or tools to detect and prevent any "virus" or "worm," as those terms are commonly used in the computer industry, or other software code that may: (i) disable or erase any Company Deliverable, or any other software, programs, hardware, firmware, or data of City, a Permitted Affiliate, Authorized User or any of customers of City, a Permitted Affiliate; or (ii) prevent City, a Permitted Affiliate, Authorized User from fully using any Company Deliverable as permitted under this Agreement. If Company is in breach of its warranty in this subsection 5.3(a) for reasons solely attributable to the Company, Company shall without additional charge to City, promptly remove the virus, worm or other feature from the infected Company Deliverable or replace the infected Company Deliverable with a copy containing no virus, worm or other feature.

(b) Company represents, warrants and covenants to City that, if properly used in the Target Environment in accordance with the Documentation and the terms and conditions of this Agreement, during the Warranty Period the Licensed Material shall comply with, and achieve the performance and functionality in accordance with, the Specifications and Documentation. City agrees to promptly notify Company in writing immediately upon discovery of any error or non-conformance of the Licensed Material. Company will promptly correct or replace any error or defect in the Licensed Material reported by City during the Warranty Period in accordance with the standards set forth in the applicable Statement of Work, but without any charges to City for such correction or replacement. Any other Services requested by City during the Warranty Period shall be charged to City on a time and material basis in accordance with the rates set forth in the applicable Statement of Work. If defects or non-conformance arise, as determined by a diagnostic analysis, due to City's negligence or improper use of the Licensed Material, Company shall be entitled to charge City for any efforts expended by Company for correction of errors and defects, even if they arise during the Warranty Period.

5.4 City's Warranties and Covenants. City represents, warrants and covenants to Company that:

(a) City is responsible for selecting, operating and using the Licensed Software as delivered by Company and accepted by City and for the results achieved therewith. City shall also be responsible for the installation, use and maintenance of the Target Environment. City shall take reasonable precautions against loss of data due to any error or non-conformity in the operation or working of the Licensed Software

including without limitation, emergency procedures, data protection, regular back-up of data, virus checks, and regular checks of results.

(b) City has the rights and is otherwise authorized to deliver the City Deliverables and City Proprietary Material and to grant the rights and licenses to Company as set forth in this Agreement. City has not received any written notice or claim, and is not otherwise aware, that the City Deliverables and City Proprietary Material and the use thereof by Company in accordance with the terms of this Agreement infringes or misappropriates, or would infringe or misappropriate, the patent, copyright, trademark, trade secret or other Intellectual Property Rights of any third party.

5.5 Warranty Disclaimers.

(a) Except for the express representations and warranties contained in this agreement, neither company nor City makes any representations or warranties to the other, express or implied including, without limitation, any implied warranties of merchantability or fitness for a particular purpose. All other representations and warranties are hereby disclaimed.

(b) Further, Company does not represent or warrant that any of its respective Deliverables provided under this Agreement functions without interruption and without error or that such Deliverable will operate in every combination desired by the City with any data, computer systems and programs of its choice or that the remedying of one program error does not result in the occurrence of other program errors. Company shall be released from its warranty obligations under Sections 5.2 and 5.3 to the extent that any infringement, errors, fault or non-compliance arises due to circumstances for which Company was not responsible, including without limitation: (i) modification of the Licensed Material or Company Deliverables after delivery to City, if such modification was not made or authorized by Company; or (ii) use of the Licensed Material or Company Deliverable contrary to the Documentation provided by Company; or (iii) use of the Licensed Material or Company Deliverables other than in Target Environment or use of the Licensed Material or Company Deliverable in combination with products and systems not contemplated in the applicable Documentation or Specification; or (iv) infringing element or defects contained in any City Deliverable or City Proprietary Material provided to Company in connection with the Services hereunder. Further, Company shall not be considered to be in breach of the warranties to the extent that Company offered to City a correction or Upgrade and City failed to implement such

correction or Upgrade. In such cases, the work put in by the Company in order to determine the cause of the fault and to remedy the fault shall be invoiced in accordance with the Company's current rates of charges. This shall also apply to consequential services or supply of products in relation to such work, including but not limited to the delivery of a corrective code or a corrected version of the defective part of the Licensed Material or for instructions as to how the error can be avoided. The Company shall also be released from its warranty obligations if the City does not complain of a program error promptly or does not put into productive operation a corrective code provided by the Company in fulfillment of its warranty obligations or a correct Update or Version of the pertinent part of Licensed Material which it has supplied.

6. CONFIDENTIALITY.

6.1 Obligations of Confidentiality. Each Party (in such capacity, the "**Receiving Party**") acknowledges and agrees to maintain the confidentiality of Confidential Information (as hereafter defined) of the other Party (in such capacity, the "**Disclosing Party**") provided by the Disclosing Party or otherwise received by the Receiving Party hereunder. The Receiving Party shall not disclose or disseminate the Disclosing Party's Confidential Information to any Person or entity other than those directors, officers, employees, agents, subcontractors, Permitted Affiliates, Authorized Users of the Receiving Party who have a need to know it in order to assist the Receiving Party in performing its obligations, or to permit the Receiving Party to exercise its rights, under this Agreement. City may disclose the Confidential Information of Company to the regulators of City, to the extent City is by law, regulation or self regulation obligated to do so. In addition, the Receiving Party shall: (i) take all reasonable steps to prevent unauthorized access to the Disclosing Party's Confidential Information; (ii) not use the Disclosing Party's Confidential Information, or authorize other Persons or entities to use the Disclosing Party's Confidential Information, for any purposes other than in connection with performing the Receiving Party's obligations or exercising the Receiving Party's rights hereunder; (iii) upon the request of the Disclosing Party and a reasonable opportunity to comply, comply with any legal or regulatory requirements applicable to the Disclosing Party or its vendors regarding security and data protection (and in such cases, the Disclosing Party will reimburse the Receiving Party for the reasonable, actual additional costs, if any, incurred by the Receiving Party in complying with such requirements); and (iv) promptly advise the Disclosing Party in the event it learns or suspects that any of the Disclosing Party's Confidential Information in the Receiving Party's possession has been revealed or improperly acquired by any third party, and shall assist the Disclosing Party in its efforts to retrieve the material and mitigate the effects of the exposure or

loss. As used herein, "reasonable steps" means steps that a Party takes to protect its own confidential or proprietary information of a similar nature, which steps shall in no event be less than a reasonable standard of care.

6.2 Definition of Confidential Information. As used herein, "**Confidential Information**" shall mean without limitation all business strategies, plans and procedures, proprietary information, methodologies, data and trade secrets, and other confidential information and materials of the Disclosing Party, its clients or suppliers, or other persons or entities with whom they do business that may be obtained by the Receiving Party from any source. Confidential Information of Company includes Licensed Material, and all information relating to Licensed Material. Confidential Information of City includes taxpayer information, non-public information concerning third parties such as customers or prospective customers of City or any of its Affiliates (including, but not limited to, trade data, and customer information as described in the Gramm Leach Bliley Act (15 USC 6801(b)) Regulation S-P and in the federal "Interagency Guidelines Establishing Standards for Safeguarding Customer Information" adopted pursuant thereto (66 Fed Reg. 8615 {Feb. 1, 2001}), as now or hereinafter in effect.

6.3 Exclusions. The provisions of this Article 6 respecting Confidential Information shall not apply to the extent, but only to the extent, that such Confidential Information: (i) is already known to the Receiving Party free of any restriction at the time it is obtained from the Disclosing Party; (ii) is subsequently learned by the Receiving Party from an independent third party free of any restriction and without breach of this Agreement; (iii) is or becomes publicly available through no wrongful act or omission of the Receiving Party; or (iv) is independently developed by or for the Receiving Party without reference to or use of any Confidential Information of the Disclosing Party. Further, Receiving Party shall not be in breach for disclosure to the extent required pursuant to an applicable law, rule, regulation, government requirement or court order, or the rules of any stock exchange or self regulatory agencies (provided, however, that to the extent practicable and lawfully permitted, the Receiving Party shall advise the Disclosing Party of such required disclosure promptly upon learning thereof in order to afford the Disclosing Party a reasonable opportunity to contest, limit or assist the Receiving Party in crafting such disclosure). Notwithstanding the above, Company acknowledges that Confidential Information provided to City may be subject to disclosure by Arizona laws related to open public records. Consequently, Company understands that disclosure of some or all of the items subject to this Agreement may be required by law. In the event City receives a request for disclosure that is reasonably calculated to incorporate information that might be considered confidential by Company, City agrees to provide Company

with notice of that request, which shall be deemed given when deposited by City for regular delivery to the address of Company specified below for notices. Within ten (10) days of City notice by City, Company will inform City in writing of any objection to the disclosure of the requested information. Failure by Company to object timely shall be deemed to waive any objection and any remedy against City for disclosure. In the event Company objects to disclosure within the time specified, Company agrees to handle all aspects related to request, including properly communicating with the requestor and timely responding with information, the disclosure of which Company does not object thereto. Furthermore, Company agrees to indemnify and hold harmless City from any claims, actions, lawsuits, or any other controversy or remedy, in whatever form, that arises from the failure to comply with the request for information and the laws pertaining to public records, including defending City in any legal action and payment of any penalties or judgments. This provision shall survive the termination of this Agreement.

6.4 Privacy Compliance. Notwithstanding any other provision of this Agreement, to the extent Nonpublic Personal Information is disclosed to or otherwise obtained by Company in connection with the matters contemplated by this Agreement, Company will keep such Nonpublic Personal Information strictly confidential and strictly limit Company's use thereof to the purposes contemplated by this Agreement. For the purposes of this provision, the term "**Nonpublic Personal Information**" is defined as any non-public personally identifiable information of an individual, including, but not limited to, City's or its Affiliates, or employees, including Authorized Users.

6.5 Receiving Party's Employees and Others. The Receiving Party shall advise its employees, agents, contractors, subcontractors, and Authorized Users of the Receiving Party's obligations of confidentiality and non-use under this Article 6 and Receiving Party shall retain full responsibility for compliance with the requirement of this Article 6 by all persons and entities who are provided access to the Disclosing Party's Confidential Information in accordance with the provisions of this Article 6.

6.6 Return or Destruction of Confidential Information. Upon the Disclosing Party's written request at any time, including following the expiration or termination of this Agreement, the Receiving Party shall promptly cease to use the Confidential Information and return to the Disclosing Party, or destroy, all Confidential Information of the Disclosing Party provided under or in connection with this Agreement, including all copies, portions and summaries thereof, and shall provide the Disclosing Party with a written statement certifying that all such material has been returned or destroyed. Notwithstanding the foregoing sentence, if and to the extent the

license and rights granted to the Receiving Party with respect to any Confidential Information survive the termination of this Agreement, Receiving Party may retain Confidential Information of Disclosing Party and use such information to the extent that such information is reasonably necessary in connection with Receiving Party's exercise of the license and rights as permitted under this Agreement; provided, however, that all such Confidential Information retained by the Receiving Party shall remain subject to the provisions of this Article 6 for so long as it is so retained. For greater clarity, Company and City each acknowledges and agrees that nothing in this Article 6 shall entitle either Party to require the other Party to return, or cease use of, any material (including, in the case of City, the Licensed Material) so long as and only to the extent the license granted to such Party under this Agreement or the License Agreement remains in effect, including by survival after termination of this Agreement or the License Agreement to the extent such survival may be expressly provided thereunder. If requested by the Disclosing Party, the Receiving Party shall certify in writing its compliance with the provisions of this Section 6.6.

6.7 Lawful exercise of license or rights. Notwithstanding anything to the contrary in this Agreement as between the Parties, the title and ownership of Confidential Information shall remain exclusively with the Disclosing Party. Disclosure of Confidential Information of a Party to the other Party shall not be construed as a grant of any license or other rights in or to the Confidential Information except as specifically set forth in this Agreement. Nothing contained in this Article 6 is intended nor shall anything herein be construed as restricting either Party from lawfully exercising the rights and licenses granted to such Party under this Agreement and any such use, copying or disclosure made by a Party in exercise of such Party's license rights and subject to the restrictions applicable to the license shall not be considered as a breach of this Article 6.

6.8 Survival of obligations. The obligations under this Article 6 shall survive the termination of this Agreement.

6.9 Cumulative Remedies. Each Party shall have and may cumulatively exercise all rights at law or in equity for the protection of its Confidential Information, including obtaining an injunction enjoining the breach or threatened breach of this Article 6.

7. OWNERSHIP AND PROPRIETARY RIGHTS.

7.1 Retained Ownership. Each Party retains sole and exclusive right, title and interest in any and all Intellectual Property and Intellectual Property Rights that it owned prior to the Effective Date or which it may conceive, reduce to practice, author or otherwise develop

thereafter, whether independent of the Services to be provided hereunder or pursuant to this Agreement, and nothing herein is intended to transfer or assign any interest therein except for the express licenses granted under this Agreement.

7.2 Licensed Material. City acknowledges and agrees that Company does and will continue to own all Intellectual Property and Intellectual Property Rights in or attached to the Licensed Material and Company Deliverables (excluding any City Proprietary Material or City Deliverables that was provided by City to Company and included by Company as content in any such Company Deliverable), including without limitation, in or attached to any Enhancement and Upgrades and any Derivative Works thereof. Nothing contained herein shall be construed as a transfer or conveyance by Company to City of the ownership, interest or title to the Intellectual Property or Intellectual Property Rights in or attached to the Licensed Material, Company Deliverables or any Derivative Works thereof. Subject to the provisions of this Agreement, City shall have a perpetual, irrevocable, non-exclusive license and rights granted by Company pursuant to Article 2 of the License Agreement.

7.3 City Deliverables and Proprietary Material. The ownership, right, title and interest in any Intellectual Property and Intellectual Property Rights in or attached to any City Deliverables and City Proprietary Material that City provides to Company in connection with the performance of Services or for incorporation in the Licensed Material shall remain with City and its applicable licensors and nothing contained in this Agreement is intended to nor shall be construed to effect any transfer of ownership rights or title of City or its licensors to Company. Except for any specific City Deliverables or specific City Proprietary Material expressly identified in any Statement of Work as an exception to this Section 7.3, to the extent any City Deliverables or City Proprietary Materials are used or incorporated in any Licensed Material or Company Deliverables, City hereby grants to Company a perpetual, non-exclusive, irrevocable, worldwide, fully paid up and royalty free right and license to use, copy, display, sublicense and distribute such City Deliverables and City Proprietary Material as part of Licensed Material and Licensed Software and to create Derivative Works thereof within any future Enhancement of or Upgrade to the Licensed Material or Licensed Software, provided that such right and license shall exclude all Marks of City. If and to the extent any City Deliverables, programs, requirements, concepts, ideas or other material provided by or on behalf of City in connection with the Services to be provided by Company or for incorporation in the Licensed Material is not owned by City, then City shall reasonably identify any such third party material and the applicable third party before they are provided to Company.

7.4 Trademarks. Nothing herein is intended to provide any Party any right to use or exploit any trademark, service mark, business name, trade dress or logo ("**Mark**") of the other Party, and neither Party shall utilize any such Mark of the other Party without the express written consent of the other Party unless it is obligated to reproduce such Mark under this Agreement.

7.5 Company's Marketing Rights. Nothing in this Agreement shall prevent Company from transacting similar business either for itself or for any other Person or to offer same or similar products or services to any third parties.

7.6 Residual Knowledge. Nothing in this Agreement is intended to prevent either Party from using the knowledge, skill and general experience gained by it or its employees in the performance of this Agreement to the extent they are retained in the unaided memories of such Party's personnel. Such personnel's memory will not be considered to be unaided if such personnel makes reference to refresh his memory to documents containing Confidential Information belonging to the other Party or the Source Code of the other Party. Nothing contained in this Section 7.6 shall be construed as granting separate license to the Intellectual Property or Confidential Information by one Party to the other Party.

8. INDEMNIFICATION.

8.1 Infringement Indemnity by Company.

(a) **Intellectual Property Indemnification.** Subject to subsection 8.1(b), Company agrees to defend, at its own expense, and to indemnify and hold harmless, City and its officers, agents, and employees ("City Indemnified Parties") from and against any third party Claims and Losses suffered or incurred by City as a result of any Claim that the Licensed Material provided within the scope of this Agreement infringes any copyrights, patents, trademarks, trade secrets or other intellectual property rights of third parties, provided that Company is notified promptly in writing of such claim. Company shall have the sole right to control the defense of all such claims, lawsuits, and other proceedings, including the right to settle the same. City may, but does not have to duty to, participate in the defense of any claim or litigation with attorneys of the City's selection and at the City's sole cost without relieving the Company of any obligations under this subsection 8.1. In no event shall City settle any such claim, lawsuit or proceeding without Company's prior express written approval. City shall cooperate with Company in a reasonable way to facilitate the settlement or defense of such claim. If, as a result of any claim of infringement, Company or City is enjoined from using the

Licensed Material provided under this Agreement, or if Company reasonably believes that the Licensed Material is likely to become the subject of a claim of infringement, Company may, at Company's option and expense: (i) procure the right for City to continue to use the Licensed Material; or (ii) replace or modify the Licensed Material so as to make it non-infringing and capable of serving the purpose for which the Licensed Material was provided. If neither of options in the preceding sentence is reasonably possible or effective, the Company shall accept return of the Licensed Material and terminate all rights and licenses granted to the City under this Agreement and refund to the City an amount equal to the unamortized balance of the Services Fee paid by the City under this Agreement, calculated on a straight line basis over a period of nine (9) years commencing on the Effective Date of this Agreement. The provisions in this Section 8.1 state the Company's entire liability and the City's sole remedies with respect to infringement.

(b) The foregoing provisions of this Section will not apply and Company shall have no obligations to the City or City Indemnified Parties under this Section, and in such case the City shall indemnify and hold the Company harmless to the extent that such infringement or unauthorized use arises solely from: (i) the City's modification of Company's Licensed Material; (ii) the failure of the City to use any corrections or modifications made available to City by Company; (iii) information, materials, instructions or specifications provided by the City; or (iv) the use of Company's Licensed Materials other than in the Target Environment in combination with any product not provided by Company, unless Company's Licensed Materials infringes the third party's rights in the absence of such combination. This section states the entire liability of Company with respect to infringement of any third party Intellectual Property Rights by the Licensed Materials or any parts thereof.

(c) Notwithstanding anything to the contrary herein, Company: (i) makes no representation and expressly waives any obligation of indemnification with respect to the use of Licensed Material by any Person other than City and Authorized Users; and (ii) shall assume no liability with respect to any Claims or Losses that may be made against or suffered by City or a City Indemnified Party for the use of Licensed Material if such Claim or Losses arises other than in connection with the permitted use of the Licensed Material.

8.2 City's Infringement Indemnity.

(a) Subject to subsection 8.2(b), City shall defend, indemnify and hold harmless Company and its directors, officers, employees and agents (collectively, "**Company Indemnified Parties**") from and against any Claims and Losses arising from any third party Claim against one or more Company Indemnified Parties in which it is alleged that the Use by Company of any City Material in connection with this Agreement constitutes an infringement of or misappropriation of the Intellectual Property Rights of any third party, provided that City shall have no obligation to Company and in such cases Company shall defend, indemnify and hold the City Indemnified Parties harmless, to the extent such infringement Claim arises as a result of: (i) modification of a City Material by or for Company other than as a result of performance of the Services to be provided under this Agreement and Statement of Work or at the direction of City; (ii) use by Company of the City Material other than in accordance with applicable documentation or instructions provided by City or use of the City Material by Company in combination with products and systems not contemplated in this Agreement, a Statement of Work, the applicable Documentation or Specifications; (iii) Company's failure to implement reasonable corrections, revisions or upgrades provided by City at City's cost; or (iv) use of a City Material outside the scope of the Licensed Material or Services.

(b) Notwithstanding anything to the contrary herein, City makes no representation or warranty, and Company expressly waives any obligation by City of indemnification, with respect to the use of a City Material by any Person other than Company, and shall assume no liability with respect to any Claims or Losses that may be made against or incurred by Company, any Company Indemnified Party or any other Person for the use of such materials beyond the Licensed Material provided to City hereunder or performance of the Services provided to City herein.

8.3 Each Party ("**Indemnifying Party**") shall indemnify, defend, save and hold harmless the other and its officers, officials, agents, and employees (hereinafter referred to as "Indemnified Party") from and against any and all third party 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 or damage to tangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Indemnifying Party or any of its owners, officers, directors, agents, employees or subcontractors in the performance of the services hereunder. This indemnity includes any claim or amount arising out of or recovered

under the Workers' Compensation Law or arising out of the failure of the Indemnifying Party to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the Parties that the Indemnified Party shall, in all instances except for Claims to the extent arising from the negligent or willful acts or omissions of the Indemnified Party, be indemnified by the Indemnifying Party from and against any and all claims. It is agreed that the Indemnifying Party will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable.

8.4 Additional Provisions for Indemnification. Each Party seeking indemnification shall provide the other Party with prompt written notice of Claim or Losses for which such Party is seeking or may seek indemnification hereunder (provided that the failure of the Party seeking indemnification to promptly notify the indemnifying Party hereunder shall not relieve the indemnifying Party of any liability with respect to the Claim or Losses, except to the extent the indemnifying Party demonstrates that the defense of the Claim or the avoidance or mitigation of any Losses is prejudiced by such failure). Each indemnifying Party shall: (i) keep the other Party fully informed concerning the status of any litigation, negotiations or settlements of any such Claim; and (ii) allow the other Party, at its own expense, to participate in such litigation, negotiations and settlements with counsel of its own choosing. The indemnified Party shall tender defense of the Claim to the indemnifying Party and provide reasonable cooperation (at the indemnifying Party's expense) and full authority to defend or settle the Claim. Notwithstanding the forgoing, neither Party shall have the right to settle any Claim without the prior written consent of the other Party if such settlement contains a stipulation to, or an admission or acknowledgement of, any wrongdoing (whether in tort or otherwise) on the part of the other Party. The indemnifying Party shall have no obligation to indemnify any amount in settlement agreed by the Indemnified Party unless the indemnifying Party agreed to such settlement.

9. LIMITATION OF LIABILITY.

9.1 Subject to the specific remedies if any set forth in this agreement with respect to any claim concerning performance or non performance of the licensed material pursuant to or in accordance with the terms of this Agreement and the documentation or any claim for breach or default of the company, the City's exclusive remedy shall be the recovery of the direct damages actually suffered by the Party and either Party's total and cumulative liability for direct damages shall not exceed the total fees paid or payable to Company by City under this Agreement.

9.2 General exclusion. Under no circumstances shall either party have any liability to the other for loss of or damage to revenues, profits, or goodwill or other special, indirect,

consequential, exemplary, incidental or punitive damages, whether in contract, tort or any other theories in law or equity, even if such party has been advised of the possibility of such damages.

9.3 Back up date. The City shall be responsible for regularly backing up all data and databases used with the Licensed Material. The City assumes full responsibility for the use of the Licensed Material and any information entered, used and stored thereon, including, without limitation, protection of data from viruses, or any unintended modification, destruction or disclosure, and for the accuracy and integrity of the results. The Company assumes no responsibility for City's negligence or failure to retain back up data at regular intervals or protect data from viruses, or any unintended modification, destruction, or disclosure of any data, software or other information.

9.4 The City acknowledges and agrees that the allocation of risk contained in this Article 9 is reflected in the fees and other charges under this Agreement and is a reasonable allocation of the risk between the Parties.

10. DISPUTE RESOLUTION PROCEDURE.

10.1 Dispute Resolution Process. In the event of any dispute between Company and City, the Parties shall notify their respective Executive Contacts. If the Executive Contacts cannot resolve the dispute within fifteen (15) Business Days after notification thereof, they shall escalate the issue to the Escalation Working Group. If the Escalation Working Group cannot resolve the dispute within fifteen (15) Business Days after notification thereof, the dispute shall be resolved by arbitration or litigation in accordance with this Article 10.2. Company and City agree in the event of any dispute between Company and City, each Party will continue to perform its obligations not related to the dispute under the Agreement during the resolution of such dispute unless and until the Agreement is terminated in accordance with the provisions thereof.

10.2 Dispute Resolution-Arbitration. Except as otherwise provided herein, any dispute or claim arising out of or relating to this Agreement, including its formation and validity, shall be referred to binding arbitration, by either Party if any such dispute is not settled by the Parties in accordance with the dispute resolution process in accordance with Section 10.1 within thirty (30) days of receipt of notice of a claim from the aggrieved Party (or after such extension, if any, agreed in writing by both the Parties). Arbitration will be in accordance with the American Aribitration Association ("AAA") Commercial rules but not administered by AAA and heard independently. The Parties will exercise best efforts to select an arbitrator within five (5)

Business Days of a request for arbitration by either Party. If the Parties have not agreed upon an arbitrator within this period, selection of the arbitrator will be referred to one of the principals of the mediation firm of Scott & Skelly, LLC, Phoenix, Arizona, who will then select the arbitrator. The Parties will equally share the fees and costs incurred in the selection of the Arbitrator.

10.3 Arbitration Procedures. The arbitrator will consider all factual and legal issues. The decision of the arbitrator shall be final and binding on the Parties. Any decision by an arbitrator hereunder may not be appealed to any court or other forum, except to the extent otherwise provided by the applicable law. In the event the AAA rules are inconsistent with the terms herein, the terms of this Agreement shall control. In awarding any damages, the arbitrator shall be bound by Article 9 (Limitation of Liability).

10.4 Other Relief. Nothing herein shall prohibit either Party from seeking a temporary restraining order, preliminary injunction or other provisional relief if, in its judgment, such action is necessary to avoid irreparable damage, to preserve the status quo or to prevent the dissemination of Confidential Information or from bringing and pursuing legal action to specifically enforce the provisions of this Article 10. Notwithstanding anything to the contrary in this Agreement, in the event a third party makes a claim or files a claim in a court of law against a Party ("**Defendant**") who tenders the claim to the other Party for defense and indemnification under Article 8 of the Agreement, and such request for defense and indemnification is denied, the Defendant may pursue, as applicable, any cross claim or other claims relating to the defense and indemnification of the third party's claim (including attorneys fees) against the Party who rejected the request for defense and indemnification.

10.5 Arbitrator. The arbitrator selected to hear any claim hereunder shall be neutral and shall be either a lawyer with ten (10) years experience, and not have engaged in any business for or adverse to either Party for at least ten (10) years. The arbitrator shall not be under the control of either Party and shall have no financial interest in the outcome of the arbitration. The arbitrator shall apply applicable law and may not limit, expand or otherwise modify the terms of this Agreement. Either Party may request a hearing, preferably telephonic, but in person hearing if the arbitrator deems the facts and circumstances require personal appearances. Any hearing shall be held within ninety (90) days of the appointment of the arbitrator. However, absent a request for hearing, the arbitrator may decide the claim based on the Parties' written submissions. Within ten (10) days of appointment of the arbitrator each Party will disclose to the other copies of all documents relevant to the dispute. Further discovery will be as determined by the arbitrator. Each Party will submit at the hearing or as directed by the arbitrator, evidence in support of that Party's position and the exact award sought. The arbitrator must select the award

sought by one of the Parties as the final judgment and may not independently alter or modify the awards sought by the Parties. The arbitrator has no authority to award punitive damages. Any arbitration award(s) shall be in writing and issued within fifteen (15) dayof of the hearing or as otherwise set by the arbitrator. The prevailing Party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing Party shall pay all of the prevailing Party's costs and expenses, including reasonable attorney's fees.

10.6 Survival. The provisions of this Article shall survive: (i) termination or changes to the Agreement; (ii) the bankruptcy of either Party; and (iii) any transfer, sale or assignment of this Agreement or any amounts owed hereunder. If any portion of this Article 10 is deemed invalid or unenforceable, the remaining provisions shall nevertheless remain in force. Any different agreement regarding the terms of this Article 10 must be agreed to in writing.

11. TERM AND TERMINATION.

11.1 Term. The term of this Agreement shall commence as of the Effective Date and shall continue to remain in effect unless and until it is terminated in accordance with the provisions of this Agreement ("**Term**"). The Parties acknowledge TCS will begin to perform the Services described in the Statement of Work subsequent to the execution of both the SOW and this MSA by both Parties.

11.2 Termination for Convenience. The City may terminate this Agreement or a Statement of Work hereunder for convenience upon 180 days prior written notice to Company. If City terminates this Agreement or the Initial Statement of Work prior to the final acceptance of the Company Deliverables under the Initial Statement of Work, all of the licenses and rights granted to City under the License Agreement and hereunder shall automatically terminate and City shall return to Company (or destroy and provide written certification of such destruction) and City, Permitted Affiliates, and Authorized Users otherwise cease using the Licensed Material or any Company Confidential Information or proprietary material in any manner. Company shall be entitled to retain all milestone payments on account of Service Fees paid by City prior to the date of termination and City will pay to Company the difference, if any, between the amount that would be payable by City for all Services performed by Company up to the date of termination calculated at the time and materials rates set out in Statement of Work minus the milestone payments retained by Company under this subsection. City will pay to Company all Expenses in respect of which Company is entitled to be reimbursed by City under this Agreement and which have not been previously reimbursed. If City terminated this Agreement or a Statement of Work under this Section 11.2 after final Acceptance of all the Company Deliverables under the Initial

Statement of Work, City may at its option retain the license under the and in accordance with the provisions of the License Agreement. Company will be entitled to retain all License Fees and Service Fees previously paid by City and City will pay to Company all Service Fees and Expenses through the effective date of termination.

11.3 Termination by City for Material Breach of Company.

(a) City may terminate this Agreement by delivering written notice thereof to Company for any material breach(es) by Company of the provisions of this Agreement that has not been cured by Company: (i) within thirty (30) days after receipt of written notice of such breach, if capable of being cured within thirty (30) days; or (ii) if the breach reasonably requires more than thirty (30) days for remedying and Company failed to propose a prompt and effective plan for remedying the breach and promptly and diligently commenced the cure within such thirty (30) days, and thereafter such breach is remedied within a period of not more than ninety (90) days after City's notice of the breach. Company agrees that the extended cure period under subsection (ii) of this subsection 11.3(a) shall not apply to Company's breach of its obligation to provide Maintenance Services in respect of a Severity 1 Error or Severity 2 Error in accordance with this Agreement. The notice of breach as aforesaid shall specify the breach in reasonable detail.

(b) If City terminates this Agreement under this Section 11.3(a) prior to final Acceptance of all Company Deliverables under the Initial Statement of Work, all of the licenses and rights granted hereunder to City shall automatically terminate and, City shall return to the Company (or destroy and provide written certification of such destruction) and otherwise cease using the Licensed Material in any manner. If City terminates this Agreement under this subsection 11.3(a) after final Acceptance of all Company Deliverables under the Initial Statement of Work, all of the licenses and rights granted to Company under the License Agreement shall survive termination and continue in full force and effect and the license restrictions set forth in Section 2 of the License Agreement shall survive and continue to apply to the license.

11.4 Termination by Company for Material Breach of City.

(a) Company may terminate this Agreement and the licenses and rights granted to City for breach by City of the terms of license as set forth in Article 2 of the License Agreement or due to City's failure to pay when due any undisputed amount of

License Fees or Service Fees (other than Service Fees in respect of Maintenance Services). In the event of any other material breach that is not cured by City within thirty (30) days after written notice of breach Company shall be entitled to recover direct damages from City and also obtain injunctive relief for preventing the continued breaches and any future breaches of this Agreement.

(b) If City breaches Article 2 of the License Agreement or any other provisions relating to the Company's Intellectual Property or Intellectual Property Rights or fails to pay when due any undisputed amount of License Fees or Services Fees (including without limitation Maintenance Fees) and fails to remedy that breach or non-payment within thirty (30) days after receipt of written notice from Company demanding that City do so, then Company shall be entitled to terminate this Agreement. If this Agreement is terminated by Company pursuant to this Section 11.4, without prejudice to any other liability of City under law or equity, all of the licenses and rights granted hereunder to City shall automatically terminate and City shall return to Company (or at Company's option destroy and provide written certification of such destruction) the Licensed Material and City, Permitted Affiliates, and Authorized Users shall otherwise forthwith cease using the Licensed Material and any and all Company Deliverables in any manner.

(c) If City fails to pay any Maintenance Fees when due, and fails to remedy that non-payment within thirty (30) days after receipt of written notice from Company demanding that City do so, City shall be deemed to have elected not to renew Maintenance Services for the Maintenance Period in respect of which the unpaid Maintenance Fees are due, and Company will have no obligation to provide Maintenance Services to City unless and until City reinstitutes its purchase of Maintenance Services in accordance with applicable Statement of Work. Nothing contained herein shall prevent Company from recovering from City any fees accrued for the Maintenance Services already performed.

11.5 Survival. Notwithstanding any other provisions of this Agreement, all provisions of this Agreement necessary for the interpretation or enforcement of any of the foregoing Articles, Sections and Schedules will survive the termination of all or any part of this Agreement, and will continue in full force and effect, and references in this Agreement to termination of this Agreement will not apply to those Articles, Sections and Schedules unless the Parties agree in writing. Except as specifically provided in this Agreement, the termination of this Agreement does not release any Party from any liability or obligation arising prior to the

date of termination.

11.6 Effect of Termination:

(a) In the event of termination of this Agreement for any reason whatsoever, the rights and licenses granted to the City will immediately terminate and the licensee will have no further right to use the software, except to the extent otherwise provided for in subsection 11.3(b). Within thirty (30) days after the termination, City must return all the copies of the software, documentation and Confidential Information in its possession or control to the licensor, or permanently destroy or disable all such copies. If requested by the Company, a duly authorized officer of the City will certify in writing to the licensor that the licensee has taken such action.

(b) Termination shall be without prejudice to any other rights or remedies a Party may be entitled to hereunder or at law, and shall not affect any accrued rights or liabilities of either Party nor the coming into force or continuation in force of any provision hereof which is expressly intended to come into force or continue in force on or after such termination.

(c) In the event this Agreement is terminated by whichever Party and for whatsoever reason, the City shall be liable to make payments of the entire amount due under this Agreement for the services rendered by the Company up to the effective date of termination in terms of this Agreement.

(d) On the expiration or earlier termination of this Agreement, each Party shall return to the other Party all documents and materials and Confidential Information belonging to the other Party with regard to this Agreement, or shall at the option of the disclosing Party destroy, under written certification by an authorized officer of the other Party, all documents or materials in connection with this Agreement in a manner that the subsequent retrieval thereof is rendered impossible by any method.

12. MISCELLANEOUS.

12.1 Default and Other Remedies. Nothing herein shall preclude either Party from seeking money damages or injunctive relief to prevent unauthorized use of the Licensed Material or City Proprietary Material in the event of a breach of this Agreement.

12.2 Remedies. Except as otherwise provided herein, no right or remedy herein

conferred on or reserved to either Party is intended to be exclusive of any other right or remedy, and each and every right and remedy will be cumulative and in addition to any other right or remedy under this Agreement or under applicable law, whether now or hereafter existing.

12.3 Injunctive Relief and Special Performance. Company and City agree that a breach by either of them of its obligations under Article 6, Article 7 or Article 11 may cause irreparable harm which cannot be compensated in money damages. Accordingly, Company and City each agree that in the event either Party breaches any of the provisions in Article 6, Article 7, or Article 11, the other Party shall be entitled to seek injunctive relief or specific performance in addition to its other remedies.

12.4 Relationship of Parties.

(a) The relationship of the Parties shall be that of independent contractors. Any employee, subcontractor or agent of Company who is assigned to provide Services under this Agreement shall remain at all times under the exclusive direction and control of Company and shall not be deemed to be an employee, subcontractor or agent of City. Neither Party will represent that it has any authority to assume or create any obligation, express or implied, on behalf of the other Party, or to represent the other Party as agent, employee, or in any other capacity, except as specifically provided herein.

(b) This Agreement will not constitute, create, give rise to or otherwise recognize a joint venture, agreement or relationship, partnership or formal business organization of any kind between the Parties, and the rights and obligations of the Parties shall be only those expressly set forth therein. Company will agree that no persons assigned by it in the performance of the Agreement are employees of the City and further agrees that no rights to the City's civil service, retirement or personnel rules and benefits accrue to such persons. Company shall be responsible for all salaries, wages, bonuses, retirement, withholdings, workers' compensation, unemployment compensation, other benefits, taxes and premiums appurtenant thereto concerning such persons provided by such Company in the performance of the Agreement, and Company shall save and hold the City harmless with respect thereto.

12.5 Entire Agreement; Amendments; Modifications. This Agreement, along with the schedules and exhibits attached hereto, sets forth the entire agreement between the Parties and supersedes any other prior or contemporaneous proposals, agreements and representations between them related to its subject matter, whether written or oral between the Parties and all

amendments and extensions thereof, which shall be deemed to be superseded by this Agreement. No modifications or amendments to this Agreement shall be binding upon the Parties unless made in writing and duly executed by authorized officials of both Parties.

12.6 Binding Effect; Assignment.

(a) This Agreement shall be binding on and inure to the benefit of the respective Parties and their permitted successors and assigns. Neither Party may sell, transfer or assign any right or obligation hereunder, except as expressly provided herein, without the prior written consent of the other Party. Any assignment in violation of this Section 12.6 shall be void.

(b) City shall have the right to assign or transfer (including by merger or otherwise by operation of law) all of its rights, duties and obligations under this Agreement to: (i) any entity that is an Affiliate of City in connection with an internal reorganization of the business of City; or (ii) a purchaser of all or substantially all of City's capital stock, assets and business involving the line of business that primarily utilizes the Licensed Material; provided that with respect to subsections (i) and (ii), the resulting assignment shall not expand the scope of the licenses granted hereunder. The foregoing assignment shall be valid only if: (i) City provides prior written notice to Company; and (ii) such assignee or transferee shall have expressly assumed in a written agreement with Company, the rights, duties and obligations of City under this Agreement. No such assignment or transfer shall operate to release City of its duties or obligations under this Agreement, absent an express written release executed and delivered by Company (it being understood and agreed that Company shall not unreasonably withhold its consent to such a release if the assignee or transferee is the operator or successor to City's line of business involving the Licensed Material).

(c) Company shall have the right to assign or transfer (including by merger or otherwise by operation of law) its rights, duties and obligations under this Agreement with the prior written consent of City, which consent shall not be unreasonably withheld. Notwithstanding the forgoing, such consent shall not be required for an assignment by Company: (i) after Company has successfully completed final Acceptance of all Company Deliverables and made as part of the sale of all or substantially all of Company's capital stock, or Company's assets and business involving the line of business that related to the Licensed Software; or (ii) at any time, made solely in connection with a complete assignment of all or substantially all assets related to the

Licensed Software to any entity that is a direct or indirect wholly-owned subsidiary of Tata Consultancy Services Limited in connection with an internal reorganization of the business of Tata Consultancy Services Limited provided that, absent an express written release executed and delivered by City, Company shall not be relieved of any of their obligations hereunder. The foregoing assignment shall be valid only if: (i) Company provides written notice to City; and (ii) such assignee or transferee shall have expressly assumed, in a written agreement with City, the rights, duties and obligations of Company under this Agreement.

12.7 No Waiver. Failure or delay by either Party to exercise any right under this Agreement shall not constitute a waiver of any other terms or conditions of this Agreement with respect to any other or subsequent breach, or a waiver by such Party of its right at any time thereafter to require exact and strict compliance with the terms of this Agreement. In order to be effective, all waivers under this Agreement must be in writing and signed by the waiving Party.

12.8 Notices. All notices and other communications required under this Agreement shall be in writing and sent to the address stated below, or to such other address as shall be given by either Party to the other in writing, and shall be effective: (i) upon actual delivery if presented personally, or sent by express overnight courier such as Federal Express (with a signature acknowledging receipt); or (ii) seven (7) days following deposit in the United States mail if sent by certified or registered mail, postage prepaid, return receipt requested.

To Company:	Tata Consultancy Services 1000 Summit Drive Milford, OH 45150 U.S.A. Attn: Ravi Nandivada Telephone : 513-677-6508 Facsimile: 513-831-0629
With a copy to:	Tata America International Corporation 101 Park Avenue New York, N.Y. 10178, U.S.A. Attn: The General Counsel Facsimile: 212-867-8652

To City: City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

Bill Bond, Tax and License Manager
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301, U.S.A.

With copies to: City Manager
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301, U.S.A.

City Attorney
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301, U.S.A.

(a) Concurrent Notices.

(1) All notices to City's representative must be given concurrently to City Manager and City Attorney.

(2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.

(3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Company identifying the designee(s) and their respective addresses for notices.

(b) Changes. Company or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

(c) Notwithstanding the foregoing, day-to-day communications between the Parties may be made by telephone, facsimile transmission, e-mail or any other method agreed to by the Parties.

12.9 Applicable Law. This Agreement shall be governed by the laws of the State of Arizona, without giving effect to the conflicts of law principles thereof.

12.10 Force Majeure. If either Party is delayed in or prevented from performing any of its obligations hereunder by reason of a governmental law or regulation, court order, labor disturbance, act of God, fire, flood, national emergency, war, insurrection, terrorist acts, civil disturbance, or other reason of a like nature beyond the control of and not the fault of or due to the negligence of such Party, which such Party is unable to prevent or overcome by the exercise of ordinary prudence and diligence (including, but not limited to, the implementation and exercise of a reasonable disaster recovery plan), upon such Party giving prompt notice and full particulars of such cause to the other Party, the performance of such obligation shall be excused for the period of the delay, and the period for the performance of such obligation shall be extended for an equivalent period.

12.11 Employee Non-Solicitation. Neither City nor Company shall, except with the prior written consent of the other, solicit or hire any employee of the other Party during the time such employee is associated with any Services under this Agreement for a period of one (1) year after such person ceases to be so engaged. The foregoing restriction shall not apply to the employment of any person who responds to a general recruitment advertisement issued to the public.

12.12 Cooperation. Each Party to this Agreement agrees to execute and deliver all documents, perform all further acts, and take any and all further steps that may be reasonably necessary, to carry out the provisions of this Agreement and transactions contemplated thereby. Each Party shall perform its obligations hereunder acting in a fair and reasonable manner.

12.13 Export - Import Laws. Company is solely responsible to comply with any applicable laws and regulations for importation or exportation of any software or any other material provided by City or Company in connection with this Agreement. Each Party will comply with any applicable U.S. export regulations with respect to export of software or technology from the United States to Company's offshore facilities. Unless authorized by U.S. regulation or an export license or exemption, each of City and Company, agree that they will not re-export, directly or indirectly, any software or technology received from the other Party, or allow the direct product thereof to be exported or re-exported, directly or indirectly, to Cuba, Iran, North Korea, Libya, Sudan, Syria or any other country in Country Group E:2 of the Export Administration Regulations of the Department of Commerce (see http://www.bxa.doc.gov) or any other country subject to sanctions administered by the Office of Foreign Assets Control (see

http://www.treas.gov/ofac/), as revised from time to time.

12.14 Headings. The various headings and subheadings in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement or any provision hereof.

12.15 Severability. The invalidity of one or more phrases, sentences, sections, clauses or articles contained in this Agreement shall not affect the remaining portions of this Agreement or any part thereof; in the event that one or more phrases, sentences, sections, clauses or articles shall be declared void or unenforceable by any court of competent jurisdiction or by any government or regulatory agency, such provision will be deemed restated, in accordance with applicable law, to reflect as nearly as possible the original intentions of the Parties, and this Agreement shall be construed as if any such phrases, sentences, clauses and articles had not been inserted herein.

12.16 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

12.17 Inurement. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

12.18 Compliance with Laws. Company shall comply with all existing and subsequently enacted federal, state and local laws, ordinances, codes and regulations which are, or become, applicable to its performance of the services under this Agreement. If a subsequently enacted law imposes substantial additional costs on Company, a request for an amendment may be submitted pursuant to Section 2.2; however, no such change order may be approved by the City if it results in an increase of the Agreement amount approved by the City's Council unless additional approval, as applicable, is obtained, in which case Company shall have no obligation under this Section.

12.19 Arizona Immigration Compliance.

(a) Company, 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 Company or subcontractor employee who performs work under this Agreement to ensure that Company or any subcontractor is compliant with the warranty under subsection (a) above.

(d) City may conduct random inspections, and upon request of the City, Company shall provide copies of papers and records demonstrating continued compliance with the warranty under subsection (a) above. Company 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 12.19.

(e) Company 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. Company 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) Company's warranty and obligations under this Section 12.19 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.

(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.

12.20 Foreign Prohibitions. Company, and on behalf of any subcontractor, certifies, to the extent applicable under A.R.S. §§ 35-391 *et seq.* and 35-393 *et sec.*, that neither has "scrutinized" business operations, as defined in the preceding statutory sections, in the countries of Sudan or Iran.

13. GENERAL PROVISIONS

13.1 Nondiscrimination. Company will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, gender, national origin, age, or disability, nor otherwise commit an unfair employment practice. Company will take affirmative action to ensure that applicants are employed, and that employees are dealt with during employment, without regard to their race, color, religion, gender, national origin, age, or disability. Such action will include, but not be limited to, the following: employment, upgrading, promotion, demotion, or transfer; recruitment or recruitment advertising; lay-off or termination; rates of pay or forms of compensation; and selection for training, including apprenticeship. Company further agrees that this clause will be incorporated in all subcontracts entered into with suppliers of materials or services, and all labor organizations furnishing skilled, unskilled, and union labor, or who may perform any such labor or services, in connection with this Agreement. This clause will also be incorporated into all job-consultants' agreements or subleases in any way pertaining to Company's performance under this Agreement.

13.2 Compliance with Immigration Reform and Control Act. Company understands and acknowledges the applicability of the Immigration Reform and Control Act of 1986 (IRCA) to it. Company agrees to comply with IRCA in performing under this Agreement and to permit City to verify such compliance.

13.3 Offsets. Company understands and acknowledges that Chapter XVIII, §14 of City's Charter provides that no demand on City shall be allowed in favor of any person in any manner indebted to City without first deducting such indebtedness. Accordingly, Company agrees that any payments that are undisputed and due and payable to City shall be offset against the amounts payable to Company under this Agreement.

13.4 Cancellation. The Parties understand and acknowledge that this Agreement may be subject to cancellation under A.R.S. § 38-511 (Arizona's public employee conflict of interest law), in the event there is a conflict of interest of the type specified in A.R.S. § 35-511 by persons significantly involved in initiating, negotiation, securing, drafting or creating this Agreement.

13.5 Insurance Requirements.

(a) Company and its subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, insurance against claims for injury to persons or damage to

property which may arise from or in connection with the performance of the work hereunder by Company, its agents, representatives, employees or subcontractors.

(b) The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The City in no way warrants that the minimum limits contained herein are sufficient to protect Company from liabilities that might arise out of the performance of the work under this Agreement by Company, its agents, representatives, employees or subcontractors and Company is free to purchase additional insurance as may be determined necessary.

(c) Minimum Scope and Limits of Insurance. Company shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements, provided that the coverage is written on a "following form" basis:

(i) Commercial General Liability – Occurrence Form:

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

General Aggregate	$2,000,000
Products – Completed Operations Aggregate	$1,000,000
Personal and Advertising Injury	$1,000,000
Each Occurrence	$1,000,000

(ii) The policy shall be endorsed to include that the City of Glendale shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of Company.

(iii) Automobile Liability:

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Agreement.

Combined Single Limit (CSL)	$1,000,000

(iv) The policy shall be endorsed to include that the City of Glendale shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of Company, including automobiles owned, leased, hired or borrowed by Company.

(v) Worker's Compensation and Employers' Liability:

Workers' Compensation	Statutory
Employers' Liability – Each Accident	$100,000
Disease – Each Employee	$100,000
Disease – Policy Limit	$500,000

Policy shall contain a waiver of subrogation against the City. This requirement shall not apply when a contractor or subcontractor is exempt under A.R.S. § 23-901 AND when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

(vi) Professional Liability (Errors and Omissions Liability):

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract.

Each Claim	$1,000,000
Annual Aggregate	$2,000,000

In the event that the professional liability insurance required by this Agreement is written on a claims-made basis, Company warrants that any retroactive date under the policy shall precede the effective date of this Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Agreement is completed.

(d) Additional Insurance Requirements. The policies shall include, or be endorsed to include, the following provisions:

(i) On insurance policies where the City is named as an additional insured, the City of Glendale shall be an additional insured to the full limits of liability purchased by Company even if those limits of liability are in excess of those required by this Agreement.

(ii) Company's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

(e) Notice of Cancellation. Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided, or canceled, except after thirty (30) days prior written notice has been given to the City, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to Bill Bond, Tax and License Manager, City of Glendale, 5850 West Glendale Avenue, Glendale, Arizona 85301, and shall be sent by certified mail, return receipt requested.

(f) Acceptability of Insurers. Insurance is to be placed with insurers duly licensed or authorized to do business in the State of Arizona and with an "A.M. Best" rating of not less than B+ VI. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect Company from potential insurer insolvency.

(g) Verification of Coverage. Company shall furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

(h) All certificates, and any required endorsements, are to be received and approved by the City before work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of contract.

(i) All certificates required by this Agreement shall be sent directly to Jim Swaziek, CPPO Contract Analysts City of Glendale Attn: Materials Management, City of Glendale, 6829 North 58th Drive, Suite 202, Glendale, Arizona 85301. The City project/contract number and project description shall be noted on the certificate of insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time. DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY'S RISK MANAGEMENT DIVISION.

(j) Approval. Any modification or variation from the insurance requirements in this Agreement shall be made by the Risk Management Department, whose decision shall be final. Such action will not require a formal Agreement amendment, but may be made by administrative action.

14. FUND APPROPRIATION CONTINGENCY.

Company understands that the continuation of this Agreement after the close of any given fiscal year of the City, which ends on June 30, shall be subject to the budget of the City providing for this Agreement item as an expenditure therein. The City cannot assure that the budget item for funding this Agreement will be approved in the future because such

an assurance is a legislative and policy determination of the City Council at the time of the adoption of the budget. If the funding of the Agreement is not approved by the Glendale City Council, the City may terminate this Agreement as of the close of its fiscal year.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed and effective as of the day and year stated above.

TATA AMERICA INTERNATIONAL CORPORATION, a New York corporation

By: _____

Name: Satyanarayan S. Hegde

Title: Sr Vice President & General Counsel

Date: 11/9/09

CITY OF Glendale, an Arizona municipal corporation

By: _____

Name: Ed Beasley

Title City Manager

Date: November 16th, 2009

ATTEST:

_____

Pam Hanna, City Clerk

APPROVED AS TO FORM:

_____

Craig Tindall, City Attorney

Schedule A

INITIAL STATEMENT OF WORK
(Tax & License Information System Statement of Work)

Appendix A – Functions and Features

Appendix B – Interfaces

Appendix C – Training

Appendix D – Project Schedules

Appendix E – Project Cost

Appendix F – Change Control Form

Appendix G – Project Deliverable Acceptance Form

Appendix H – Usability Modifications

SCHEDULE A

Table of Contents

1.	**INTRODUCTION**	**3**
2.	**PROJECT SCOPE**	**4**
2.1	**CURRENT PROJECT SCOPE**	**4**
2.2	**POSSIBLE FUTURE PROJECT SCOPE**	**5**
3.	**PROJECT ORGANIZATION**	**6**
3.1	**PROJECT ORGANIZATION CHART**	**6**
3.2	**ROLES AND RESPONSIBILITIES**	**6**
4.	**METHODOLOGY**	**9**
5.	**DETAILED STATEMENT OF WORK**	**9**
5.1	**CONSTRAINTS AND ASSUMPTIONS**	**9**
5.2	**PROJECT MANAGEMENT**	**12**
5.3	**PROJECT CHANGE MANAGEMENT PROCESS**	**15**
5.4	**PROJECT QUALITY MANAGEMENT**	**15**
5.5	**PRODUCT IMPLEMENTATION**	**15**
5.5.1	PROJECT KICK-OFF / INITIATION	15
5.5.2	GAP ANALYSIS	15
5.5.3	DESIGN	15
5.5.4	CONFIGURATION AND CUSTOMIZATION	15
5.5.5	INSTALLATION AND ACCEPTANCE	15
5.5.6	IMPLEMENTATION	15
5.5.7	ONSITE SUPPORT AND WARRANTY	15
5.6	**DATA CONVERSION**	**15**
5.6.1	DATA CLEAN-UP	15
5.6.2	DATA CONVERSION STUDY	15
5.6.3	DATA CONVERSION DESIGN	15
5.6.4	DATA CONVERSION DEVELOPMENT AND TESTING	15
5.6.5	DATA CONVERSION IMPLEMENTATION AND ACCEPTANCE	15
5.7	**IMAGING**	**15**
5.7.1	REQUIREMENTS DEFINITION / DETAILED DESIGN	15
5.7.2	DEVELOPMENT / CUSTOMIZATION	15
5.7.3	INSTALLATION	15
5.7.4	TRAINING	15
5.7.5	ACCEPTANCE TESTING	15
5.7.6	POST ACCEPTANCE TEST SUPPORT	15

6. PROJECT SCHEDULE AND COST 15

6.1 PROJECT SCHEDULE 15
6.2 PROJECT DETAILED COST 15

7. SERVER HARDWARE AND SOFTWARE REQUIREMENTS 15

7.1 SYSTEM SERVER SIZING 15
7.2 TCS RECOMMENDATION 15

8. APPENDIX A - FUNCTIONS AND FEATURES 15

9. APPENDIX B – INTERFACES 15

10. APPENDIX C –TRAINING 15

11. APPENDIX D – PROJECT SCHEDULE 15

12. APPENDIX E – PROJECT COST 15

12.1 MANDATORY - CORE SOLUTION 15
12.2 MANDATORY - ANNUAL MAINTENANCE - YEARS 1 & 2 15
12.3 OPTIONAL – DATA CONVERSION 15
12.4 OPTIONAL – ADDITIONAL COMPONENT, INTERFACES 15
12.5 OPTIONAL - ADDITIONAL TAX MANTRA® TRAINING 15
12.6 OPTIONAL – ANNUAL MAINTENANCE FOR SUPPORT YEARS 3 TO 5 15
12.7 OPTIONAL – ANNUAL MAINTENANCE FOR SUPPORT YEARS 6 TO 10 15
12.8 OPTIONAL – ANNUAL MAINTENANCE FOR FUTURE SUPPORT YEARS 15
12.9 OPTIONAL – ADDITIONAL LICENSES FOR TAX MANTRA® 15
12.10 COST FOR ESCALATION OF PRIORITY ITEMS 15
12.11 TIME AND MATERIAL RATES 15
12.12 PROJECT PAYMENT MILESTONES 15

13. APPENDIX F – CHANGE CONTROL FORM 15

14. APPENDIX G - PROJECT DELIVERABLE ACCEPTANCE FORM 15

15. APPENDIX H USABILITY MODIFICATIONS 15

15.1 USABILITY MODIFICATIONS TO TCS TAX MANTRA® 15

1. Introduction

This Statement of Work, Schedule A ("SOW") is subject to and incorporated into the terms of the Master Services Agreement ("MSA"), between Company and the City.

Capitalized terms used but not defined in this Statement of Work shall have the meaning assigned to them in the Software License Agreement ("SLA") and the MSA. In the event that there is a conflict or inconsistency between the terms and conditions of this Statement of Work and those contained in the MSA, the terms of the MSA shall prevail, unless the Parties explicitly agree otherwise in writing.

Appendices to this SOW are incorporated herein as if fully set forth.

The City has licensed the following products, collectively referred to as "Licensed Software," under SLA from Company:

- Tax Mantra® which includes the following "modules":
  - Taxpayer Registration
  - Taxpayer Accounting
  - Payment Processing
  - Revenue Accounting
  - Correspondence
  - Case Management
  - Security
  - Reports
  - Utilities
  - Inquiry
  - Configuration
- E-Tax

The City will license at its costs, the following Impression Software products directly from Impression Technology

- Imaging solution which includes the following "modules":
  - iCapture Core
  - Form Definition Editor
  - Automated TransBuilder
  - iScanPlus
  - Image Enhancement
  - Post-Processor, Business Rule Engine
  - ICR/OCR Adaptor
  - ICR/OCR Processor

- Key Data Entry
- iExport Tax Mantra
- iExport Webxtender

2. Project Scope

2.1 Current Project Scope

The scope of work to be performed by Company and its subcontractors, collectively referred to as Company, is described in this SOW. In addition, certain, but not necessarily all, work to be performed by the City is described. City tasks that are direct dependencies to Company Project tasks are outlined in this SOW.

In the charts depicting roles and responsibilities, P identifies the party responsible for management and implementation of the work; S identifies the second party providing assistance. Assistance can include review, mentoring and knowledge transfer of both skills and particular information.

Company will begin to perform the Services described in this SOW following the execution of the MSA and SLA by both parties, and plans to complete the Services defined in this SOW according to the schedule in Section 6.1 – Project Schedule, subject to the terms of this SOW, any amendments of this SOW, and any approved Change Requests.

The Project Schedule reflects a comprehensive implementation package integrating all the Licensed Software and Implementation Services. This package is collectively referred to in this SOW as the Tax Mantra® Solution. The Project Schedule is aligned in multiple activities that are organized to deliver the system functionality in-line with City requirements. The multiple activities and the scope of components to be delivered in each are outlined below. Details on the specific activities, the responsibilities of each Party, and the deliverables associated with the activities are provided in Section 5 of this SOW "Detailed Statement of Work."

- Tax Mantra® product including the following components and related services:
  - Taxpayer Registration
  - Taxpayer Accounting
  - Payment Processing
  - Revenue Accounting
  - Correspondence
  - Case Management
  - Security
  - Reports
  - Utilities
  - Inquiry
  - Configuration

- Tax Mantra® eTax component
- License for one Crystal Report Server XI (Windows) with Crystal Report Server XI users 10 CAL
- Five (5) licenses for the Crystal Reports developer (Windows)
- Data Conversion
    - Study to determine the scope of data migration
    - Design, Extraction, Loading and Testing (will depend on the outcome of Data Conversion Study)
- Implementation services for the following Imaging Components (components will be procured by the City directly from Impression Technologies):
    - iCapture Core
    - Form Definition Editor
    - Automated TransBuilder
    - iScanPlus
    - Image Enhancement
    - Post-Processor, Business Rule Engine
    - ICR/OCR Adaptor
    - ICR/OCR Processor
    - Key Data Entry
    - iExport Tax Mantra
    - iExport Webxtender

2.2 Possible Future Project Scope

The City has the option to install the following additional module/functions of the Tax Mantra® solution:

1. Management Dashboard module.
2. Implement an interface with the City's Hansen 7.7 system.

The City can elect to move forward with the above two as part of this SOW and for the pricing outlined in Section 6.2 – Detailed Project Cost. The prices for these options are valid for sixteen (16) months from Project start at Project Kickoff meeting.

Details on the implementation approach, planning, and technical needs will be further defined at the point when City elects to move forward with these two modules. Scheduling of the implementation of these modules may impact the costing for implementation services.

3. Project Organization

3.1 Project Organization Chart

The Project will be organized in a way that is in line with TMIM and PMI guidelines. This Project structure will allow for the efficient and effective interactions on Project tasks and for Project management issues.

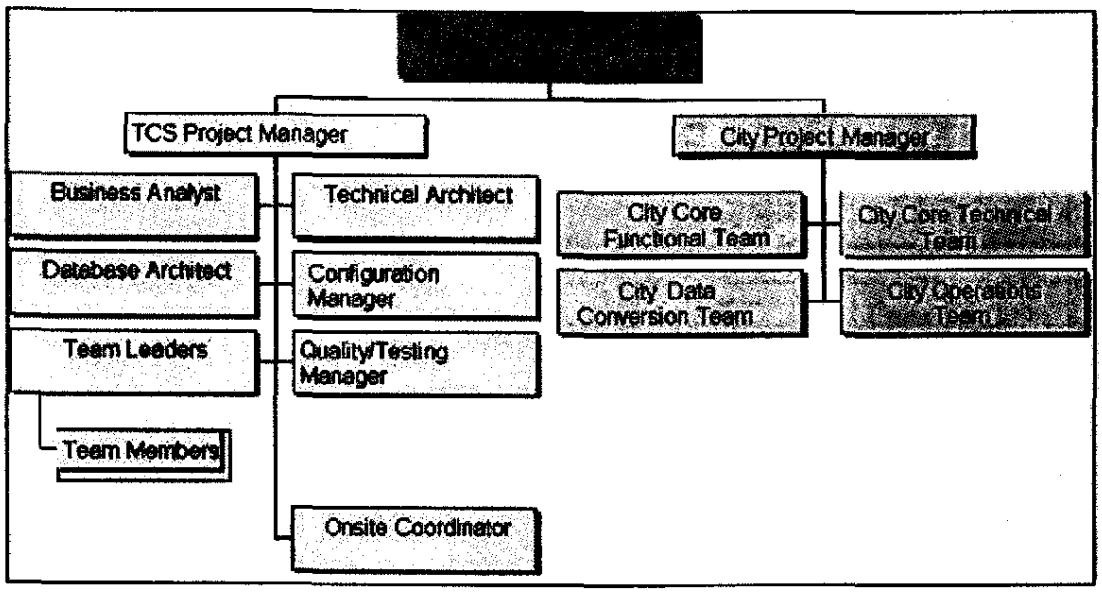


Figure 1 Project Organization Chart

3.2 Roles and Responsibilities

Company's and City's respective Project involvement and responsibilities are set forth in the roles and responsibilities matrices for the Duration Activities. General governing constraints and assumptions appear in the Detailed Statement of Work below, and those that are specific to an activity are listed at the end of each activity's matrix. In the table below, a high level description of each primary role on the Project is provided. A role may be fulfilled / staffed by more than one Company or City resource. One resource from either Company or City may fulfill more than one role.

Role	Type	Description
Escalation Working Group	Joint	The Escalation Working Group will be comprised of the City Project Sponsors and Company executive staff members. The Escalation Working Group reviews and approves Project issues that are escalated by the Project Managers.

Role	Type	Description
Project Manager	Company	Company Project Manager: The Company Project Manager will assume direct responsibility over Company project team resources. He will provide advice and assistance with regard to task management and work activities to the City Project Manager.
Project Manager	City	City Project Manager: The City Project Manager has overall responsibility for managing and directing all Project activities and will coordinate work activities with the Company Project Manager.
Onsite Coordinator	Company	Onsite Coordinator ("OC") plays a very crucial role in the proposed offshore-onsite implementation methodology. OC is the single point of contact between the City and the offshore team during all the offshore activities, namely the Design and Configuration and Customization, Development and Testing. OC possesses the requisite functional/technical skills to coordinate/facilitate with respective parties and answers the City and Company queries/clarifications as and when required. OC will adequately guide the City staff in Test Case and Test Data preparation, may be involved in the set-up of the Test and Production environments at City, and will coordinate delivery of Company Deliverables to City and vice versa.
Business Analyst	Company	The Company business analyst will be involved in Gap Analysis, Data Conversion Requirement Study, Design, and review/testing of all deliverables to City.
Technical Architect	Company	Evaluate, propose, validate approve and facilitate implementation of major architectural changes required in the product.
Database Architect	Company	All database administration activities for the development and the testing team for the offshore activities. This resource will also facilitate any Database Change Requests (DCR), their approval, validation and its implementation.

Role	Type	Description
Configuration Manager	Company	Responsible for maintaining different versions of the software and ensures that the team is always working on the latest copy of the software.
Team Leaders	Company	The team leaders are involved in design, customization and configuration of the software, code and test case review & integration testing
Quality / Testing Manager	Company	Responsible for ensuring that the software has been tested as per the specifications provided by the City.
Team Members	Company	Responsible for Unit Test Case preparation, Customization and Configuration, Unit Testing, Reviews and Documentation.
Functional Team	City	These staff will be responsible for various functional areas as they align with Tax Mantra® functionalities. The Subject Matter Experts (SMEs) are responsible for providing requirements, reviewing Project Deliverables, and providing sign-off on deliverables. Normally these SMEs are experienced individuals within the City that have been authorized to make decisions on behalf of the Project Team. The SMEs may take on various roles throughout the lifecycle of the Project.
Technical Team	City	The technical team will be responsible for all technical support and facilitations for the set-up of the training, testing and production environments as well as deployment of the upgrade releases from Company.
Data Conversion Team	City	This team will assist Company staff in Data Mapping from the existing database. The City team will be responsible for purification of data.
Operations Team	City	This team will be required during the acceptance-testing activity for doing the acceptance testing.

4. Methodology

Company's Project Management and Product Implementation Methodologies are utilized by Company in conjunction with the City's respective methodologies. The methodologies are reflected in the activities that are described in this SOW.

In order to meet Project objectives, Company will utilize the following methodology that is based upon Project Management Institute (PMI) principles, Company's proprietary Integrated Quality Management System (iQMS) methodology, and its extensive experience in implementing complex tax systems. The aforementioned principles and methodologies in conjunction with the "lessons learned" from other similar projects have been taken to develop a "best practices" approach towards implementation of the solution for the City.

This methodology provides for clearly defined milestones to achieve a timely, cost effective, and quality solution for the City. This approach will help exploit synergy with the City and thus lead to achievement of City objectives and the Company mission of "customer delight."

Milestones and reviews will be established between the Project Management at appropriate stages to facilitate Project monitoring, to keep the Project on track, and to see that expectations are in accord - early and continuously. Pre-defined deliverables at the end of each activity will enable the City to track the progress of the Project.

5. Detailed Statement of Work

5.1 Constraints and Assumptions

The following constraints and assumptions apply to all activities outlined in this section – Detailed Statement of Work:

1. The City is responsible for providing and maintaining the physical facilities required for the Project Team; including, without limitation, all of the following: conference rooms; overhead projectors; white boards; a desk, telephone and computer communication hook up for communication with the City's and Company's local and remote systems for each Project Team Member; computers and other facilities for training; printers; access to photocopier, scanner, fax machine; a Project work area; administrative support when requested. City will provide network access to the laptops carried by Company onsite staff. Company computers will comply with security standards defined by the City and be current with virus software. The City will provide their security standards to Company in advance. Company will need Internet access to the Company network for communication. Company staff will also need to have access to the City's network for Project related documents and software. At least one of the conference rooms will be dedicated to the Project Team throughout the Project lifecycle so that the Company on-site team and the City on-site team are easily accessible to each other. The City will make available, as needed, additional conference rooms for breakout meetings that will be required. Company expects to have a maximum of 5 personnel on site at any one time. Company may have additional staff on-site as needed to perform work activities, but these additional staff will not need desk work space. It is anticipated that for additional staff either

existing Company desk work area and/or conference room workspace will be used.

2. The City may provide secure remote access in accordance with the City's security standards as provided. When given such access the contractor will act in accordance with the City's security standards and will only use such access for the purpose of fulfilling the requirements of the agreement.

3. The term "Hardware" as used herein shall mean both the hardware and any system or other third party software required for the Project, other than software that is part of the Tax Mantra Solution. Company has identified the Hardware required to load and operate the Licensed Software and required third party software and to perform Project activities for the phases of the Project. The City will identify and review the final Hardware configuration with Company to ensure sufficient lead times to acquire and make ready the Hardware with effective performance. The City will provide and maintain, in satisfactory operating condition, a working Hardware platform with sufficient capacity to load and operate the Licensed Software and required third party software and to perform Project activities for the Project. The Hardware must have all required network interfaces to provide user access to printing and terminal facilities in at least one training location. Company assumes that the Hardware platform will be fully operational for that activity of the Project prior to Company's arrival on-site for any particular activity.

4. The City will be responsible for system administration and management activities on the platforms belonging to the City, including, but not limited to, establishing regular backup procedures to secure the new operating environment, and general system housekeeping activities. Company will provide information and guidance as to what is expected regarding system administration. Such activities may include, at the request of Company, management of the Licensed Software delivered to or being developed on the City platforms.

5. The City will be responsible for procuring at its cost, the licenses and the support for all components of Imaging, i.e., Impression Software required for implementation of Tax Mantra Solution as required under this SOW, including authorization for Company to use such Impression Software at Company Offshore location for the Project duration.

6. The City will assign a core team staff for the duration of the Project, and will identify additional Subject Matter Experts (SMEs) who will be available as per the Project Schedule and at other times as required for each party to accomplish its work. Each party's staff will be present at all required meetings, training sessions, workshops, and the like. The City's staff will be sufficiently knowledgeable of the City's business processes, technical environment, and detailed subject matter, to answer questions posed by Company, upon which answers Company may rely. The City team members will be authorized by the City to make decisions for the City concerning the requirements and functionality of the system and other aspects of the Project.

7. Each party's performance and effectiveness is dependent in many cases on the timeliness and quality of the other party's activities and deliverables. The City and Company intend to perform and complete work per the Project Schedule in Section 6.1, as it may be modified from time to time by mutual consent. Any Project delays will be documented and escalated to the Steering Committee as part of the Change Request process.

8. Training Expectations: The City will provide knowledgeable employees trained in information services operations, relational database management system administration, and use of the hardware platform on which the applications software is installed. Company will provide end-user training to City or other City designated staff to act as trainers; Company will "train the trainers". Company will provide competent trainers with good communication skills who are knowledgeable of the product and customizations to the product.

9. Deliverables, once accepted by the City, cannot be changed without an equitable adjustment through the Change Request process as defined in the MSA.

10. It is the explicit intent of the parties for the City to utilize the standard Licensed Software plus the functional algorithms referenced in Appendix A: Functions and Features Checklist with modifications based on a review of the functions and features during Gap Analysis. Should the standard Licensed Software not be able to accommodate functionality that may be identified by the City, the City may elect to change its requirement or expand the scope of the Agreement to include investigation of how best to meet the City requirement. Any such expansion of scope will be subject to completion of a Change Request, which is agreed to and executed by the parties.

11. Whenever a Change Request is executed by the parties it shall state the agreed upon adjustment in fees, costs, schedule and other contract terms and conditions, as appropriate. The approval by the City of any Change Request referenced in this SOW shall be subject to the contract approval requirements of the City.

12. The City or Company may need to change any team member assigned to the Project at any time. New City or Company team members will be assigned with the same or similar skill sets as quickly as possible. The City and Company desire to keep all staff assigned to the Project for the duration of the Project; any unanticipated changes to staff on the Project will require analysis of any impact.

13. City will set-up the VPN and FTP access facilities for the Company offshore team and provide appropriate access. Company staff on-site in Glendale will use their own calling cards to call India from City phones.

14. City will be responsible for review and sign-off of all Project Deliverables within 5 business days of submission of the deliverables or other mutually agreed to timeframe. (Where the expected size of the deliverable / review material is large, sections of the deliverables will be scheduled for review during respective Project activity(ies).

15. Any material changes to any of the following require a Change Request for approval, modification or denial, as specified in Section 2 of the MSA: change in scope, cost or schedule.

5.2 Project Management

It is understood and agreed by the parties that all services shall be performed in accordance with the terms of the MSA (including this SOW) and deliverables shall be subject to inspection and approval of the City according to the Acceptance Procedure described in the MSA. Mutually agreeable deliverable acceptance criteria will be developed during the Project Initiation activity and a Certificate of Acceptance will be signed off when either the Company or City deliverable meets the criteria for acceptance. (See Appendix G for a template of the Certificate of Acceptance).

Company will provide the following Project management services:

- A Project Manager to monitor the performance and progress of the overall Project who shall have decision-making authority for those issues where Company is the responsible party. The Company Project Manager shall be reasonably available as needed.
- Project Manager will be responsible for the overall management of the Company Project activities and deliverables as described in this SOW, as well as management of any third party resources hired by Company to provide services within this SOW. Neither the Company Project Manager nor Company shall be responsible for the quality and/or timeliness of activities and deliverables that are solely the responsibility of the City. Such responsibility shall remain vested with the City. Company shall notify the City in accordance with the Communication Plan of any material schedule or quality deviations regarding the Project Deliverables.

The Company Project Manager will coordinate with the City Project Manager to timely accomplish all the scheduled tasks as represented in the attached Project Schedule, Section 6.1.

The City will provide the following Project Management Services:

- An Executive Steering Committee to monitor the performance and progress of the overall Project and who shall have decision-making authority. The Executive Steering Committee shall be reasonably available as needed.
- A Project Manager who has overall responsibility for Project execution. The City Project Manager will direct and manage the City's activities and deliverables as described in this SOW, as well as management of any third party resources hired by the City to provide services as part of this Project. The Company Project Manager is responsible for the overall management of Company resources and will provide guidance and advice as necessary to the City Project Manager. The City Project Manager will maintain communication between the parties, manage the City team members, coordinate the City activities with the Company Project Manager, and provide assistance on activities as needed to keep the Project on schedule. The City Project Manager is responsible for reporting status to the City Steering Committee members. The City Project Manager is responsible for the City's and the City's third party's adherence to the Project Schedule. Additionally,

the City Project Manager will serve as the main contact for the Project and will escalate issues as necessary.

Company is responsible for the quality of Company activities and deliverables; the City is responsible for the City activities and deliverables. It is the understanding that both parties need to be intimately involved in the successful execution of the Project.

	Project Management Activities	Description	Responsibility	
			TCS	City
1.	Company Project Management	Company Project Manager responsible for management of Company team members and sub-contractors. The Company Project Manager directs activities and deliverables for which Company is responsible under this SOW.	P	S
2.	City Project Management	The City Project Manager is responsible for the overall Project schedule and the management of the City's Project activities. The City Project Manager is responsible for working with the Company Project Manager to coordinate activities and deliverables that are the responsibility of the City. In addition, the City Project Manager is responsible for ensuring the quality and timeliness of activities and deliverables of the City staff and sub-contractors.	S	P

	Project Management Activities	Description	Responsibility	
			TCS	City
3.	Planning; Duration Plans	The Company Project Manager is responsible for driving the management of the items or activities listed below, as required. Company Project Manager provides advice and assistance to the City Project Manager. Project Schedule – Company provides schedule of Company activities. This is a joint effort with the City having responsibility to meet their respective business objectives. Project Management Plan that will include the following: • Deliverables Plan • Quality Plan • Risk Plan • Issue Resolution Plan • Change Request Management Process • Project Document Management Plan. • Communication Plan • Project Organization	P	P
4.	Feedback / Reporting	The City Project Manager is responsible for the management of the items or activities listed below. Company Project Manager provides advice and assistance to the City Project Manager. Each Project Manager contributes the content for the activities and deliverables that are their responsibility and other items relative to their respective organizations in accordance with the Communication Plan that may include: Weekly and Monthly Status Reports. Hold Project Team meetings Attend Steering Committee meetings	S	P

	Project Management Activities	Description	Responsibility	
			TCS	City
5.	Strategies	The Company Project Manager will coordinate with the City's Project Manager in the management and delivery of the items or activities listed below. • Conversion strategy • Interfaces strategy • Application Configuration and Maintenance strategy • Hardware and Software Configuration and Management strategy • Test Strategy • Cutover and Rollout Strategy	S	P
6.	Financial / administration Management	The City Project Manager and Company Project Manager are responsible for the management of the items or activities listed below, as appropriate to their organizations and team members. • Invoices & Payment Authorizations • Time reporting • Vacation planning • Payment Schedule • Scope/change control	P	P

5.3 Project Change Management Process

If City or Company makes any proposal for any change, alteration or modification of the agreed Specifications or scope of Services and Deliverables specified in the Agreement a "Change Control Form" shall be prepared (format give in Appendix F). This is done as soon as practicable upon realization that the scope of the Project should be changed. Notification shall be given after Company's receipt of a Change Control Form from City, or if Company desires to propose a Change Control, Company shall prepare and submit to City a written Change Control Form using the same format. Such change request form and process shall include terms and conditions proposed by Company in order to implement the Change Request as soon as reasonably practicable. Such terms and conditions shall include, without limitation, a description of the requested change (the "Change") and an estimate of:

(a) additional fees and expenses payable by City to Company as a result of the implementation of the Change Request; and

(b) any expected impact, if any, the Change Control Form shall have on the Project schedule.

On City's written approval of the Change Control Form, the approved change order proposal ("Change Order") shall become effective, and Company shall take such steps as are necessary to implement the Change Order.

No Change to the Agreement shall be binding on the Parties unless the Change is embodied in a written Change Order. Each of City and Contractor, acting reasonably, shall negotiate the terms and conditions of any Change Request with a view to reaching agreement on such terms and conditions and executing and delivering a Change Order as soon as practicable.

5.4 Project Quality Management

Company and City agree to implement a Project Quality Management Plan utilizing the guiding principles of the Company iQMS. The Project Quality Control Plan will be developed and mutually agreed to during the Gap Analysis activity of the Project.

5.5 Product Implementation

5.5.1 Project Kick-off / Initiation

The purpose of Project Kick-off / Initiation is to prepare for the implementation of the Licensed Software. The main focus is on preparing the Project Team and the infrastructure for the analysis effort. If needed, some scope clarification is performed. A kick-off meeting is held to get the Project Team together (both the City and Company team members). The kick-off meeting will introduce the team to the Company Project Schedule and the process that will be used for implementing the Tax Mantra® Solution. The Licensed Software is presented as part of the Gap Analysis sessions in order to begin the training process for the City's staff. The overview provided is not "traditional" classroom type training but is instead presented in the context of a Gap Analysis session.

5.5.1.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Prepare Draft Project Management Plan	Gather needed information and work on all components of Project Management Plan. This will be input to the Kick-off Meeting presentation. Components of the Project Management Plan include: • Deliverables Plan • Quality Plan • Risk Plan • Issue Resolution Plan • Change Request Management Process • Project Document Management Plan. • Communication Plan • Project Organization	P	P
2.	Prepare Project Kick-off Presentation	Complete and review for acceptance the Project Kick-off meeting presentation.	P	S
3.	Conduct Project Kick-off meeting	Present the Kick-off Meeting presentation and answer questions regarding the implementation approach.	P	S
4.	Refine Company Project Schedule	The overall schedule may be amended and refined upon mutual agreement between Company and the City. Company will draft the initial Company Project Schedule with all Company Project activities. The work tasks and deliverables identified in this Statement of Work will be included in the initial Company Project Schedule to be refined as work progresses. The City will contribute to development and refinement of the plan.	P	P

	Tasks	Description	Responsibility	
			TCS	City
5.	Prepare Acceptance Criteria	City and Company to define Acceptance Criteria for all activities and deliverables as part of this Project activity.	S	P
6.	Project Kick-Off Activity approval	Company and the City to review entire activity and deliverables. Completed with a Sign-off on Acceptance form.	P	P

5.5.1.2 Constraints and Assumptions

Any significant changes in scope from this SOW will be documented as Change Requests to be reviewed and approved or rejected.

The City team members and SMEs in addition to Company staff attend the Kick-Off Activity meeting.

The team facilities (such as the facilities listed at Section 5.1 (1) above are available.

5.5.1.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	Project Kick-Off Meeting Presentation	Presentation in MS PowerPoint format	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)
2.	Project Kick-off Meeting	Meeting	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)
3.	Draft Project Schedule	Electronic MS Project copy	Formal preparation, refinement, and review as part of this activity. (Note this deliverable will be finalized and accepted in the next activity – Gap Analysis)
4.	Acceptance Criteria	Electronic (MS Word)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)
5.	Tax Mantra® Base User Manuals	Electronic (PDF)	Formal acceptance that manuals have been received by the City.

5.5.2 Gap Analysis

During this activity key users will be provided an overview (initial training) of the Tax Mantra® product as part of workshops for Gap Analysis. This overview will help the key users in understanding the functional features of the Tax Mantra® product. This will be followed by Gap Analysis where Company will validate the City requirements against the Tax Mantra® functionality. All the validations and enhancements to the requirements for any implementation sequence will be properly documented in accordance with the product implementation plan. Company will interact with City personnel to fully understand the scope, purpose and implication of each requirement.

Company will prepare a Gap Analysis Document in this activity. This document will contain a matrix that will document the outcome of a match between Tax Mantra® and the City's detailed requirements. This document will also identify the customization and configuration required in Tax Mantra®. Before the commencement of the subsequent activity, City will need to review and approve the Gap Analysis Document in a timely manner.

This activity has the following objectives:

- Provide an understanding of the Tax Mantra® product to key users
- Understand and validate the requirements
- Discuss each functional module using the Tax Mantra® screens
- Match the City requirements with Tax Mantra® and surrounding components functionality
- Document the outcome of a match between Tax Mantra® and City requirements
- Document any major deviations in functionality from the Tax Mantra® product
- Capture the master data, used for configuration of Tax Mantra® with City
- Finalize case flows
- Review the report layouts and correspondence for any changes to the static text with customer
- Review interface sources for data exchange between Tax Mantra® and external systems and finalize the format for data exchange
- Prepare an Acceptance Test Plan that will outline how the system will be tested
- Begin preparing Acceptance Test Scenarios that will detail how each function of the system will be tested to confirm requirements are met.

5.5.2.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Conduct Gap Analysis Work Sessions	Sessions will begin with an overview of each functional module by using the application screens for City SMEs. Sessions will review requirements from the RFP related to each functional module in order to bring necessary clarification to the Company and City team in alignment with Tax Mantra®.	P	S
2.	Conduct meetings to gather requirements, specifications, and detailed data associated with requirements	Conduct one-on-one interviews, workshops, meetings, and review documentation necessary in order to gather information on City requirements.	P	S
3.	Prepare Gap Analysis Document	Company will take results from Gap Analysis Work Sessions along with follow-on discussions and document outcome of match between City requirements and Tax Mantra®.	P	S
4.	Update Project Plan as needed per Gap Analysis	Company and City PM will update the Master Project Plan as needed based upon activities and information as part of this activity. If needed, the formal Change Management Process will be utilized.	P	P
5.	Prepare Acceptance Test Plan (ATP)	City will work to define and finalize a plan for testing the fully implemented system. Company will assist by providing examples of previous ATPs as well as providing answers to questions regarding preparation of plan.	S	P
6.	Prepare Draft Acceptance Test Scenarios	City will work to define Acceptance Test Scenarios that will be used by Acceptance Testers to test the implemented solution. Company will provide assistance by providing examples of previous Acceptance Test Scenarios as well as providing answers to questions regarding preparation of scenarios.	S	P

5.5.2.2 Constraints and Assumptions

- City SMEs and supporting staff must be available to participate in Gap Analysis sessions as scheduled.
- City SMEs and supporting staff must be available to provide follow-on data, documentation, and responses to queries from Company.
- Gap Analysis sessions will be scheduled in advance jointly with City. Company will require conference room large enough to facilitate sessions with a whiteboard and projector.
- City SMEs should have reviewed and be prepared to address questions related to the RFP published requirements.
- City SMEs should be versed in the business processes currently leveraged and potentially leveraged in the future in alignment with Tax Mantra® solution.

5.5.2.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	Acceptance Test Plan (ATP)	Electronic (MS Word)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)
2.	Gap Analysis Document	Electronic (MS Word)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)
3.	Draft Acceptance Test Scenarios	Electronic (MS Word)	Formal preparation, refinement, and review as part of this activity. (Note this deliverable will be finalized and accepted in the next activity – Design)

5.5.3 Design

During this activity the design for the requirements further clarified and documented in the Gap Analysis document is prepared. The design will address any needed customizations identified during Gap Analysis that are needed to meet required functionality. The design documents will also encompass identified interfaces and will be used by both the City and Company to complete necessary legacy application modifications and Tax

Mantra® customizations respectively. The City is involved in the review and acceptance of design documents.

The draft Acceptance Test Scenarios that were prepared during Gap Analysis activities are finalized and accepted by Company and City during this activity. Acceptance Test Scripts based on the finalized Acceptance Test Scenarios are drafted during this activity and finalized during the Configuration and Customization activity.

5.5.3.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Prepare High level design documents	Design documents are prepared by Company in alignment with Gaps identified as needing customizations to base Tax Mantra® software.	P	S
2.	Review high level design documents	City in conjunction with Company will review proposed design documents to ensure proposed design will meet City requirements and effectively remediate identified Gaps.	P	P
3.	Design Document (for Legacy Application and other city systems)	Design documents are prepared by City in alignment with Gaps identified as needing customizations legacy applications and /or any other city system and for interfaces.	S	P
4.	Review Design Document (for Legacy Application and other city systems)	Company in conjunction with City will review proposed design documents to ensure proposed design will effectively remediate identified Gaps needing customizations to legacy applications and /or any other city system and for interfaces.	S	P
5.	Finalize Acceptance Test Scenarios	City will work to finalize the details for Acceptance Test Scenarios. Company will review Acceptance Test Scenarios and accept.	S	P
6.	Prepare draft Acceptance Test Scripts	City will work to detail out Acceptance Test Scenarios in the form of Acceptance Test Scripts. This will be a detailed, step-by-step account of how to test a particular portion of functionality that should be present in the system including the required input data and expected output for each step. This will also identify the test data required for these Test Scripts.	S	P

5.5.3.2 Constraints and Assumptions

- Design documents will be prepared by Company in accordance with Company standard format.
- Review and Acceptance of Design documents by City will primarily be from the standpoint to confirm that proposed design meets requirements and addresses Gaps identified during Gap Analysis activities.
- Review and Acceptance of Acceptance Test Scenarios by Company will primarily be from the standpoint to ensure that City is taking reasonable steps and detail necessary to test functionality of Tax Mantra® solution. These Acceptance Test Scenarios will be used additionally during System and Integration Testing activities performed by Company during the Configuration and Customization set of activities.

5.5.3.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	Design Documents	Electronic (MS Word)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)
2.	Design Document (for Legacy Application and other city systems)	Electronic (MS Word)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)
3.	Final Acceptance Test Scenarios	Electronic (MS Word)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)
4.	Prepare draft Acceptance Test Scripts	Electronic (MS Word)	Submission of draft Acceptance Test Scripts for review.

5.5.4 Configuration and Customization

This activity covers the configuration and customization of the Tax Mantra® product as per the overall Project plan and in alignment with Gap Analysis document items. The Tax Mantra® baseline solution will be configured so that it can be implemented. Necessary customization components will be coded

and fully tested. Customization includes necessary components to interface to City external systems. This activity includes unit, system, and integration testing activities of the Project for both configured and customized Tax Mantra® solution. This testing will be done at Company location in preparation for the Installation activity that will occur on-site at City.

During this activity Acceptance Test data will begin to be prepared and provided by City. This approach permits the City to define the full extent of the acceptance test, gain assurance that the product is in line with requirements and begin to take ownership of the product.

5.5.4.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Configure Tax Mantra®	Company will configure Tax Mantra® based upon City requirements and items mutually agreed upon and further documented in the Gap Analysis document.	P	None
2.	Customize Tax Mantra®	Company will develop necessary components according to Designs created, reviewed, and accepted during the Design activity of the Project and documented in the Design Document.	P	None
3.	Prepare Unit Test Plan and Unit Test Cases	Company will define Unit Test Plan and Cases needed to test the customizations created.	P	None
4.	Perform Unit Testing	Company will unit test the Tax Mantra® solution to ensure that all customizations are performing as expected and in-line with requirements.	P	None
5.	Prepare System Test Plans and System Test Cases	Company will define System Test Plan and Cases needed to test the configurations setup and customizations created.	P	None
6.	Perform System Testing	Company will System Test the Tax Mantra® solution to ensure that all configurations and customizations are performing as expected and in-line with requirements.	P	None

	Tasks	Description	Responsibility	
			TCS	City
7.	Extract Data	City will extract subsets of data from legacy system(s). This data will be supplied to Company for the purposes of testing the configured and customized solution. This extract will only include a subset of data from legacy sources. The exact data, the volume of data, and the formats of data will be determined jointly between City and Company. Company will determine if data is usable in testing application.	S	P
8.	Update Training Manuals	Company will update and deliver to City training manuals.	P	S
9.	Installation Manual	Company will deliver base Tax Mantra® installation manual(s).	P	S
10.	Data Dictionary Document	Company will deliver a Data Dictionary giving the details of all database objects such Tables, Views etc and their attributes.	P	S
11.	Update User Manual	Company will update and deliver to the City the User Manual.	P	S

5.5.4.2 Constraints and Assumptions

- Configurations and Customizations will be done based upon designs formulated, reviewed, and accepted in previous Design activity.
- All Unit and System Testing will be solely a Company responsibility. This will be done at Company location and City will perform no testing activities.

5.5.4.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	System Tested Configured and Customized Tax Mantra® application	Application Software	City will provide Acceptance through acknowledgement that it has been delivered to City site.

	Deliverable	Deliverable Type	Approval Process
2.	Tax Mantra® Training Manuals	Electronic (PDF)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)
3.	Tax Mantra® Installation Manual	Electronic (MS Word)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)
4.	Tax Mantra® User Manual	Electronic (PDF)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)
5.	Extracted Data for Testing purposes	Data in files or tables	Formal Sign-off as part of Acceptance that data has been delivered and is usable by TCS testing team. 5% of data – Accounts, periods.
6.	Data Dictionary Document	Electronic	Formal Sign-off as part of Acceptance that Data Dictionary has been delivered and is usable by City. (Certificate of Acceptance)

5.5.5 Installation and Acceptance

This activity will commence with Company installing the application (previously delivered during the Configuration and Customization activity) in the City test environment. This activity is done in a way that City ITD personnel will provide assistance as needed as well as one-on-one support / mentoring in accordance with the training approach outlined in Appendix C – Training.

TCS will conduct the train-the-trainer sessions for City identified Trainers. In turn, City Trainers will need to provide training to City staff identified as Acceptance Testers and all other users of the system. Technical Training will be provided to ITD technical staff during this activity as outlined in Appendix C – Training.

Acceptance test cases and data, pre-defined by the City Project Team, will be used by the City Acceptance test team to test the configured and customized Tax Mantra®. City will report defects encountered in writing to Company. Once a defect has been identified, it will be categorized and classified based on the guidelines established before the beginning of Acceptance testing in accordance with the Test Plan.

Any unresolved defects pending on the last day of the Installation and Acceptance testing activity will be documented and agreed to by City and Company. The next aspect of this activity is correcting all defects found during the Acceptance Tests.

Resolution of the defects by TCS, as per the established acceptance criteria, will constitute acceptance of the configured Tax Mantra® by the City.

The Acceptance Test activity of the Project will require significant interaction and participation from City personnel. The City is expected to ensure that this activity is completed within the scheduled time. For this, it is very important that City assigns personnel on full time basis for this activity.

For the successful completion of this activity, City will have to make sure that the other applications that need to interface with the application must either be available or be simulated to provide sample data as required by the interface files of the application. Also all hardware and software resources as well as sufficient number of City personnel should be available on a full time basis for participation and completion of this activity.

5.5.5.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Preparation of Test Environment	City ITD staff will work to install necessary hardware and software needed in preparation for installing the Tax Mantra® application.	S	P
2.	Install	Company will work with City ITD staff to install Tax Mantra® components into the test environment and verify that all are installed correctly.	P	P
3.	Train the Trainers	Company will conduct training for City identified Trainers. This training will include training for Crystal reports.	P	S
4.	Update User Manual	Company will update the User Manuals to reflect updates needed based upon training and Acceptance Testing Activities.	P	S
5.	User Training	City Trainers will train (minimally) those users that will be conducting Acceptance Testing activities and all other users of the system	S	P
6.	Acceptance Test	City identified Acceptance Testers will perform Acceptance Testing activities per the Acceptance Test Plan, Acceptance Test Scenarios, and Acceptance Test scripts. Defects will be captured, logged, and communicated to TCS throughout this process.	S	P

	Tasks	Description	Responsibility	
			TCS	City
7.	Acceptance Test Defect / Issue Resolution	Company will work with City throughout post Acceptance Testing to resolve and fix identified issues and defects with the configured and customized application.	P	S
8.	Acceptance Test of Defect fixes	City identified Acceptance Testers will perform Acceptance Testing activities for those items identified as defects and subsequently resolved by Company.	S	P
9.	Approval of Application	Company and City will jointly review Installation, Acceptance, and resolution activities and ensure that Acceptance Criteria (defined earlier in the Project) are met.	P	P

5.5.5.2 Constraints and Assumptions

- Installation of configured and customized Tax Mantra will be done in environment that City has prepared and setup. This task may be begun prior to the start of this activity.
- Both formal classroom and one-on-one mentoring and training will be conducted during this activity.
- Acceptance Testing will begin immediately after the training is completed. There will be no gap between these activities.
- Company and City will work jointly to correctly categorize Acceptance Test defects / issues that are reported.
- Acceptance Testing activities will be limited to the duration as outlined in the Project plan. Any change to this duration for any reason will require a Project Change Management Request.
- Testing of fixes for reported Acceptance Test defects will be limited to the duration as outlined in the Project plan. Any change to this duration will require a Project Change Management Request. In addition, Acceptance Testing activities during this period will be limited to testing of fixes for those defects reported.

5.5.5.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	Acceptance of Configured Tax Mantra®	Paper (and electronic MS Word copy)	Formal Sign-off and Acceptance that Tax Mantra ® (configured and customized) modules have been delivered, installed, Acceptance Tested, and identified defects resolved. (Certificate of Acceptance)
2.	Updated User Manual	Electronic (PDF)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)
3.	Training	Classroom Sessions	Formal Review, Sign-off as part of Activity Acceptance that training has been delivered as planned to City Trainers. (Certificate of Acceptance)

5.5.6 Implementation

Company and the City will carry out this activity jointly and will immediately commence after the completion of acceptance testing of the application. The goal of this activity is to install the Accepted Tax Mantra application in the City's production environment. Company will provide support to the City to conduct the roll out of the application in the City production environment. The City will plan for, prepare, and install the Tax Mantra application in the production environment. Company will provide support to these activities.

5.5.6.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Planning for Production Environment	City will plan for setting up the production environment. This includes all necessary hardware and software for components that are in scope. City is responsible for aligning all necessary City resources (people and infrastructure) needed to plan for the production environment being setup. Company will provide needed support and answer questions related to the setup of the production environment.	S	P

	Tasks	Description	Responsibility	
			TCS	City
2.	Preparation of Production Environment	City will install and configure all necessary hardware and software components needed for the Tax Mantra production environment based upon technical specifications provided by Company and the Plan prepared for this install.	S	P
3.	Verification of Production Environment	City will perform necessary verification that production environment components are installed and configured correctly before Tax Mantra® install takes place. TCS will assist City in performing these verifications.	S	P
4.	Install in Production Environment	City will install Tax Mantra® (core application and all components) into the verified Production Environment. Company will provide support as needed to ensure installation is complete within planned timeframe.	S	P
5.	Final go-live Data Conversion	City will initiate the final Data Conversion routines to migrate data from Source (Legacy) to Target (Tax Mantra®). Final manual clean-up and verification that Data Conversion was successful will be performed by City. Company will support and assist in monitoring Data Conversion routines to help ensure they are completed successfully.	S	P
6.	Go-Live	Upon verification that production install was successful and that data conversion activities are complete and successful the City will communicate to City users that the new Tax Mantra® is live.	S	P

5.5.6.2 Constraints and Assumptions

- Specifications for necessary environment components have been provided to the City and are outlined in Section 7 of this Agreement. Changes to these specifications as a result of Project activities will be communicated to City via formal project communication methods.
- Company will verify and validate necessary components of system environment at City request. Verification will be provided in writing back to City.

- Additional software or hardware needed by City to setup the environment will be procured by City.
- At a minimum, the environment should be ready for Tax Mantra install before start of Install and Acceptance Testing activity.

5.5.6.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	Implemented Tax Mantra System in Production Environment	Electronic (Software Components)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)

5.5.7 Onsite Support and Warranty

The Post-Implementation Support (Onsite Support) provided to the City consists of on-site Company staff to address troubleshooting and problem resolution when needed. The Company Tax Mantra® one year warranty period and Onsite Support start on Go Live. The three month period of Post-Implementation support overlaps with the first three months of the warranty period. The services provided during the Onsite Support and warranty period will include analysis, troubleshooting, Tax Mantra maintenance releases and documentation updates.

5.5.7.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	On-Site Support	The on-site support person will be based at the City project work area and will be available onsite for issues reported during the three (3) month onsite support period. The support person's activities include analysis, troubleshooting, program code updates, installation media, and documentation updates. Company on-site support staff will work with primary Tax Mantra support group (off-shore) to provide complete support to City.	P	S
2.	Warranty	Company will provide one (1) year of warranty support to resolve defects encountered	P	S

5.5.7.2 Constraints and Assumptions

- On-Site Support Period will start on Go-Live. See previous activity description for description of Go-Live.

- On-Site Support Period will end three (3) calendar months after start date. For example, if On-Site Support period starts on August 1, 2010 then On-Site Support period will end on October 31, 2010.
- For the three (3) onsite support period, Company on-site support staff will work with Company Tax Mantra support group (offshore) to provide complete support to the City. During the remaining warranty period, City's interactions will be done through standard Tax Mantra® reporting channels (via Tax Mantra Support email and Tax Mantra phone).
- City staff will be available as needed to support the Company On-Site Support staff during their work hours. This may include after hours during the week and on-weekends.

5.5.7.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	On-Site Support Acceptance	Paper (and electronic MS Word copy)	Formal Sign-off that On-Site Support as outlined in this Statement of Work have been provided to City for a period of three (3) calendar months. (Certificate of Acceptance)
2.	Warranty Support Acceptance	Paper (and electronic MS Word copy)	Formal Sign-off that Warranty as outlined in this Statement of Work have been provided to City for a period of 1 year. (Certificate of Acceptance)

5.6 Data Conversion

The Data Conversion activities consist of multiple sub-activities that will be conducted as a "sub-project" within the core Tax Mantra® implementation. The following sub-activities are covered in this section:

- Data Clean-Up
- Data Conversion Study
- Data Conversion Design
- Data Conversion Development and Testing
- Data Conversion Implementation and Acceptance

As part of the initial contract scope, Company team will conduct a Data Conversion Study as per section 5.6.2 mentioned below. At the end of Data Conversion Study, the final scope of data migration will be frozen. This scope will include the number of years of existing data to be migrated and the type of data that needs to be migrated.

Company team will work out an estimate at the end of Data Conversion Study based on the finalized scope. This estimate will cover Data Conversion Design, Development & Testing and Implementation & Acceptance. This change in scope will be addressed as a Change Order. A final decision on this Change Order must be taken by the City within one week of submission of the Change Order to avoid any impact to the Project cost and overall schedule.

The cost for Data Conversion Study has been included in the Implementation Services cost mentioned in Section 12.1 and cost for remaining Data Conversion phases is included in Section 12.3 of this document.

5.6.1 Data Clean-up

During this activity, City will perform activities to clean-up data that has been identified (previous to Project start) as needing clean-up. This may involve manual or programmatic clean-up activities. It may also involve purging and archiving of data from legacy data source(s) so they are not included in subsequent Data Conversion activities.

5.6.1.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Legacy Data Clean-up	City will clean-up data in preparation for Data Migration to Tax Mantra®. Methods used for clean-up are at City's discretion. Company will advise City so that data clean-up efforts can be aligned with data desired in Tax Mantra®. This clean-up activity may run concurrent to other Project activities and may affect the final data conversion effort.	S	P

5.6.1.2 Constraints and Assumptions

- City will use whatever tools, techniques, or manual efforts necessary to clean-up legacy data that they determine applicable.

5.6.1.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	Clean Legacy Data	Document of Completion	Sign off by City Project Manager.

5.6.2 Data Conversion Study

During the Data Conversion Study activity, TCS will discuss with the City the scope of data conversion. At the end of this activity, the results of the study including the data conversion plan will be documented in the Data Conversion Requirements Analysis (DCRA) document. This will also contain the layout of Intermediate File formats in which the City will provide the existing data as input to the data conversion application. City should review and approve the DCRA document in a timely manner before the start of the subsequent data conversion activity.

Company will prepare a Change Order for doing data conversion based on the inputs captured in this study phase.

5.6.2.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Finalize Intermediate File layouts	Company will work with City to define the layout needed for intermediate data. This intermediate data source will be where City's data will be extracted before Company takes it to pull into Tax Mantra® data stores.	P	S
2.	Study existing data and data structures	Company will work with City provided data and data structures to understand how legacy data is stored.	P	S
3.	Assess condition of legacy data	Company will work with City to gather and assess portions of representative legacy data to assess how difficult the data will be to migrate. Company will assess both the cleanliness of the data and the structure of the data. City will extract and provide representative samples of jointly agreed upon subsets of data.	S	P
4.	Prepare Conversion Requirements Analysis deliverables	Company will define all requirements for data conversion. This will include but may not be limited to: Intermediate File layouts, business rules for conversion, relationships between data elements and between different data structures, and file mapping matrices.	P	S

	Tasks	Description	Responsibility	
			TCS	City
5.	Prepare change order for Data Conversion	Company will work with the City to finalize the scope of Data Conversion.	P	S

5.6.2.2 Constraints and Assumptions

- The Acceptance Test Plan for Data Conversion will be a part of the Tax Mantra® Acceptance Test Plan defined in Gap Analysis activity of the Project.
- City IT and Business teams will participate in the source-target and target-source mappings, and will provide information and clarification to the Company team.

5.6.2.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	Data Conversion Requirements Analysis Document	Paper (and electronic MS Word copy)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)
2.	Approved Data Conversion Change Order	Paper	Formal approval by the City.

5.6.3 Data Conversion Design

This will be taken up only if the Data Conversion Change Order is approved by the City.

During this activity, the primary objective will be to design the data conversion programs including extraction, purification and load programs. This design will be based on the Intermediate File formats defined during the Data Conversion Study activity. At the end of this activity, the results will be documented in Design documents. Prior to the commencement of the subsequent activity, City and Company will review and accept these Design documents.

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5.6.3.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Prepare Data Conversion Design Specifications – Extract Programs & Load Programs	Company will create design specifications for extraction of data from Legacy data source(s) to the intermediate file layouts previously defined during the Data Conversion Study activity. Company will create design specifications for load programs into the Tax Mantra® intermediate Data Base from intermediate files. Company inputs will be from intermediate file layouts previously defined during the Data Conversion Study activity. City will review and approve these specifications.	P	S
2.	Prepare Data Conversion Acceptance Test Scenarios	City will work to define Data Conversion Acceptance Test Scenarios that will be used by Acceptance Testers to test the implemented solution using migrated data. Company will provide assistance by providing examples of previous Acceptance Test Scenarios as well as providing answers to questions regarding preparation of scenarios.	S	P

5.6.3.2 Constraints and Assumptions

- The design for the Data Conversion Extract programs will be written by the City. The City team will be responsible for review of the same.

5.6.3.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	Data Conversion Design Document	Paper (and electronic MS Word copy)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)
2.	Data Conversion Acceptance Test Scenarios	Paper (and electronic MS Word copy)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)

5.6.4 Data Conversion Development and Testing

This will be taken up only if the Data Conversion Change Order is approved by the City.

This activity covers the programming, unit testing and system testing activities of the data conversion application and extraction programs. It includes development of programs using the program specifications, unit testing of these programs and system testing of the application. Technical clarifications for the Project Team will be obtained from City by the TCS on-site coordinator.

5.6.4.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Develop Data Conversion Extraction Programs & Load Programs	Company will code the extraction programs to move Legacy data source(s) to the intermediate file layouts previously defined during the Data Conversion Study activity. Company will also code load programs from moving data into the TM intermediate Database from intermediate files. Company inputs to these programs will be from intermediate file layouts previously defined during the Data Conversion Study activity.	P	S
2.	Prepare Unit Test Cases	Company will prepare necessary Unit Test Cases to test extraction and load of migrated data.	P	S
3.	Perform Unit Testing	Company will execute Unit Test Cases to confirm modules are performing as expected and per specifications.	P	S
4.	Prepare System Test Cases	Company will prepare necessary System Test Cases to test respective multiple components of extraction and load of migrated data.	P	S
5.	Perform System Testing	Company will execute System Test Cases to confirm modules are performing as expected and per specifications. System testing will be performed where there are multiple components / modules that need to be executed in succession in order to achieve either the intermediate file layout or creation of data into the intermediate Tax Mantra® Database tables.	P	S

	Tasks	Description	Responsibility	
			TCS	City
6.	Prepare Data Conversion Test Bed	City and Company will work jointly to handoff data where applicable so that multiple components of the Data Migration design can be run in succession to test overall effectiveness in migrating data. City and Company will work together to determine where this level of preparing the Data Conversion Test Bed is applicable. It is expected that multiple iterations will be run. Each iteration will be run with progressively more data into each iteration.	P	P
7.	Provide sample data	City will provide sample data to the Company offshore team to test the extract and load programs. Company will provide feedback on the rejected data to City.	S	P
8.	Delivery of Data Conversion Programs	Company will deliver their extraction and load programs to the City test environment for subsequent Implementation.	P	P
9.	Prepare Data Conversion Acceptance Test Scripts	City will define the details for the Data Conversion Acceptance Test Scenarios in the form of Acceptance Test Scripts. These scripts will define how the application will be tested with migrated data.	S	P

5.6.4.2 Constraints and Assumptions

- City will test the extraction programs internally before the sample data is provided to Company for testing the load programs.
- Company will test the load programs using manually created data until sample extraction data is provided by City. The manual creation of data will be based upon the specifications of the intermediate file layout and the Data Conversion Study.

5.6.4.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	System Tested Data Conversion Programs	Programs	Formal Sign-off as part of Activity Acceptance that modules have been delivered. (Certificate of Acceptance)

	Deliverable	Deliverable Type	Approval Process
2.	Data Conversion Acceptance Test Scenarios	electronic (MS Word)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)
3.	Data Conversion Acceptance Test Scripts	electronic (MS Word)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)

5.6.5 Data Conversion Implementation and Acceptance

This will be taken up only if the Data Conversion Change Order is approved by the City.

The acceptance testing of the application with converted data and the acceptance testing of the configured and customized Tax Mantra® product will be carried out independently. The acceptance of the data conversion application should be completed before the start of Tax Mantra® acceptance testing.

This activity will commence with Company installing the data conversion application at City's site in the test environment. City is expected to arrange that the acceptance testing using converted data commence immediately, using the acceptance test cases and associated data supplied to Company earlier. Defects reported by City, in writing during this period, will be rectified as per the mutually agreed acceptance criteria. City may have to modify extraction programs and Company may have to modify load programs based upon situations encountered. This activity of the Project will require significant interaction and participation from City personnel. City is expected to ensure that this activity is completed within the scheduled time.

5.6.5.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Install Data Conversion Programs	City will set up the test environment including servers and databases. Company and City will install the Data Conversion Load Programs in test environment.	P	P
2.	Provide Sample data	City will provide sample data to Company to test Extract and load programs.	S	P

	Tasks	Description	Responsibility	
			TCS	City
3.	Acceptance Testing of Data Conversion Programs	The data conversion extract and load programs will be executed. The loaded data in Tax Mantra® database will be verified by the City. The City will accept the programs based on the test scripts defined earlier.	S	P
4.	Resolve and Verify reported defects	All rejected records and other errors will be analyzed. The errors in Data Conversion Programs will be fixed by the Company. City will provide necessary support and guidance in analyzing the issues.	P	P
5.	Resolve and Verify identified data clean-up	City will resolve all issues and errors related to data clean-up and purification.	S	P
6.	Sign-off and Acceptance of Data Conversion Programs	City will provide an acceptance of the Data Conversion programs.	S	P
7.	Mock Conversion with Incremental volume of data	Complete cycles of extraction and load routines will be done for 5% of data, 50% of data and 100% of data to be converted.	P	P

5.6.5.2 Constraints and Assumptions

- The acceptance of Data Conversion will be dependent on both the extraction and the load programs.
- Interaction is very high during this activity to perform troubleshooting, analysis, and solution identification between City business and ITD staff and Company.

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5.6.5.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	Acceptance of Data Conversion Programs	Paper (and electronic MS Word copy)	Formal Sign-off as part of Activity Acceptance that data conversion modules have been delivered, installed, and run to convert data. Further that Acceptance Tests against migrated data were successful by the City.(Certificate of Acceptance)

5.7 Imaging

The Imaging activities consist of multiple sub-activities that will be conducted as a "sub-project" within the core Tax Mantra implementation. The following activities are covered in this section:

- Requirements Definition / Detailed Design
- Development / Customization
- Installation
- Training
- Acceptance Testing
- Post Acceptance Testing Support

5.7.1 Requirements Definition / Detailed Design

5.7.1.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Requirements Definition	The first section of the RD/DD combined document listing the solution requirements that will be tested during Acceptance	P	S
2.	Forms Redesign Workshop	Recommendations regarding the redesign of standard forms to optimize automated ICR/OCR recognition; included in RD/DD	P	S
3.	Create Detailed Specifications	Final System Design specifications that will document the customization of the iCapture.	P	S

5.7.1.2 Constraints and Assumptions

- City will provide in advance of the Forms Redesign effort samples of the current forms that are in use today.
- The City will maintain the responsibility for the final design of all forms and for the normal reproduction of these forms to support tax operations
- City Subject Matter Experts must be available as required during the interviews and working sessions to complete the RD/DD.

5.7.1.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	Requirements Definition and Design Document (RD/DD) including Forms Redesign Specifications	Paper (and electronic MS Word copy)	Formal Review, Sign-off as part of Activity Acceptance. (Certificate of Acceptance)

5.7.2 Development / Customization

5.7.2.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Perform Customization of Imaging Application Components	Once the City approves the final RD/DD the iCapture software is customized in accordance with this document	P	S
2.	Factory Acceptance Test	Factory Acceptance Test (FAT) will be conducted at the Impression facilities in Walnut Creek, California. Company and City staff may participate in this activity.	P	S
3.	Create Distribution Release	On completion of FAT, a complete distribution release media will be developed and tested to support the on-site installation and integration.	P	S

5.7.2.2 Constraints and Assumptions

- City and Company staff may participate in the FAT activities. Company and City will be responsible for the travel and lodging expenses of their respective staff.
- The forms that will be used for final Acceptance must be available at least two weeks prior to the start of FAT, whether redesigned or "as-is".
- Customization and FAT activities will be done based on the approved RD/DD document accepted in the previous activity.
- City will be required to provide FAT materials based on the approved RD/DD, including the versions of the final forms to be processed.

5.7.2.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	Delivered Distribution Release	Electronic	Formal Sign-off as part of Activity Acceptance that Distribution Release has been delivered.(Certificate of Acceptance)

5.7.3 Installation

5.7.3.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Installation and Preparation of Target Imaging Environment	All required hardware as defined within the RD/DD including the defined Operating systems, backup software, domain security / privileges, networks are setup by City in preparation for installation of Imaging Components.	S	P
2.	Install of Imaging Components	The Distribution Release created in the previous activity is used to install the iCapture and Imaging components onsite at City. At its discretion, ITD staff of City is invited to participate in the required installation and integration tasks as these individuals will have an on-the-job training (OJT) opportunity.	P	S

	Tasks	Description	Responsibility	
			TCS	City
3.	Deliver Documentation	Documentation for Imaging Components is delivered to City. The following will be delivered: • iQueueMonitor Configuration Guide • iNetDispatch Configuration Guide • iEditor Configuration Guide • iStatViewer Configuration Guide • iQMonitor User Guide • iScan User Guide • iEditor User Guide • iStatViewer User Guide	P	S

5.7.3.2 Constraints and Assumptions

- Install will be to single "physical" environment at City and the City will be responsible for the installation, configuration and unit testing of the *planned Data Capture and Imaging infrastructure* per the requirements of the approved RD/DD.
- The City will be responsible for all networking and communications per the requirements of the RD/DD.
- Multiple "logical" environments can be configured during install if specified within the approved RD/DD and supported by the installed City infrastructure.
- City is responsible for the definition of the roles-based security model for system end users and the configuration of this model within the Active Directory supporting the designated Data Capture and Imaging domain.
- City staff will be available to assist in the resolution of any infrastructure issues or defects during the installation period.

5.7.3.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	Documentation	Paper	Formal Sign-off as part of Activity Acceptance that Imaging Documentation has been delivered.(Certificate of Acceptance)
2.	Installed Imaging Components	Electronic	Formal Sign-off as part of Activity Acceptance that Imaging Components have been installed.(Certificate of Acceptance)

5.7.4 Training

5.7.4.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Training Participants	City will need to identify participants for training and ensure they are scheduled on needed days.	S	P
2.	Prepare Training Materials	Company will prepare training materials to be used in training for Data Capture and Imaging hardware and software.	P	S
3.	Prepare Training Environment	City will setup and schedule the training classroom. Access to the Data Capture and Imaging environment and needed setup will be done prior to the classes.	S	P
4.	Conduct Training	Onsite training that is comprised of both formal classroom sessions and 'hands-on' practice so that the designated staff can become proficient in the management, operations and support of the delivered Imaging components.	S	P

5.7.4.2 Constraints and Assumptions

- City will need to prepare / schedule classrooms for training. This includes a workstation for each attendee connected to the LAN.

- All classes are limited to a maximum of five (5) attendees.
- Company will work with City to identify staff to attend training. This should include City staff who will be responsible for training additional staff (due to class size limits) as well as future City staff. This will be a "Train-the-Trainer" approach for the use of the installed imaging solution.
- Training will be done using the previously installed environment of the City.

5.7.4.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	Training Materials	Paper / Electronic	Formal Sign-off as part of Activity Acceptance that Training Materials have been delivered.(Certificate of Acceptance)
2.	Training Sessions	Classroom Sessions	Formal Sign-off as part of Activity Acceptance that classroom training sessions have been held with City staff.(Certificate of Acceptance)

5.7.5 Acceptance Testing

5.7.5.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Prepare Acceptance Test Scripts based on the approved RD/DD	Test Scripts for Data Capture and Imaging to demonstrate compliance with City requirements cited in the approved RD/DD.	P	S
2.	Execute the Data Capture and Imaging Test Scripts of the Acceptance Test Plan	Execute each Test Script with the participation of appropriate City staff.	P	S

5.7.5.2 Constraints and Assumptions

- Internal Company System level testing completed and no identified defects that would prevent the successful completion of Acceptance Tests.
- Training completed.
- All required test materials for the execution of each test prepared by the City and ready for use.
- City staff available as required throughout the duration of the Acceptance Tests.

5.7.5.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	Acceptance Test Plan Scripts	Paper / Electronic	Formal Sign-off as part of Activity Acceptance that Acceptance Test Plan Scripts have been delivered.(Certificate of Acceptance)
2.	Acceptance Test Materials	Paper / Electronic	Formal Sign-off as part of Activity Acceptance that Acceptance Test Plan Material have been prepared and used as part of Acceptance Testing. (Certificate of Acceptance)
3.	Acceptance of iCapture and Imaging Application	Electronic	Formal Sign-off as part of Activity Acceptance that iCapture and Imaging applications have been accepted. (Certificate of Acceptance)

5.7.6 Post Acceptance Test Support

5.7.6.1 Tasks

	Tasks	Description	Responsibility	
			TCS	City
1.	Onsite support	Company, through Company Imaging Subcontractor, Impression Technology, will provide 5 days of onsite support once the application has been accepted by the City. This on-site support can be scheduled any time after AT but it must be 5 continuous days on-site.	P	S

	Tasks	Description	Responsibility	
			TCS	City
2.	Onsite Support – Tax Mantra Go Live	Company, through Company Imaging Subcontractor, Impression Technology, will provide 5 consecutive days of onsite support during implementation of Tax Mantra®. Additional on-site support can be scheduled any time after AT but it must be 5 consecutive days on-site..	P	S
3.	Warranty Support	TCS will provide one (1) year of warranty support to resolve defects encountered	P	S

5.7.6.2 Constraints and Assumptions

- Acceptance Testing successfully completed.
- Warranty period begins with production operations of Data Capture and Imaging.
- Five (5) days of on-site support must be scheduled a minimum of two weeks in advance.

5.7.6.3 Exit Criteria

	Deliverable	Deliverable Type	Approval Process
1.	Onsite Support (At Imaging Go Live)	Services	Completion of 40 hours of support after Acceptance Test;
2.	Onsite Support (At Tax Mantra Go Live)	Services	Completion of 40 hours of support after Acceptance Test;
3.	Warranty	Services	Support for City staff in accordance with the Impression Technology Maintenance and Support Plan.

6. Project Schedule and Cost

6.1 Project Schedule

A high level schedule of the Tax Mantra® Solution is provided in the Appendix D. The schedule will be refined and become more detailed during the Project. The

schedule may be amended to increase scope only upon mutual agreement between Company and the City, as described and approved in a Change Request, with equitable adjustment.

6.2 Project Detailed Cost

Project scope has been defined by the City and Company. Based upon professional experience, Company has provided the City with estimates of the work effort required to successfully complete this Project. As a result, Company is expected to provide the level of work effort and associated pricing as stated within this agreement. If either party modifies the scope of this Project it will be documented using the Project Change Control Process and be mutually agreed to by Company and the City. The impact of changes on the Project Schedule and cost will be documented as part of the change control process and will be incorporated as part of the change control request and approval process.

Company will provide the professional services and training services identified in this Statement of Work on a fixed price basis as specified in the Appendix E along with the payment schedule.

Invoices will be submitted along with Project Deliverables due from Company. Payment will be due forty five (45) days after submission of invoice.

Expenses have been included within Company's' fixed price. The City will not be charged for any expenses incurred by Company. However, the City will pay actual expenses for any travel required outside the City if required as part of this Project.

7. Server Hardware and Software Requirements

The hardware configuration listed below is specific to the Licensed Software and applies to a dedicated hardware and software environment. These sizing will be reviewed as part of the Gap Analysis activity.

7.1 System Server Sizing

Server sizing is based on the number of users, service points, quantity of on line history and level of customization. Company recommended server sizing is based on a Company projected load of 50 users.

7.2 TCS Recommendation

Based upon these sizing considerations Company has recommended the following minimum server configurations. Company has reviewed and confirmed that the following configurations will support the use of the Licensed Software. The City will work with Company on a final configuration during Project Initiation and the Gap Analysis Activities.

The following diagram and table captures notes associated with the Tax Mantra® system diagram. Please note that specifications are for the PRODUCTION Tax Mantra® environment and include all components proposed for the City including:

- Tax Mantra
- E-Tax

- Imaging (includes iCapture)

Company recommends that for the separate Test / Development environment the specifications follow those as outlined for the Production environment. This will ensure that application and performance testing will reflect "production like" environment.

The following table describes third party software required to deploy Tax Mantra® and e-Tax solution.

The City may elect to operate Tax Mantra® in a Virtual Machine environment. If required, Tax Mantra® operates in a Virtual Machine environment.

Additionally, the City may elect to deploy Tax Mantra® on SQL Server 2008, Windows Server 2008 operating system. Company will work with the City to evaluate the feasibility of a deployment of Tax Mantra® on SQL Server 2008 and Windows 2008. Tax Mantra® can meet these requirements but analysis of third party components must be conducted to determine if they are qualified to run under SQL Server 2008 and Windows Server 2008.

Company will prepare and present the City with a final listing of all necessary software as determined during Gap Analysis.

Tax Mantra	
Adhoc Reports	COGNOS
Application Server	Weblogic 9.3
Web Server	Microsoft IIS 6.0
Internet security	SSL certificate
Database	SQL Server 2005
Canned Reports and Correspondence	Crystal Report Designer & Crystal Report Server to be supplied by the Company.[1]
E-Tax	
Application Server	Tomcat 5.5
Web Server	Microsoft IIS 6.0
Internet security	SSL certificate

[1] Crystal Report Designer and Crystal Report Server to be supplied by the Company

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Database	SQL Server 2005
Imaging	
Database	SQL Server 2005
Document Management	WebXtender
Ad Hoc and Custom Reporting	
Adhoc Reports	Crystal Report designer & Crystal report server XI

Table 1: Third Party Software

The following table describes the recommended hardware for Production environment:

Hardware	Software Installed	Purpose	Quantity
(Pentium, Xeon MP 3.33GHz, 1MB) X 4; 36.4GB X 810K-rpm SCSI HS SL HDD; 8GB RAM	• Operating System: Windows 2003-Enterprise edition • Application Server: Weblogic 9.3	Application Server for Tax Mantra®	2
(Pentium, Xeon MP 3.33GHz, 1MB) X 2; 36.4GB X 810K-rpm SCSI HS SL HDD; 4GB RAM	• Operating System: Windows 2003-Enterprise edition • HTTP (IIS 6.0) server	Web Server for Tax Mantra®	1
(Pentium, Xeon MP 3.33GHz, 1MB) X 2; 36.4GB X 810K-rpm SCSI HS SL HDD; 4GB RAM	• Operating System: Windows 2003-Enterprise edition • Crystal Report Server XI Rel 2	Report Server for Tax Mantra®	1
(Pentium, Xeon MP 3.33GHz, 1MB) X 4; 36.4GB X 810K-rpm SCSI HS SL HDD; 8GB RAM	• Operating System: Windows 2003-Enterprise edition • Database Server: SQL Server 2005 SP2	Database server	2
(Pentium, Xeon MP 3.33GHz, 1MB) X 2; 36.4GB X 810K-rpm SCSI HS SL HDD; 4GB RAM	• Operating System: Windows 2003-Enterprise edition • Application Server: Tomcat 5.5	E~Tax Application Server	2
(Pentium, Xeon MP 3.33GHz, 1MB) X 2; 36.4GB X 810K-rpm SCSI	• HTTP (IIS 6.0) server	E~Tax Web Server	1

HS SL HDD; 4GB RAM			

Table 2: Recommended Hardware – Tax Mantra®

Tables 11, 12, and 13, which follow, provide the preliminary specifications for all required Imaging solution hardware. These specifications will be fully determined during the Detailed Design. Table 11 provides the information on a Kodak scanner that has been successfully used on the other similar projects. Tables 12 and 13 provide the preliminary specifications for the two recommended iCapture Servers and these specifications will also be confirmed with the City during the design phase of the engagement.

iCapture Scan Station Hardware	Description	Quantity
PC	Intel® Core™2 Duo Processor E6300 (2MB L2 Cache,1.86GHz,1066 FSB), 1GB RAM, 160GB ATA HD with 20" Flat Panel Monitor	2
Scanner	Kodak i260 Scanner Document Capture Scanner	2
Options	Kodak i200 (i250 i260 i280) Scanner Series Kodak Dockable Flatbed	2

Table 3 Recommended Scanning Subsystem Hardware

iCapture Image Server Hardware	Description	Quantity
PowerEdge 1950 III	Dual Core Intel® Xeon® E5205, 6MB Cache, 1.86GHz, 1066MHz FSB	1
Additional Processors	Dual Core Intel® Xeon® E5205, 6MB Cache, 1.86GHz, 1066MHz FSB	
Memory	8GB 667MHz (4x2GB), Dual Ranked DIMMs	
Backplane	1x2 Backplane for 3.5-inch Hard Drives	
Hard Drive Configuration	Integrated SAS/SATA No RAID, SAS 5/i Integrated	
Primary Controller	SAS 5/i Integrated, No RAID	
2nd Controller and HBAs	None	
Primary Hard Drive	146GB, SAS, 3.5-inch, 15K RPM Hard Drive	
2nd Hard Drive	146GB, SAS, 3.5-inch, 15K RPM Hard Drive	
3rd Hard Drive	None	
4th Hard Drive	None	

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Network Adapter	Dual Embedded Broadcom® NetXtreme II 5708 Gigabit Ethernet NIC	
PCI Riser	Riser with 2 PCIe Slots	
Chassis Configuration	Rack Chassis w/Sliding Rapid/Versa Rails and Cable Management Arm,Universal	
Tape Backup Software	None	
Operating System	Windows Server® 2003 R2, Standard Edition, Includes 5 CALs	
Documentation	Electronic Documentation and OpenManage CD Kit	
Additional Documentation	None	
Bezel	Rack Bezel	
Power Supply	Redundant Power Supply with Y-Cord	
Remote Management	Dell Remote Access Card, 5th Generation for PowerEdge Remote Management	
CD/DVD Drive	24X IDE CD-ROM	
Server Accessories	None	
Mouse	No Mouse Option	
Hardware Support Services	3Yr GOLD ENTERPRISE SUPPORT: 7x24 HW/SW,Escalation Mgmt,4hr 7x24 Onsite	

Table 4 iCapture Image Server Preliminary Specifications

iCapture SQL Server Hardware	Description	Quantity
PowerEdge 1950 III	Dual Core Intel® Xeon® E5205, 6MB Cache, 1.86GHz, 1066MHz FSB	1
Additional Processors	Dual Core Intel® Xeon® E5205, 6MB Cache, 1.86GHz, 1066MHz FSB	
Memory	8GB 667MHz (4x2GB), Dual Ranked DIMMs	
Backplane	1x2 Backplane for 3.5-inch Hard Drives	
Hard Drive Configuration	Integrated SAS/SATA No RAID, SAS 5/i Integrated	
Primary Controller	SAS 5/i Integrated, No RAID	
2nd Controller and HBAs	None	
Primary Hard Drive	146GB, SAS, 3.5-inch, 15K RPM Hard Drive	
2nd Hard Drive	146GB, SAS, 3.5-inch, 15K RPM Hard Drive	
3rd Hard Drive	None	

4th Hard Drive	None	
Network Adapter	Dual Embedded Broadcom® NetXtreme II 5708 Gigabit Ethernet NIC	
PCI Riser	Riser with 2 PCIe Slots	
Chassis Configuration	Rack Chassis w/Sliding Rapid/Versa Rails and Cable Management Arm,Universal	
Tape Backup Software	None	
Operating System	Windows Server® 2003 R2, Standard Edition, Includes 5 CALs	
Documentation	Electronic Documentation and OpenManage CD Kit	
Additional Documentation	None	
Bezel	Rack Bezel	
Power Supply	Redundant Power Supply with Y-Cord	
Remote Management	Dell Remote Access Card, 5th Generation for PowerEdge Remote Management	
CD/DVD Drive	24X IDE CD-ROM	
Server Accessories	None	
Mouse	No Mouse Option	
Hardware Support Services	3Yr GOLD ENTERPRISE SUPPORT: 7x24 HW/SW, Escalation Mgmt,4hr 7x24 Onsite	

Table 5 iCapture SQL Server Preliminary Specifications

8. Appendix A - Functions and Features

The functions and features are defined in the RFP and in the Company response to RFP requirements. The functions and features originally defined in the RFP and further refined and detailed in the subsequent Company response to RFP requirements (Dated June 4, 2009 Proposal), are attached to this document and form the basis for the work to be performed under this SOW.

9. Appendix B – Interfaces

The following interfaces will be implemented as part of the customization for the City:

(1) **PeopleSoft GL (v 8.8)** - Tax Mantra® needs to interface with PeopleSoft v 8.8. This includes interface with PeopleSoft GL and interface for passing data on business refunds to the PeopleSoft payables management system. There will be one interface file for GL and one interface file for Refunds.

(2) **System Innovators-iNovah Cashiering** - Tax Mantra® needs to interface with iNovah Cashering system. There will be one interface file for iNovah Cashiering interface.

10. Appendix C –Training

The following describes the suggested training methodology approach for the City.

Training Approach

The City is dedicating full time resources to the Tax Mantra® project. One objective to this commitment of staff is to begin the process of the City staff taking ownership of the system before, during and, most importantly, after implementation. Company encourages and appreciates this level of support to the Project.

Further, Company recommends that City staff be actively involved in the user training of Tax Mantra®. Experience has shown that system acceptance is achieved with better results through a Train-the-Trainer approach. For City , Company is proposing a Train-the-Trainer approach. Under this approach, system ownership occurs during the train the trainers sessions and in the user training sessions, the users are more comfortable learning and collaborating with their peers. Company has successfully followed this approach for multiple client engagements.

Training is provided to key City staff and these staff members will be responsible for training other City staff as identified by the City. It is recommended that the set of trainees trained by the Company staff include Project Team Members, Administrative staff and staff with Tax Processing experience.

In addition to the "trainers" identified by the City to participate in training, the City will need to identify a Training Manager. The Training Manger from the City will be responsible for certain administrative functions such as attendance, class reporting and others. In order to assure a quality training experience, Company recommends a class size of no more than ten (10) participants. Courses will be conducted interactively, with students performing the tasks on their workstations after the trainer has discussed them. The trainer will lead the students through the tasks.

Company will conduct one 5 day session for Tax Mantra® training including e~tax, administration and configuration training for upto 10 participants. This will be a five (5) day training course conducted together for the ten (10) users.

Company will also provide Crystal Reports developer training for up to ten (10) users to enable them to design new reports and forms in Crystal Reports and configure the same in Tax Mantra®. This will be a three (3) day training course conducted together for the ten (10) users.

Company requests that classroom facilities be fully operational no later than one week prior to commencement of training. Both training of the City trainers and subsequent training of all City staff will be coordinated with other Project tasks and will be conducted prior to testing of the system.

Training Plan

Implementation of the training plan will include the following steps and be part of the detailed plan for the entire Project:

- Identify City Training Manager
- Identify City Trainers
- Identify City staff to be trained

- Define / Discuss training environment needs
- Assess training material updates
- Update training materials as needed
- Deliver training materials
- Assist in mapping City staff to roles
- Update course content, based on any specific customization
- Confirm course to role course mappings
- Deliver training to City Trainers
- Assist in evaluating City Trainer effectiveness

Training Methods

Training will be delivered with a combination of Classroom training, Hands On training, One on One Support/Mentoring, and Technical Training.

- **Classroom Training:** The classroom training sessions are those in which the audience will be assembled in a classroom and the Company personnel will conduct classroom style training. These sessions will comprise presentations, demonstrations and clarifications, based on either the functional prototype or the application, if the training environment is available at the time of these sessions. The training manuals will be the training aid for conducting these sessions. This will also include training for Tax Mantra® product and design reports using Crystal Reports Designer.
- **Hands-On Training**: Hands on Training will be conducted by the onsite support Company staff on the job.
- **One-on-One Support / Mentoring**: This training will involve a City resource being involved side-by-side with the Tax Mantra® support person. This will aid in knowledge transfer and build up of application knowledge.
- **Technical & Administration Training:** The technical & administration training sessions will be conducted in the same way as that of the classroom training except the audience in the technical training session will be the IT Staff. These sessions are targeted to those responsible for operations of the system. Primary attendees will be IT. However, business experts may attend the session on Correspondence Maintenance.

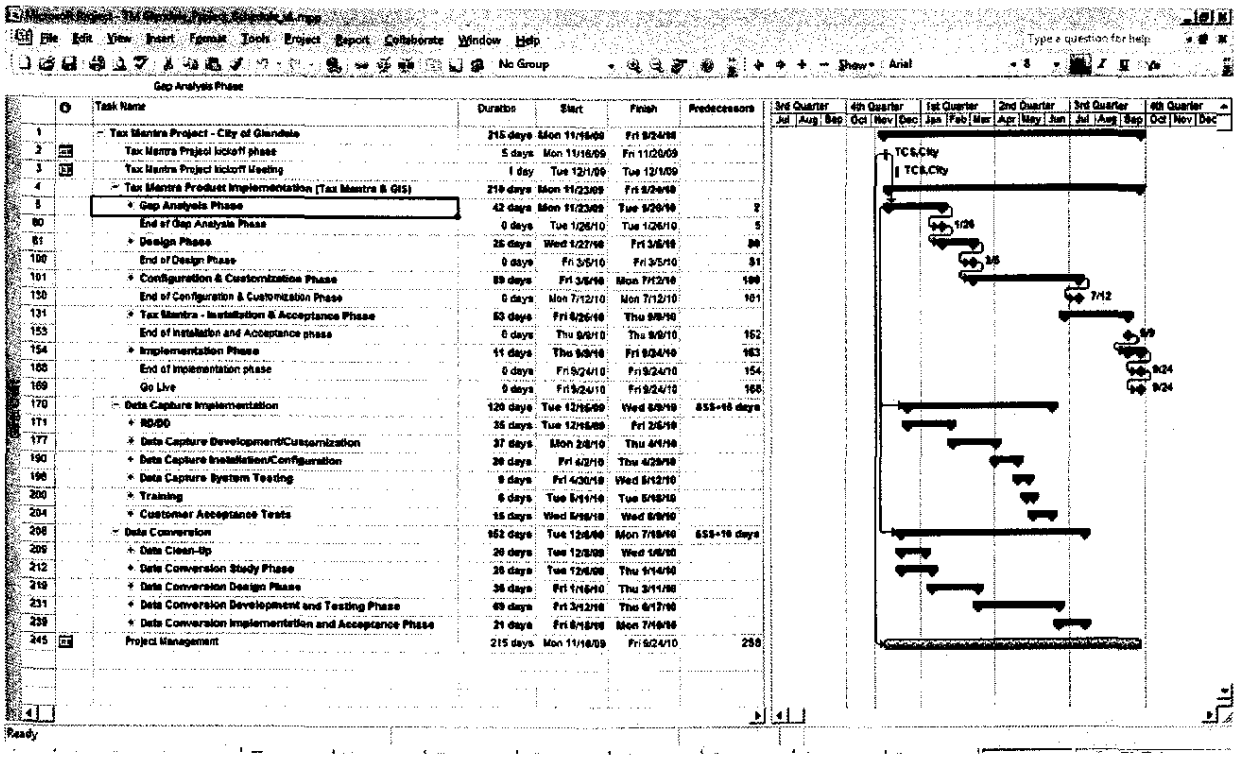
Impression Formal Training Courses

The Table below provides a description of the formal Training Classes that will be conducted by Impression Technology.

Courses Title	Duration	Prerequisite	Description
iQMonitor User Training	½ day	Students should have Windows	This course introduces *iCapture*™ and the related components to the key data

Courses Title	Duration	Prerequisite	Description
		experience including the use of a mouse prior to attending this class.	entry managerial or supervisory staff. It will cover all aspect of monitoring the system using the ***iQMonitor*** utility.
iStatViewer User Training	½ day	Students should have Windows experience including the use of a mouse prior to attending this class.	This course introduces ***iStatViewer*** and ***iStatistics*** to the potential users interested in generating reports to evaluate performance and productivity of users and processes on the system.
iCapture™ Administration Training	2 days	Students should have basic Windows 2003 server and XP workstation administration experience.	This course introduces ***iCapture***™ and the related components to the system administrative and development staff. It will cover all aspect of configuring, monitoring, and troubleshooting the system.
iFormEdit User Training	½ day	Students should have Windows experience including the use of a mouse prior to attending this class. Basic knowledge of programming language may be useful.	***iFormEdit*** is a form definition tool that is used to introduce forms into the system. It allows the form administrator and development staff to map and associate various field-attributes to specific region of the form image for the purpose of recognition and data capture. A well-defined and carefully thought-out form definition will improve the recognition accuracy, and the system throughputs.
iSL Developer Training	½ day	Some programming language experience may be useful.	Form related, application-specific business rules may easily be expressed in ***iSL*** and captured data may be validated and "scrubbed" before presentation to ***iEditor*** operators or export. This course will introduce the ***iSL*** language syntax, built-in functions, development approach, and troubleshooting techniques.

11. Appendix D – Project Schedule



	Task Name	Duration	Start	Finish	Predecessors
1	Tax Mantra Project - City of Glendale	215 days	Mon 11/16/09	Fri 9/24/10	
2	Tax Mantra Project kickoff phase	5 days	Mon 11/16/09	Fri 11/20/09	
3	Tax Mantra Project kickoff meeting	1 day	Tue 12/1/09	Tue 12/1/09	
4	Tax Mantra Product Implementation (Tax Mantra & GIS)	219 days	Mon 11/23/09	Fri 9/24/10	
5	Gap Analysis Phase	42 days	Mon 11/23/09	Tue 1/26/10	2
60	End of Gap Analysis Phase	0 days	Tue 1/26/10	Tue 1/26/10	5
61	Design Phase	25 days	Wed 1/27/10	Fri 3/5/10	60
100	End of Design Phase	0 days	Fri 3/5/10	Fri 3/5/10	61
101	Configuration & Customization Phase	89 days	Fri 3/5/10	Mon 7/12/10	100
130	End of Configuration & Customization Phase	0 days	Mon 7/12/10	Mon 7/12/10	101
131	Tax Mantra - Installation & Acceptance Phase	53 days	Fri 6/25/10	Thu 9/9/10	
153	End of Installation and Acceptance phase	0 days	Thu 9/9/10	Thu 9/9/10	152
154	Implementation Phase	11 days	Thu 9/9/10	Fri 9/24/10	153
168	End of Implementation phase	0 days	Fri 9/24/10	Fri 9/24/10	154
169	Go Live	0 days	Fri 9/24/10	Fri 9/24/10	168
170	Data Capture Implementation	120 days	Tue 12/15/09	Wed 5/5/10	655+10 days
171	RD/DD	35 days	Tue 12/15/09	Fri 2/5/10	
177	Data Capture Development/Customization	37 days	Mon 2/8/10	Thu 4/1/10	
190	Data Capture Installation/Configuration	20 days	Fri 4/2/10	Thu 4/29/10	
196	Data Capture System Testing	9 days	Fri 4/30/10	Wed 5/12/10	
200	Training	6 days	Tue 5/11/10	Tue 5/18/10	
204	Customer Acceptance Tests	15 days	Wed 5/19/10	Wed 6/9/10	
208	Data Conversion	152 days	Tue 12/8/09	Mon 7/19/10	655+10 days
209	Data Clean-Up	20 days	Tue 12/8/09	Wed 1/6/10	
212	Data Conversion Study Phase	20 days	Tue 12/8/09	Thu 1/14/10	
219	Data Conversion Design Phase	35 days	Fri 1/15/10	Thu 3/11/10	
231	Data Conversion Development and Testing Phase	69 days	Fri 3/12/10	Thu 6/17/10	
239	Data Conversion Implementation and Acceptance Phase	21 days	Fri 6/18/10	Mon 7/19/10	
245	Project Management	215 days	Mon 11/16/09	Fri 9/24/10	250

12. Appendix E – Project Cost

12.1 Mandatory - Core Solution

Component	Cost
Tax Mantra® License Fees (40 Full User License and 20 Read Only – Casual User License)	$443,800
Implementation Services (Tax Mantra and Imaging)	$1,312,576
Total	**$1,756,376**

(1) The License fees for 40 full access named user license and 20 Read Only Users for Tax Mantra®.

(2) The Imaging software License Fee and AMC are licensed and contracted with Impression Technology and payable directly to Impression Technology and is not included in this cost.

(3) The Implementation Services mentioned above does not include Data Conversion Design, Data Conversion Development & Testing, and Data Conversion Implementation & Acceptance

(4) Additional 5 days from Impression staff during Tax Mantra® Go Live have been included based on the rates mentioned in section 12.11 of this document

12.2 Mandatory - Annual Maintenance - Years 1 & 2

Support Year	Duration	Cost
Support Year 1 - Bronze Level	One Year	$147,300
Support Year 2 - Bronze Level	One Year	$147,300

(1) The Annual Maintenance cost for Support Years 1 & 2 is payable in advance at the start of 1st year of Annual Maintenance Support.

12.3 Optional – Data Conversion

The total cost for Data Conversion will not exceed the amount mentioned below provided the scope of data conversion does not change from what is mentioned in the RFP and in Company Proposal to the City.

Component	Cost

Data Conversion – Design, Development, Testing, Implementation & Acceptance	$164,774

12.4 Optional – Additional Component, Interfaces

Component	Cost
Management Dashboard Implementation Services	$82,588
Interface with Hansen 7.7	$25,187
Total Optional component Cost	**$107,775**

(1) The pricing for the optional components listed above is valid for sixteen (16) months from Project start which is at the Project Kickoff Meeting. Company may revise these prices after this period of sixteen (16) months.

(2) Company offers the Management Dashboard at a no charge for the License Fees. Company will meet with the City to determine appropriate level of Support and corresponding AMC cost, based on City specific requirements.

12.5 Optional - Additional Tax Mantra® Training

The optional training for Tax Mantra will be priced as follows for each module. Each training session is for up to 5 users.

Per Module Charge

Course ID	Description	Duration	Services Cost	Material Cost	Total Cost
TM001	*Overview*	*½ Day*	*$1,485*	*$165*	*$1,650*
TM002	*Taxpayer Registration*	*½ Day*	*$2,610*	*$290*	*$2,900*
TM003	*Payment Processing*	*½ Day*	*$2,610*	*$290*	*$2,900*
TM004	*Taxpayer Accounting*	*1 Day*	*$4,860*	*$540*	*$5,400*
TM005	*Correspondence*	*½ Day*	*$1,710*	*$190*	*$1,900*
TM006	*Case Management*	*¾ Day*	*$2,610*	*$290*	*$2,900*
TM007	*Utilities*	*¼ Day*	*$1,485*	*$165*	*$1,650*

TM008	*Configuration*	*½ Day*	*$2,610*	*$290*	*$2,900*
TM009	*Security*	*¼ Day*	*$1,485*	*$165*	*$1,650*
TM010	*Technical\ Administrative*	*¼ Day*	*$2,610*	*$290*	*$2,900*
TM011	*e~Tax*	*½ Day*	*$2,835*	*$315*	*$3,150*

Additional Fixed Charge

Up to 5 days of continuous training $2,000

(1) The fixed charge is payable in multiples of $2,000. E.g. if the training is for one through five days, then $2000 will be charged. If the training is for 6 through 10 days, then $4,000 will be charged, and so on.

(2) The Training charges are payable in advance.

12.6 Optional – Annual Maintenance for Support Years 3 to 5

Support Year	Duration	Cost
Support Year 3 - Bronze Level	One Year	$151,719
Support Year 4 - Bronze Level	One Year	$157,788
Support Year 5 - Bronze Level	One Year	$165,677

(1) The Annual Maintenance cost for years 3 through 5 is payable at the beginning of each year.

12.7 Optional – Annual Maintenance for Support Years 6 to 10

If the City elects to exercise a Five (5) Year extension to Maintenance after the first five (5) years of AMC support, Company is offering these maintenance services at the following costs

Support Year	Duration	Cost
Support Year 6- Bronze Level	One Year	$173,961
Support Year 7 - Bronze Level	One Year	$182,659
Support Year 8 - Bronze Level	One Year	$191,792
Support Year 9 - Bronze Level	One Year	$201,382
Support Year 10 - Bronze Level	One Year	$211,451

(1) The Annual Maintenance cost for years 6 through 10 is payable at the beginning of each year.

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12.8 Optional – Annual Maintenance for Future Support Years

The City may exercise an option for additional Maintenance in increments of five (5) years as defined in Section 2.12 of the Master Services Agreement

12.9 Optional – Additional Licenses for Tax Mantra®

	License Fee	
Blocks of Users	Full Time	Read Only
1	$ 7,200	$ 3,600
5	$ 34,500	$ 17,250
10	$ 69,000	$ 34,500
20	$ 131,100	$ 65,550
30	$ 191,475	$ 95,738
40	$ 248,400	$ 124,200

(1) The AMC will increase when license for additional users is sought by the City. The increment in the yearly AMC will be worked out when the City opts for these licenses.

(2) The total number of casual read only user licenses cannot exceed the number of full user licenses purchased by the City at any time.

12.10 Cost for Escalation of Priority Items

The City has opted for Bronze level AMC. The City may want to escalate a problem ticket to be addressed at the Silver or Gold service levels. The list below provides the costs for moving a Priority One (1) item to Silver or Gold levels.

Escalation Level	Cost
Severity I - Bronze to Silver	$2,800 per item
Severity I - Silver to Gold	$5,500 per item
Severity I – Bronze to Gold	$8,300 per item

(1) The escalation cost is payable as soon as City requests for an item to be escalated. The service level for the escalated item will be measured from the time of escalation.

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12.11 Time and Material Rates

Hourly Rates for Project Management	$125
Hourly Rates for Analysis & Design Services	$105
Hourly Rates for Programming	$85
Impression Technology Support (Contiguous Five (5) Days)	$11,690

12.12 Project Payment Milestones

The payment milestones are based on submission of Company deliverables to the City. The City deliverables have been included in this table only for completeness.

Activity	*Submission of Deliverable(s)*	*Amount*
Tax Mantra® Core Product Implementation, e~Tax and Data Conversion		
Project Kick-off / Initiation	• Project Kick-off Meeting Presentation • Project Kick-off Meeting • Draft Project Schedule • Acceptance Criteria (City / Company) • Tax Mantra® Base User Manuals	$65,287
Gap Analysis	• Acceptance Test Plan (City) • Gap Analysis Document • Draft Acceptance Test Scenarios (City)	$97,930
Data Conversion Study	• Data Conversion Requirements Analysis Document	$46,704
Design	• Design Documents • Final Acceptance Test Scenarios (City) • Draft Acceptance Test Scripts (City)	$97,930
License (billed at end of Design)	• Delivery of Tax Mantra® License	$443,800
Configuration and Customization	• System Tested Configured and Customized Tax Mantra Application • Tax Mantra® Training Manuals • Tax Mantra® Installation Manual • Tax Mantra® User Manual	$261,148
Installation and Acceptance	• Acceptance of Configured Tax Mantra® Application • Updated Tax Mantra® User Manual • Training	$130,574

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Activity	*Submission of Deliverable(s)*	*Amount*
Implementation	• Implemented Tax Mantra® System in Production Environment	$195,955
Onsite Support & Warranty	• At the Start of Onsite Support and Warranty	$110,477
Tax Mantra®, e~Tax– License and Implementation Services & Data Conversion Total		**$1,449,805**
Impression iCapture Services (does not include License fee for the Impression Software, which will be paid directly by Customer to Impression Technologies)		
RD / DD	• Requirements Definition and Design Document, including Forms Redesign specifications.	$52,308
Development / Customization	• Delivered Distribution Release (Customization completed, validated through internal FAT)	$78,462
Installation	• Installed iCapture Applications • Documentation	$39,231
Training	• Training Hand-Outs/Materials • Training Sessions	$39,231
Acceptance Testing	• Acceptance Test Plan Scripts • Acceptance Test Materials • Accepted iCapture	$52,308
Post AT Support and Warranty	• At the Start of Onsite Support and Warranty • On Site Five (5) Days Support during Imaging Go Live • On Site Five (5) Days Support during Tax Mantra® Go Live	$45,031
Imaging –Total		**$306,571**
Tax Mantra® – mandatory Annual Maintenance Cost (Year 1 & 2)		
Annual Maintenance cost for Year 1 & 2	• At the end of one year Warranty	$294,600
Total mandatory Annual Maintenance Cost		**$294,600**

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Activity	Submission of Deliverable(s)	Amount
Grand Total – Tax Mantra® and Imaging		**$2,050,976**

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13. Appendix F – Change Control Form

Change Control Form

Change Request #:	**Priority:** (Critical/High/Low)	**Request Date:**
Requested By:		**Date Required By:**
Summary Description:		
Detailed Description: (including cost justification, benefit, impact & supporting documentation)		
Estimates Valid Till Date: (Date)	**Evaluation Completed:** (Yes/No)	**Estimated Duration:** (Days)
	Estimated Cost: ($)	**Planned Delivery Date:**
Actions Required to Implement:		
Preferred Course of Action:		
Resource Assignment:		**Project Plan / Project Schedule Updated:** (Yes/No)

Other Impacted Projects	**Assessor**	**Change to Deliverables**	**Change to Milestones**	**Implications (cost, effort, time, etc)**

Change Approval	**City**	**Company**
Signature **Title**		

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14. Appendix G - Project Deliverable Acceptance Form

Project Deliverable Acceptance

Client: _____

Project: _____

Contract #: _____

The following deliverable(s) of this Project have been accepted. Any changes to the approved deliverables will be addressed through the Change Control Procedure.

Deliverable:

_____

Approved (Comments):

_____

_____

_____

City Project Manager: _____ **Date:** _____

TCS Project Manager: _____ **Date:** _____

15. Appendix H Usability Modifications

15.1 Usability Modifications to TCS Tax Mantra®

The City had requested for the following clarification from Company:

City's Question:

Address usability issues discussed in the demonstration. Examples include: searches boxes for taxpayer name, a taxpayer springboard, displaying more than 3 lines of a large textbox, going to the utilities screen to find correspondence, displaying commas and right justifying dollar amounts, displaying NAICS code description, headers should remain visible when user scrolls down tables, ability to open multiple windows within Tax Mantra, etc.

TCS Response:

Company will address the above usability items prior to Go Live for the City at no additional cost.

Company has presented its understanding of these items below:

- Search boxes for taxpayer name - Tax Mantra® Inquiry screens such as Transaction Inquiry, Payment Inquiry and Case Search will be enhanced to allow for search for Account Number by providing the taxpayer name or a part of the name and then continue with the inquiry.
- Taxpayer springboard – A new screen will be designed to provide a starting point or springboard for the customer service staff. This screen will provide a snapshot of all taxpayer's account details as such as key demographic and address information, balance summary, key activities going on the account and key status such as bankruptcy, audit and other cases.
- Displaying more than 3 lines of a large textbox – Notepad screen where this particular textbox was noted will be increased to show more lines and similarly other screen where it may be applicable will be enhanced.
- Going to the utilities screen to find correspondence – New enhancements will be incorporated to provide direct method to invoke documents from correspondence history based on the key fields on the screen similar to the way the Scanned Images are available currently. Users will be able to "click" a button to show Correspondence History without need to go into the Utilities.
- Displaying commas and right justifying dollar amounts – the display formats will be addressed where applicable on the screen for showing amounts.
- Displaying NAICS code description - The description for NAICS codes will be shown at all places on the screens where the NAICS code is available. In addition to the above a selection by search option to select appropriate

NAICS using the description will be provided on the screen where NAICS codes are being entered on the taxpayer's account.

- Headers should remain visible when user scrolls down tables - The headers will be remaining visible on all grids on screens when user scrolls down the grid.
- Ability to open multiple windows within Tax Mantra® – TCS will provide the ability to open multiple windows of Tax Mantra®.

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Schedule B

Support Plan for Annual Maintenance

Tax Mantra®

SCHEDULE B

Support Plan for
Annual Maintenance Contract
For City of Glendale

TATA

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Table of Contents

1. Introduction 3
2. Definition of Terms 3
3. Support Parameters Selected 5
4. General Description 6
   4.1 Queries 6
   4.2 Problems 6
   4.3 Enhancements 7
5. Reporting Method 7
   5.1 Company Standard Annual Maintenance Contract (AMC) Procedure... 8
6. Description of Services 9
7. Escalation Procedure for AMC support 9
8. Contingency Procedure 9
9. Procedure for handling Change Controls 10
10. Procedure for handling Maintenance Releases 10
11. Release Procedures 10
12. Dependencies for Support 11
13. Responsibilities of the City Support Operation 11
14. Environments Supported 13
15. List of Indian Holidays Observed by Company (New Delhi) 2009 13

1. Introduction

This document presents the standard support services for maintenance of Tax Mantra® software during the Annual Maintenance Contract ("AMC") as Schedule B to the Tax Mantra Master Services Agreement. The support for Tax Mantra® provided to the City by Company is governed by this Support Plan.

2. Definition of Terms

Annual Maintenance: Post Acceptance Project Phase dedicated to analysis and resolution of mutually agreed defect classifications reported during the phase. Problems are communicated by the City's single point contact to the Company single point contact person through email or Tax Mantra Connect.

Change Control: The Change Control Procedure described in Section 9 of this Support Plan. During AMC period Change Request may be reported through Change Control form (Appendix F to SOW, Schedule A) for incorporating requested modifications to the product to enhance or upgrade its current functionality. Requested Enhancements must be evaluated and reviewed following the Change Control process and be mutually agreed upon by Company and the City. Enhancements can be released separately or included with a Maintenance Release, based on client need, availability of client technical resources and Company Maintenance work schedules.

City End User: City personnel, identified as users of Tax Mantra®. This will include all the users from remote locations (if applicable) as well.

City Support Person (First Level Support): The City will designate a single point, technically competent contact with a good understanding of the product and the City's business processes, as internal contact for City end users, for requesting and receiving services and related information, including the responses to queries, problems, enhancements and their resolution.

City Contact Person (Second Level Support): The City will also designate a second level support contact, who will take escalations from the City's First Level Support Person for evaluation and possible communication of Service Requests, with appropriate classification and details to Company via e-mail ID or Tax Mantra Connect during AMC.

Defect: A non-conformity in relation to a function of the Licensed Material, with the agreed Specifications for the Licensed Software, i.e. Problems (Severity 1, 2 or 3) reported by the City through User Communication Form (UCF) logged in Tax

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Mantra Connect during AMC. Details of all defects must be provided in writing to the Company support team.

Emergency Release: An unplanned release of any software component to fix high priority defect encountered in critical business functionality of Tax Mantra that is not held until the next Maintenance Release.

Maintenance Release: Maintenance release is defined as a group of Software components/ scripts accompanied with a release note that will fix defects reported to the Company support team. The release note will list all the defect items that the release will fix and specify the method to apply the release in production/ test environment and the scenario to test fixes to the defect.

Product: The Licensed Software as per the Tax Mantra Software License Agreement with the City.

Product Upgrade: Company may release Product Upgrades at any time during the duration of the contract and the City may decide to implement an upgrade. For any such Tax Mantra upgrades released by Company, City will not be charged a re-licensing fee. However, any services and expenses related to migration to newer versions will be charged to the City. City will pay for upgrades of any 3rd party software required as a part of this upgrade.

Company will prepare and present the City with a revised Annual Maintenance Agreement. Any increase to the Annual Maintenance costs during the initial seven (7) years of the contract will not exceed ten (10%) percent of the Annual Maintenance fee applicable at that time, if Company offers and the City elects to implement a product upgrade.

For the first five (5) year Optional Maintenance period and any subsequent Maintenance period, if Company offers and the City elects to implement a product upgrade, Company will prepare and submit a revised Annual Maintenance Contract at a cost to be negotiated.

Release Support: Company will provide maintenance support during the initial term of the contract. Company will not invoke a sunset provision at any time during the initial seven (7) year term of this contract. Company will provide a three (3) year advance notice of the sunset provision being invoked. At the end of the three (3) year product sunset period, Company will provide on-going support for a period not to exceed five (5) years after discontinuance of the software in exchange for an additional annual maintenance premium not to exceed 12.5% of the maintenance amount.

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Company Support Team: Staff assigned by Company to receive and respond to all the queries, problems, and enhancement requests and provides resolution.

In addition the terms used but not defined in this document shall have the meaning ascribed to each of them in the License Agreement, Master Services Agreement and the SOW, Schedule A.

3. Support Parameters Selected

The City has opted for standard bronze Level Tax Mantra AMC.

#	Parameter	Bronze Support
1	Timings	8 Hour Support (8:30 AM to 4:30 PM Arizona Time)
2	Days	5 Days a week excluding Indian Holidays
3	Type of Support	Email Support & Phone support only for Severity I issues
4	Maintenance Releases for bug fixes	Free
5	Product Upgrades	No Re-license Costs. Services Cost and revised AMC Cost to be paid , in accordance to the Product Upgrade Provisions in this Annual Maintenance Contract
6	Escalation path	No
7	Onsite support	No
8	Emergency Release (not exceeding one per week)	No
9	Toll free Access	A US number will be provided to the City.
10	e-Mail Acknowledgement (from receipt time)	Up to 1 Business days
11	Response to Queries	Up to 5 Business days
12	Response/Analysis to Priority I defects	Up to 7 Business days
13	Response/Analysis to Priority II defects	Up to 20 Business days
14	Dedicated Support Manager	No
15	Dedicated Email ID for Support	No
16	Status Call between Client Management and Support Team	4 Per year
17	# of Phone Calls to Help Desk	48 per year

4. General Description

AMC will start immediately after the Tax Mantra® Warranty Period or at the end of the prior AMC as the case may be. This involves providing support to resolve problems that impact the normal working of Tax Mantra®. Service Requests from the City during this period may be in one of the following forms:

4.1 Queries

These are requests from the City Contact Person for clarifications, help or advice on Tax Mantra® usage and functionality. These can be resolved by discussions and may not require software changes.

4.2 Problems

Problems are Defects in Tax Mantra® noticed during AMC period. Depending on their nature these problems are classified into one of the following priorities:

Definition	Description	Examples
Severity 1	• The software problem either stops or severely limits operations and no practical workaround is available • Error affecting business severely • Totally misleading functionality in the system • Fatal errors – causes programs to abort or stop functioning	• Tax Mantra Servers are not starting. • Unable to enter payments in the system. • Unable to process business applications (new registrations) in the system. • System crashes and continues to crash • Software is not operational • Data has been corrupted • A critical user function is unavailable • Other critical (high impact) function is not available (returns, statements at a critical date)
Severity 2	• The software problem either stops or severely limits operations and a practical workaround is available. • Error causing significant rework • Fatal errors that do not cause program to abort or stop functioning, but result in erroneous outputs, turning it unusable	• Penalty and interest is not booking correctly on accounts • Daily batch programs scheduled during the night did not get completed • Batch program unable to generate Tax Returns, Account Statements • Important user function is unavailable, operations continue, but restricted • Other function is not available

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Definition	Description	Examples
		(daily batch, or returns, statements prior to a critical date)
Severity 3	• The software problem adversely affects operations, is not a Severity 1 or 2 problem and a practical workaround is available. • Error causing moderate or low rework • Leads to ambiguities in the system / misinterpretation • Non-fatal errors which could impact the program functioning, or just be cosmetic mistakes	• Incorrect error message being shown • Any spelling mistakes • Issues pertaining to a specific account due to some data related issues • Minor user function is unavailable • Other function is not available (monthly interface that can be postponed)
Severity 4	• Suggestion towards improvement	• Minor improvement in existing functionality. For example, the batch program that creates tax return needs tax period as input.

4.3 Enhancements

Enhancements requested via the Change Control process are outside the coverage of the parameters of this support plan. Company will respond to queries related to the analysis of Change Requests. However, the prioritization, scheduling, and cost estimates for these specific Change Requests would be provided for each individual request. City can elect to "escalate" or re-prioritize these requests based upon City business drivers. The escalation of a Change Request would be priced individually for each Change Request based upon complexity, timeline requested by the City, and internal workload of Tax Mantra® support team.

For information related to the Change Control Procedure see section below titled "Procedure for Handling Change Control".

5. Reporting Method

The following section documents the standard reporting procedure for the duration of the AMC.

5.1 Company Standard Annual Maintenance Contract (AMC) Procedure

The City End User facing a problem will report it to the City Support Person (First Level Contact). The City Support Person will analyze the problem and provide an assessment to the end user.

The problem resolution may need one or a combination of the following:

a. If the problem is diagnosed as due to incorrect operations, the City Support Person will advise correct operations of the product.

b. The City Contact Person will take escalations from the City's Support Person for evaluation and possible communication of Service Requests, with appropriate classification and details to Company via e-mail ID or in Tax Mantra Connect.

c. An agreed to (City and Company) work-around to minimize the impact or bypass the problem will be provided with a follow through solution to enhance the process to remove the work-around and regain the efficiency lost due to the work-around.

d. A correction to a corrupted or erroneous data file on account of an error in the product, also referred to as a data patch. Though a data-patch may be an acceptable solution, at the time, a thorough analysis will be conducted to fully integrate the "patch" into the overall solution so as to minimize unintended side-effects.

e. The City Contact Person may invoke the contingency procedures in Section 8 based on City Contact Peron's assessment of the problem.

f. The City Support Person will categorize the problem as a Query, Problem or Enhancement and assign a priority to the Problem, mutually agreed upon by Company, with the advice and consent of the City Contact Person. The City Contact Person will report service requests to the Company Support Person:

- Telephone: US Number - as specified in the Section 3 support parameters.
- Through E-mail: To Company E-mail id taxmantra.support@tcs.com.
- Through Tax Mantra Connect

For reporting problems and enhancements, the standard problem-reporting format as given in this section should be used. The City Contact Person must communicate all problems (within a reasonable time frame if problem-reporting/solving is initiated via voice communication) and enhancements in writing. The Company Support Person may re-categorize a problem with the agreement of the City Contact Person.

6. Description of Services

1. During the AMC support duration, Company Support Person will be available on phone (US Number) as specified in the Section 3 support parameters. The City can also contact Company through Tax Mantra® Support e-mail ID. taxmantra.support@tcs.com. City can also report items through Tax Mantra Connect.
2. A Severity Level 1 Problem defect will be downgraded to a Severity Level 2 Problem defect as soon as a practical temporary program fix or a practical operational work-around is provided for the problem reported.
3. Company will release the Maintenance Upgrades and program fixes to the City.
4. Fixes to Severity Level 2 and Severity Level 3 Problems and permanent resolutions to any temporary fixes may be provided in Emergency Releases or in the subsequent Maintenance Releases by mutual agreement.
5. Company will ensure that all members of the Company Support Team remain in compliance with all legal requirements, including Confidential Information as described in the MSA.

7. Escalation Procedure for AMC support

The following process will be followed if the City desires to escalate a support item to get a turnaround time of either a Gold Support or Silver Support Level.

Escalation	Response / Analysis time limit	Charges
Severity I - Bronze to Silver	Response time will escalated from Bronze Level to Silver level	Charges as per Appendix E of SOW
Severity I - Silver to Gold	Response time will escalated from Silver level to Gold Level	Charges as per Appendix E of SOW
Severity I – Bronze to Gold	Response time will escalated from Bronze level to Gold Level	Charges as per Appendix E of SOW

Actual resolution of the problem will involve appropriate analysis, change impact and schedule impact for implementing the changes to fix the problem.

8. Contingency Procedure

In cases where a Maintenance Upgrade cannot be released in the scheduled time frame, Company will analyze the reasons for the same and consider various options of redressal such as an increase in the size of the team working on the upgrade or exclusion of some of the items from the upgrade before deciding to

reschedule the release. A final decision on the course of action will be communicated to the City Support Person.

9. Procedure for handling Change Controls

All product Enhancements will be handled through a change control procedure as per the following steps:

1. All requested Enhancements will be documented on the Change Control form.
2. Company will analyze and perform impact assessment and document the same in the form of a Cost and Schedule impact where applicable and provide the same for the City's approval. A Change Control form will be accompanied by Company's understanding of the changes requested by the City.
3. On receiving approval from the City, Company will initiate the implementation of the enhancement with the City as per the understanding document attached with the Change Control form.
4. Company assumes that the City will provide adequate test scenarios and test cases for testing the Enhancements requested to the product as per the Change Control process.
5. Release procedure for the product Enhancements would be the same as documented in Section 11 Release Procedures.

10. Procedure for handling Maintenance Releases

The Maintenance Releases will be decided by Company, and their release dates will be communicated to the City.

1. Release notes detailing the upgrades, and how to apply the upgrades will accompany the functional upgrades, as well as any changes to User Manuals or Training Manuals.
2. City will apply these upgrades in their test and production environments, and may request additional services for installation, training, etc. from Company, if required.

11. Release Procedures

1. All Releases, program fixes and functional upgrades will be released to the City Contact Person.
2. All releases, program fixes and functional upgrades will be released electronically via website, FTP or on CD-ROM to describe the changes carried out and the installation instructions. A Company Release Notification Form will accompany each release.

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3. The identifying characteristics of the executable will also be communicated. The City Contact Person will have to verify that the correct version has been received.

12. Dependencies for Support

The functioning of the service is dependent on the following:

1. The City should provide FTP access to the Company offshore and on-site team; this will be a controlled access area.
2. It is highly recommended that the City provide a VPN access to Company Offshore team for verification of the installation of new changes where applicable and required; this will be a controlled access area.
3. The version of the Licensed Software on which the problem is reported must be a currently supported version by Company.
4. All Enhancements (service requests) should be formally reported in the specified format (i.e. Change Control Form) in writing by the City.
5. All problems should be formally reported in writing by the City, in Tax Mantra Connect.

13. Responsibilities of the City Support Operation

The responsibilities of the City are as given below:

1. The City Support Person will advise end users on the correct operation of the product and try to resolve problems locally, taking advice from Company Support Person, as required.
2. The City Contact Person will categorize the problem into Severity I, II, III or IV category with mutual agreement with Company.
3. The City will ensure that only personnel properly trained in operation and usage of the Licensed Software will utilize the Product Support Service and that sufficient computer time and suitable personnel are made available to implement the corrections suggested by Company.
4. Whenever a problem is reported to Company, the City should have attempted all possible local corrective actions. All supporting information (e.g. screen shots, functional scenario, applicable data, etc.) should be made available to Company.
5. The City will reproduce the identified error or malfunction in the unaltered Software and provide a scenario for the same under which the malfunction occurred in case the error requires more details or description for further analysis or reproduction.

6. Providing upon Company's request, a "memory dump" or "database dump" and such additional data including necessary parts of the software and program dumps and associated files in machine-readable or interpreted form deemed necessary or desirable by Company to reproduce the environment in which such licensed Software operated.
7. The City will ensure that the reporting of the problem is always followed up in writing, including the problem severity.
8. The City will be responsible for installation and testing of Maintenance Releases, Emergency Releases and Product Upgrades and providing Company with a formal sign-off within the mutually agreed time.
9. The City Support Operation will provide necessary and sufficient access to the Company Support Team to diagnose the problem in the production product. While giving data access, the City will ensure Company Support staff are made aware of agency data access and security regulations, including Confidential Information as described in the MSA.
10. The City Support Operation will ensure that no components of the Licensed Software are altered or amended other than through agreed release control procedures.
11. The City Support Staff should always provide the problem number of the problem in question, whenever correspondence is necessary on the progress/details of a problem.
12. The City Support Staff will formally log and track all local changes made by the City to the released version of Tax Mantra®.
13. The City Support Operation will undertake the proper supervision, control and management of its use of Licensed Software including but not limited to: (a) assuring proper computer system configuration, software installation, verification, audit controls, and operating methods; and (b) ensuring proper procedures for the security of data, accuracy of inputs and outputs, and back-up plans, including restart and recovery in the event of hardware or software error or malfunction.
14. Whenever on-site support is required, the City Support Staff will provide the Company Support Person necessary hardware equipment, software environment, data, and work space, for enabling the Company Support Person to carry out necessary activities / tasks.
15. The City Support Operation will engage in reasonable efforts to help Company to ensure the accuracy of changes by providing test plans and data.

16. The City will be responsible for moving the changes to the production environment after appropriate testing through the City's established testing and verification procedure.

14. Environments Supported

The Services under this Support Plan shall be provided by Company only for the Licensed Material used on the Target Environment for production at the Permitted Site under Section 2.3 of the License Agreement. It is expected that all Permitted Environments set-up by the City shall mirror Target Environment for production.

15. List of Indian Holidays Observed by Company (New Delhi) 2009

The table below lists the Indian Holidays Observed by Company (New Delhi) in 2009. The Company Annual Holiday schedule currently consists of ten holidays. However, the actual Holidays observed and dates will vary from year to year. As such, Company will provide the City with an annual updated list of Holidays at the start of each calendar year.

New Year's Day	1-Jan-09	Thursday
Republic Day	26-Jan-09	Monday
Holi	11-Mar-09	Wednesday
May Day	1-May-09	Friday
Janmashtami	14-Aug-09	Friday
Idul Fitr	21-Sep-09	Monday
Dasara (Vijaya Dashami)	28-Sep-09	Monday
Mahatma Gandhi Jayanti	2-Oct-09	Friday
Guru Nanak Jayanti	2-Nov-09	Monday
Christmas	25-Dec-09	Friday

Schedule C

Company Code of Conduct

RELEVANT EXTRACTS OF COMPANY CODE OF CONDUCT

We, in our dealings, are self-regulated by a Code of Conduct as enshrined in the "Tata Code of Conduct". Relevant extract of the Code is given in this section. We request your support in helping us adhere to the Code in letter and spirit. We request that any violation or potential violation of the Code by any person be promptly brought to the notice of the Local Ethics Counselor or the Principal Ethics Counselor or the CEO of TCS. All communication received in this regard will be treated and kept as confidential.

Code No. 5: GIFTS AND DONATIONS

A TATA Company and its employees shall neither receive nor offer or make, directly or indirectly, any illegal payments, remuneration, gifts, donations or comparable benefits which are intended to or perceived to obtain business or uncompetitive favors for the conduct of its business. However, a TATA Company and its employees may accept and offer nominal gifts which are customarily given and are of commemorative nature for special events.

Code No. 6: GOVERNMENT AGENCIES

A TATA Company and its employees shall not offer or give any company funds or property as donation to any government agencies or their representatives, directly or through intermediaries, in order to obtain any favorable performance of official duties.

Code No. 13: THIRD PARTY REPRESENTATION

Parties which have business dealings with the TATA Group but are not members of the Group such as consultants, agents, sales representatives, distributors, contractors, suppliers, etc. shall not be authorized to represent a TATA Company if their business conduct and ethics are known to be inconsistent with the Code.

Code No. 17: ETHICAL CONDUCT

Every employee of a TATA Company, which shall include Whole-time Directors and the Managing Director, shall deal on behalf of the Company with professionalism, honesty, integrity as well as high moral and ethical standards. Such conduct shall be fair and transparent and be perceived to be as such by third parties.

Every employee shall be responsible for the implementation of and compliance with the Code in his professional environment. Failure to adhere to the Code could attract the most severe consequences including termination of employment.

Code No. 18: REGULATORY COMPLIANCE

Every employee of a TATA Company shall, in his business conduct, comply with all applicable laws and regulations, both in letter and in spirit, in all the territories in which he operates. If the ethical and professional standards set out in the applicable laws and regulations are below that of the Code then the standards of the Code shall prevail.

Code No. 19: CONCURRENT EMPLOYMENT

An employee of a TATA Company shall not, without the prior approval of the Managing Director of the Company, accept employment or a position of responsibility (such as a consultant or a director) with any other company, nor provide "free-lance" services to anyone. In the case of a Whole-time Director or the Managing Director such prior approval must be obtained from the Board of Directors of the company.

Code No. 20: CONFLICT OF INTEREST

An employee of a TATA Company shall not engage in any business, relationship or activity, which might detrimentally conflict with the interest of his Company or the Group. A conflict of interest, actual or potential, may arise where, directly or indirectly, (a) an employee of a TATA Company engages in a business, relationship or activity with anyone who is party to a transaction with his Company, (b) an employee is in a position to derive a personal benefit or a benefit to any of his relatives by making or influencing decisions relating to any transaction, and (c) an independent judgement of the Company's

or Group's best interest cannot be exercised.

Code No. 25: REPORTING CONCERNS

Every employee of a TATA Company shall promptly report to the management any actual or possible violation of the Code or an event he becomes aware of that could affect the business or reputation of his or any other TATA Company.

CITY COUNCIL REPORT

Meeting Date:	**2/12/2013**
Meeting Type:	**Voting**
Title:	**EMPLOYEE DEFERRED COMPENSATION CONTRACT WITH GREAT-WEST RETIREMENT SERVICES**
Staff Contact:	**Jim Brown, Interim Executive Director, Human Resources and Risk Management**

Purpose and Recommended Action

This is a request for City Council to waive reading beyond the title and adopt a resolution authorizing the City Manager to enter into a contract with Great-West Retirement Services (Great-West) for Employee Deferred Compensation Services.

Background Summary

The city's Deferred Compensation Committee is made up of employees from across the organization and is tasked with reviewing information as it pertains to the employee deferred compensation plan and providing input on the fund selections and services rendered by the city's deferred compensation provider. This committee conducted a comprehensive Request for Proposal (RFP) process in the selection of an employee deferred compensation provider. The city has had two deferred compensation providers for the past several years: ICMA-Retirement Corporation and Nationwide. The city issued an RFP that was sent nationally to deferred compensation providers, and nine responses were received by the RFP deadline. The RFP specifically solicited proposals assuming both a dual provider and sole provider option. The sole provider option was selected by the committee based on the fact that a sole provider plan has lower fees that will provide cost savings to the plan participants. Based on a thorough analysis by the Deferred Compensation Committee, Great West was unanimously selected as sole provider to move forward to City Council for approval of the city's deferred compensation plan.

Previous Related Council Action

On January 8, 2002, City Council amended the plan documents for both Nationwide and ICMA-Retirement Corporation to reflect the changes in the tax laws with regard to 457 plans.

Community Benefit/Public Involvement

Providing a low fee, high performing deferred compensation plan for city employees assists in the attraction and retention of quality staffing for city services.

CITY COUNCIL REPORT

Budget and Financial Impacts

There is no impact to the city's budget.

Capital Expense? Yes ☐ No ☒

Budgeted? Yes ☐ No ☒

Requesting Budget or Appropriation Transfer? Yes ☐ No ☒

If yes, where will the transfer be taken from?

Attachments

Staff Report

Resolution

Agreement

STAFF REPORT

To:	**Horatio Skeete, Acting City Manager**
From:	**Jim Brown, Interim Executive Director, Human Resources and Risk Management**
Item Title:	**EMPLOYEE DEFERRED COMPENSATION CONTRACT WITH GREAT-WEST RETIREMENT SERVICES**
Requested Council Meeting Date:	**2/12/2013**
Meeting Type:	**Voting**

PURPOSE

The purpose of this report is to request the City Manager forward this item to the City Council for their consideration and approval. The city's Deferred Compensation Committee has conducted a comprehensive Request for Proposal (RFP) process in the selection of an employee deferred compensation provider. As a result of this process, Great-West Retirement Services (Great-West) has been selected for recommendation to Council to be awarded the contract to provide employee deferred compensation services to the city.

BACKGROUND

During the past decade, numerous legislative and regulatory changes have significantly impacted the way public sector employers manage their deferred compensation plans. Because of the Small Business Job Protection Act, the Economic Growth and Tax Relief Reconciliation Act and the Pension Protection Act, employers are required to exercise fiduciary "due diligence" to assure that fund options and provider services are competitive and provide optimal investment return to participants. Therefore, it is part of the city's fiduciary responsibility to explore through an RFP the most competitive options (for both funds and services).

The city's Deferred Compensation Committee is made up of employees from across the organization and is tasked with reviewing information as it pertains to the employee deferred compensation plan and providing input on the fund selections and services rendered by the city's deferred compensation provider. This committee conducted a comprehensive RFP process in the selection of an employee deferred compensation provider. The city has had two deferred compensation providers for the past several years: ICMA-Retirement Corporation and Nationwide. The city issued an RFP that was sent nationally to deferred compensation providers, and nine responses were received by the RFP deadline. The RFP specifically solicited proposals assuming both a dual provider and sole provider option. The sole provider option was selected by the committee based on the fact that a sole provider plan has lower fees that will provide cost savings to the plan participants. Based on a thorough analysis by the Deferred Compensation Committee, Great West was unanimously selected as sole provider to move forward to City Council for approval of the city's deferred compensation plan.

ANALYSIS

The Deferred Compensation Committee unanimously agreed to recommend to Council that the city contract with Great-West as the city's sole deferred compensation plan provider.

Of the finalists in the RFP process, Great-West offered the strongest proposal in the critical areas reviewed, including:

1. Fund Performance of mutual funds: Several performance and risk measurements were included in the evaluation of the proposals received. One measurement was the Morningstar star rating system, a commonly used ranking system in the industry. Morningstar analyzes mutual funds and designates a star rating to each mutual fund based on the three, five and 10 year performance, risk and expense. The ratings rank from one (poorest) to five (best).

   The current portfolios with ICMA-RC and Nationwide have an average star rating of 3.25, while the new portfolio with Great-West has an average rating of 4.47. This represents a significant improvement in overall fund performance for participants. The new portfolio with Great-West includes 17 four star funds and 15 five star rated funds, with no mutual funds rated below four stars. The current portfolios with ICMA-RC and Nationwide include 17 one or two star funds.

2. Fees and charges for funds and administration: There is a significant reduction in the mutual fund expense that is a critical calculation in the net performance credited to participants. The average mutual fund expense for the city's current mutual fund portfolios with ICMA-RC and Nationwide is 1.11%. The average expense for the new mutual fund portfolio with Great-West is 0.55% plus an administrative expense reimbursement allowance of $45,000 or approximately an additional 0.06% for the fiduciary operation of the plan. This means there is a total 0.61% aggregate expense to the mutual fund portfolio for Great-West compared to the 1.11% expense with the current providers, an almost 50% reduction. This will result in savings to a participant currently, or prospectively, investing in mutual funds.

   Under the current plans with ICMA-RC and Nationwide, 53 mutual funds have an expense that is one percent or higher (approximately 60% of the current mutual fund offerings). In the new portfolio with Great-West only four funds have an expense of one percent or greater (approximately 12.5% of the portfolio). Lower mutual fund expense has a significant contribution to the net performance received by participants.

   This reduction in expense translates to an aggregate plan savings of $212,000 annually or a total of nearly $1.2 million compounded over the five years of the contract. This savings is experienced directly by the account balances of participants who have invested in mutual funds.

3. Recordkeeping services such as security systems, tax and accounting services and information provided to participants and the city: Great-West's ownership of its recordkeeping system represented less cost and more flexibility than the other finalists.

4. Education services provided to both participants and decision-makers (the Deferred Compensation Committee): Strong resources for investment education, guidance and advice will be provided to assure that participants receive more assistance in planning for their retirement security.

It was clear from the analysis that Great-West's proposal represented a significant improvement over the city's current fund line-up and services as well as a superior proposal compared to the other finalists.

FISCAL IMPACTS

There is no budget impact to the city for the employee deferred compensation plan.

RESOLUTION NO. 4643 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, REPEALING RESOLUTION NO. 3527 NEW SERIES; ADOPTING AND AMENDING A RESTATED DEFERRED COMPENSATION PLAN DOCUMENT AS ADMINISTERED BY GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY; AUTHORIZING AND APPROVING THE DOCUMENTS NECESSARY TO IMPLEMENT THE DEFERRED COMPENSATION PLAN; AND ESTABLISHING THE DEFERRED COMPENSATION GOVERNING COMMITTEE.

WHEREAS, the City of Glendale provides its employees with the opportunity to participate in an Internal Revenue Code Section 457 deferred compensation plan; and

WHEREAS, the City's deferred compensation program is currently administered by ICMA-RC and Nationwide Retirement Solutions; and

WHEREAS, the City of Glendale conducted a solicitation for proposals to manage the City's deferred compensation program; and

WHEREAS, the City of Glendale wishes to adopt an amended and restated deferred compensation plan; and

WHEREAS the City of Glendale wishes to authorize and approve documents necessary to implement the City's deferred compensation program.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That Resolution No. 3527 New Series is hereby repealed in its entirety and replaced by this resolution.

SECTION 2. That the Council of the City of Glendale hereby approves and adopts, and authorizes the City Manager to sign, the amended and restated deferred compensation plan in the form of 2012 Great-West Retirement Services Section 457(b) Eligible Deferred Compensation Plan for Governmental Employers Basic Plan Document ("Plan"), Amendment No. 1 to the Section 457(b) Eligible Deferred Compensation Plan, and the Great-West Retirement Services Section 457(b) Eligible Deferred Compensation Plan for Governmental Employers Adoption Agreement. A copy of said Plan, Amendment No. 1 to the Plan, and the Adoption Agreement shall be kept on file with the Clerk of the City of Glendale.

SECTION 3. The Executive Director of Human Resources and Risk Management, or the employee designated to perform the functions of this position relating to employee benefits, will be the Administrator of the Plan.

SECTION 4. That the Council of the City of Glendale hereby approves, and authorizes the City Manager to sign, the Section 457 Custodial Account Agreement with Wells Fargo Bank, N.A. in order to engage the services of a custodian to hold the Plan assets and income for the exclusive benefit of Plan participants and their beneficiaries in accordance with relevant provisions of the Internal Revenue Code. The Executive Director of Human Resources and Risk Management and the Chief Financial Officer, or the employee who may be designated to perform the functions of these positions, are authorized to provide instructions to the Plan's custodian.

SECTION 5. That the Council of the City of Glendale hereby approves, and authorizes the City Manager to sign, the Agreement for Recordkeeping and Communication Services with Great-West Life & Annuity Insurance Company.

SECTION 6. That the Council of the City of Glendale hereby approves, and authorizes the City Manager to sign, the Reality Investing Advisory Services Agreement to provide services to Plan participants, including on-line investment guidance, advice and managed account services.

SECTION 7. That the Council of the City of Glendale hereby approves, and authorizes the City Manager to sign, the Contract for Advisory Services with Galloway Asset Management, LLC to provide investment advice to the Plan and Plan participants.

SECTION 8. That the Council of the City of Glendale hereby approves, and authorizes the City Manager to sign, the Schwab Personal Choice Retirement Account (PCRA) Plan Application and the Letter of Instruction Regarding Self-Directed Brokerage Account in order to offer the Schwab PCRA to Plan participants.

SECTION 9. That the Council of the City of Glendale hereby approves, and authorizes the City Manager to sign, the Application for Group Annuity Contract.

SECTION 10. That the City Manager, or his designee, is hereby authorized and directed to execute any ancillary agreements, documents, forms, and written materials that may be necessary for the implementation and administration of the Plan.

SECTION 11. That a Deferred Compensation Governing Committee is hereby created to assist with the administration of the Plan, including monitoring compliance with requirements of the Plan and associated agreements and evaluating investment and other performance in order to provide information to the City as Plan Sponsor and Trustee. This Committee shall be comprised of the following members: Executive Director of Financial Services (to serve as Chairman), Executive Director of Human Resources and Risk Management, Chief Financial Officer (or the employee who may be designated to perform the functions of these positions) and five appointees by the City Manager. The five appointees by the City Manager shall serve staggered terms of not more than two four-year terms (three appointees on one rotation and two appointees on the other rotation), with at least the length of one full term off of the Committee before being eligible for reappointment. None of the five appointees by the City Manager shall appoint a proxy to serve on this Committee.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this _____ day of _____, 2013.

_____
M A Y O R

ATTEST:

_____
City Clerk (SEAL)

APPROVED AS TO FORM:

_____
City Attorney

REVIEWED BY:

_____
Acting City Manager

CITY OF GLENDALE SECTION 457 DEFERRED COMPENSATION PLAN

BASIC PLAN DOCUMENT

TABLE OF CONTENTS
SECTION 457(b) ELIGIBLE DEFERRED COMPENSATION PLAN

Page

Table of contents i

SECTION 457(b) ELIGIBLE DEFERRED COMPENSATION PLAN
INTRODUCTION 1
I. DEFINITIONS 1
1.01 "Account Balance." 1
1.02 "Administrator." 1
1.03 "Adoption Agreement." 1
1.04 "Alternate Payee." 1
1.05 "Annual Deferral." 1
1.06 "Beneficiary." 2
1.07 "Code." 2
1.08 "Compensation." 2
1.09 "Custodian." 2
1.10 "Employee." 2
1.11 "Employer." 2
1.12 "Includible Compensation." 3
1.13 "Nonelective Employer Contribution." 3
1.14 "Normal Retirement Age." 3
1.15 "Participant." 3
1.16 "Participation Agreement." 3
1.17 "Plan." 4
1.18 "Plan Year." 4
1.19 "Qualified Military Service." 4
1.20 "Severance from Employment." 4
1.21 "Trust or Custodial Agreement." 4
1.22 "Trust Fund." 4
1.23 "Trustee." 4
1.24 "Valuation Date." 4
II. PARTICIPATION AND CONTRIBUTIONS 5
2.01 Eligibility. 5
2.02 Election Required for Participation. 5
2.03 Nonelective Employer Contributions. 6
2.04 Commencement of Participation 6
2.05 Information Provided by the Participant. 7
2.06 Contributions Made Promptly. 7
2.07 Amendment of Annual Deferrals Election. 8
2.08 Leave of Absence. 8
2.09 Disability. 8
2.10 Revocation of Deferrals. 8
2.11 Re-Enrollment. 8

TABLE OF CONTENTS (Continued)

SECTION 457 ELIGIBLE DEFERRED COMPENSATION PLAN

Page

III. LIMITATIONS ON AMOUNTS DEFERRED 10
3.01 Basic Annual Limitation Effective for Calendar Years On and After January 1, 2002. 10
3.02 Age 50 Catch-up Annual Deferral Contributions. 10
3.03 Special § 457 Catch-up Limitations for Calendar Years Beginning On and After January 1, 2002 10
3.04 Coordination of Age 50 Catch-up with Special § 457 Catch-up. 11
3.05 Special Rules 11
3.06 Correction of Excess Deferrals. 12
3.07 Protection of Persons Who Serve in a Uniformed Service. 12
IV. LOANS 12
4.01 Maximum Loan Amount 13
4.02 Loan Provisions. 13
4.03 Security for Loan; Default. 13
4.04 Repayment. 14
V. BENEFIT DISTRIBUTIONS 15
5.01 Distributions from the Trust 15
5.02 Conditions for Distributions. 15
5.03 Severance from Employment for Any Reason, Including Retirement. 16
5.04 In-Service Distributions. 16
5.05 Unforeseeable Emergency Distributions. 17
5.06 Death Benefit Distributions. 19
5.07 Payment Options. 23
5.08 Default Distribution Option. 24
5.09 Limitations on Distribution Options. 24
5.10 Eligible Rollover Distributions. 24
5.11 Elections. 25
5.12 Practices and Procedures 25
5.13 Taxation of Distributions. 25
5.14 Required Minimum Distribution Waiver of 2009. 25
VI. ROLLOVERS AND TRANSFERS 26
6.01 Eligible Rollover Contributions to the Plan. 26
6.02 Plan-to-Plan Transfers to the Plan. 27
6.03 Plan-to-Plan Transfers from the Plan. 28
6.04 Permissive Service Credit Transfers. 28
VII. CREATION OF TRUST AND TRUST FUND 29
7.01 Trust Fund. 29
7.02 Establishment of Trust. 30
7.03 Appointment and Termination of Trustee. 30
7.04 Acceptance. 30
7.05 Control of Plan Assets. 30
7.06 General Duties of the Trustee. 30
7.07 Investment Powers of the Trustee. 31
7.08 Trustee Fees and Expenses. 32

TABLE OF CONTENTS (Continued)

SECTION 457 ELIGIBLE DEFERRED COMPENSATION PLAN

Page

7.09 Exclusive Benefit Rules. 33
7.10 Trustee Actions. 33
7.11 Delegation. 33
7.12 Division of Duties and Indemnification. 33
VIII. INVESTMENTS 34
8.01 Investment Options. 34
8.02 Participant Investment Direction. 34
8.03 Employer Investment Direction. 35
8.04 Participant Accounts. 36
IX. ADMINISTRATION 36
9.01 Administrator. 36
9.02 Appointment and Termination of Administrator. 36
9.03 Duties of Administrator. 36
9.04 Administrative Fees and Expenses. 37
9.05 Actions of Administrator. 37
9.06 Delegation. 38
9.07 Investment and Service Providers. 38
X. LEAVE OF ABSENCE 38
10.01 Paid Leave of Absence. 38
10.02 Unpaid Leave of Absence. 38
XI. AMENDMENT OR TERMINATION OF PLAN 38
11.01 Termination. 38
11.02 Amendment. 38
11.03 Copies of Amendments. 39
XII. TAX TREATMENT OF AMOUNTS CONTRIBUTED 39
XIII. NON-ASSIGNABILITY 39
13.01 Non-Assignability. 39
13.02 Qualified Domestic Relations Orders. 39
13.03 IRS Levy. 41
13.04 Mistaken Contributions. 41
13.05 Payments to Minors and Incompetents. 41
13.06 Procedure When Distributee Cannot Be Located. 41
XIV. DISCLAIMER 42
XV. EMPLOYER PARTICIPATION 42
XVI. INTERPRETATION 42
16.01 Governing Law. 42
16.02 Internal Revenue Code § 457. 43
16.03 Word Usage. 43
16.04 Headings. 43
16.05 Entire Agreement. 43

SECTION 457(b) ELIGIBLE DEFERRED COMPENSATION PLAN

INTRODUCTION

In accordance with the provisions of § 457 of the Internal Revenue Code of 1986, as amended, the Employer named in the Adoption Agreement hereby establishes this § 457(b) Eligible Deferred Compensation Plan, hereinafter referred to as the "Plan." Nothing contained in this Plan shall be deemed to constitute an employment agreement between any Participant and Employer, and nothing contained herein shall be deemed to give a Participant any right to be retained in the employ of Employer.

I. DEFINITIONS

1.01 "Account Balance." The bookkeeping account maintained with respect to each Participant which reflects the value of the deferred Compensation credited to the Participant, including the Participant's Annual Deferrals, the Participant's Designated Roth Contributions if allowed by the plan, the earnings or loss of the Fund (net of Fund expenses) allocable to the Participant, any transfers for the Participant's benefit and any distribution made to the Participant or the Participant's Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant's death, then each Beneficiary's share of the Account Balance shall be treated as a separate account for each Beneficiary. The Account Balance includes any account established under Article VI for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, any account or accounts established for an Alternate Payee (as defined in Code § 414(p)(8)), and any amounts treated as an in-plan Roth direct rollover.

1.02 "Administrator." Administrator means the person, persons or entity appointed by the Employer to administer the Plan as set forth in the Adoption Agreement. Administrator shall not include the recordkeeper or any company which issues policies, contracts or investment media to the Plan in respect of a Participant.

1.03 "Adoption Agreement." Adoption Agreement means the agreement which, together with this sample Basic Plan Document, constitutes the Plan.

1.04 "Alternate Payee." Alternate Payee means the spouse, former spouse, child or other dependent of a Participant who has acquired an interest in the Participant's account pursuant to a Qualified Domestic Relations Order (QDRO) pursuant to Section 13.02. Alternate Payees shall be treated as Beneficiaries for all purposes under the Plan except that Alternate Payees shall be allowed to request a distribution of all or a portion of their account balance at any time, subject to the terms of the QDRO.

1.05 "Annual Deferral." The amount of Compensation deferred in any taxable year as a pre-tax deferral, Roth contribution, or both, if allowed by the Plan.

1.06 "Beneficiary." The designated person (or, if none, the Participant's surviving spouse, if any, and then the Participant's estate) who is entitled to receive benefits under the Plan after the death of a Participant.

1.07 "Code." The sections of the Internal Revenue Code of 1986, as now in effect or as hereafter amended or recodified. References herein to specific section numbers of the Code shall be deemed to include Treasury regulations and Internal Revenue Service guidance thereunder as in effect now, as amended or recodified in corresponding provisions of any future United States internal revenue law.

1.08 "Compensation." All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under Code §§ 125, 132(f), 401(k), 403(b), or 457(b) (including an election to defer compensation under Article III). To the extent permitted by Treasury regulations or other similar guidance (including, without limitation, the requirements contained in Treasury Regulations §§ 1.457-4(d)(1) and 1.415-2(e)(3)(i)), accrued bona fide sick, vacation or other leave pay so long as the Participant would have been able to use the leave if employment had continued and it is paid within the longer of two and one-half (2 ½) months after the Participant's severance from employment or the end of the calendar year in which the Participant severs employment with the Employer.

For Plan Years after December 31, 2008, to the extent permitted by the applicable Code provisions and Treasury regulations, Compensation shall include pay received by a Participant from the Employer while performing Qualified Military Service but only to the extent the pay does not exceed the amounts the Participant would have received if the Participant had continued to perform services for the employer rather than entering Qualified Military Service.

1.09 "Custodian." The bank, trust company or other person, if any, selected by the Employer in the Adoption Agreement and who is authorized to hold Plan assets in a custodial account in accordance with regulations issued by the Secretary of the Treasury pursuant to Code § 401(f).

1.10 "Employee." Each natural person (individual) who is employed by the Employer, either as a common law employee or an independent contractor, including elected or appointed individuals, as selected in the Adoption Agreement. Any employee who is included in a unit of employees covered by a collective bargaining agreement that does not specifically provide for participation in the Plan shall be excluded.

1.11 "Employer." The eligible governmental entity sponsoring the Plan as named in the Adoption Agreement.

1.12 "Includible Compensation." An employee's actual wages in Box 1 of Form W-2 for a year for services to the Employer, but subject to a maximum of $200,000 (or such higher maximum as may apply under Code § 401(a)(17)) and increased (up to the applicable limit contained in Code § 401(a)(17)) by any compensation reduction election under Code §§ 125, 132(f), 401(k), 403(b), or 457(b) (including an election to defer Compensation under Article III).

1.13 "Nonelective Employer Contribution." Nonelective Employer Contribution is a contribution made by an Employer for the Participant with respect to which the Participant does not have the choice to receive the contribution in cash or property. Such term may also include an employer matching contribution.

1.14 "Normal Retirement Age." Normal Retirement Age means age 70½, unless the Participant has elected an alternate Normal Retirement Age and delivered such election to the Administrator prior to beginning Special § 457 Catch-up contributions as described in Section 3.03 of the Plan. Once a Participant has begun making Special § 457 Catch-up contributions, his Normal Retirement Age may not be changed.

For Participants eligible to receive benefits under the Employer's basic defined benefit pension plan or a money purchase pension plan (herein collectively referred to as "pension plan"), a Participant's alternate Normal Retirement Age may not be earlier than the earliest date the Participant has the right to retire and receive immediate retirement benefits under such pension plan, without actuarial or similar reduction because of retirement before some later specified age, and the date selected may not be later than age 70 ½.

If the Participant is not eligible to receive benefits under a basic defined benefit pension plan or money purchase pension plan, the Participant's alternate Normal Retirement Age may not be earlier than age 65 nor later than age 70 ½.

A special rule shall apply to qualified police or firefighters under the Plan, if any. Any qualified police or firefighter, as defined under Code § 415(b)(2)(H)(ii)(I), who is participating in the Plan may choose a Normal Retirement Age that is not earlier than age 40 nor later than age 70 ½.

1.15 "Participant." An individual who is currently deferring Compensation, or who has previously deferred Compensation under the Plan by salary reduction or received a Non-elective Employer Contribution and who has not received a distribution of his or her entire benefit under the Plan. Except for purposes of Articles II, IV, and X, the term "Participant" shall include a former Participant. The Administrator, if he or she is otherwise eligible, may participate in the Plan.

1.16 "Participation Agreement." The agreement entered into and filed by an Employee with the Employer pursuant to Article II, in which the Employee elects to become a Plan Participant.

1.17 "Plan." The Plan named in the Adoption Agreement and consisting of the Adoption Agreement and this Sample Basic Plan Document.

1.18 "Plan Year." The calendar year.

1.19 "Qualified Military Service." Any service in the uniformed service (as defined in Chapter 43 of Title 38 of the United States Code as in effect as of December 12, 1994) by any individual if such individual is entitled to reemployment rights under such Chapter with respect to such service.

1.20 "Severance from Employment." The date the Employee dies, retires, or otherwise has a severance from employment with the Employer, as determined by the Administrator (and taking into account guidance issued under the Code). An Employee whose employment is interrupted by Qualified Military Service under Code § 414(u) shall be deemed severed from employment until such time as he or she is reemployed following the term of duty. Effective for Plan Years after December 31, 2008, if a Participant called to Qualified Military Service receives a distribution from the Plan due to severance, the Participant's deferrals to the Plan shall be suspended for six-months following the date of the distribution. All other Participants shall be deemed to have severed his employment with the Employer for purposes of this Plan when both parties consider the employment relationship to have terminated and neither party anticipates any future employment of the Participant by the Employer.

In the case of a Participant who is an independent contractor, Severance from Employment shall be deemed to have occurred when the Participant's contract for services has completely expired and terminated, there is no foreseeable possibility that the Employer shall renew the contract or enter into a new contract for services to be performed by the Participant, and it is not anticipated that the Participant shall become an Employee of the Employer.

1.21 "Trust or Custodial Agreement." The written agreement (or declaration) made by and between the Employer and the Trustee under which the Trust Fund is maintained. Custodial accounts and annuity contracts described in Code § 401(f) may be treated as trusts under the rules described in Treasury Regulation § 1.457-8(a)(3).

1.22 "Trust Fund." The trust fund created under and subject to the Trust Agreement or Custodial Agreement, as selected in the Adoption Agreement.

1.23 "Trustee." The Trustee duly appointed and currently serving under the Trust Agreement if selected in the Adoption Agreement.

1.24 "Valuation Date." Each business day.

II. PARTICIPATION AND CONTRIBUTIONS

2.01 Eligibility. Individuals performing services for the Employer, as selected in the Adoption Agreement, shall be eligible to participate in the Plan upon becoming employed by the Employer unless specifically restricted in the Adoption Agreement.

2.02 Election Required for Participation. An Employee may elect to become a Participant by executing a Participation Agreement to defer a portion of his or her Compensation (and have that amount contributed as an Annual Deferral on his or her behalf) and filing it in good order with the Administrator. In entering into the Participation Agreement, the Participant elects to participate in this Plan and consents to the deferral by the Employer of the amount specified in the Participation Agreement from the Participant's gross compensation for each payroll period and agrees to be bound by all the terms and conditions of the Plan. Such deferral shall continue in effect until modified, disallowed or revoked in accordance with the terms of this Plan or until the Participant ceases employment with the Employer.

Any prior Employee who was a Participant in the Plan and is rehired by Employer may resume participation in the Plan by entering into a Participation Agreement so long as any distributions being taken from this Plan are terminated prior to the resumption of deferrals under the Plan.

The Employer retains the right to establish minimum deferral amounts per payroll period, and to change such minimums from time to time and to limit the number and/or timing of enrollments into the Plan in the Participation Agreement. No adjustment in future deferrals shall be made if a periodic deferral is missed or is less than the amount elected. The Employer or Administrator shall have the right to modify or disallow the periodic deferral of Compensation elected by the Participant:

(a) in excess of the limitations stated in Article III;

(b) in excess of the Participant's net Compensation for any payroll period;

(c) upon any change in the length of the payroll period utilized by Employer. In such case the periodic deferral shall be adjusted so that approximately the same percentage of pay shall be deferred on an annual basis;

(d) in order to round periodic deferrals to the nearest whole dollar amount;

(e) to reduce the future deferrals in the event that the amount actually deferred for any payroll period exceeds, for any reason whatsoever, the amount elected by the Participant. In the alternative, such amount of excess deferral may be refunded to the Participant; or

(f) if the deferral elected for any payroll period is less than the minimum amount specified by the Employer or Administrator.

The participation election, or such other form as approved by the Administrator, shall include the Employee's designation of investment funds. Any such election shall remain in effect until a new election is filed. A change in the investment direction shall take effect as of the date provided by the Administrator on a uniform basis for all Employees.

The Participant may also designate a Beneficiary(ies) to receive any amounts that may be distributed in the event of death of the Participant prior to the complete distribution of benefits. A Participant may change the designated Beneficiary(ies) at any time by filing such change with the Administrator in a manner approved by the Administrator. A change in the Beneficiary designation shall take effect when the election is accepted by the Administrator. If no such designation is in effect on the Participant's death, the Beneficiary shall be the Participant's surviving spouse, if any, or if none, the Participant's estate.

2.03 Nonelective Employer Contributions. If selected in the Adoption Agreement, the Employer may make nonelective contributions to the Plan in the amounts and to the Employees designated under the Adoption Agreement.

2.04 Commencement of Participation.

(a) Voluntary Enrollment. An Employee shall become a Participant as soon as administratively practicable following the date the Employee files a participation election pursuant to Section 2.02. Such election shall become effective no earlier than the calendar month following the month in which the election is made. A new Employee may defer compensation payable in the calendar month during which the Participant first becomes an Employee if an agreement providing for the deferral is entered into on or before the first day on which the Participant performs services for the Employer.

(b) Automatic Enrollment. Notwithstanding Section 2.01 and Section 2.02, to the extent permitted by applicable law, the Administrator may establish procedures whereby, as a term or condition of employment, each employee is deemed to have elected to participate in the Plan and consents to the deferral by the Employer of a specified amount (or a uniform percentage of Compensation for an Eligible Automatic Contribution Arrangement intended to satisfy Code § 414(w)) for any payroll period for which a Participation Agreement is not in effect. If such procedures are in place, a Participant may elect a different deferral amount per payroll period, including zero, by entering into a Participation Agreement. This last sentence is not applicable to Participants in a Plan that is a retirement system providing FICA replacement retirement benefits pursuant to regulations under Code § 3121(b)(7)(F).

For Eligible Automatic Contribution Arrangements intended to satisfy Code § 414(w), in addition to the above, the Administrator shall provide to each Participant affected by this Section 2.04(b) with an annual notice that satisfies the

requirements contained in Code § 414(w) and any applicable guidance issued thereunder. These requirements include:

(1) A description of the Participant's rights and obligations under the automatic arrangement that is sufficiently accurate to apprise the Participant of such rights and obligations;

(2) Satisfying the requirements for notice contained in Treasury Regulation § 1.401(k)-3(d)(2)(ii);

(3) Describing the level of elective contributions that will be made on the Participant's behalf in the event the Participant does not make an affirmative election;

(4) Describing the Participant's rights to not have automatic elective contributions made to the Plan on the Participant's behalf;

(5) Describing how contributions will be invested absent the Participant's affirmative investment election;

(6) Describing the Participant's right to make a permissive withdrawal of the automatic elective contributions and the applicable rules governing such withdrawals; and

(7) Providing the notice to Participants within a reasonable period of time prior to each Plan Year (or in the year the Employee first becomes eligible to enroll in the Plan, within a reasonable period of time prior to becoming an Eligible Employee).

For automatic enrollment arrangements not intending to satisfy Code § 414(w), the Employer must satisfy the requirements of IRS Revenue Ruling 2000-33.

2.05 Information Provided by the Participant. Each Employee enrolling in the Plan should provide to the Administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable, in the sole discretion of the Administrator, for the Administrator to administer the plan, including, without limitation, whether the Employee is a participant in any other eligible plan under Code § 457(b).

2.06 Contributions Made Promptly. Annual Deferrals by the Participant under the Plan shall be transferred to the Trust Fund within a period that is not longer than is reasonable for the proper administration of the Participant's Account Balance in a manner consistent with the requirements contained in Treasury Regulation § 1.457-8(a)(2)(ii). For this purpose, Annual Deferrals shall be treated as contributed within a period that is not longer than is reasonable for the proper administration if the contribution is made to the Trust Fund within 15 business days following the end of the month in which the amount would otherwise have been paid to the Participant.

2.07 Amendment of Annual Deferrals Election. Subject to other provisions of the Plan, a Participant may at any time revise his or her participation election, including a change of the amount of his or her Annual Deferrals. Unless the election specifies a later effective date, a change in the amount of the Annual Deferrals shall take effect as of the first day of the next following month or as soon as administratively practicable if later. A revocation of deferrals shall take effect as soon as administratively practicable under the Employer's payroll system. Notwithstanding the above, if a negative election procedure has been implemented pursuant to Section 2.04(b), a Participant may enter into or modify a Participation Agreement at any time to provide for no deferral; provided that Participants in a Plan that is a retirement system providing FICA replacement retirement benefits pursuant to regulations under Code § 3121(b)(7)(F) are not permitted to modify their Participation Agreement to provide for no deferrals or to revoke their Participation Agreement.

2.08 Leave of Absence. Unless an election is otherwise revised, if a Participant is absent from work by leave of absence, Annual Deferrals under the Plan shall continue to the extent that Compensation continues.

2.09 Disability. A disabled Participant may elect to make Annual Deferrals during any portion of the period of his or her disability to the extent that he or she has actual Compensation (not imputed Compensation and not disability benefits) from which to make contributions to the Plan and has not had a Severance from Employment.

2.10 Revocation of Deferrals. In addition to a Participant's ability to change or revoke an election as described in Section 2.07, a Participant's request for a distribution in the event of an Unforeseeable Emergency as defined in Section 5.05(b) shall in addition be treated as a request for revocation of deferrals as of a date determined by the Administrator for the period of time determined under Section 5.05(f). Revocation of deferrals is not a distributable event, however, and the Participant's Account may only be distributed as provided in Article V.

2.11 Re-Enrollment. A Participant who revokes the Participation Agreement may again become a Participant at the times and in the manner authorized by the Administrator, by entering into a new Participation Agreement to defer Compensation payable no earlier than the first payroll period after the first day of the month after such new Participation Agreement is entered into by the Participant and accepted by the Administrator.

2.12 Designated Roth Contributions.

(a) Designated Roth Contributions. If authorized by the Employer in the Adoption Agreement, each Participant may make designated Roth Contributions; provided, however, that a Participant shall not make a Roth Contribution to the Plan for any Plan Year to the extent such Roth Contribution would exceed the limitations of Article III.

(1) General Application. This Subsection will apply to designated Roth Contributions beginning with the effective date specified in the Adoption Agreement but in no event before the first day of the first taxable year beginning on or after January 1, 2011.

(i) As of the effective date under (1), the Plan will accept elective deferrals designated as Roth Contributions made on behalf of Participants. A Participant's designated Roth Contributions will be allocated to a separate account maintained for such deferrals as described in (2).

(ii) Unless specifically stated otherwise, designated Roth Contributions will be treated as Elective Deferrals for all purposes under the Plan.

(2) Separate Accounting. Contributions and withdrawals of designated Roth Contributions will be credited and debited to the Roth Contribution Account maintained for each Participant.

(i) The Plan will maintain a record of the amount of designated Roth Contributions in each Participant's Roth Contribution Account.

(ii) Gains, losses and other credits or charges must be separately allocated on a reasonable and consistent basis to each Participant's Roth Contribution Account and the Participant's other accounts under the Plan.

(iii) No contributions other than designated Roth Contributions and properly attributable earnings will be credited to each Participant's Roth Contribution Account.

(3) Designated Roth Contributions Defined. A Designated Roth Contribution is an elective deferral that is:

(i) Designated irrevocably by the Participant at the time of the deferral election as a Roth Contribution that is being made in lieu of all or a portion of the pre-tax deferrals the Participant is otherwise eligible to make under the Plan; and

(ii) Treated by the Employer as includible in the Participant's income at the time the Participant would have received that amount in cash if the Participant had not made a deferral election

III. LIMITATIONS ON AMOUNTS DEFERRED

3.01 Basic Annual Limitation Effective for Calendar Years On and After January 1, 2002. The maximum amount of the Annual Deferral under the Plan for any calendar year shall not exceed the lesser of (i) the Applicable Dollar Amount or (ii) the Participant's Includible Compensation for the calendar year. The Applicable Dollar Amount is the amount established under Code § 457(e)(15) applicable as follows:
$11,000 for 2002;
$12,000 for 2003;
$13,000 for 2004;
$14,000 for 2005; and
$15,000 for 2006 and thereafter.

After 2006, the Applicable Dollar Amount is adjusted for cost-of-living under Code § 457(e)(15)(B). The Annual Deferral amount does not include any rollover amounts received by the Plan under Treasury Regulation § 1.457-10(e).

3.02 Age 50 Catch-up Annual Deferral Contributions. A Participant who will attain age 50 or older by the end of the calendar year is permitted to elect an additional amount of Annual Deferrals, up to the maximum age 50 catch-up Annual Deferrals for the year. The maximum dollar amount of the age 50 catch-up Annual Deferrals for a year is as follows:
$1,000 for 2002;
$2,000 for 2003;
$3,000 for 2004;
$4,000 for 2005;
$5,000 for 2006 and thereafter. After 2006, the $5,000 amount is adjusted for cost-of-living under Code § 414(v)(2)(C). Age 50 catch-up contributions are subject to the requirements of Code § 414(v).

3.03 Special § 457 Catch-up Limitations for Calendar Years Beginning On and After January 1, 2002. If the applicable year is one of a Participant's last three calendar years ending before the year in which the participant attains Normal Retirement Age and the amount determined under this Section exceeds the amount computed under Sections 3.01 and 3.02, then the Annual Deferral limit under this Section shall be the lesser of:

(a) an amount equal to two times the Section 3.01 applicable dollar limit for such year; or

(b) the sum of:

(1) An amount equal to the aggregate Section 3.01 limit for the current year plus each prior calendar year beginning after December 31, 2001, during which the Participant was an Employee under the Plan, minus the aggregate amount of Compensation that the Participant deferred under the Plan during such years, plus

(2) An amount equal to the aggregate limit referred to in Code § 457(b)(2) for each prior calendar year beginning after December 31, 1978, and before January 1, 2002, during which the Participant was an Employee (determined without regard to Sections 3.02 and 3.03), minus the aggregate contributions to Pre-2002 Coordination Plans for such years.

However, in no event can the deferred amount be more than the Participant's Compensation for such years unless the Employer is making non-elective Employer contributions.

3.04 Coordination of Age 50 Catch-up with Special § 457 Catch-up. The Age 50 Catch-up does not apply for any taxable year for which a higher limitation applies under the Special § 457 Catch-up described in Section 3.03. A Participant who is eligible for the Age 50 Catch-up for a Plan Year and for whom the Plan Year is also one of the Participant's last three taxable years ending before the Participant attains Normal Retirement Age is eligible for the larger of:

(a) The basic annual limitation described in Section 3.01 and the Age 50 Catch-up described in Section 3.02, or

(b) The Special § 457 Catch-up described in Section 3.03.

3.05 Special Rules. For purposes of this Article III, the following rules shall apply:

(a) Participant Covered By More Than One Eligible Plan. If the Participant is or has been a participant in one or more other eligible plans within the meaning of Code § 457(b), then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Article III. For this purpose, the Administrator shall take into account any other such eligible plan maintained by the Employer and shall also take into account any other such eligible plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan.

(b) Pre-Participation Years. In applying Section 3.03, a year shall be taken into account only if the Participant was eligible to participate in the Plan during all or a portion of the year and Compensation deferred, if any, under the Plan during the year was subject to the Basic Annual Limitation described in Section 3.01 or any other plan ceiling required by Code § 457(b).

(c) Pre-2002 Coordination Years. For purposes of Section 3.03(b)(2), "contributions to Pre-2002 Coordination Plans" means any employer contribution, salary reduction or elective contribution under any other eligible Code § 457(b) plan, or a salary reduction or elective contribution under any Code § 401(k) qualified cash or deferred arrangement, Code § 402(h)(1)(B) simplified employee pension (SARSEP), Code § 403(b) annuity contract, and Code § 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a

contribution to an organization described in Code § 501(c)(18), including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of Section 3.03(b)(2) to the extent that the total of such contributions does not exceed the aggregate limit referred to in Code § 457(b)(2) for that year.

(d) Disregard Excess Deferral. For purposes of Sections 3.01, 3.02 and 3.03, an individual is treated as not having deferred Compensation under a plan for a prior taxable year to the extent Excess Deferrals under the plan are distributed, as described in Section 3.06. To the extent that the combined deferrals for pre-2002 years exceeded the maximum deferral limitations, the amount is treated as an Excess Deferral for those prior years.

3.06 Correction of Excess Deferrals. If the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above, or the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under Code § 457(b) for which the Participant provides information that is accepted by the Administrator, then the Annual Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto in accordance with applicable guidance), shall be distributed to the Participant.

3.07 Protection of Persons Who Serve in a Uniformed Service. An Employee whose employment is interrupted by qualified military service under Code § 414(u) may elect to make additional Annual Deferrals upon resumption of employment with the Employer equal to the maximum Annual Deferrals that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Annual Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

IV. LOANS

If so specified in the Adoption Agreement, a Participant who is an Employee may apply for and receive a loan from his or her Account Balance as provided in this Article IV or pursuant to a loan policy executed by the Plan Administrator. Any such loan may not be for an amount less than the minimum amount specified by the Administrator. If not specified by the Administrator, the minimum loan amount shall be $1,000.

Except as modified by the loan policy adopted by the Plan Administrator from time to time, the following rules shall apply to loans under the Plan. Any loans that are issued under the Plan shall be administered in a manner consistent with the requirements

contained in Code § 72(p), Treasury Regulation § 1.72(p)-1 and any other applicable guidance issued thereunder.

4.01 Maximum Loan Amount. No loan to a Participant hereunder may exceed the lesser of:

(a) $50,000, reduced by the greater of (i) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made or (ii) the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Administrator (not taking into account any payments made during such one-year period), or

(b) one-half of the value of the Participant's vested Account Balance.

For purposes of this Section 4.02, any loan from any other plan maintained by the Employer shall be treated as if it were a loan made from this Plan, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the provisions of this paragraph shall not be applied so as to allow the amount of a loan under this Section 4.02 to exceed the amount that would otherwise be permitted in the absence of this paragraph.

4.02 Loan Provisions. The terms of the loan shall:

(a) require level amortization with payments not less frequently than quarterly throughout the repayment period, except that alternative arrangements for repayment may apply in the event that the borrower is on a bona fide unpaid leave of absence for a period not to exceed one year for leaves other than a qualified military leave within the meaning of Code § 414(u) or for the duration of an interruption of employment which is due to qualified military service;

(b) require that the loan be repaid within five years unless the Participant certifies in writing to the Administrator that the loan is to be used to acquire any dwelling unit which within a reasonable time is to be used (determined at the time the loan is made) as a principal residence of the Participant; and

(c) provide for a reasonable rate of interest to be fixed by the Administrator from time to time. The Administrator shall not discriminate among Participants in the matter of interest rates, but loans granted at different times may bear different interest rates based upon prevailing rates at the time.

A loan to a Participant shall be considered a directed investment option for such Participant's account balance.

4.03 Security for Loan; Default.

(a) Security. Any loan to a Participant under the Plan shall be secured by the pledge of the portion of the Participant's interest in the Plan invested in such loan.

(b) Default. In the event that a Participant fails to make a loan payment under this Article IV by the end of the calendar quarter following the calendar quarter in which such payment was due, a default on the loan shall occur. In the event of such default;

(1) all remaining payments on the loan shall be immediately due and payable;

(2) interest will continue to accrue on the unpaid balance until the loan is repaid in full; and

(3) the Participant shall be permanently ineligible for any future loans from the Plan unless, in the Administrator's sole discretion, the Participant is deemed to be credit worthy and agrees to repay the loan through payroll deduction.

In the case of any default on a loan to a Participant, the Administrator shall apply the portion of the Participant's interest in the Plan held as security for the loan in satisfaction of the loan on the date of Severance from Employment. In addition, the Administrator shall take any legal action it shall consider necessary or appropriate to enforce collection of the unpaid loan, with the costs of any legal proceeding or collection to be charged to the Account Balance of the Participant.

Notwithstanding anything elsewhere in the Plan to the contrary, in the event a loan is outstanding hereunder on the date of a Participant's death, his or her estate shall be his or her Beneficiary as to the portion of his or her interest in the Plan invested in such loan (with the Beneficiary or Beneficiaries as to the remainder of his or her interest in the Plan to be determined in accordance with otherwise applicable provisions of the Plan).

4.04 Repayment. The Participant shall be required, as a condition to receiving a loan, to enter into an irrevocable agreement authorizing Employer to make payroll deductions from his or her Compensation so long as the Participant is an Employee and to transfer such payroll deduction amounts to the Trustee in payment of such loan plus interest. Repayments of a loan shall be made by payroll deduction of equal amounts (comprised of both principal and interest) from each paycheck, with the first such deduction to be made as soon as practicable after the loan funds are disbursed; provided, however, a Participant may prepay the entire outstanding balance of his loan at any time; and provided, further, that if any payroll deductions cannot be made in full because a Participant is on an unpaid leave of absence or is no longer employed by the Employer or the Participant's paycheck is insufficient for any other reason, the Participant shall pay directly to the Plan the full amount that would have been deducted from the Participant's paycheck, with such payment to be made by the last business day of the calendar month in which the amount would have been deducted. Loan repayments are, at the Employer's election, suspended for Qualified Military Service as permitted by Code § 414(u)(4).

V. BENEFIT DISTRIBUTIONS

5.01 Distributions from the Trust. The payment of benefits from the Trust in accordance with the terms of the Plan may be made by the Trustee, or by any custodian or other person so authorized by the Employer to make such distribution. Neither the Administrator, the Trustee, the Custodian nor any other person shall be liable with respect to any distribution from the Trust made at the direction of the Employer or a person authorized by the Employer to give disbursement direction.

5.02 Conditions for Distributions.

(a) § 457(b) Deferred Compensation. Payments from a Participant's § 457(b) Deferred Compensation account shall not be made to the Participant or Beneficiary earlier than:

(1) the Participant's Severance from Employment or death pursuant to Sections 5.03 and 5.06;

(2) the Participant's account meets all of the requirements for an in-service de minimis distribution pursuant to Section 5.04(a) and/or (b);

(3) the Participant incurs an approved Unforeseeable Emergency pursuant to Section 5.05;

(4) the Participant at anytime elects to receive a distribution of all or any portion of the amount of rollover contributions held in the separate rollover account(s) pursuant to Section 5.04(c);

(5) the calendar year in which an in-service Participant attains age 70 ½ pursuant to Section 5.04(d); or

(6) Plan termination under Section 11.01.

(b) Latest Distribution Date. To comply with Code § 401(a)(9) and the Treasury regulations issued thereunder, in no event, shall any distribution to a Participant under this Article V begin later than the April 1 of the year following the calendar year in which the participant attains age 70 ½ or April 1 of the year following the year in which the Participant retires or otherwise has a Severance from Employment, whichever is later. If the Participant delays the distribution due in the calendar year he turns age 70 ½ or severs employment, as applicable, to the following calendar year, a second required minimum distribution must be taken by the end of that calendar year. Such distributions must be made in accordance with Section 5.06.

5.03 Severance from Employment for Any Reason, Including Retirement.

(a) Subject to Section 5.03(b), distributions to a Participant shall commence following Severance from Employment, on the regular distribution commencement date (as the Employer or Administrator may establish from time-to-time) elected by the Participant, in a form and manner determined pursuant to Sections 5.07, 5.08 and 5.09. If the Participant does not elect otherwise, the distribution shall be paid commencing on the Participant's Required Beginning Date under a payment method meeting the requirements of Code § 401(a)(9) and the regulations thereunder.

(b) If, in the Adoption Agreement, the Plan elected mandatory distributions of Account Balances of $1,000 or less and if the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Administrator will pay the distribution in a lump sum to the Participant at the Participant's last known mailing address.

If, in the Adoption Agreement, the Plan elected mandatory distributions of amounts greater than $1,000 but not greater than $5,000, and if the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Administrator will pay the distribution amount in a direct rollover to an individual retirement plan designated by the plan administrator.

5.04 In-Service Distributions.

(a) Voluntary In-Service Distribution of De Minimis Accounts. A Participant who is an active Employee may elect to receive a distribution of the total amount payable to the Participant under the Plan if the following requirements are met:

(1) the portion of the total amount payable to the Participant under the Plan does not exceed an amount specified from time to time by the Administrator (not in excess of $5,000 or other applicable limit under the Code);

(2) the Participant has not previously received an in-service distribution of the total amount payable to the Participant under the Plan; and

(3) no amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the in-service distribution.

(b) Involuntary In-Service Distribution of De Minimis Accounts. If so elected in the Adoption Agreement, the Administrator shall distribute the total amount payable

under the Plan to a Participant who is an active Employee if the following requirements are met:

(1) the Participant has not previously received an in-service distribution of the total amount payable to the Participant under the Plan;

(2) no amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the in-service distribution; and

(3) the total amount payable to the Participant under the Plan, does not exceed the amount selected in the Adoption Agreement.

If, in the Adoption Agreement, the Plan elected mandatory distributions of $1,000 or less, and if the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Administrator will pay the distribution in a lump sum to the Participant at the Participant's last known mailing address.

If, in the Adoption Agreement, the Plan elected mandatory distributions greater than $1,000 but not greater than $5,000, and if the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the plan administrator.

(c) Rollovers. If a Participant has a separate account attributable to rollover contributions to the Plan, the Participant may, at any time, elect to receive a distribution of all or any portion of the amount held in the rollover account(s).

(d) Calendar Year Participant Attains Age 70 ½. The Participant may request an in-service distribution in the calendar year the Participant will/has attained age 70 ½ or older,

(e) FICA Replacement Plan Exception. As indicated in the Adoption Agreement, Participants in a Plan intended to qualify as a retirement system providing FICA replacement retirement benefits pursuant to regulations under Code § 3121(b)(7)(F) are not eligible for In-Service De Minimis or in-service age 70 ½ distributions prior to severance.

5.05 Unforeseeable Emergency Distributions.

(a) Distribution. If the Participant or Beneficiary has an Unforeseeable Emergency before retirement or other Severance from Employment by Participant, the Participant may elect to receive a lump sum distribution equal to the amount requested or, if less, the maximum amount determined by the Administrator to be

permitted to be distributed under this Section 5.05 and Treasury Regulation § 1.457-6(c).

(b) Unforeseeable Emergency Defined. Pursuant to Treasury Regulation § 1.457-6(c)(2), An unforeseeable emergency must be defined in the plan as a severe financial hardship of the participant or beneficiary resulting from an illness or accident of the participant or beneficiary, the participant's or beneficiary's spouse, or the participant's or beneficiary's dependent (as defined in section 152, and, for taxable years beginning on or after January 1, 2005, without regard to section 152(b)(1), (b)(2), and (d)(1)(B)); loss of the participant's or beneficiary's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, such as damage that is the result of a natural disaster); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant or the beneficiary. For example, the imminent foreclosure of or eviction from the participant's or beneficiary's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Finally, the need to pay for the funeral expenses of a spouse or a dependent (as defined in section 152, and, for taxable years beginning on or after January 1, 2005, without regard to section 152(b)(1), (b)(2), and (d)(1)(B)) of a participant or beneficiary may also constitute an unforeseeable emergency. Except as otherwise specifically provided in this paragraph (c)(2)(i) of Treasury Regulation § 1.457-6, the purchase of a home and the payment of college tuition are not unforeseeable emergencies under paragraph (c)(2)(i) of Treasury Regulation § 1.457-6.

(c) Unforeseeable Emergency Distribution Standard. A distribution on account of Unforeseeable Emergency may not be made to the extent that such emergency is or may be relieved through reimbursement or compensation from insurance or otherwise, by liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship or by cessation of deferrals under the Plan.

(d) Distribution Necessary to Satisfy Emergency Need. Distributions because of an Unforeseeable Emergency may not exceed the amount reasonably necessary to satisfy the emergency need (which may include any amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution).

(e) The Administrator shall have the right to request and review all pertinent information necessary to assure that Unforeseeable Emergency withdrawal requests are consistent with the provisions of Code § 457.

(f) The Employer or Administrator may suspend the Participant's salary deferral election during the pendency of the Participant's request for an Unforeseeable

Emergency distribution. Payment of an Unforeseeable Emergency distribution shall result in mandatory suspension of deferrals for a minimum of six months from the date of payment (or such other period as mandated in applicable Treasury regulations).

(g) As indicated in the Adoption Agreement, Participants in a Plan that is a retirement system providing FICA replacement retirement benefits pursuant to regulations under Code § 3121(b)(7)(F) are not eligible for Unforeseeable Emergency distributions.

5.06 Death Benefit Distributions. Upon receipt of satisfactory proof of the Participant's death, the Participant's remaining Account Balance shall be paid under a method satisfying the required minimum distribution rules of Code § 401(a)(9) and the Treasury regulations thereunder. In the case of a Participant who dies while performing Qualified Military Service under Code § 414(u), the Beneficiaries of the Participant shall, to the extent required by Code § 401(a)(37), be entitled to any additional benefits (other than benefit accruals relating to the period of Qualified Military Service) that would be provided under the Plan had the Participant resumed and then terminated employment on account of death.

(a) Death of Participant Before Participant's Required Beginning Date. If the Participant dies before the required beginning date, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(1) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then, except as provided in Section 5.06(e) and unless the surviving spouse elects the five-year rule, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

A Beneficiary is deemed to elect the five-year rule if distributions do not begin by the required beginning date provided in this Section.

(2) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then, unless the Beneficiary elects the five-year rule, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

A Beneficiary is deemed to elect the five-year rule if distributions do not begin by the required beginning date provided in this Section.

(3) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(4) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 5.06(a), other than Section 5.06(a)(1), will apply as if the surviving spouse were the Participant.

For purposes of this Section 5.06(a) and Section 5.06(e) unless Section 5.06(a)(4) applies, distributions are considered to begin on the Participant's required beginning date. If Section 5.06(a)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 5.06(a)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 5.06(a)(1)), the date distributions are considered to begin is the date distributions actually commence.

(b) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Section 5.06. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code § 401(a)(9) and the Treasury regulations.

(c) Amount of Required Minimum Distribution for Each Distribution Calendar Year During the Participant's Lifetime. During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

(1) the quotient obtained by dividing the Participant's Account Balance by the distribution period in the Uniform Lifetime Table set forth in Treasury Regulation § 1.401(a)(9)-9, using the Participant's age as of the Participant's birthday in the distribution calendar year; or

(2) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Treasury Regulation § 1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(d) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under Sections 5.06(c) and (d) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(e) Amount of Required Minimum Distribution Where Death Occurs On or After Participant's Required Beginning Date.

(1) Participant Survived by Designated Beneficiary. If the Participant dies on or after the Participant's required beginning date and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:

(i) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(ii) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(iii) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(2) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the calendar year following the calendar year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the

Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(f) Amount of Required Minimum Distribution Where Death Occurs Before Participant's Required Beginning Date.

(1) Participant Survived by Designated Beneficiary. If the Participant dies before the required beginning date and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the calendar year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 5.06(e).

(2) No Designated Beneficiary. If the Participant dies before the required beginning date and there is no designated Beneficiary as of September 30 of the calendar year following the calendar year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the required beginning date, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 5.06(a)(1), this Section 5.06(f)(3) will apply as if the surviving spouse were the Participant.

(g) Designated Beneficiary. The individual who is designated as the Beneficiary under the Plan and is the designated Beneficiary under Code § 401(a)(9) and Treasury Regulation § 1.401(a)(9)-1, Q&A-4.

(h) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 5.06(a). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

(i) Life Expectancy. Life expectancy as computed by use of the Single Life Table in Treasury Regulation § 1.401(a)(9)-9.

(j) Participant's Account Balance. The Account Balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account Balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The Account Balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(k) Required Beginning Date. The date specified under Code § 401(a)(9) when distributions are required to begin, which, for a Participant, is April 1 following the year the Participant attains age 70 ½ or retires and severs service with the Employer, whichever is later.

5.07 Payment Options. A payee's election of a payment option must be made prior to the date that the payment of benefits is to commence or such earlier date as may be permitted by the Plan. If a timely election of a payment option is not made, benefits shall be paid in accordance with Section 5.08. Subject to applicable law and the other provisions of this Plan, distributions may be made in accordance with one of the following payment options if selected in the Adoption Agreement.

(a) A single lump-sum payment of the entire Account Balance;

(b) Installment payments for a period of years (payable on a monthly, quarterly, semi-annual, or annual basis) which extends no longer than the life expectancy of the payee as permitted under Code § 401(a)(9) using the Tables in Treasury Regulation § 1.401(a)(9)-9. The Account Balance for this calculation (other than the final installment payment) is the Account Balance as of the end of the year prior to the year for which the distribution is being calculated;

(c) Partial lump-sum payment of a designated amount, with the balance payable in installment payments for a period of years, as described in subsection (b);

(d) Annuity payments (payable on a monthly, quarterly or annual basis) for the lifetime of the payee or for the lifetimes of the payee and Beneficiary in compliance with Code § 401(a)(9);

(e) Such other forms of installment payments as may be approved by the Employer consistent with the requirements of Code § 401(a)(9); or

(f) A Participant who is an eligible retired public safety officer, as defined under Code § 402(l)(4)(B), may elect to have distributions made directly to an insurer to

pay qualified health insurance premiums for coverage for the eligible retired public safety officer, his/her spouse and dependents, by an accident of health insurance plan or qualified long-term care insurance contract as defined in Code § 7703B(b). Any elections and distributions under this Section 5.07(f) shall be made in a manner consistent with the requirements and limits contained in Code § 402(l) and any applicable guidance issued thereunder.

5.08 Default Distribution Option. In the absence of an effective election by the Participant as to the commencement and/or form of benefits, distributions shall be made in accordance with the applicable requirements of Code §§ 401(a)(9) and 457(d), and final Treasury regulations thereunder. In the absence of an effective election by the Beneficiary or Alternate Payee as to the commencement and/or form of benefits, distribution shall be made in a lump sum.

5.09 Limitations on Distribution Options. Notwithstanding any other provision of this Article V, Plan distributions shall satisfy the requirements of this Section 5.09.

(a) No distribution option may be selected by a payee under this Article V unless it satisfies the applicable requirements of Code §§ 401(a)(9) and 457(d), and final Treasury regulations thereunder.

(b) The terms of this Article V shall be construed in accordance with all applicable Code sections.

5.10 Eligible Rollover Distributions.

(a) General. Notwithstanding any provision of the Plan to the contrary that would otherwise limit an election under this Section, a Participant, the surviving spouse of a Participant (or a Participant's former spouse who is the Alternate Payee under a qualified domestic relations order as defined in Code § 414(p)) (herein collectively called "distributee") may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan in a direct rollover or an in-plan Roth direct rollover. A non-spousal Beneficiary may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid in a direct rollover to an inherited IRA referred to in Code § 402(c)(11).

(b) Definitions. For purposes of this Section, the following definitions shall apply.

(1) Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee or the non-spousal Beneficiary, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of 10 years or more; any distribution

to the extent such distribution is required under Code § 401(a)(9); any deemed distribution under the provisions of Code § 72(p); the portion of any distribution that is not includable in gross income; any distribution of excess deferrals; and any distribution on account of an Unforeseeable Emergency.

(2) Eligible Retirement Plan. An eligible retirement plan is any plan described in Code § 402(c)(8). An eligible retirement plan is described as an individual retirement account described in Code § 408(a), an individual retirement annuity described in Code § 408(b), a Roth IRA* described in Code §408A, an annuity plan described in Code § 403(a), a qualified trust described in Code § 401(a) (including § 401(k)), a tax-sheltered annuity described in Code § 403(b) or another eligible deferred compensation plan described in Code § 457(b) that accepts the distributee's eligible rollover distribution. *Effective for distributions made on/after January 1, 2008, an eligible retirement plan includes a Roth IRA described in Code § 408A.

(3) Distributee. A distributee includes an Employee or former Employee, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the Alternate Payee under a qualified domestic relations order, as defined in Code § 414(p), are distributees with regard to the interest of the spouse or former spouse.

(4) Direct Rollover. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee or to the inherited IRA specified by the non-spousal Beneficiary.

5.11 Elections. Elections under this Section shall be made in such form and manner as the Administrator may specify from time to time. To the extent permitted by and in accordance with the Code, any irrevocable elections as to the form or timing of distributions executed prior to January 1, 2002, are hereby revoked.

5.12 Practices and Procedures. The Employer or Plan Administrator may adopt practices and procedures applicable to existing and new distribution elections.

5.13 Taxation of Distributions. To the extent required by law, income and other taxes shall be withheld from each benefit payment and payments shall be reported to the appropriate governmental agency or agencies.

5.14 Required Minimum Distribution Waiver of 2009. Notwithstanding any other provisions of Article V. of the Plan, a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of section 401(a)(9)(H) of the Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the

Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the Participant or Beneficiary chooses not to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. If the Participant or Beneficiary has not elected to receive a 2009 RMD or Extended 2009 RMD then the Participant or Beneficiary will not receive a 2009 or Extended 2009 RMD unless the Participant elects to receive the distribution(s).

VI. ROLLOVERS AND TRANSFERS

6.01 Eligible Rollover Contributions to the Plan.

(a) If so specified in the Adoption Agreement, and only to the extent so specified, a Participant who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan. The Administrator may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Code § 402 and to confirm that such plan is an eligible retirement plan within the meaning of Code § 402(c)(8)(B).

(b) In-Plan Roth Rollover. If so specified in the Adoption Agreement, and only to the extent so specified, a Participant, the surviving spouse of a Participant (or a Participant's former spouse who is the Alternate Payee under a qualified domestic relations order as defined in Code § 414(p)) (herein collectively called "distributee") may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid to the Plan in an in-plan Roth rollover to the distributee's Designated Roth Contribution Account. A loan transferred in an in-plan Roth direct rollover without changing the repayment schedule is not treated as a new loan for purposes of Code § 72(p). The amount rolled over in an in-plan Roth direct rollover continues to be taken into consideration for mandatory distributions.

(c) For purposes of Section 6.01(a), an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, as defined in Section 5.10(b)(2), except that an eligible rollover distribution does not include:

(1) any installment payment for a period of 10 years or more,

(2) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon hardship of the employee,

(3) any deemed distribution under the provisions of Code § 72(p),

(4) the portion of any distribution that is not includable in gross income,

(5) any distribution of excess deferrals or

(6) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Code § 401(a)(9).

(d) Notwithstanding any other provisions of Section 6.01 of the Plan, and solely for purposes of applying the rollover provisions of the Plan, 2009 RMDs and Extended 2009 RMDs, will be treated as eligible rollover distributions.

(e) The Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is not an eligible governmental plan under Code § 457(b). The Plan shall establish and maintain a separate account for any Roth Contributions paid to the Plan from any eligible retirement plan that is not an eligible governmental plan under Code §457(b). In addition, the Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible governmental plan under Code § 457(b). The Plan shall establish and maintain a separate account for any Roth Contributions paid to the Plan from any eligible retirement plan that is an eligible governmental plan under Code §457(b).

(f) Notwithstanding the above, unless otherwise provided by the Employer in the Adoption Agreement, the Plan will accept a rollover contribution from another Roth Contribution Account under an applicable retirement plan described in Code § 402A(e)(1) and only to the extent the rollover is permitted under the rules of Code § 402(c) and § 1.402A-2 of the Treasury regulations. The Plan Administrator or other responsible party must provide the Plan with a statement indicating the first year of the five-taxable-year period and the portion of the rollover distribution that is attributable to investment in the contract under Code § 72 or a statement that the distribution is a qualified distribution.

6.02 Plan-to-Plan Transfers to the Plan. At the direction of the Employer, the Administrator may permit a class of Participants who are participants in another eligible governmental plan under Code § 457(b) to transfer assets to the Plan as provided in this Section 6.02. Such a transfer is permitted only if the other plan provides for the direct transfer of each Participant's interest therein to the Plan. The Administrator may require in its sole discretion that the transfer be in cash or other property acceptable to the Administrator. The Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Code § 457(e)(10) and Treasury Regulation § 1.457-10(b) and to confirm that the other plan is an eligible governmental plan as defined in Treasury Regulation § 1.457-2(f). The amount so transferred shall be credited to the Participant's Account Balance and shall be held, accounted for, administered and otherwise treated in the same manner as an Annual Deferral by the Participant under the Plan, except that the transferred amount shall not be considered an Annual Deferral under the Plan in determining the maximum deferral under Article III.

6.03 Plan-to-Plan Transfers from the Plan.

(a) At the direction of the Employer, the Administrator may permit a class of Participants and Beneficiaries to elect to have all or any portion of their Account Balance transferred to another eligible governmental plan within the meaning of Code § 457(b) and Treasury Regulation § 1.457-2(f). An in-service transfer is permitted under this Section only if the Participant is transferring to another eligible governmental plan maintained by Employer. In all other circumstances, a transfer is permitted under this Section 6.03(a) for a Participant only if the Participant has had a Severance from Employment with the Employer and is an Employee of the entity that maintains the other eligible governmental plan. Further, a transfer is permitted under this Section 6.03(a) only if the other eligible governmental plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.

(b) Upon the transfer of assets under this Section 6.03, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 6.03 (for example, to confirm that the receiving plan is an eligible governmental plan under paragraph (a) of this Section 6.03 and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to Treasury Regulation § 1.457-10(b).

6.04 Permissive Service Credit Transfers.

(a) If a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in Code § 414(d)) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account Balance transferred to the defined benefit governmental plan. A transfer under this Section 6.04(a) may be made before the Participant has had a Severance from Employment.

(b) A transfer may be made under Section 6.04(a) if the transfer is either for the purchase of permissive service credit (as defined in Code § 415(n)(3)(A)) under the receiving defined benefit governmental plan or a repayment to which Code § 415 does not apply by reason of Code § 415(k)(3) or as otherwise allowed by the Internal Revenue Service.

(c) As indicated in the Adoption Agreement, Participants in a Plan that is a retirement system providing FICA replacement retirement benefits pursuant to regulations

under Code §3121(b)(7)(F) are not eligible for permissive service credit transfers prior to a Severance of Employment.

VII. CREATION OF TRUST AND TRUST FUND

7.01 Trust Fund. All amounts of Annual Deferrals, all property and rights purchased with such amounts and all income attributable to such amounts, property or rights shall be held and invested in the Trust Fund in accordance with this Plan and the Trust Agreement. The Trust Fund, and any sub trust established under the Plan, shall be established pursuant to a written agreement that constitutes a valid trust under applicable state law. The Trustee shall ensure that all investments, amounts, property and rights held under the Trust Fund are held for the exclusive benefit of Participants and their Beneficiaries. The Trust Fund shall be held in trust pursuant to the Trust Agreement for the exclusive benefit of Participants and their Beneficiaries and defraying reasonable expenses of the Plan and of the Trust Fund. It shall be impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Trust Fund to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

The trust requirement of Code § 457(g) may be satisfied by a trust agreement, a custodial agreement or the annuity contract, if any. The trust requirement shall be satisfied in the manner specified in the Adoption Agreement. If so elected in the Adoption Agreement, the Employer or certain Employees of (or holders of certain positions with) the Employer shall be named as Trustee in the Adoption Agreement and Plan assets shall be set aside in trust pursuant to this Article VII.

If the Employer does not elect to self-trustee the Plan, the Employer must elect one of the following options in the Adoption Agreement:

(a) Plan assets will be set aside in trust pursuant to a separate written trust agreement entered into between the Employer and the bank or trust company named as Trustee named in the Adoption Agreement. The Employer shall enter into a separate written trust agreement with the Trustee.

(b) Plan assets shall be set aside in one or more annuity contracts issued by an insurance company qualified to do business in the state where the contract is issued. The owner of the annuity contract is the "deemed trustee" of the assets invested under the contract for purposes of Code § 457(g).

(c) Plan assets shall be set aside in one or more custodial accounts described in Code § 401(f) with the bank or trust company named in the Adoption Agreement as Custodian and "deemed trustee" for purposes of Code § 457(g). The Employer shall enter into a separate written custodial agreement with the Custodian.

7.02 Establishment of Trust. The Employer or named Employees of Employer (or certain holders of positions with the Employer) named in the Adoption Agreement shall serve as Trustee of a Trust hereby created to hold all of the assets of the Plan for the exclusive benefit of Participants and Beneficiaries. The Trust shall consist of all contributions made under the Plan and the investment earnings thereon. All contributions and the earnings thereon less payments made under the terms of the Plan, including fees and expenses, shall constitute the Trust. Except to the extent that the Employer enters into a separate written trust agreement with a bank or trust company Trustee, the assets in Trust shall be administered as provided in this sample Basic Plan Document.

7.03 Appointment and Termination of Trustee. A Trustee may be named by the Employer and may be a Participant. The Trustee shall remain in office at the will of the Employer and may be removed from office at any time by the Employer, with or without cause. Such removal shall be effective upon delivery of written notice to the Trustee or at such later time as may be designated in such notice; provided that any such notice of removal shall take effect no sooner than 30 days and no later than 60 days after the delivery thereof, unless such 30 or 60 day period shall be waived. The Trustee may resign at any time upon giving written notice to the Employer or at such later time as may be designated in the notice of resignation; provided that (a) any such notice of resignation shall take effect no sooner than 30 days and no later than 60 days after the delivery thereof, unless such 30 day or 60 day period shall be waived and (b) upon such resignation or removal the Employer shall have the power and the duty to designate and appoint a successor Trustee, and the actual appointment of a successor Trustee is a condition that must be fulfilled before the resignation or removal of the Trustee shall become effective.

Upon appointment, the successor Trustee shall have all the rights, powers, privileges, liabilities and duties of the predecessor Trustee. The Trustee so resigned or removed shall take any and all action necessary to vest the rights, powers, privileges, liabilities and duties of the Administrator in his, her or its successor.

7.04 Acceptance. By signing the Adoption Agreement the Trustee accepts the Trust created under the Plan and agrees to perform the obligations imposed.

7.05 Control of Plan Assets. The assets of the Trust or evidence of ownership shall be held by the Trustee, under the terms of the Plan and under either this Article VII or under the separate written trust agreement with a bank or trust company. If the assets represent amounts transferred from a former plan, the Trustee shall not be responsible for the propriety of any investment under the former plan.

7.06 General Duties of the Trustee. The Employer or named individuals in the employ of the Employer named as Trustee(s) in the Adoption Agreement shall be responsible for the administration of investments held in the Plan. The Trustee's duties shall include:

(a) receiving contributions under the terms of the Plan;

(b) making distributions from Plan assets held in Trust in accordance with written instructions received from an authorized representative of the Employer;

(c) keeping accurate records reflecting its administration of the Trust assets and making such records available to the Employer for review and audit. Within 90 days after each Plan Year, and within 90 days after its removal or resignation, the Trustee shall file with the Employer an accounting of its administration of the Trust assets during such year or from the end of the preceding Plan Year to the date of removal or resignation. Such accounting shall include a statement of cash receipts and disbursements since the date of its last accounting and shall contain an asset list showing the fair market value of investments held in the Trust as of the end of the Plan Year.

The value of marketable investments shall be determined using the most recent price quoted on a national securities exchange or over the counter market. The value of non-marketable investments shall be determined in the sole judgment of the Trustee which determination shall be binding and conclusive. The value of investments in securities or obligations of the Employer in which there is no market shall be determined in the sole judgment of the Employer and the Trustee shall have no responsibility with respect to the valuation of such assets. The Employer shall review the Trustee's accounting and notify the Trustee in the event of its disapproval of the report within 90 days, providing the Trustee with a written description of the items in question. The Trustee shall have 60 days to provide the Employer with a written explanation of the items in question; and

(d) employing such agents, attorneys or other professionals as the Trustee may deem necessary or advisable in the performance of its duties.

The Trustee's duties shall be limited to those described above. The Employer shall be responsible for any other administrative duties required under the Plan or by applicable law.

7.07 Investment Powers of the Trustee. The Trustee shall implement an investment program based on the Employer's investment objectives. If either the Employer or the Participant fails to issue investment directions as provided in Sections 8.01 and 8.02, the Trustee shall have authority to invest the Trust assets in its sole discretion. In addition to powers given by law, the Trustee may:

(a) invest the Trust assets in any form of property, including common and preferred stocks, exchange and trade put and call options, bonds, money market instruments, mutual funds (including Trust assets for which the Trustee or its affiliates serve as investment advisor), Treasury bills, deposits at reasonable rates of interest at banking institutions including but not limited to savings accounts and certificates of deposit, and other forms of securities or investment of any kind, class, or character whatsoever, or in any other property, real or personal, having a ready market;

(b) invest and reinvest all or any part of the Trust assets in any insurance policies or other contracts with insurance companies including but not limited to individual or group annuity, deposit administration, and guaranteed interest contracts. Such contracts shall be held in the name of the Trustee;

(c) transfer any assets of the Trust to any group or common, collective or commingled fund that is maintained by a bank or other institution that is established to permit the pooling of assets of separate Trusts so long as such fund is available to § 457(b) plans;

(d) hold cash un-invested and deposit same with any banking or savings institution at reasonable interest;

(e) deposit fees earned from revenue sharing, 12(b)(1) fees, any investment gains and any otherwise unallocated trust assets into an account to be invested in any employer-directed investment option available under the Plan;

(f) join in or oppose the reorganization, recapitalization, consolidation, sale or merger of corporations or properties, including those in which it is interested as a Trustee, upon such terms as it deems wise;

(g) hold investments in nominee or bearer form;

(h) to vote or refrain from voting any stocks, bonds, or other securities held in the Trust, to exercise any other right appurtenant to any securities or other property held in the Trust, to vote or refrain from voting proxies;

(i) exercise all ownership rights with respect to assets held in the Trust; and

(j) do any and all other acts that may be deemed necessary in the performance of the Trustee's duties hereunder.

7.08 Trustee Fees and Expenses. All reasonable costs, charges and expenses incurred by the Trustee in connection with the administration of the Trust assets (including fees for legal services rendered to the Trustee) may be paid by the Employer, but if not paid by the Employer when due, shall be paid from the Trust. Such reasonable compensation to a bank or trust company Trustee as may be agreed upon from time to time between the Employer and the Trustee may be paid by the Employer, but if not paid by the Employer when due, shall be paid by the Trust. The Trustee shall have the right to liquidate Trust assets to cover its fees. Notwithstanding the foregoing, no compensation other than reimbursement for expenses shall be paid to a Trustee who is the Employer or a full-time Employee. In the event any part of the Trust assets become subject to tax, all taxes incurred shall be paid from the Trust unless the Administrator advises the Trustee not to pay such tax. If pursuant to 7.07(e) an account holding un-invested trust assets is in existence at anytime during the Plan Year, all amounts in the account shall be first used

to offset any plan expenses and any amounts remaining shall be allocated to Participant's accounts no later than the end of the Plan Year.

7.09 Exclusive Benefit Rules. No part of the Trust assets shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants, former Participants with an interest in the Plan and the Beneficiary or Beneficiaries of a deceased Participant having an interest in the Trust assets at the death of the Participant.

7.10 Trustee Actions. Every action taken by the Trustee shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon him, her or it. The Trustee shall be deemed to have exercised reasonable care, diligence and prudence and to have acted impartially as to all persons interested, unless the contrary be proven by affirmative evidence. The Trustee shall not be liable for amounts of Compensation deferred by Participants or for other amounts payable under the Plan.

7.11 Delegation. Subject to any applicable laws and any approvals required by the Employer, the Trustee may delegate any or all powers and duties hereunder to another person, persons or entity and may pay reasonable compensation for such services as an administrative expense of the Plan to the extent such compensation is not otherwise paid.

7.12 Division of Duties and Indemnification.

(a) The Trustee shall have the authority and discretion to manage and govern the Trust assets to the extent provided in this instrument, but does not guarantee the Trust in any manner against investment loss or depreciation in asset value or guarantee the adequacy of the Trust assets to meet and discharge all or any liabilities of the Plan.

(b) The Trustee shall not be liable for the making, retention or sale of any investment or reinvestment made by it, as herein provided, or for any loss to, or diminution of the Trust assets or for any other loss or damage which may result from the discharge of its duties hereunder except to the extent it is judicially determined that the Trustee has failed to exercise the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims.

(c) The Employer warrants that all directions issued to the Trustee by it or the Administrator shall be in accordance with the terms of the Plan and not contrary to the provisions of the Code.

(d) The Trustee shall not be answerable for any action taken pursuant to any direction, consent, certificate or other paper or document on the belief that the same is genuine and signed by the proper person. All directions by the Employer or the Administrator shall be in writing from the authorized individual or individuals named in the Adoption Agreement.

(e) The duties and obligations of the Trustee shall be limited to those expressly imposed upon it by this instrument or subsequently agreed upon by the parties. Responsibility for administrative duties required under the Plan or applicable law not expressly imposed upon or agreed to by the Trustee shall rest solely with the Employer.

(f) The Trustee shall be indemnified and held harmless by the Employer from and against any and all liability to which the Trustee may be subjected, including all expenses reasonably incurred in its defense, for any action or failure to act resulting from compliance with the instructions of the Employer, the Employees or agents of the Employer, the Administrator, or any other fiduciary to the Plan, and for any liability arising from the actions or inactions of any predecessor Trustee, custodian or other fiduciaries of the Plan.

(g) The Trustee shall not be responsible in any way for the application of any payments it is directed to make or for the adequacy of the Trust assets to meet and discharge any and all liabilities under the Plan.

VIII. INVESTMENTS

8.01 Investment Options. Employer shall have the sole discretion to select one or more investment options to be offered under the Plan. These investment options may include specified life insurance policies, annuity contracts or investment media issued by an insurance company. It shall be the sole responsibility of the Employer to ensure that all investment options offered under the Plan are appropriate and in compliance with any and all state laws pertaining to such investments.

8.02 Participant Investment Direction. If the Employer chooses to designate one or more investment options in which Participants may direct investment of their Account(s), Participants shall have the option to direct the investment of their Account(s) from among the investment options designated by the Employer. The Participant's right to transfer among or out of any such investment options shall be subject to any timing or other restrictions imposed upon Participants by the providers of the investment options chosen by the Participant, including, but not limited to market-timing restrictions, excessive trading restrictions and redemption fees. The Trustee or Custodian, as applicable, shall hold title to such investment options. A Participant's right to direct the investment of Account balances shall apply only to making selections among the options made available under the Plan and only to the extent specified by the Employer pursuant to uniform rules. The terms of this paragraph, including any trading restrictions or fees, shall also apply to Beneficiary and Alternate Payee accounts.

(a) Each Participant shall designate on the form prescribed by the Administrator the one or more investment options in which he or she wishes to have his Account invested and may change such investment directions in accordance with and at the

time or times specified under uniform rules established by the Administrator or the investment provider, as applicable. The Participant's Account shall be debited or credited as appropriate to reflect all gains or losses on such investments. If a Participant has the right to direct the investment of his Account but does not provide such direction pursuant to uniform rules established by Employer, the Participant's Account shall be invested in the investment option selected by the Plan.

(b) Neither the Employer, the Administrator, the Trustee, the Custodian nor any other person shall be liable for any loss incurred by virtue of following the Participant's directions or by reason of any reasonable administrative delay in implementing such directions.

(c) The Employer may from time to time change the investment options made available under the Plan pursuant to uniform rules established by the Administrator. If the Employer eliminates an investment option, all Participants who had chosen that investment option shall select another option. If the Participant does not select a new option, money remaining in the eliminated investment option shall be reinvested at the direction of the Employer. The Participants shall have no right to require the Employer to select or retain any investment option. Any change with respect to investment options made by the Employer or a Participant, however, shall be subject to the terms and conditions (including any rules or procedural requirements) of the affected investment options.

8.03 Employer Investment Direction.

(a) To the extent the Employer chooses not to allow Participant direction of the investment of his or her Account, the Employer shall have the right to direct the Trustee or Custodian with respect to investments of the Trust assets, may appoint an investment manager to direct investments or may give the Trustee sole investment management responsibility. The Employer or investment manager shall make any investment directive in writing. Such instructions regarding the delegation of investment responsibility shall remain in force until revoked or amended in writing. The Trustee shall not be responsible for the propriety of any investment made at the direction of the Employer or an investment manager and shall not be required to consult with or advise the Employer regarding the investment quality of any directed investment held hereunder. In the absence of such written directive, the Trustee shall automatically invest the available cash in its discretion in an appropriate interim investment until specific investment directions are received.

(b) If the Employer fails to direct the investment of Trust assets or name an investment manager and the Trustee or Custodian do not have investment authority, the Administrator shall have full investment authority.

8.04 Participant Accounts. The Administrator shall maintain or cause to be maintained one or more individual accounts for each Participant. Such accounts shall include separate accounts, as necessary, for Code § 457(b) Deferred Compensation, Code § 457(b) rollovers, IRA rollovers, other qualified plan and Code § 403(b) plan rollovers and such other accounts as may be appropriate from time to time for plan administration. At regular intervals established by the Administrator, each Participant's account(s) shall be credited with the amount of any Deferred Compensation paid into the Trust; debited with any applicable administrative or investment expense, including, but not limited to, fees charged to Participants, allocated on a reasonable and consistent basis; credited or debited with investment gain or loss, as appropriate; and debited with the amount of any distribution. Each Participant shall be notified in writing of the balance in his Account at least once a year.

IX. ADMINISTRATION

9.01 Administrator. Employer shall be the Administrator unless another person or persons is appointed by the Employer in the Adoption Agreement pursuant to Section 9.02.

9.02 Appointment and Termination of Administrator. An Administrator may be named in the Adoption Agreement by the Employer and may be a Participant. The Administrator shall remain in office at the will of the Employer and may be removed from office at any time by the Employer, with or without cause. Such removal shall be effective upon delivery of written notice to the Administrator or at such later time as may be designated in such notice; provided that any such notice of removal shall take effect no later than 60 days after the delivery thereof, unless such 60 day period shall be waived. The Administrator may resign at any time upon giving written notice to the Employer or at such later time as may be designated in the notice of resignation provided that; (a) any such notice of resignation shall take effect no later than 60 days after the delivery thereof, unless such 60 day period shall be waived; and (b) upon such resignation or removal the Employer shall have the power and the duty to designate and appoint a successor Administrator, and the actual appointment of a successor Administrator is a condition that must be fulfilled before the resignation or removal of the Administrator shall become effective. Upon appointment, the successor Administrator shall have all the rights, powers, privileges, liabilities and duties of the predecessor Administrator. The Administrator so resigned or removed shall take any and all action necessary to vest the rights, powers, privileges, liabilities and duties of the Administrator in the successor.

9.03 Duties of Administrator. Subject to any applicable laws and any approvals required by the Employer, the Administrator shall have full power and authority to adopt rules, regulations and procedures for the administration of the Plan, and to interpret, alter,

amend, or revoke any rules, regulations or procedures so adopted. The Administrator's duties shall include:

(a) appointing the Plan's attorney, accountant, actuary, custodian or any other party needed to administer the Plan or the Plan assets;

(b) directing the Trustee or Custodian with respect to payments from the Plan assets held in Trust;

(c) communicating with Employees regarding their participation and benefits under the Plan, including the administration of all claims procedures;

(d) filing any returns and reports with the Internal Revenue Service or any other governmental agency;

(e) reviewing and approving any financial reports, investment reviews, or other reports prepared by any party appointed under paragraph (a);

(f) establishing a funding policy and investment objectives consistent with the purposes of the Plan; and

(g) construing and resolving any question of Plan interpretation. The Administrator's interpretation of Plan provisions including eligibility and benefits under the Plan is final.

9.04 Administrative Fees and Expenses. All reasonable costs, charges and expenses incurred by the Administrator in connection with the administration of the Plan (including fees for legal services rendered to the Administrator) may be paid by the Employer, but if not paid by the Employer when due, shall be paid from Plan assets. Such reasonable compensation to the Administrator as may be agreed upon from time to time between the Employer and Administrator may be paid by the Employer, but if not paid by the Employer when due shall be paid from Plan assets. Notwithstanding the foregoing, no compensation other than reimbursement for expenses shall be paid to an administrator who is the Employer or a full-time Employee of the Employer. In the event any part of the assets in the Plan become subject to tax, all taxes incurred shall be paid from the Plan assets unless the Administrator instructs the Trustee or Custodian not to pay such tax.

9.05 Actions of Administrator. Every action taken by the Administrator shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon him, her or it. The Administrator shall be deemed to have exercised reasonable care, diligence and prudence and to have acted impartially as to all persons interested, unless the contrary be proven by affirmative evidence. The Administrator shall not be liable for amounts of Compensation deferred by Participants or for other amounts payable under the Plan.

9.06 Delegation. Subject to any applicable laws and any approvals required by the Employer, the Administrator may delegate any or all powers and duties hereunder to another person, persons or entity, and may pay reasonable compensation for such services as an administrative expense of the Plan to the extent such compensation is not otherwise paid.

9.07 Investment and Service Providers. Any company which issues policies, contracts or investment media to the Employer or in respect of a Participant is not a party to this Plan and such company shall have no responsibility, accountability or liability to the Employer, the Administrator, any Participant or any Beneficiary with regard to the operation or adequacy of this Plan, including any future amendments made thereto.

X. LEAVE OF ABSENCE

10.01 Paid Leave of Absence. If a Participant is on an approved leave of absence from the Employer with Compensation, or on approved leave of absence without Compensation that does not constitute a Severance from Employment, which under the Employer's current practices is generally a leave of absence without Compensation for a period of one year or less, said Participant's participation in the Plan may continue.

10.02 Unpaid Leave of Absence. If a Participant is on an approved leave of absence without Compensation and such leave of absence continues to such an extent that it becomes a Severance from Employment, said Participant shall have separated from service with the Employer for purposes of this Plan. Upon termination of leave without pay and return to active status, the Participant may enter into a new Participation Agreement to be effective when permitted by Section 2.11.

XI. AMENDMENT OR TERMINATION OF PLAN

11.01 Termination. The Employer may at any time terminate this Plan; provided, however, that no termination shall affect the amount of benefits, which at the time of such termination shall have accrued for Participants or Beneficiaries. Such accrued benefit shall include any Compensation deferred before the time of the termination and income thereon accrued to the date of the termination. Such amount shall be calculated in accordance with Section 8.04 and the terms and conditions of the affected investment option. Upon such termination, each Participant in the Plan shall be deemed to have revoked his agreement to defer future Compensation as provided in Section 2.10 as of the date of such termination and Section 2.04(b) shall no longer be in effect. Each Participant's full Compensation on a nondeferred basis shall be restored. Upon plan termination, all amounts deferred will be distributed to Participants or Beneficiaries as soon as administratively practicable after the termination date.

11.02 Amendment. The Employer may amend the provisions of this Plan at any time; provided, however, that no amendment shall affect the amount of benefits which at the time of such amendment shall have accrued for Participants or Beneficiaries, to the extent

of Compensation deferred before the time of the amendment and income thereon accrued to the date of the amendment, calculated in accordance with Section 8.04 and the terms and conditions of the investment options hereunder; and provided further, that no amendment shall affect the duties and responsibilities of the Trustee or Custodian unless executed by the Trustee or Custodian.

To the extent permitted by applicable law, the Employer delegates to the Administrator the authority to adopt rules, regulations or procedures from time to time as may be necessary or desirable to conform Plan provisions to, or to elaborate Plan provisions in light of, technical amendments to the Code, Treasury regulations or other guidance issued under the Code, and such rules, regulations or procedures are hereby ratified by the Employer as having the force and effect of Plan amendments.

11.03 Copies of Amendments. The Administrator shall provide a copy of any Plan amendment to any Trustee or custodian and to the issuers of any investment options selected pursuant to Section 8.01.

XII. TAX TREATMENT OF AMOUNTS CONTRIBUTED

It is intended that pursuant to Code § 457, the amount deferred shall not be considered current compensation for purposes of federal income taxation except to the extent that the amount deferred is Designated Roth Contributions. This rule shall also apply to state income taxation unless applicable state laws provide otherwise. Such amounts shall, however, be included as compensation to the extent required under the Federal Insurance Contributions Act (FICA). Payments under this Plan shall supplement retirement and death benefits payable under the Employer's group insurance and retirement plans, if any.

XIII. NON-ASSIGNABILITY

13.01 Non-Assignability. Except as provided in Sections 13.02 and 13.03, the interests of each Participant or Beneficiary under the plan are not subject to the claims of the Participant's or Beneficiary's creditors, and neither the Participant nor any Beneficiary shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.

13.02 Qualified Domestic Relations Orders. If so specified in the Adoption Agreement, domestic relations orders approved by the Administrator shall be administered as follows.

(a) Notwithstanding Section 13.01, if a final judgment, decree, or order (including approval of a property settlement) that is related to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant (herein called an Alternate Payee) is made pursuant to the domestic relations law of any State and meets the

requirements of Code § 414(p), then such order shall be referred to as a Qualified Domestic Relations Order ("QDRO"). If a QDRO is duly filed upon the Administrator, then the amount of the Participant's Account Balance shall be paid to or set aside in a separate account for Alternate Payee(s) as elected by the Alternate Payee. Payments to the Alternate Payee shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Administrator shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the QDRO and may charge the Participant and Alternate Payee a fee as established from time to time.

Where necessary to carry out the terms of such a QDRO, a separate account shall be established with respect to the Alternate Payee(s) and such person shall be entitled to make investment selections with respect thereto in the same manner as the Participant, except to the extent restricted by the employer or a specific investment option under the plan. All costs and charges incurred in carrying out the investment selection shall be deducted from the account created for the spouse, former spouse or child making the investment selection. The Alternate Payee may select from among the forms of payment available to Participants except a joint and survivor annuity naming the Alternate Payee and a subsequent spouse. Withholding and income tax reporting shall be done with respect to the Alternate Payee under the terms of the Code as amended from time to time.

(b) The Employer's liability to pay benefits to a Participant shall be reduced to the extent that amounts have been paid or set aside for payment to a spouse, former spouse or child pursuant to this Section. No amount shall be paid or set aside unless the Employer, or its agents or assigns, has been provided with satisfactory evidence releasing them from any further claim by the Participant with respect to these amounts. The Participant shall be deemed to have released the Employer from any claim with respect to such amounts in any case in which the Employer has been notified of or otherwise joined in a proceeding relating to a QDRO which sets aside a portion of the Participant's account for a spouse, former spouse or child, and the Participant fails to obtain an order of the court in the proceeding relieving the Employer from the obligation to comply with the QDRO.

(c) The Employer shall not be obligated to comply with any judgment, decree or order that attempts to require the Plan to violate any Plan provision or any provision of Code § 457. Neither the Employer nor its agents or assigns shall be obligated to defend against or set aside any judgment, decree, or order described herein or any legal order relating to the division of a Participant's benefits under the Plan unless the full expense of such legal action is borne by the Participant. In the event that the Participant's action (or inaction) nonetheless causes the Employer, its agents or assigns to incur such expense, the amount of the expense may be charged against the Participant's account and thereby reduce Employer's obligation to pay benefits to the Participant. In the course of any proceeding relating to divorce, separation, or child support, the Employer, its agents and

assigns shall be authorized to disclose information relating to Participant's individual account to the Participant's spouse, former spouse or child (including the legal representatives of the spouse, former spouse or child), or to a court.

13.03 IRS Levy. Notwithstanding Section 13.01, the Administrator may pay from a Participant's or Beneficiary's Account Balance the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

13.04 Mistaken Contributions. If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contributions (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Employer.

If the Plan utilizes an Eligible Automatic Contribution Arrangement intended to satisfy Code § 414(w), the Participant may elect a return of their elective deferrals (as adjusted for applicable earnings and losses), if such election is made prior to the 91st day after the date of the first elective contribution is deducted from the employee's Compensation. Any employer contributions shall be forfeited. Any forfeitures arising under the Plan shall be subject to the provisions of Sections 7.07 and 7.08 applicable to unallocated trust assets.

13.05 Payments to Minors and Incompetents. To the extent the Employer or Administrator determines that the following procedure meets applicable state or local law, if a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, benefits will be paid to such person as the Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

13.06 Procedure When Distributee Cannot Be Located. The Administrator shall make all reasonable attempts to determine the identity and address of a participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means:

(a) the mailing by certified mail of a notice to the last known address shown on the Employer's or Administrator's records,

(b) notification sent to the Social Security Administration, Internal Revenue Service or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans) and

(c) the payee has not responded within six months.

If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the trust fund shall continue to hold the benefits due such person until in the Employer's or Administrator's sole discretion, the Plan is required to take other action under applicable law except that if, in the Adoption Agreement, the Plan elected mandatory distributions greater than $1,000, then the Administrator will pay the distribution for such person in a direct rollover to an individual retirement plan designated by the plan administrator.

XIV. DISCLAIMER

14.01 The Employer and the Administrator make no endorsement, guarantee or any other representation and shall not be liable to the Plan or to any Participant, Beneficiary or any other person with respect to:

(a) the financial soundness, investment performance, fitness, or suitability (for meeting a Participant's objectives, future obligations under the Plan, or any other purpose) of any investment option offered pursuant to Section 8.01 or any investment vehicle in which amounts deferred under the Plan are actually invested or

(b) the tax consequences of the Plan to any Participant, Beneficiary or any other person.

EMPLOYER PARTICIPATION

15.01 Notwithstanding any other provisions of this Plan and if so specified in the Adoption Agreement, the Employer may contribute additional amounts into the Plan on behalf of any Participant, so long as the total amount contributed by the Employer when added to the Annual Deferral made by the Participant does not exceed the maximum deferral permitted by Article III for the calendar year. The amount of such Employer contribution and the Employees or independent contractors eligible to receive such contributions shall be detailed in an amendment attached to this Plan document. Such Employer contributions shall be wages for services rendered by the Participant to the Employer during the payroll period contributed.

INTERPRETATION

16.01 Governing Law. This Plan shall be construed under the laws of the state in which the Employer is located.

16.02 Internal Revenue Code § 457. This Plan is intended to be an eligible deferred compensation plan within the meaning of Code § 457 and shall be interpreted so as to be consistent with such Section and all regulations promulgated thereunder.

16.03 Word Usage. Words used herein in the singular shall include the plural and the plural the singular where applicable, and one gender shall include the other genders where appropriate.

16.04 Headings. The headings of sections, sections or other subdivisions hereof are included solely for convenience of reference. If there is any conflict between such headings and the text of the Plan, the text shall control.

16.05 Entire Agreement. This Plan, the executed Adoption Agreement and any properly adopted amendment thereof, shall constitute the total agreement or contract between the Employer and the Participant regarding the Plan. No oral statement regarding the Plan may be relied upon by the Participant. This Plan and any properly adopted amendment shall be binding on the parties hereto and their respective heirs, administrators, Trustees, successors, assigns and on all designated Beneficiaries of the Participant.

C-_____

AMENDMENT No. 1
TO
SECTION 457(b) ELIGIBLE DEFERRED COMPENSATION PLAN

RECITALS

A. The City of Glendale sponsors a deferred compensation plan ("Plan") for its employees; and

B. Effective the same date as this Amendment, the Council of the City of Glendale adopted and approved the City of Glendale's Section 457(b) Eligible Deferred Compensation Plan for Government Employers 03-2012 Basic Plan Document ("Plan Document"); and

C. Section 11.02 of the Plan Document allows the City of Glendale to amend the Plan; and

D. The City of Glendale wishes to alter the Plan's conditions for participant loan repayments.

NOW, THEREFORE, the City of Glendale hereby amends the Plan Document as follows:

AMENDMENT

1. Section 4.04 of the Plan Document is deleted and replaced in its entirety with the following text:

   4.04 Repayment. The Participant shall be required, as a condition to receiving a loan, to enter into an agreement authorizing ACH deductions for loan repayment, and authorizing transfer of such deduction amounts to the Trustee in payment of such loan plus interest. Repayments of a loan shall be made by deduction of equal amounts (comprised of both principal and interest), with the first such deduction to be made as soon as practicable after the loan funds are disbursed; provided, however, a Participant may prepay the entire outstanding balance of his loan at any time without penalty. Loan repayments are, at the Employer's election, suspended for Qualified Military Service as permitted by Code § 414(u)(4).

2. The final paragraph of Section 2.02 of the Plan Document is deleted and replaced in its entirety with the following text:

   The Participant may also designate a Beneficiary(ies) to receive any amounts that may be distributed in the event of death of the Participant prior to the complete distribution of benefits. A Participant may change the designated Beneficiary(ies) at any time by filing

ADOPTION AGREEMENT

GREAT-WEST RETIREMENT SERVICES®

SECTION 457(b)

ELIGIBLE DEFERRED COMPENSATION PLAN

FOR GOVERNMENTAL EMPLOYERS

Adopted By: City of Glendale, Arizona
Employer

City of Glendale Section 457 Deferred Compensation Plan
Plan Name

GREAT-WEST RETIREMENT SERVICES
SECTION 457(b)
ELIGIBLE DEFERRED COMPENSATION PLAN
FOR GOVERNMENTAL EMPLOYERS

The Employer named below is a governmental "eligible employer" within the meaning of Code § 457(e)(1)(A) and hereby establishes (or, as applicable, amends and restates) a deferred compensation plan for eligible Employees as provided in this Adoption Agreement and the accompanying 2012 Great-West Retirement Services Section 457(b) Eligible Deferred Compensation Plan sample Basic Plan Document.

A. EMPLOYER INFORMATION.

1. EMPLOYER'S NAME AND ADDRESS:

   City of Glendale

   5850 West Glendale Avenue

   Glendale, Arizona 85301

2. TELEPHONE NUMBER: 623-930-2277

3. TAX ID NUMBER: 86-6000247

4. NAME OF PLAN: City of Glendale Section 457 Deferred Compensation Plan

5. NAME OF PLAN ADMINISTRATOR (the Employer unless another person(s) is appointed as set forth in Section 9.02 of the Plan):

   Executive Director of Human Resources and Risk Management or the manager who may be designated to perform the functions of this position

B. EFFECTIVE DATE. *(Check box 1 OR box 2 and fill in the blank(s).)*

1. [ ] This is a new Plan having an effective date of the date the Employer executes this Adoption Agreement or, if later:_____.

2. [X] This is an amended and restated Plan.

   The effective date of the original Plan was November 10, 1998.

   The effective date of the amended and restated Plan is the date the Employer executes this Adoption Agreement.

C. CUSTODY OF ASSETS. *(Check each box that applies.)*

Internal Revenue Code ("Code") § 457(g) shall be satisfied by setting aside Plan assets for the exclusive benefit of Participants and Beneficiaries, as follows:

1. [ ] in a Trust pursuant to the provisions of Article VII of the Plan. The Employer, or certain employees (or holders of certain positions with Employer) as named in this Adoption Agreement shall be the Trustee. *Note: if the Employer is the Trustee, it is the responsibility of the Employer to determine that it has the authority under applicable law to act as Trustee.*

2. [ ] in a Trust pursuant to a separate written trust agreement entered into between the Employer and the bank or trust company named in this Adoption Agreement.

3. [ ] in one or more annuity contracts meeting the requirements of Code § 401(f).

4. [X] in a custodial account meeting the requirements of Code § 401(f), pursuant to a separate written agreement with the Custodian named in this Adoption Agreement.

D. ELIGIBLE EMPLOYEES. *(Check each box that applies.)*

"Employee" shall mean:

1. [X] any full-time employee

2. [X] any permanent part-time employee

3. [ ] any seasonal, temporary or similar part-time employee

4. [X] any elected or appointed official

5. [ ] any independent contractor

6. [ ] other employees: _____

who performs services for and receives any type of compensation from the Employer (or any agency, department, subdivision or instrumentality of the Employer) for whom services are rendered. If Box D.4. is not checked, elected or appointed officials will not be treated as Employees and will not be eligible to participate in the Plan, without regard to whether they are treated as common-law employees or independent contractors for other purposes.

The following are the additional requirements or limitations, if any, for one or more of the specified class(es) of employees to be eligible to participate in the Plan:

_____

_____

E. PARTICIPANT LOANS. *(Check Box 1 OR Box 2.)*

1. [X] The Administrator MAY direct the Trustee to make Participant loans in accordance with Article IV of the Plan.

2. [ ] The Administrator MAY NOT direct the Trustee to make Participant loans in accordance with Article IV of the Plan.

F. DISTRIBUTION OF SMALL ACCOUNT BALANCES. *(Check Box 1, 2 OR 3.)*

1. [X] The Administrator SHALL direct the Trustee to distribute account balances of $1,000 or less meeting the requirements of Section 5.03(b) of the Plan without Participant consent.

2. [ ] The Administrator SHALL direct the Trustee to distribute account balances in excess of $1,000 but not exceeding $5,000 meeting the requirements of Section 5.03(b) of the Plan without Participant consent.

3. [ ] The Administrator SHALL NOT direct the Trustee distribute any account balances without Participant consent.

G. IN-SERVICE DE MINIMIS DISTRIBUTIONS. *(Check Box 1, 2, 3 OR 4 .)*

1. [X] The Administrator SHALL direct the Trustee to distribute account balances of $1,000 or less meeting the requirements of Section 5.04(b) of the Plan without Participant consent.

2. [ ] The Administrator SHALL direct the Trustee to distribute account balances in excess of $1,000 but not exceeding $5,000 meeting the requirements of Section 5.04(b) of the Plan without Participant consent.

3. [ ] The Administrator SHALL NOT direct the Trustee to distribute any account balances without Participant consent. Administrator directs the Trustee to distribution any account balances with Participant consent meeting the requirements of Section 5.04(a)

4. [ ] The Administrator SHALL NOT direct the Trustee to distribute any account balances meeting the requirements of Section 5.04(a) or 5.04(b).

H. ROLLOVERS. *(Check each box that applies.)*

1. [X] Rollovers from eligible Code § 457(b) plans SHALL BE allowed pursuant to Section 6.01 of the Plan.

2. [X] Rollovers from plans qualified under Code §§ 401(a), 401(k), 403(a) and 403(b) SHALL BE allowed pursuant to Section 6.01 of the Plan.

3. [X] Rollovers from Individual Retirement Accounts and Annuities described in Code §§ 408(a) and (b) SHALL BE allowed pursuant to Section 6.01 of the Plan.

4. [X] If Box 1 of Section M is checked, eligible rollovers contributions of designated Roth contributions made from an applicable retirement plan described in §402A(e)(1) SHALL BE allowed.

I. QUALIFIED DOMESTIC RELATIONS ORDERS. *(Check Box 1 OR Box 2.)*

1. [X] The Plan SHALL accept qualified domestic relations orders as provided in Section 13.02 of the Plan.

2. [ ] The Plan SHALL NOT accept qualified domestic relations orders as provided in Section 13.02 of the Plan.

J. FICA REPLACEMENT ("3121") PLAN.

Check each box that applies if this Plan is a retirement system providing FICA replacement retirement benefits pursuant to regulations under Code § 3121(b)(7)(F).

1. Eligible Employees *(check each box that applies)*:

   a. [ ] full-time employees and/or

   b. [ ] part-time employees, and complete the following.

2. Contributions *(check each box that applies and fill in the appropriate blank)*:

   a. [ ] The Employer shall make an annual contribution to each Participant's account equal to _____ percent of such Participant's Compensation.

   b. [ ] Each Participant is required to make an annual contribution of _____ percent of Compensation.

   (Note: The total percentage of a and b must equal at least 7.5%.)

In the event that this Plan is a retirement system providing FICA replacement retirement benefits as described above, all references in the Plan Document to in-service distributions for De Minimis accounts, age 70 ½ and Unforeseeable Emergency distributions shall be null and void. In addition, Permissive Service Credit Transfers in Section 6.04 may not be made prior to Severance of Employment.

K. NONELECTIVE EMPLOYER CONTRIBUTIONS. ***(Note any Employer contribution will reduce, dollar for dollar, the amount a Participant can contribute.)***
(Check Box 1 OR Box 2 AND complete Box 3.)

1. [X] The Employer will not make any nonelective employer contributions to the Plan.

2. [ ] The Employer will make nonelective employer contributions to the Plan. Such contributions are vested at 100% upon contribution to the plan for the following Eligible Employees: *(Complete Box a, b or c.)*

a. [ ] all Eligible Employees checked in Section D. above and for the following amount $ _____.

b. [ ] only the following class(es) of Eligible Employees and amounts set forth below:

_____

_____

c. [ ] to Eligible Employees selected by the employer in its sole discretion and in such amounts as the Employer may determine at its sole discretion.

3. Employees designated as eligible to receive nonelective employer contributions [ ] are [ ] are not required to complete enrollment forms in order to receive such contributions.

L. AUTOMATIC ENROLLMENT. *(Check Box 1 OR Box 2.)*

1. [ ] Effective for Plan Years beginning on and after _____, this Plan will use an automatic enrollment feature.

2. [X] This Plan will NOT use automatic enrollment.

M. ROTH CONTRIBUTIONS. *(Check Box 1 OR Box 2.)*

1. [X] Participant Roth Contributions SHALL BE allowed after March 9, 2013.

2. [ ] Participant Roth Contributions SHALL NOT BE allowed.

N. PAYMENT OPTIONS. *(Check each box that applies.)*

The following forms of payment will be allowed under the Plan to the extent consistent with the limitations of Code § 401(a)(9) and proposed or final Treasury regulations thereunder.

[X] A single lump-sum payment;

[X] Installment payments for a period of years;

[X] Partial lump-sum payment of a designated amount, with the balance payable in installment payments for a period of years;

[X] Annuity payments (payable on a monthly, quarterly, or annual basis) for the lifetime of the Participant or for the lifetimes of the Participant and Beneficiary;

[X] Such other forms of installment payments as may be approved by the Employer.

[X] A Participant who is an eligible retired public safety officer, as defined under Code § 402(l)(4)(B), may elect to have distributions made directly to an insurer to pay qualified health insurance premiums for coverage for the eligible retired public safety officer, his/her spouse and dependents by an accident or health insurance plan or qualified long-term care insurance contract as defined in Code § 7703B(b).

O. IN-PLAN ROTH ROLLOVERS. *(Check Box 1 OR Box 2.)*

1. [X] If box 1 of Section M is checked, In-Plan Roth Rollovers SHALL BE allowed in accordance with Section 6.01 after March 9, 2013.

2. [ ] In-Plan Roth Rollover SHALL NOT BE allowed.

This Adoption Agreement to the sample Basic Plan Document attached hereto is duly executed on behalf of the Employer by the undersigned authorized signors.

The Employer further understands and acknowledges that:

- The sample Basic Plan Document including this Adoption Agreement is a sample provided as a courtesy to the Employer and has not been approved by the Internal Revenue Service. Obtaining such approval, if desired by the Employer, is solely the responsibility of the Employer.
- Great-West Retirement Services is not a party to the Plan and shall not be responsible for any tax or legal aspects of the Plan. The Employer assumes responsibility for these matters.
- Employer has counseled to the extent necessary, with its own legal and tax advisors.
- Great-West Retirement Services will send courtesy amendments for changes in applicable law to Employer adopting this sample Basic Plan Document until a restated sample Basic Plan Document is made available. We will cease providing amendments to prior versions of the sample Basic Plan Document and only those Employers adopting the restated sample Basic Plan Document will receive sample amendments.

(Signature on following page)

The foregoing approved and adopted this ___ day of _____, 2013.

City of Glendale,
an Arizona municipal corporation

_____
By: Horatio Skeete
Its: Acting City Manager

ATTEST:

_____
City Clerk (SEAL)

APPROVED AS TO FORM:

_____
City Attorney

CUSTODIAN

[Complete this section only if box C.4. was checked.]

Employer has elected to meet the trust requirement of Code § 457(g) by setting Plan assets aside for the exclusive benefit of Participants and Beneficiaries in a custodial account meeting the requirements of Code § 401(f) and satisfying Code §457(g)(3). The bank or trust company custodian named below shall be the "deemed trustee" of Plan assets held pursuant to the custodial agreement. *Note: for a list of entities qualified to act as a custodian for this purpose, please refer to IRS Announcement 2007-47, or its successor.*

A. Effective April 1, 2013, the following named bank or trust company is hereby appointed as custodian of all or a portion of the assets of the Employer's § 457(b) Deferred Compensation Plan:

Wells Fargo Bank, NA

B. INDIVIDUAL(S) AUTHORIZED TO ISSUE INSTRUCTIONS TO CUSTODIAN/TRUSTEE:

Jim Brown, Acting Director of Human Resources, or the individual appointed to act as the City's Director of Human Resources, and Diane Goke, Chief Financial Officer, or the individual appointed to act as the City's Chief Financial Officer.

This appointment is duly signed on behalf of the Employer and the Custodian.

EMPLOYER

By: _____
[Signature]

_____
[Title]

_____
[Date]

CUSTODIAN

By: _____
[Signature]

_____
[Title]

_____
[Date]

C-_____

Great-West Retirement Services®

AGREEMENT FOR RECORDKEEPING AND COMMUNICATION SERVICES

City of Glendale Section 457 Deferred Compensation Plan
Group No. 98742-01

AGREEMENT FOR RECORDKEEPING AND COMMUNICATION SERVICES

TABLE OF CONTENTS

I. Recordkeeping Services Provided by Great-West under this Agreement 4
- A. Initial Transition 4
- B. Participant Account Information 5
- C. Enrollment without Plan Sponsor Signature 6
- D. Online Enrollment 6
- E. Investment Options 6
- F. Valuation of Participant Account Balances 7
- G. Contributions, Transfers and Limitations 8
- H. Deferral Processing 8
- I. Automated Voice Response System 9
- J. Internet Site 9
- K. Client Service 9
- L. Plan Sponsor Access to Recordkeeping System 9
- M. Reporting 9
- N. Regulatory Updates 12
- O. Benefits, Tax Withholding and Reporting 12
- P. Death Benefit Claims 12
- Q. Distribution Processing Other than for Death 13
- R. Unforeseeable Emergencies 13
- S. Qualified Domestic Relations Orders (QDROs) 14
- T. Loans 15
- U. Code Section 457(b) Sample Plan Document and Adoption Agreement 15
- V. Rollovers from Other Eligible Code Section 457 Governmental Plans, Code Sections 401(a), 401(k) & 403(b) Plans & IRAs 15
- W. Roth 457(b) 16
- X. Code Section 402(f) Notice 16
- Y. Monitoring the Deferral Limits 16
- Z. Incoming Rollover Requests Approval 16
- AA. Miscellaneous Services 16

II. Communication Responsibilities 17
- A. Special Representations 17
- B. Communication Materials 17
- C. Group Presentations 17
- D. Individual Counseling Sessions 17
- E. Miscellaneous Services 17
- F. Communications and Marketing Plan 17
- G. Representative 18
- H. Retirement Planning Education, Distribution Counseling 18

III. Miscellaneous Provisions 18
- A. Confidentiality of Data and Privacy Notice 18
- B. Business Continuity Plans Notice 18
- C. Responsibilities at Termination 19
- D. Records Retention Policy 19
- E. Advisor Access to Records 19

IV. Plan Sponsor Responsibilities 19
V. Indemnification and Limitation of Liability 20
VI. Insurance 20
VII. Workers Compensation 22
VIII. Notification 22
IX. Agreement Term and Termination 22
X. Recordkeeping and Other Fees 23
A. Recordkeeping Fees 23
B. Revenue Sharing 23
C. Reconciliation and Reporting to Plan Sponsor 23
D. Loan Fees 23
E. Bank Credit Disclosure 24
F. Disclosure Services 24
G. Miscellaneous Fee Provisions 24
XI. Performance Guarantees 25
XII. Modification and Consent 29
XIII. Dispute Resolution 30
XIV. Entire Agreement 30
XV. Governing Law 30
XVI. Severability 30
XVII. Authorized Persons 30
XVIII. Legal Advice 31
XIX. Force Majeure 31
XX. Immigration Law Compliance 31
XXI. Subcontracting 31
XXII. Responsibility for Compliance with Legal Requirements 32
XXIII. Patents 32
XXIV. Prohibitions 32
XXV. Conflicts 32
XXVI. Signatures 32
Initial Authorized Investment Option Exhibit- January 2013 34
Plan Sponsor's approved model form of Qualified Domestic Relations Order ("QDRO") 36
Procedures for Complying with Fund Company Market Timing and Excessive Trading Policies 40
Business Continuity Plans Notice 41
Privacy Notice Exhibit 42

AGREEMENT FOR RECORDKEEPING AND COMMUNICATION SERVICES

This Agreement for Recordkeeping and Communication Services (the "Agreement") is entered into by and between Great-West Life & Annuity Insurance Company an insurance corporation registered with the Arizona Department of Insurance, located at 8515 East Orchard Road, Greenwood Village, CO 80111 ("Home Office"), and/or any affiliate (together "Great-West"), and the City of Glendale ("Plan Sponsor"), an Arizona municipal corporation, with respect to the services to be provided by Great-West Retirement Services®, a unit of Great-West, for the City of Glendale Section 457 Deferred Compensation Plan (the "Plan").

WHEREAS, Plan Sponsor has established or adopted the Plan for its eligible employees ("Participants") in accordance with Section 457 of the Internal Revenue Code of 1986, as amended ("Code") and all applicable federal regulations, state and/or municipal statutes, for the purpose of providing retirement plan benefits to employees; and

WHEREAS, Plan Sponsor (or its designee) serves as the Plan Administrator and named fiduciary of the Plan; and

WHEREAS, Plan Sponsor has placed all Plan assets into a trust, custodial account or annuity contract which meets the requirements of Section 457(g) of the Code, and will continue to meet such requirements for the duration of this Agreement; and

WHEREAS, Great-West has agreed to act in a non-fiduciary capacity as directed, nondiscretionary service provider, and Great-West will facilitate the performance of the services outlined in this Agreement as directed by Plan Sponsor in compliance with all applicable federal, state and local laws and regulations;

NOW, THEREFORE, the parties hereby agree as follows:

I. Recordkeeping Services Provided by Great-West under this Agreement

A. Initial Transition

Great-West will establish on its recordkeeping system data for Plan participants (each a "Participant") and related data from the prior recordkeeper(s). Such data includes, but is not limited to, indicative data (name, address, birth date, etc.). Detailed instructions will be provided to the prior recordkeeper(s), in advance, for the format, compilation, timing, and forwarding of required data. Participant changes to indicative data that occur between the date that data is transferred and the Effective Date (as defined below) will be communicated by the prior recordkeeper(s) and updated accordingly on the recordkeeping system.

Assistance will be provided by Great-West to coordinate the transition of Participant contribution processing from the prior recordkeeper(s) to Great-West's recordkeeping system. Great-West will process Participant contributions received after the Effective Date. The prior recordkeeper(s) will process Participant contributions received prior to the Effective Date, and issue final quarterly statements to Participants accordingly.

Data applicable to Participants who are presently in payout status and who are receiving any type of non-annuity systematic withdrawal or periodic payments will be

transitioned from the prior recordkeeper(s). Such data includes, but is not limited to, indicative data (payee name, address, etc.), type of systematic or periodic withdrawal payout, payment amount, payment frequency, issue dates, etc. Great-West will provide detailed instructions in advance to the prior recordkeeper(s) for the format, compilation, timing, and forwarding of the required data.

B. Participant Account Information

A Participant account will consist of the following:

1. Participant indicative data, when received by Great-West in good order at its Home Office, as follows:

   a. Name

   b. Gender

   c. Social Security Number

   d. Mailing Address

   e. Telephone Number

   f. Date of Birth

   g. Beneficiary Information.

   Plan Sponsor affirms that Great-West is and shall remain the sole recordkeeper for the Plan during the term of this Agreement. Plan Sponsor also affirms that the Plan allows web-initiated beneficiary designations, except for non-spousal beneficiary designations, which require written consent by spouse. Plan Sponsor hereby instructs and authorizes Great-West to accept, maintain and file, without Plan Sponsor approval, beneficiary designation forms received by Great-West in good order and in a manner acceptable to Great-West. Upon request, Plan Sponsor agrees to provide Great-West with any and all beneficiary information filed with the Plan by the Participant prior to the effective date of this Agreement.

   Plan Sponsor shall provide Great-West with instructions regarding any Plan requirements as to spousal consent for beneficiary designations. If there are any such requirements, Plan Sponsor instructs Great-West to rely on the marital status specified by the Participant on the beneficiary designation form and to obtain spousal consent, when applicable. If a beneficiary designation requires spousal consent, such designation may be made only via a paper form.

   Plan Sponsor agrees to review and sign each Death Benefit Claim form. In the event Plan Sponsor submits a signed Death Benefit Claim form for a claimant other than the beneficiary on file with Great-West, if any, Great-West will return the "Death Benefit Claim" form to Plan Sponsor for further instruction.

2. Current investment allocation for each investment option authorized by Plan Sponsor.

3. Current account balances of each Participant in each investment option authorized by Plan Sponsor.

C. Enrollment without Plan Sponsor Signature

Plan Sponsor instructs Great-West to process, without Plan Sponsor approval, all enrollment forms received in good order, and in a manner satisfactory to Great-West. Plan Sponsor agrees to provide Great-West up-to-date Plan eligibility information with each payroll remittance through full payroll data interchange ("PDI"). Participant forms received and acceptable to Great-West will be processed and made available to Plan Sponsor. Great-West will return enrollment forms to Participants if not received in good order and in a manner acceptable to Great-West.

If a form is accepted and processed, Plan Sponsor agrees to input all applicable Participant information on the Great-West Plan Service Center ("PSC") electronic interface once it receives the completed Participant enrollment form.

D. Online Enrollment

Plan Sponsor hereby instructs Great-West to allow online enrollment and agrees to utilize the PSC, or other mutually agreed to process, and provide a full PDI file with a listing of all employees and required information as requested from time to time. Once the PDI file is transmitted, Plan Sponsor instructs Great-West to issue a Personal Identification Number ("PIN") to every eligible employee allowing enrollment in the Plan through the website.

E. Investment Options

1. Authorized Investment Options

Plan Sponsor is responsible for the selection of all investment options made available under the Plan based on Plan Sponsor's independent evaluation or that of its registered investment advisor, consultant, broker or other agent, as applicable.

Plan Sponsor has selected a number of mutual funds, collective trusts, and/or other eligible investments consisting initially of the investment options listed in the Initial Authorized Investment Option Exhibit dated January 2013 ("Authorized Investment Options") and attached hereto.

Plan Sponsor may replace the Authorized Investment Options at any time, subject to the following:

a. One replacement process (which may include multiple funds) may be made to the Authorized Investment Options per year with no additional cost;

b. In any extraordinary situation where Plan Sponsor determines that replacements need to be made more frequently than once per year, such replacement process may be made with no additional charge.

c. In all other situations where Plan Sponsor requests replacement of investment options more frequently than once per year, an additional cost may be assessed to Plan Sponsor as determined by Great-West. Historically, this cost has been approximately $2,500, although the actual cost will vary based on the Plan request, but in no event shall the cost to the Plan Sponsor exceed $3,000.

Sixty (60) days advance written notice of the intent by either party to add or terminate an investment option is required. Great-West will cooperate with Plan Sponsor to terminate or add new investment options and Great-West will assist Plan Sponsor in appropriately notifying Participants of any changes via Participant quarterly statements. Such replacement(s) in extraordinary situations will be made as soon as practicable, as agreed to by the parties. If any of the Authorized Investment Options are terminated in the future, and Plan Sponsor wishes to replace the terminated option(s), Plan Sponsor agrees to replace the terminated option(s) with an available fund from any fund company that currently has, or will enter into, a trading agreement with Great-West.

2. Designated Investment Option

Plan Sponsor initially designates the Plan's target date fund investments as the investment option ("Designated Investment Option") for amounts received from Participants, including contributions, transfers and direct rollovers, without complete allocation instructions. Plan Sponsor will instruct Great-West, on Great-West's "Default Fund Election Form," with participant birthdate ranges that will correlate to investment in each target date fund. The Designated Investment Option shall remain in effect for amounts received from Participants, including contributions, transfers and direct rollovers, without complete allocation instructions until Plan Sponsor selects a new designated investment option. Once the Participant provides complete allocation instructions in good order to Great-West, future contributions will be invested pursuant to such instructions. However, funds deposited into the Designated Investment Option will remain invested therein until the Participant initiates transfer instructions.

3. Self-Directed Brokerage Account

Provided documents like Great-West's Letter of Instruction Regarding Self-Directed Brokerage Account, the Self-Directed Brokerage ("SDB") account provider's plan application, the SDB account provider's investment restriction form, and any other documents required by the SDB account provider have been executed, the SDB account shall be available to the Plan. The Plan Sponsor hereby acknowledges that the SDB account shall be administered according to Great-West's SDB Policies and Procedures, except that the Core Investment minimum is $500. As described in the SDB Policies and Procedures, the initial transfer minimum is $1,000 and the subsequent transfer minimum is $1,000.

F. Valuation of Participant Account Balances

Participant account balances held with respect to the Plan will be accounted for as follows:

1. Amounts that are not guaranteed as to principal or interest will be accounted for at their fair market value as of the close of each Business Day. The term "Business Day" is defined as any day, and only for as many hours as, the New York Stock Exchange is open.

2. Amounts receiving a guaranteed interest rate and a guarantee of principal will be accounted for at book value. Interest will be accounted for on a daily effective method.

G. Contributions, Transfers and Limitations

All parties agree that purchases and sales of securities at the direction of Plan Participants in core investment accounts will be effected through GWFS Equities, Inc., a broker/dealer affiliate of Great-West. Instructions for the purchase, sale, exchange or transfer of shares on behalf of the Plan shall be transferred to GWFS Equities, Inc. for processing.

1. Contributions

Contributions sent directly online to the PSC and processed by 12:00 Midnight Mountain Time will be allocated effective the next Business Day (at that Business Day's unit value). If contributions are processed via the PSC after 12:00 Midnight Mountain Time, they will be effective the next Business Day thereafter. Funds must be sent via Automated Clearinghouse (ACH) within the PSC system functionality.

2. Transfers

Participant initiated transfers will be processed and effective the Business Day they are received at Great-West's Home Office, if received before the close of the New York Stock Exchange (typically 4:00 p.m. Eastern Time or such earlier time as may have to be implemented to comply with any applicable future law, rule or regulation). If transfers are received at Great-West's Home Office after the close of the New York Stock Exchange, transfers will be processed and be effective the next Business Day (or such earlier time as may have to be implemented to comply with any applicable future law, rule or regulation).

3. Transfer Limitations

Plan Sponsor hereby acknowledges receipt of and agrees to adhere to the terms and conditions of the Market Timing and Excessive Trading Procedures attached to this Agreement as the Procedures for Complying with Fund Company Market Timing and Excessive Trading Policies Exhibit.

H. Deferral Processing

Great-West will provide for deferral processing via the website. In order to provide this service, Plan Sponsor must utilize the PSC, or other mutually agreed to process, and must provide for the initialization of all the Participant's deferral amounts. Participants may access the website or voice response system to input the required payroll deferral amount/percentage information. In order to deduct the payroll deferral amount/percentage from the Participant's paycheck, Plan Sponsor agrees to upload

the payroll deferral amounts into their payroll system and remit them electronically via PSC, or other mutually agreed to process.

I. Automated Voice Response System

Participants will have access to a toll free, automated voice response system to inquire or make applicable changes with respect to their account from a touch-tone telephone.

Inquiry services available from the automated voice response system will utilize share prices, unit values and account balances, which are as of the last calculated unit value/share price.

The system is available 24 hours a day, except for routine maintenance of the system, which when necessary generally takes place on Sunday between the hours of 12:01 a.m. Mountain Time and 12:01 p.m. Mountain Time. However, the system may be limited or unavailable during periods of peak demand, market volatility, systems upgrades, maintenance or for other reasons.

J. Internet Site

Participants will have access to a web site to inquire or make changes with respect to their account via the Internet.

The web site is available 24 hours a day, except for routine maintenance of the system, which when necessary generally takes place on Sunday between the hours of 12:01 a.m. Mountain Time and 12:01 p.m. Mountain Time. However, access to the web site may be limited or unavailable during periods of peak demand, market volatility, systems upgrades, maintenance or for other reasons.

K. Client Service

Client service representatives will be available toll-free from Great-West's Home Office to answer Participant questions and process applicable transactions requested between the hours of 7:00 a.m. Mountain Time and 6:00 p.m. Mountain Time each Business Day.

L. Plan Sponsor Access to Recordkeeping System

Plan Sponsor may access online the PSC to inquire or make changes while administering the Plan.

Representative(s) will be made available to assist and train employees of Plan Sponsor in properly accessing and processing transactions on to the recordkeeping system as requested.

The recordkeeping system is available consistent with the availability of the automated voice response system.

M. Reporting

1. Participant Statements

Each Participant will receive a statement of his/her account summarizing all activity for the previous calendar quarter, including:

a. Beginning and ending balances.

b. All transactions processed during the quarter, including contributions.

c. Interest or change in value.

d. Fees/Charges (if applicable).

e. Transfers and withdrawals for the quarter.

Participants will have the option to access such statements via the Electronic Filing Cabinet within the web site or continue to receive such statements via the mail. Participant statements will continue to be mailed for those Participants who do not specifically elect to access their statements via the web site. However, if a Participant elects to access his or her Participant statement via the web site, no future Participant statements will be mailed to that Participant unless a new election is made. For those Participants who desire to change their election (from website to mail), future statements for those Participants will be mailed each quarter after the election change.

Participant statements will be available on the website or mailed within ten (10) Business Days of the end of each calendar quarter, or within ten (10) Business Days after receipt of information in good order from third party sources, whichever is later. The parties acknowledge that the first quarterly statement may be available at a later date while records are being established.

If Participant statements are to be mailed, statements will be mailed to each Participant's last known home address as provided by Plan Sponsor and/or prior recordkeeper.

Participants will also have access to their account activity via a voice response unit, KeyTalk®, and the web site.

2. Errors

If Great-West makes an error with respect to an investment transaction, and it is brought to Great-West's attention at its Home Office within 90 days after the statement date following the occurrence of the error, Great-West will retroactively correct the error(s) at its own expense. However, if the Participant knew or should have known of the error but failed to bring it to Great-West's attention within 90 days after the statement date following the occurrence of the error, the error will be corrected, but retroactive correction will not be made at Great-West's expense. Under special circumstances, Plan Sponsor may request consideration of a retroactive correction of a Great-West error at Great-West's expense in excess of the ninety (90) day period. Based on the circumstances identified, Great-West will consider such retroactive correction, and such correction will not be unreasonably denied, based on industry standards. In no event will Great-West be responsible for the expense of retroactive correction of errors caused by a Participant, Plan Sponsor, or other third party.

3. Employer Reporting

a. Employer Plan Summary

Plan Sponsor will receive an Employer Plan Summary Report summarizing plan level assets and Participant account balances no later than thirty (30) Business Days after each calendar quarter end, or within ten (10) Business Days after receipt of information in good order from third party sources, whichever is later. However, the first report may be delayed beyond this thirty (30) Business Day period while records are being set up. The following plan information is outlined in the report:

1) Account summary—a summarization of plan transactions and assets.

2) Summarization of contributions processed.

3) Withdrawals.

4) Annuities purchased, if applicable.

5) Periodic payments.

6) Investment option grand totals—summarizes both dollars and units/shares and plan activity.

7) Investment option totals by money type—summarizes both dollars and units/shares and money type activity.

8) Participant summary—report of account activity for each Participant.

b. Annual Plan Review

Plan Sponsor will receive an Annual Plan Review including the following information:

1) Review of enrollment efforts.

2) Asset allocation information/contribution distributions (investment options and fixed/variable split).

3) Voice response usage and enhancements.

4) Benefit payments.

5) Direct online system access - current services and available services.

6) Legislative updates.

c. Great-West agrees to provide Plan Sponsor with an annual investment performance report. Great-West has contracted with Advised Assets Group, LLC ("AAG"), a registered investment advisor and a wholly

owned subsidiary of Great-West Life & Annuity Insurance Company, to provide this service to Great-West. AAG does not act as a fiduciary in the issuance of this report.

N. Regulatory Updates

Great-West agrees to periodically make information available concerning federal legislative activity of which Great-West is aware which may affect the Plan and related funding contracts. Such information, however, does not constitute legal or tax advice regarding the legal sufficiency of the Plan.

O. Benefits, Tax Withholding and Reporting

Upon receipt of complete payment instructions from Plan Sponsor by Great-West at its Home Office, benefit payments to Participants and beneficiaries will be made within two (2) Business Days. For the purposes of this Agreement, "complete payment instructions" means that all of the requested information on the Participant benefit request form, whether via paper form or the web site to-do list, has been completed along with the required signature(s)/authorizations and Great-West has completed its review of the claim in accordance with applicable sections of this Agreement. The benefit payments with respect to each Participant account will be made, tax withheld and the tax reporting reported as follows:

1. A record will be maintained of any distribution from the Plan made with respect to the Participant and the reason for the distribution.

2. Appropriate federal and state income tax withholding and tax reporting that is applicable at the time of the distribution will be performed and sent to the Participant or beneficiary for each benefit payment from the Plan with respect to the Participant or beneficiary.

3. The income tax withholding will be forwarded to the Internal Revenue Service and other appropriate state entities and will be completed by the applicable due dates.

4. Information will be provided to the Internal Revenue Service annually showing an accounting of all Participants who have received distributions during the previous calendar year.

If the Participant makes more than two voluntary changes to the frequency or amount of their benefit payments in any calendar year, Great-West reserves the right to charge the amount listed in the Fees section of this Agreement for each subsequent change. A change in amount due to a pre-programmed periodic payment, or a change necessitated by regulatory limits or requirements is not counted as a voluntary change. At the present time, this fee is not being imposed. However, Great-West reserves the right to impose this fee, with advance notice, if voluntary benefit payment changes become excessive in the opinion of Great-West.

P. Death Benefit Claims

Great-West will not process for payment any benefit claim following a participant's death without direction from Plan Sponsor. Plan Sponsor agrees to review and sign each such death benefit claim form, and direct Great-West as to the proper payee.

Q. Distribution Processing Other than for Death

Plan Sponsor hereby approves and instructs Great-West to process, without Plan Sponsor signature, Participant requests for distribution due to severance from service for any reason other than death, that are received in good order and in a manner acceptable to Great-West, if Plan Sponsor provides Great-West a full PDI file with Participant termination dates and addresses and up-to-date full service vesting information electronically.

If Plan Sponsor does not provide the Participant's termination date or other required information, Plan Sponsor instructs Great-West to route the request to Plan Sponsor for approval before processing the distribution. Plan Sponsor instructs Great-West to rely on the marital status specified by the Participant on the Distribution Request form for spousal consent purposes for distributions due to severance from service for any reason other than death.

R. Unforeseeable Emergencies

Plan Sponsor agrees to provide up-to-date vesting, if applicable, and address information on all Participants in the Plan with each payroll remittance (full PDI) and agrees to retain Great-West to perform deferral processing services pursuant to the previous section. Plan Sponsor instructs Great-West to process, without Plan Sponsor signature, all Unforeseeable Emergency Requests ("Requests") received in good order, and in a manner satisfactory to Great-West, due to an unforeseeable emergency as described below resulting in a severe financial hardship to the Participant or Beneficiary that cannot be alleviated by any other means available to the Participant. Plan Sponsor further instructs Great-West to rely on any and all representations made by a Participant in a Request, including, but not limited to:

1. An illness or accident of the Participant or Beneficiary, the Participant's or Beneficiary's spouse, or Participant's or Beneficiary's dependent (as defined in Internal Revenue Code §152, and for taxable years beginning on or after January 1, 2005, without regard to §152(b)(1), (b)(2) and (d)(1)(B));

2. Loss of the Participant's or Beneficiary's property due to casualty;

3. The following extraordinary and unforeseeable circumstances if they arise as a result of events beyond the control of the Participant or Beneficiary:

   a. The imminent foreclosure of or eviction from the Participant's or Beneficiary's primary residence;

   b. The need to pay for medical expenses, including nonrefundable deductibles, as well as the cost of prescription drug medication; and

   c. The need to pay for the funeral expenses of a spouse or a dependent (as defined in Internal Revenue Code §152, and, for taxable years beginning on or after January 1, 2005, without regard to §152(b)(1), (b)(2) and (d)(1)(B)) of Participant or Beneficiary.

SITUATIONS NOT QUALIFYING FOR WITHDRAWAL

Except in extraordinary circumstances, the following are examples of situations that are not considered eligible for withdrawal:

1. Purchase of real estate;

2. Payment of college tuition;

3. Unpaid rent or mortgage payments, except in the event of imminent foreclosure or eviction;

4. Unpaid utility bills;

5. Loan repayments;

6. Personal bankruptcy (except when resulting directly and solely from illness, casualty loss or other similar extraordinary and unforeseeable circumstances beyond your control);

7. Payment of taxes, interest or penalties (this provision, however, will not prevent a participant from grossing up an unforeseeable emergency withdrawal for taxes or penalties owed as a result of the distribution); or

8. Marital separation or divorce.

Plan Sponsor will make the determination with respect to any unforeseeable emergency distribution request that does not clearly fall within the guidelines set forth above and shall be the arbitrator of all appeals.

In the event of any changes to applicable laws and/or regulations, Great-West may revise this authorization and instruction from time to time and without further notice to Plan Sponsor unless Plan Sponsor's obligations change. This authorization and instruction shall remain in effect until revoked by either party.

For each Participant receiving an unforeseeable emergency distribution, Plan Sponsor instructs Great-West to notify Plan Sponsor to suspend elective deferrals for the period required by the Plan, if any. Great-West is instructed to reject any request where the unforeseeable emergency event occurred prior to the date the Agreement is executed and also to reject any request where the event occurred more than one year prior to the date the request is received. Great-West may contact the plan for direction when unusual situations arise. For each request that is denied, Plan Sponsor instructs Great-West to notify the participant to contact the Plan Sponsor if he/her wants to appeal the determination. For each Request that cannot be processed due to its failure to satisfy an unforeseeable emergency event, Plan Sponsor instructs Great-West to notify the Participant to contact Plan Sponsor if he or she wishes to appeal the determination.

S. Qualified Domestic Relations Orders (QDROs)

Plan Sponsor's approved model form of the Qualified Domestic Relations Order ("QDRO") for the Plan is attached to this Agreement as Plan Sponsor's approved model form of Qualified Domestic Relations Order ("QDRO"). Plan Sponsor hereby approves and instructs Great-West to treat as qualified each QDRO received by Great-

West in good order using the model QDRO form, or a form that is similar in all material respects to the model QDRO form. Great-West is instructed to process the QDRO, without Plan Sponsor signature, by establishing a separate account for the Alternate Payee or, making a lump sum distribution to the Alternate Payee. Plan Sponsor instructs Great-West to send a copy of each QDRO confirmation or rejection letter to Plan Sponsor.

Great-West is further instructed to process distribution requests received in good order, and in a manner acceptable to Great-West, from Alternate Payee accounts established before or after the effective date of this Agreement without Plan Sponsor's signature. Plan Sponsor instructs Great-West to calculate any Alternate Payee's QDRO amount based solely on the participant's account records on Great-West's recordkeeping system, and to reject any QDRO that specifies a valuation date prior to the date Great-West began providing recordkeeping services to the Plan.

If the Alternate Payee's awarded share exceeds the value of the Participant's core investment account(s) under the Plan to which the order applies, Great-West shall notify the Participant in writing to liquidate and transfer the necessary remaining sum from the SDB into the core investment options to enable the implementation of the QDRO. If the Participant fails to transfer the necessary amount within 15 business days of the date of the notification letter, and if the necessary amount is available in the SDB money market, Great-West is instructed to transfer such amount into the Plan's default core investment option. If there is insufficient available cash in the SDB money market to transfer the necessary amount, Great-West is then instructed to notify the SDB provider to liquidate all of the Participant's SDB investments, and then transfer the entire amount into the Plan's default core investment option.

Plan Sponsor agrees to make determinations with respect to any orders received that are not materially similar to the Plan's approved model form of QDRO for reasons other than the inclusion of a valuation date which precedes the date Great-West commenced providing recordkeeping services to the Plan.

T. Loans

If loans are available under the Plan, Plan Sponsor agrees that all loans shall be account reduction loans repaid consistent with the loan policy and the procedures established by the recordkeeper from time to time. Plan Sponsor instructs Great-West to process, without Plan Sponsor approval, Participant loan requests submitted through a form acceptable to Great-West or through the website, if Plan Sponsor provides Great-West with Participant information in a full PDI file and up-to-date full service vesting information electronically. Home loans requested via the web site will be routed to Plan Sponsor for its authorization. Participants will be subject to the fees in the loan documents.

U. Code Section 457(b) Sample Plan Document and Adoption Agreement

Great-West will offer a sample Plan document, an adoption agreement, and any Plan document amendments that may be required due to changes in applicable laws and regulations, prior to the date required.

V. Rollovers from Other Eligible Code Section 457 Governmental Plans, Code Sections 401(a), 401(k) & 403(b) Plans & IRAs

If the Plan accepts pre-tax rollovers from other eligible retirement plans, including Individual Retirement Accounts or Annuities ("IRAs"), beginning January 1, 2002 or thereafter, separate accounts will be maintained for rollovers from eligible Code section 457 plans, Code section 401(a), 401(k) and 403(b) plans and IRAs. Other accounts may be established from time to time for plan administration.

Plan Sponsor agrees that rollovers will be administered according to the rollover procedures established by Great-West from time to time. Amounts distributed from rollover accounts will be tax reported pursuant to the tax laws in effect on the date of the distribution.

W. Roth 457(b)

If the Plan allows for Roth 457(b) after-tax contributions to be made, Great-West will maintain an accounting of the contributions made (basis) and earnings in separate accounts.

Amounts distributed from Roth 457(b) accounts will be made and tax reported pursuant to the applicable provisions of this Agreement.

X. Code Section 402(f) Notice

Great-West shall provide the Internal Revenue Service Model Notice, as amended from time to time, to Participants pursuant to Code Section 402(f).

Y. Monitoring the Deferral Limits

Great-West shall monitor the total Participant deferrals under the Plan for the calendar year and notify Plan Sponsor at the end of the calendar year of any Participants exceeding permitted deferral limits established under Code Section 457(b). Any distributions made to correct excess deferrals will be appropriately tax reported.

Great-West shall provide assistance in calculating catch-up contributions. Plan Sponsor acknowledges that Participant is fully responsible for any calculations.

Z. Incoming Rollover Requests Approval

Plan Sponsor hereby instructs Great-West to rely on Participant's certification, without further investigation or action by Great-West, that the funds being rolled into the Plan constitute an eligible rollover distribution from an eligible retirement plan within the meaning of Code section 402. Plan Sponsor hereby instructs Great-West to accept, without Plan Sponsor approval, employee-certified incoming rollover requests to the Plan that are accompanied by a properly completed form and any required supporting documentation and are received in good order and in a manner acceptable to Great-West. Plan Sponsor hereby instructs Great-West to reject any rollover request received without proper documentation and to return any rollover amounts received with such request.

AA. Miscellaneous Services

Great-West will provide the services described in Section IX (relating to services associated with performance guarantees).

II. Communication Responsibilities

A. Special Representations

1. Representative(s) assigned to perform services under this Agreement will be properly licensed, trained and supervised with respect to the conduct of their business activities.

2. Representative(s) will provide information in a manner consistent with applicable insurance and securities law. However, information supplied to Participants shall not constitute "investment and/or tax advice" upon which Participants or Plan Sponsor may rely.

3. No representative may discriminate with respect to investment options provided under the Plan. Representative(s) will give equal and fair representations when describing the various investment options available under the Plan.

4. Compensation to representative(s) will not vary based upon investment options selected by the Participants.

B. Communication Materials

Great-West will provide participant educational and communication materials regarding financial investing and retirement options. These materials may include, but are not limited to, newsletters, brochures, and other materials as mutually agreed upon.

C. Group Presentations

Representative(s) will conduct group meetings at which some or all of the following will be communicated:

1. Summary of the key provisions of the Plan.

2. Summary of investment options.

3. Discussion of services including automated voice response system inquiry, retirement planning, and investment seminars.

4. Instructions on how to sign up for the Plan or request an individual counseling session.

D. Individual Counseling Sessions

Upon request, representative(s) will conduct prescheduled individual counseling sessions utilizing a Participant paycheck analysis, an asset allocation model and retirement counseling services as approved by Plan Sponsor.

E. Miscellaneous Services

Great-West will provide the services described in Section IX (relating to services associated with performance guarantees).

F. Communications and Marketing Plan

Great-West will prepare a communications and marketing plan for review by Plan Sponsor.

G. Representative

Great-West will assign representatives the equivalent of seventy-two (72) representative days annually to provide communication and marketing services exclusively to the Plan. Such representative will be responsible for all group meetings and counseling sessions as directed by Plan Sponsor. Plan Sponsor will have final approval of the Representative.

H. Retirement Planning Education, Distribution Counseling

Ongoing retirement planning education and distribution counseling may be made available to Participants by Great-West or an affiliate. Where a Participant wants to either contribute or roll over to an IRA, an IRA product may be made available by Great-West or its affiliate. Where a Participant requests, via a recorded telephone call with Great-West, to roll assets into the Plan from a previous employer's plan, Plan Sponsor instructs and approves Great-West to assist the Participant in completing such rollover without Plan Sponsor's signature or approval, provided the Plan permits such rollovers. The recordkeeper of the previous employer's plan may still require Plan Sponsor's signature or approval to complete the rollover.

III. Miscellaneous Provisions

Great-West and Plan Sponsor specifically accept and agree to each of the following requirements:

A. Confidentiality of Data and Privacy Notice

Great-West shall treat all Plan, Participant and customer information or data received from Plan Sponsor and/or Participants as confidential. Great-West shall not disclose confidential information to a third party or use such information except for the purpose of providing services under this Agreement without the written approval of Plan Sponsor. Any third party retained by Great-West to provide services under this Agreement and who has access to confidential information relating to a customer, Plan Sponsor or Plan Participant, shall agree in writing to be bound by provisions similar to those of this section of the Agreement and to use such confidential information only for the performance of specific services under this Agreement. Great-West may disclose information as permitted or required by law without prior written consent of Plan Sponsor. Great-West's current Privacy Notice is attached to this Agreement as the Privacy Notice Exhibit. By executing this Agreement, Plan Sponsor acknowledges receipt of said policy. Such policy shall be updated periodically by Great-West.

B. Business Continuity Plans Notice

GWFS Equities, Inc.'s current Business Continuity Plans notice is attached to this Agreement as the Business Continuity Plans Notice Exhibit. By executing this Agreement, Plan Sponsor acknowledges receipt of said policy. Such policy may be updated periodically.

C. Responsibilities at Termination

Upon relinquishing responsibilities at the termination of the Agreement, if requested, investment balances for all Participants will be provided to assure appropriate account balances within thirty (30) Business Days of termination of the Agreement in the recordkeeping system's standard format. Participant statements and Employer Plan Summaries will be provided up to and including the statement for the last calendar quarter covered by this Agreement.

D. Records Retention Policy

Great-West shall retain all records in its custody and control that are pertinent to performance under this Agreement in accordance with its record retention policy, as amended from time to time. Great-West shall make such records available to the Plan Sponsor for inspection and reproduction upon Plan Sponsor's reasonable advanced written request and at Plan Sponsor's expense.

E. Advisor Access to Records

To the extent that Galloway Asset Management, LLC ("Galloway") provides investment advisory services to the Plan or Participants, and Galloway wishes to have limited, read-only access to Great-West's recordkeeping system for purposes of reviewing Participant data, Plan Sponsor agrees to follow Great-West's normal, internal procedures for authorizing an investment advisor to access Participant information through Great-West systems.

IV. Plan Sponsor Responsibilities

A. Plan Sponsor hereby acknowledges and agrees that Great-West may assign any interest in this Agreement to, and may utilize the services of, any affiliate within its controlled group to perform any services under this Agreement.

B. Plan Sponsor hereby appoints Great-West to exclusively provide the non-discretionary recordkeeping, communication and other services set forth in this Agreement for the Plan for the term of this Agreement.

C. Plan Sponsor agrees that if Plan Sponsor changes the reporting format for contribution reporting, two (2) weeks advance notice will be given by Plan Sponsor to test the new format before monies are remitted on the new file format. If Plan Sponsor does not provide two (2) weeks advance notice of the new reporting format, then contributions will be made effective two (2) Business Days from receipt of such monies sent in with the new file format.

D. Plan Sponsor authorizes that employees may be contacted at (his/her) home or business address to obtain information needed to perform the services set forth in this Agreement. Great-West understands that certain law enforcement personnel may have concerns about being contacted at their home address, and Great-West will follow any Plan Sponsor instructions in the event that the need arises to contact an employee.

E. Plan Sponsor agrees to provide all information necessary for Great-West to perform its duties set forth in this Agreement.

F. Plan Sponsor agrees to use its best efforts, including, if necessary, the termination of a participating investment provider(s), to secure and maintain the cooperation of the participating investment provider(s) in providing the timely and accurate transmittal of data, including providing daily interest rates and unit/share values, required by Great-West pursuant to its responsibilities to the Plan.

G. Should Plan Sponsor choose a custodial or trust account, the trustee/custodian must be able to interface with the recordkeeping system in a "passive" role and all the monies must be sent to the omnibus custodial bank account. Plan Sponsor agrees to require trustee/custodian to provide all information in the possession of trustee/custodian that is necessary for the performance of the recordkeeping duties under this Agreement.

H. Plan Sponsor agrees to facilitate the scheduling of group and individual presentations and to provide facilities at which both Plan Sponsor and Great-West mutually agree that satisfactory attendance can be expected.

I. Plan Sponsor shall provide the necessary information required to provide compliance services.

V. Indemnification and Limitation of Liability

Great-West shall indemnify, defend, save and hold harmless the Plan Sponsor and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") 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 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 Great-West or any of their owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of Great-West to conform to any Federal, State or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Great-West from and against any and all Claims. It is agreed that Great-West will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, Great-West agrees to waive all rights of subrogation against the Plan Sponsor, its officers, officials, agents, and employees for losses arising from the work performed by Great-West.

VI. Insurance

Great-West shall be fully responsible for providing Workers' Compensation or other applicable insurance coverage for itself and its employees and the Plan Sponsor shall have no responsibility of liability for such insurance coverage.

Great-West shall provide to the Plan Sponsor a certification of insurance showing Great-West to have in effect during the term of this Agreement, a General Liability Insurance policy, which shall be the primary coverage for Great-West activities under this Agreement. The coverage limits of such insurance shall not be less than those listed below.

The insurance company issuing the policy required above shall have an AM Best financial rating of "A-" or better and be authorized by the State of Arizona Department of Insurance to transact business within the State, unless otherwise approved by the Plan Sponsor. The certificate and policy shall name the Plan Sponsor as an additional insured and shall be primary and the Plan Sponsor's insurance/self-insurance shall be non-contributory coverage. The Plan Sponsor shall also be an additional insured to the full limits of the commercial and automobile liability insurance purchased by Great-West even if those limits are in excess of those required by this Agreement.

The Plan Sponsor reserves the right to terminate this Agreement if Great-West fails to maintain such insurance coverage.

Great-West must provide certification of insurance compliance within ten (10) calendar days after notification of award. Certification must include: name and address of insurance company; policy number; liability coverage amounts; a statement the policy will not be canceled or failed to be renewed by Great-West without thirty (30) days written notice to the Plan Sponsor.

Certification to be submitted to: Materials Management, 5850 West Glendale Avenue, Suite 317, Glendale, Arizona 85301.

Type of Insurance (Minimum)	Limits of Liability
Workers' Compensation	Statutory
Employer's Liability	
Each Accident	$100,000
Disease-Each Employee	$100,000
Disease-Policy Limit	$500,000

Commercial General Liability shall cover liability arising from bodily injury, property damage, products-completed operations, personal and advertising injury, independent contractors, and broad form contractual coverage.

Each Occurrence	$1,000,000
Personal and Advertising	$1,000,000
General Aggregate	$2,000,000
Products-Completed Operations	$1,000,000

Automobile Liability – Including bodily injury and property damage for any owned, hired and non-owned vehicles used in the performance of the services:

Combined Single Limit (CSL)	$1,000,000

Professional Liability (Errors and Omissions) coverage shall apply to liability for a professional error, act or omission arising out of the scope of services as defined. Great-West accepts that any retroactive date under a claims-made policy shall precede the effective date of this Agreement, and that continuous coverage will be maintained until the time work under this Agreement is completed. The policy shall contain a waiver of subrogation in favor of the Plan Sponsor.

Per Claim	$1,000,000

Policy Aggregate $2,000,000

VII. Workers Compensation

Great-West shall be in full compliance with the provisions of the Arizona Workers' Compensation Law (Title 23, Chapter 6, Arizona Revised Statutes) as amended, and all rules and regulations of the Industrial Commission of Arizona made in pursuance thereof. Great-West shall secure payment of compensation to employees by insuring the payment of such compensation with the State Compensation Fund or any insurance company authorized by the Insurance Department of Arizona to transact business in the State of Arizona.

Great-West further agrees that they shall require any and all sub-contractor performing work under the agreement to comply with said Workers' Compensation Law. It is expressly understood and agreed that all persons employed directly or indirectly by the Great-West, or any of his sub-contractor(s), shall be considered the employees of Great-West or his sub-contractor(s), and not the employees of the Plan Sponsor.

VIII. Notification

All notices, requests, demands or other communications provided for or required by this Agreement (or any instrument or document delivered pursuant to this Agreement) will be in writing.

Notices to Great-West will be addressed as follows:

Great-West Retirement Services®, Charles P. Nelson, President and
Beverly A. Byrne, Chief Compliance Officer
8515 East Orchard Road, 10T2
Greenwood Village, CO 80111

Notices to Plan Sponsor will be addressed as follows:

Jim Brown, or any successor Human Resource Director
5850 West Glendale Avenue
Glendale, Arizona 85301

With a copy to:

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

Each party may designate a different address by sending written notice to the other parties, to be effective within ten (10) days of the date of the notice.

IX. Agreement Term and Termination

This Agreement will take effect upon execution by both Plan Sponsor and Great-West (the "Effective Date"). This Agreement may be terminated upon thirty (30) days written notice by Plan Sponsor. This Agreement may be terminated upon one hundred eighty (180) days written notice by Great-West.

This Agreement will be in effect on March 1, 2013 or such later date as this Agreement has been signed by both Plan Sponsor and Great-West (the "Effective Date"). The term of the Agreement is for a period of five (5) years from March 1, 2013 through February 28, 2018. Plan Sponsor may, at its option and with the approval of Great-West, extend the term of this agreement two (2) additional years in one (1) year increments.

X. Recordkeeping and Other Fees

A. Recordkeeping Fees

The parties agree that an annual recordkeeping fee ("Recordkeeping Fee") of 0.115% of total Participant assets shall be payable to Great-West. This fee will be prorated and deducted quarterly from Participant accounts with a balance as of the calculation and processing date. Participants taking a full withdrawal prior to the quarterly deduction will be charged the quarterly fee at time of withdrawal.

B. Revenue Sharing

Fees that Great-West and/or one or more of its affiliates receives from mutual fund families and other investment providers for providing certain administrative or other services ("Revenue") shall be credited quarterly by Great-West to the accounts of Participants invested in the funds that pay such Revenue on the calculation and processing date. Beginning on the Effective Date, this Revenue will be prorated and calculated quarterly by multiplying each fund's quarterly revenue rate by the Participant's account balance in the fund as of the calculation date.

In addition, Great-West will pay to the Plan the following amounts:

- A one-time payment of $45,000, plus the first ongoing annual payment of $45,000. A total of $90,000 will be paid to the unallocated plan account ("Plan Account") upon Plan set-up in 2013 to be used for Plan purposes as set forth in the Plan document and as instructed by Plan Sponsor. The assets in the Plan Account will be invested in a single investment option as specified by Plan Sponsor.

- An ongoing payment in the amount of $45,000 annually. This amount will be paid to the Plan Account in quarterly installments starting in March 2014.

C. Reconciliation and Reporting to Plan Sponsor

Within sixty (60) calendar days of the end of each calendar quarter, Great-West shall prepare a reconciliation of the amount of all fees Great-West, and/or one or more of its affiliates, receives from mutual fund families and other investment providers for providing certain administrative or other services, and the applicable amount paid to Plan as outlined in Section B above.

D. Loan Fees

A $50 loan origination fee will be deducted from the amount of each loan processed. In addition, a $25.00 annual maintenance fee per loan will be deducted from the Participant's account in an amount of $6.25 per quarter.

E. Bank Credit Disclosure

Great-West, or one of its affiliates, may earn credits and/or interest on Plan assets awaiting investment or pending distribution. Any credits or interest earned by Great-West are aggregated with credits and/or interest earned by Great-West affiliates and will be used to defray the aggregate expenses for the maintenance of bank accounts. Great-West will not retain credits and/or interest earned in excess of such maintenance expenses, but any such excess will be retained by the bank.

Credits and/or interest are earned from the use of (i) uninvested contributions received too late in the day or not received in good order to be invested same-day and (ii) proceeds from investment option redemptions where Plan distribution checks have not been presented for payment by Plan participants. Credits and/or interest (i) begin to accrue on contributions, on the date such amounts are deposited into the bank account and end on the date such amounts are invested pursuant to Plan participant instructions and (ii) begin to accrue on distributions, on the date the check is written or on the wire date, as applicable and end on the date the check is presented for payment or when the wire clears again the account, as applicable. Earnings of credits and/or interest are at the rate the bank provides from time to time.

F. Disclosure Services

1. Plan-Level Disclosures

Plan Sponsor acknowledges that Great-West will provide required fee and other disclosures under ERISA section 408(b)(2) and corresponding regulations electronically via the PSC or such other electronic means as may be designated by Great-West from time to time. Plan Sponsor agrees to ensure that there is at all times a person that is able and authorized to access the disclosure on Plan Sponsor's behalf.

G. Miscellaneous Fee Provisions

If Plan Sponsor selects a custodian or trustee that requires the procedures or services in this Agreement to change, Great-West reserves the right to adjust fees in this Section.

Should a Participant request an overnight delivery, Great-West will assess the Participant its current overnight delivery fee.

Should a Participant request a payment via Automated Clearing House (ACH) for partial and full withdrawals, Great-West will assess the Participant its current ACH fee. Should a Participant request periodic payments via ACH, Great-West will not assess an ACH fee.

Should a Participant request a payment via wire for partial and full withdrawals, Great-West will assess the Participant its current wire fee.

A fee of $250 for each QDRO reviewed and processed will be charged to the Participant and/or Alternate Payee as specified in the Plan's approved model QDRO. The Participant's portion of the fee will be deducted from the Participant's account

balance and the Alternate Payee's portion of the fee will be deducted from the Alternate Payee's account or from the lump sum distribution, as applicable.

An annualized fee of $50 will be collected from each Participant utilizing the self-directed brokerage option, deducted quarterly from each Participant's account balance in an amount of $12.50 per quarter. In addition, Participants selecting investment options in the self-directed brokerage option will be assessed separately by the self-directed brokerage option provider its fees, the management and other fees specific to each investment option selected, and the fees noted in this Section of this Agreement.

Plan Sponsor may direct Great-West in writing to assess a mutually agreeable per Participant fee, asset fee, or combination fee to Participants account balances. Such fee(s) may be deposited into an unallocated trust assets account to be used for plan purposes as set forth in the plan document and as directed in writing by Plan Sponsor. These assets may be invested in a single investment option and such fees may be adjusted annually as specified by Plan Sponsor, if applicable.

The parties agree that any services which Great-West is requested to perform beyond the scope of the services described in this Agreement shall be provided at a mutually agreed upon price negotiated prior to the performance of such services.

XI. Performance Guarantees

Great-West agrees to the performance guarantees detailed in this section. Any non-performance fees that become payable due to Great-West's failure to meet any performance guarantee will be paid into the Plan Account.

1. Transition Services (period from formal approval to fund transition)
A. **Standard:** Answer phone calls from employer contact designee within 24 hours and propose method of measuring standard. **Date:** Transition Period. **Guarantee:** $100 per incident for failure to return phone calls from employer contact designee within 24 hours.
B. **Standard:** Provide draft, customized contract (incorporating agreed-upon, proposed services). **Date:** 30 Days after formal approval by Plan Sponsor. **Guarantee:** $1,000.
C. **Standard:** Respond, in writing with a copy to the employer, to phone or in-person complaints within 5 business days. **Date:** Transition Period. **Guarantee:** $100 per incident of failure to respond to complaint within specified time. This will be for complaints that are not resolved within the five business days.
D. **Standard:** Comply with Sarbanes-Oxley Act requirements regarding notification of blackout period. **Date:** Transition period. **Guarantee:** $1,000 plus the equivalent of any penalties that would be assessed.
E. **Standard:** Finalize performance standards and guarantees. Great-West will work with the Plan Sponsor to publish the performance guarantees on their intranet site.

	Date: Provide final copy to employer within 30 days of being selected by employer. **Guarantee:** $500
F.	**Standard:** Provided agreed upon training to employees and retirees within transition period. **Date:** Transition period. **Guarantee:** $1,000
	2. Transition Exit (period from notification of non-renewal to fund transition)
A.	**Standard:** Upon termination, provide: 1) last four quarters of transaction reports, 2) current account balances, 3) past 12 months distribution and deferral information and 4) loan or other outstanding payment amounts. **Date:** Within 30 business days after termination, provide report on **secured** disk, tape or internet. **Guarantee:** $1,000 for initial failure to provide and $500 per day thereafter.
B.	**Standard:** Upon termination, provide information as described in RFP Section 8 on disk, tape or internet. **Date:** Within 30 days of request. **Guarantee:** $1,000 on failure to provide information within timeframe.
	3. Customer Services
A.	**Standard:** Telephone calls to service center(s) will be answered within 90 seconds 90% of the time. (Propose method of measuring standard). **Date:** Transition Period. **Date:** Quarterly summary / review due before the end of the month following the quarter. **Guarantee:** $1,000 per year for failure to meet annual, calendar year average.
B.	**Standard:** Participant statements will be mailed within 10 business days after quarter-end. **Date:** Quarterly. **Guarantee:** $5 per participant per quarter for each statement postmarked after 10 business days.
C.	**Standard:** Finalize customized web within parameters specified in RFP 5.2B site providing hot link between employer and provider websites and draft participant communication advertising site content and way to access. **Date:** Due 60 days after implementation. **Guarantee:** $500 for failure to provide live web site and participant announcement by end of 3rd month after implementation.
D.	**Standard:** Process investment fund transfers, contribution reconciliation and posting within one business day and propose method of measuring standard. **Date:** Annual report due 31 days after each 12 month period from fund transition. **Guarantee:** Maximum $1,000 for failure to meet agreed-upon standard.
E.	**Standard:** Process hardship distributions, rollover requests, in-service distributions, retiree distribution requests within 5 working days of acceptable documentation and propose method of measuring standard. **Date:** Annual summary of performance by provider. **Guarantee:** $1,000 annually for failure to meet standard in 90% of actions.
F.	**Standard:** Review plan documents for legal, legislative compliance, identify policy issues between employer and provider and summarize, in writing, any

	recommended changes to documents. **Date:** Within 180 days of fund transition and annually thereafter. **Guarantee:** $500 for failure to provide each written summary.
G.	**Standard:** Review investment policy and summarize, in writing, any recommended changes. **Date:** Annually with fund evaluation results. **Guarantee:** $500 for failure to provide review / summary within specified timeframe.
H.	**Standard:** Provide written proposal of services and draft plan for ongoing participant communication utilizing internet educational resources (e.g. internet or computer based training). **Date:** Within 180 days of fund transition. **Guarantee:** $500 for failure to provide proposal within timeframe.
	4. Reports
A.	**Standard:** Provide written summary of Quarterly Reports (as described in RFP Section 7.2) to employer. **Date:** Mailed within 30 days of quarter-end. **Guarantee:** $500 per failure to provide reports by specified date.
B.	**Standard:** Provide written draft proposal for recommended reports that will be available to employer online (internet) including proposed access protocols. **Date:** Within 90 days of fund transition. **Guarantee:** $500 for failure to provide written draft proposal within specified time.
C.	**Standard:** Provide written Plan / Participant Enhancement Services (as described in RFP Section 7.5) to employer. **Date:** Annual Summary at time of Investment Review. **Guarantee:** $1,000 per month for failure to provide written report within specified time.
D.	**Standard:** Conduct training of employer-designated personnel on access to online reports and use of reporting capability. **Date:** Within 120 days of fund transition **Guarantee:** $500 for failure to provide training within specified time.
	5. Surveys
A.	**Standard:** Draft survey. **Date:** Draft due by end of 4th month after implementation. **Guarantee:** $500 if failure to provide draft survey.
B.	**Standard:** Distribute survey to all plan participants. **Date:** Distribution by end of 6th month after implementation. **Guarantee:** $500 if failure to mail 30 days from date of final agreed upon survey content.
C.	**Standard:** Analyze survey results, provide executive summary and recommended actions. **Date:** Complete by end of 8th month after implementation. **Guarantee:** $1,000 if Executive Summary and Recommended Actions are not provided within timeframe.
D.	**Standard:** Repeat survey process steps described above for surveys at 24 and 36 months after implementation.

	Date: Executive Summary and Recommended Actions due by end of 24th and 36th month after implementation. **Guarantee:** $1,000 for failure to provide Executive Summary and Recommended Actions by 24th and 36th month.
E.	**Standard:** Survey results will average Satisfactory or Above and will be incorporated into Executive Summary and Recommended Actions document. **Date:** Due by 8th, 24th and 36th month after implementation **Guarantee:** $1,000 for any survey results that fail to meet Satisfactory or Above
	6. Educational Services
A.	**Standard:** Provide training to all decision-makers and administrative staff on 404(c) requirements. **Date:** 90 after fund transition. **Guarantee:** $500 for failure to provide on-site training within timeframe.
B.	**Standard:** Propose and schedule first year on-site training sessions and content of training for decision-makers and administrative personnel. Great-West will provide training no less often than quarterly upon request by the Plan Sponsor. **Date:** Proposal within 90 after fund transition and educational programs quarterly thereafter. **Guarantee:** $500 for failure to provide proposed training and $500 for failure to provide four training sessions in any year of contract.
C.	**Standard:** Develop and schedule new decision-maker training for employer identified new Committee members or administrative staff. **Date:** Provide half-day on-site training for identified new personnel within 30 days of notification by Plan Sponsor. **Guarantee:** $500 for failure to provide training within specified timeframe.
D.	**Standard:** After implementation, provide mutually agreeable number of educational seminars annually to participants. **Date**: Within 90 days after fund transition. **Guarantee**: $1,000 for failure to provide agreed-upon number of onsite group seminars.
E.	**Standard**: After implementation, provide newsletters to plan participants regarding plan benefits / issues. **Date**: Quarterly. **Guarantee**: Annual $500 penalty for failure to provider quarterly newsletters
F.	**Standard**: Provide representative on site for mutually agreeable number of days per month to meet with plan participants. **Date**: Monthly. **Guarantee**: $1,000 per year in agreed-upon number of days is not provided for 3 or more months.
G.	**Standard**: Provide draft PowerPoint and / or other communication material for transition specifically proposed for group meetings separated for employees / retirees. **Date**: 30 Days after formal approval. **Guarantee**: $500 for initial failure to provide within 30 days after formal approval and $500 per day thereafter.
H.	**Standard**: Draft communication to plan participants describing investment advice services and access. **Date**: Within 60 days of fund transition. **Guarantee**: $500 for initial failure to provide within 60 days after formal approval

	and $500 per day thereafter.
I.	**Standard**: Recommend, in writing, steps provider and employer may take to communicate and coordinate information regarding defined benefits offered through the employer and available fund options. **Date**: Within 180 days of fund transition. **Guarantee**: $1,000 for failure to provide within specified time.
J.	**Standard**: Provide one half-day session per quarter to employer decision-making and administrative personnel on mutually agreeable topics. Great-West will provide these upon request of the Committee on topics of interest to the Committee. **Date**: Quarterly. **Guarantee**: $250 per quarter if education sessions are not provided.
	7. Miscellaneous Performance Standards / Guarantees
A.	**Standard:** Provide web site copy listing final agreed-upon Performance Standards / Guarantees. **Date:** Implementation Date and 30 days after any mutually agreed-upon revisions. **Guarantee:** $500 for each failure to provide web-ready document to employer.
B.	**Standard:** Provide agreed upon number of written copies of final agreed-upon Performance Standards / Guarantees to employer for distribution. **Date:** Implementation Date and 30 days after any mutually agreed-upon revisions. **Guarantee:** $500 for each failure to provide specified number of copies of final agreed-upon Performance Standards / Guarantees.
C.	**Standard:** Provide annual written summary of all Performance Standards / Guarantees categories and results to employer and as a web document for communication to plan participants. **Date:** 30 days after annual anniversary of implementation. **Guarantee:** $1,000 for failure to provide web-ready document within specified timeframe.
D.	**Standard:** Recommend, in writing, to employer any modifications / enhancements to Performance Standards / Guarantees. **Date:** 30 days after annual anniversary of implementation. **Guarantee:** $1,000 for failure to provide written recommendations.
E.	**Standard:** Encrypt all laptops and remote computers carrying Plan Sponsor participant information and provide written quarterly reports on any compromise of data that occurs. **Date:** Immediate notification of any data compromise (within 24 hours of provider knowledge of compromise) and quarterly written reports. **Guarantee:** $100 for each participant information compromised and/or $1,000 for each quarter in which report not provided.

XII. Modification and Consent

No modification of any provision of this Agreement and no consent by any party to any deviation from its terms by any other party will be effective unless such modification or consent is in writing and signed by all parties. The modification or consent will be effective only for the period, on the conditions and for the specific instance and purposes specified in such writing. The waiver of any breach of any term or condition in this Agreement will not be deemed a waiver of any prior or subsequent breach. For purposes of this section of this Agreement, writing signed by the parties shall be deemed to include electronic mail transmissions only if

such transmissions include pdf or other facsimile transmissions clearly reproducing the manual signature of an officer of each party who is authorized to execute an amendment of this Agreement and specifically referencing this section of this Agreement.

XIII. Dispute Resolution

A. Mediation: If there is a dispute arising out of or relating to this Agreement, the parties will make a reasonable and good faith effort to negotiate between themselves a resolution of the matter. If the parties are unable to agree between themselves, and to the extent that the parties are not legally barred from entering into mediation, the parties shall endeavor to resolve any dispute out of or relating to this Agreement by participating in non-binding mediation. The mediation shall be conducted by a private mediator agreed to by both parties or, if the parties cannot agree, by a mediator selected by JAMS ("Judicial Arbitration and Mediation Services") or another nationally recognized, independent arbitration or mediation organization to which the parties mutually agree. The cost of any agreed upon mediation shall be borne equally by the parties, and each party shall pay its own expenses.

B. Litigation: If the dispute has not been resolved by non-binding mediation as provided for in paragraph A above, within ninety (90) days of the initiation of such procedure, either party may initiate litigation; provided, however, that if one party has requested the other party to participate in mediation and the other party rejects the proposal to participate, the requesting party may initiate litigation before the expiration of the above period.

XIV. Entire Agreement

This document and any subsequent amendments thereto represent the entire agreement between the parties with respect to the subject matter of this Agreement. Great-West may amend this Agreement without Plan Sponsor's approval or signature, as required to comply with changes to applicable law, and with notice of such changes to Plan Sponsor. No other amendments shall be made to this Agreement except as mutually agreed to in writing and signed by the authorized agents of each party.

XV. Governing Law

This Agreement will be construed and enforced in accordance with and governed by the laws of the State of Arizona.

XVI. Severability

The provisions of this Agreement are severable, and if for any reason, a clause, sentence or paragraph of this Agreement will be determined to be invalid by a court or federal or state agency, board or commission having jurisdiction over the subject matter thereof, such invalidity will not affect other provisions of this Agreement which can be given effect without the invalid provision.

XVII. Authorized Persons

Plan Sponsor and any duly appointed investment advisor(s) will furnish a list to Great-West (and from time to time whenever there are changes therein) of the individuals authorized to transmit instructions to Great-West concerning the Plan and/or assets in the account, and written direction regarding the form of such instructions.

XVIII. Legal Advice

Nothing in this Agreement is intended to constitute legal or tax advice from Great-West to Plan Sponsor or any other party.

XIX. Force Majeure

None of the parties hereto shall be liable to the other for any and all losses, damages, costs, charges, counsel fees, payments, expenses or liability due to delay or interruption in performing its obligations hereunder, and without the fault or negligence of such party, due to causes or conditions beyond its control including, without limitation, labor disputes, riots, war and war-like operations including acts of terrorism, epidemics, explosions, sabotage, acts of God, failure of power, fire or other casualty, natural disasters or disruptions in orderly trading on any relevant exchange or market, including disruptions due to extraordinary market volume that result in substantial delay in receipt of correct data.

XX. Immigration Law Compliance

Great-West, and on behalf any subcontractor, warrants, to the extent applicable under Arizona Revised Statutes ("A.R.S.") Section 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. Section 23-214(A) which requires registration and participation with the E-Verify Program. Any breach of warranty described above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement. Plan Sponsor retains the legal right to inspect the papers of Great-West or subcontractor employee who performs work under this Agreement to ensure that Great-West or any subcontractor is compliant with the warranty described above. Plan Sponsor may conduct random inspections, and upon request of the Plan Sponsor, Great-West shall provide copies of papers and records demonstrating continued compliance with the warranty described above. Great-West agrees to keep papers and records available for inspection by the Plan Sponsor during normal business hours and will cooperate with Plan Sponsor 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. Great-West 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 Plan Sponsor. Great-West 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 Plan Sponsor. Great-West's warranty and obligations under this Section I to the Plan Sponsor is continuing throughout the term of this Agreement or until such time as the Plan Sponsor determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement. 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.

XXI. Subcontracting

This Agreement or any portion thereof shall not be sub-contracted without the prior written approval of the Plan Sponsor's Materials Manager. No such approval will be construed as making the Plan Sponsor a party of or to such sub-contract, or subjecting the Plan Sponsor to liability of any kind to any sub-contractor. No sub-contract shall, under any circumstances, relieve the contractor of liability and obligation under this contract; and despite any such

subletting the Plan Sponsor shall deal through Great-West. Sub-contractors will be dealt with as workmen and representatives of Great-West.

XXII. Responsibility for Compliance with Legal Requirements

Great-West's products, services, and facilities shall be in full compliance with all applicable Federal, State, and local health, environmental, and safety laws, regulations, standards, and ordinances, regardless of whether or not they are referred to by the Plan Sponsor.

XXIII. Patents

Great-West agrees to defend Plan Sponsor at Great-West's own expense, in all suits, actions, or proceedings in which Plan Sponsor is made a defendant for actual or alleged infringement of any United States of America or foreign letters patent resulting from Plan Sponsor's use of the goods purchased as a result of this Agreement. Great-West further agrees to pay and discharge any and all judgments or decrees, which may be rendered in any such suit, action or proceedings against Plan Sponsor. Great-West agrees to indemnify and hold harmless the Plan Sponsor from any and all license, royalty and proprietary fees or costs, including legal costs, which may arise out of Plan Sponsor's purchase and use of goods supplied by the seller. It is expressly agreed by Great-West that these covenants are irrevocable and perpetual.

XXIV. Prohibitions

Great-West, and on behalf any subcontractor, certifies, to the extent applicable under A.R.S. Sections 35-391 et seq. and 35-393 et seq., that neither has, and neither will have during the term of this Agreement, "scrutinized" business operations, as defined in the proceeding statutes, in the countries of Sudan or Iran.

XXV. Conflicts

This Agreement is subject to cancellation for conflicts of interest under the provisions of A.R.S. § 38-511, as required by Arizona law.

XXVI. Signatures

By signing this Agreement, in duplicate, the parties certify that they have read and understood it, that they agree to be bound by the terms of the Agreement, that they have the authority to sign it, and that they have received a signed and dated copy of the Agreement. This Agreement is not binding on either party until approved by both parties.

(Signatures on Following Page)

The parties enter this Agreement as of the Effective Date, as defined herein.

City of Glendale,
an Arizona municipal corporation

By:_____

Its:_____

ATTEST:

_____
City Clerk (Seal)

Approved as to form:

_____
City Attorney

Great-West Life & Annuity Insurance Company,
a Colorado corporation,

By:_____

Its;_____

Initial Authorized Investment Option Exhibit- January 2013

Initial Authorized Investment Option Name	Ticker Symbol	Initial Authorized Investment Option Name	Ticker Symbol
Great-West Guaranteed Government Fund	N/A	Vanguard Target Retirement Income Inv	VTINX
Oppenheimer Developing Markets Y	ODVYX	Vanguard Target Retirement 2010 Inv	VTENX
Thornburg International Growth R5	TINFX	Vanguard Target Retirement 2015 Inv	VTXVX
MFS International Value R4	MINHX	Vanguard Target Retirement 2020 Inv	VTWNX
Calamos Global Equity I	CIGEX	Vanguard Target Retirement 2025 Inv	VTTVX
Janus Triton T	JATTX	Vanguard Target Retirement 2030 Inv	VTHRX
Fidelity Small Cap Discovery	FSCRX	Vanguard Target Retirement 2035 Inv	VTTHX
Victory Small Company Opportunity I	VSOIX	Vanguard Target Retirement 2040 Inv	VFORX
Prudential Jennison Mid Cap Growth Z	PEGZX	Vanguard Target Retirement 2045 Inv	VTIVX
JPMorgan Mid Cap Value Instl	FLMVX	Vanguard Target Retirement 2050 Inv	VFIFX
JPMorgan Large Cap Growth R5	JLGRX	Vanguard Target Retirement 2055 Inv	VFFVX
Wells Fargo Advantage Large Cap Gr I	STNFX	Vanguard Target Retirement 2060 Investor	VTTSX
Dreyfus Appreciation	DGAGX	AllianceBern Global Bond I	ANAIX
Parnassus Equity Income - Inst	PRILX	PIMCO Income Adm	PIINX
Hartford Equity Income Y	HQIYX	Metropolitan West Total Return Bond I	MWTIX
Columbia Dividend Opportunity Z	CDOZX	Columbia Small Cap Index Z (Idx)	NMSCX

		Columbia Mid Cap Index Z (Idx)	NMPAX
		Columbia Large Cap Index Z (Idx)	NINDX

Plan Sponsor's approved model form of Qualified Domestic Relations Order ("QDRO")

This is a Model Qualified Domestic Relations Order ("Model QDRO") that has been preapproved by Great-West for use by the Plan for outsourced Qualified Domestic Relations Order ("QDRO") services. Although this Model QDRO conforms with Federal QDRO requirements, it may need to be revised for state and/or local law and/or the specific requirements of the Plan itself. Further, the format of the Qualified Domestic Relations Order may vary depending upon the rules of the court in which the Participant obtains the Domestic Relations Order. For these reasons, this Model QDRO should be used only by the Plan after consultation with the Plan's counsel. Any revisions to the Model QDRO must be submitted to Great-West for approval for use with our outsourced QDRO services. Nothing contained in this Model QDRO shall be construed as tax or legal advice.

It is recommended that a proposed version of this order be submitted to Great-West with the body of the order filled in prior to entry of this order for purposes of your obtaining Great-West's preapproval of the proposed order.

Proposed and entered orders should be remitted to the Plan Recordkeeper as follows:

Great-West Retirement Services®
P.O. Box 173764
Denver, CO 80217-3764
Fax # (866) 745-5766

.....COURT, CITY OF ....., COUNTY OF .....

STATE OF .....

IN RE THE MARRIAGE OF:

.....

No. .....

Petitioner,)
and)
Respondent

QUALIFIED DOMESTIC RELATIONS ORDER

AND NOW, this _____ day of _____, 20___, based on the findings set forth below,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. **Parties**: The parties hereto were husband and wife, and a divorce action is in this Court at the above number. This Court has personal jurisdiction over the parties. The parties were married on _____ and divorced on _____.

2. **Participant Information**: The name, last known address, social security number and date of birth of the plan "Participant" are:

3. **Alternate Payee Information**: The name, last known address, and social security number of the "Alternate Payee" are:

   The Alternate Payee is the Participant's former spouse. The Alternate Payee shall have the duty to notify the Plan Administrator and/or Recordkeeper of any changes in mailing address subsequent to the entry of this Order.

4. **Plan Name.** The name of the Plan to which this Order applies is the City of Glendale Deferred Compensation Plan, (hereafter referred to as "Plan").

Any changes in the Plan Administrator, Plan Sponsor, or name of the Plan shall not affect Alternate Payee's rights as stipulated under this Order.

5. **Effect of this Order as a Qualified Domestic Relations Order:** This Order creates and recognizes the existence of an Alternate Payee's right to receive a portion of the Participant's benefits payable under an employer-sponsored defined contribution plan that is qualified under Section 457 of the Internal Revenue Code (the "Code"). It is intended to constitute a Qualified Domestic Relations Order ("QDRO") under Section 414(p) of the Code.

6. **Pursuant to State Domestic Relations Law:** This Order is entered pursuant to the authority granted in the applicable domestic relations laws of Arizona.

7. **Provisions of Marital Property Rights:** This Order relates to the provision of marital property rights as a result of the Order of Divorce between the Participant and the Alternate Payee.

8. **Amount of Alternate Payee's Benefit:** This Order assigns to the Alternate Payee an amount equal to [choose either option 8A1 or 8A2 below]:

   8A1 $_____ of the Participant's Total Account Balance under the Plan as of the date this Order is processed.

   OR

   8A2 $_____(dollars and cents) or ____% (percent)] of the Participant's Total Account Balance accumulated under the Plan as of _____ (or the closest valuation date thereto). The Alternate Payee's benefit herein awarded shall be credited with any investment income (or losses) attributable thereon from the aforesaid valuation date (or the closest valuation date thereto), until the date of transfer of the Alternate Payee's share to the Alternate Payee.

   (Note to drafting attorney: The Plan's current recordkeeper is not able to determine the value of the Participant's account balance and any investment earnings and/or losses prior to _____. The parties will need to arrive at a dollar figure or percentage of benefits payable to the Alternate Payee as of a date that is no earlier than _____. The Plan's current recordkeeper can determine the account value and calculate any earnings and/or losses from _____ through the date assets are transferred or distributed to the Alternate Payee. Keep in mind that if you must adjust the valuation date forward and a percentage is awarded to the Alternate Payee in this section, you should consider whether to adjust the Alternate Payee's awarded percentage to account for any additional contributions (and any gains/losses accruing thereon) made by or for the Participant to the account after the originally intended valuation date.)

   Such Total Account Balance shall be determined after the account is reduced by the outstanding balance of the Participant's account reduction loan(s), if any, as of the valuation date specified above, such that the Account Balance shall not include the outstanding balance of any account reduction loan(s) as of the valuation date. The obligation to repay any Participant Plan loan(s) from and after the date of this Order remains solely with the Participant.

   Such Total Account Balance shall include all amounts maintained under all of the various accounts and/or sub-accounts established on behalf of the Participant, including rollover and transfer contributions. The Alternate Payee's portion of the benefits described above shall be allocated on a prorata basis first from all of the core accounts and/or core investment options maintained under the Plan on behalf of the Participant The Alternate Payee's portion of the benefits described above shall be allocated on a prorata basis first from all of the core accounts and/or core investment options maintained under the Plan on behalf of the Participant other than Self-Directed Brokerage (SDB), if any. If the balance in the core investments is insufficient to satisfy the judgment, Participant must initiate a transfer the amount needed to satisfy the judgment from the SDB into the core investments. If participant fails to initiate the transfer, or if the transfer is insufficient to satisfy the judgment, one hundred percent (100%) of the Money Market Fund will be transferred to the core investments. If the

balance is still insufficient to satisfy the judgment, the entire SDB account may be liquidated and transferred to the core investments.

Unless the Alternate Payee elects an immediate lump sum distribution by the Plan at the time this Order is submitted to, and approved by, the Plan, such benefits shall also be segregated and separately maintained in a nonforfeitable Account(s) established on behalf of the Alternate Payee. This Account(s) will initially be established proportionately in the same core investment options as the Participant account. Alternate Payee may make subsequent investment selections as and when permitted under the terms of the Plan. Alternate Payee's account shall experience gains and or losses according to the investment experience of the investment options in which Alternate Payee's share is invested.

9. **Commencement Date and Form of Payment to Alternate Payee:** If the Alternate Payee so elects on an appropriate form, the benefits shall be paid to the Alternate Payee as soon as administratively feasible following the date this Order is approved as a QDRO by the Plan. Benefits will be payable to the Alternate Payee in any form or permissible option otherwise available to participants under the terms of the Plan, except a joint and survivor annuity. The Alternate Payee will be responsible for paying any applicable withdrawal charges imposed under any investment account(s) with respect to his or her share under the plan.

10. **Alternate Payee's Rights and Privileges:** On and after the date that this Order is deemed to be a QDRO, but before the Alternate Payee receives a total distribution under the Plan, the Alternate Payee shall be entitled to all of the rights and election privileges that are afforded to Plan beneficiaries, including, but not limited to, the rules regarding the right to designate a beneficiary for death benefit purposes and the right to direct Plan investments, only to the extent permitted under the provisions of the Plan.

11. **Death of Alternate Payee:** In the event of the Alternate Payee's death prior to receiving the full amount of benefits assigned under this Order and under the benefit option chosen by the Alternate Payee, such Alternate Payee's beneficiary(ies), as designated on the appropriate form provided to the Plan or, in the absence of a beneficiary designation, the remainder of any unpaid benefits under the terms of this Order shall be paid in accordance with the terms of the Plan.

12. **Death of Participant:** Should the Participant predecease the Alternate Payee, such Participant's death shall in no way affect the Alternate Payee's right to the portion of the benefits as stipulated herein.

13. **Savings Clause:** This Order is not intended, and shall not be construed in such a manner as to require the Plan:

    a. to provide any type or form of benefits or any option not otherwise provided under the Plan;

    b. to provide increased benefits to the Alternate Payee;

    c. to pay any benefits to the Alternate Payee which are required to be paid to another alternate payee under another order previously determined to be a QDRO; or

    d. to make any payment or take any action which is inconsistent with any federal or state law, rule, regulation or applicable judicial decision.

14. **Certification of Necessary Information:** All payments made pursuant to this Order shall be conditioned on the certification by the Alternate Payee and the Participant to the Plan of such information as the Plan may reasonably require from such parties.

15. **Continued Qualified Status of Order:** It is the intention of the parties that this QDRO continue to qualify as a QDRO, as it may be amended from time to time, and that the Plan shall reserve the right to reconfirm the qualified status of the Order at the time benefits become payable hereunder.

16. **Tax Treatment of Distributions Made Under This Order:** For purposes Sections 402(a)(1) and 72 of the Code, or any successor Code section, any Alternate Payee who is the spouse or former spouse of

the Participant shall be treated as the distributee of any distribution or payments made to the Alternate Payee under the terms of this Order, and as such, will be required to pay the appropriate federal income taxes on such distribution.

17. **Parties Responsibilities in Event of Error:** In the event that the Plan inadvertently pays the Participant any benefits that are assigned to the Alternate Payee pursuant to the terms of this Order, the Participant shall immediately reimburse the Alternate Payee to the extent that the Participant has received such benefit payments by paying such amounts directly to the Alternate Payee within ten (10) days of receipt.

    In the event that the Plan inadvertently pays the Alternate Payee any benefits that are to remain the sole property of the Participant pursuant to the terms of this Order, if the Participant has experienced a distributable event under the terms of the Plan, the Alternate Payee shall immediately reimburse the Participant to the extent that the Alternate Payee has received such benefit payments by paying such amounts directly to the Participant within ten (10) days of receipt. If the Participant has not experienced a distributable event under the terms of the Plan, the Alternate Payee shall immediately return such overpayment to the Plan within ten (10) days of receipt.

18. **Effect of Plan Termination:** In the event of a Plan termination, the Alternate Payee shall be entitled to receive his or her portion of the Participant's benefits as stipulated herein in accordance with the Plan's termination provisions for participants and beneficiaries.

19. **Continued Jurisdiction:** The Court retains jurisdiction over this matter to amend this Order to establish or maintain its status as a qualified domestic relations order, as amended and the original intent of the parties as stipulated herein. The Court shall also retain jurisdiction to enter such further orders as are necessary to enforce the assignment of benefits to the Alternate Payee as set forth herein.

20. Fee: A processing fee of $250.00 shall be charged one-half ($125.00) against the Alternate Payee's share/account and one-half ($125.00) against the Participant's remaining account. In the event that the Alternate Payee is awarded 100% of the Participant's account balance as of the date this Order is processed pursuant to this Order, the entire processing fee shall be charged to the Alternate Payee's account/share. If there are not sufficient funds in either party's account to pay that party's respective share of the fee, the difference shall be charged to the other party.

BY THE COURT:

.....
JUDGE

.....
Petitioner

.....
Respondent

Procedures for Complying with Fund Company Market Timing and Excessive Trading Policies

The prospectuses, policies and/or procedures of certain fund companies require retirement plan providers offering their fund(s) to agree to restrict market timing and/or excessive trading ("prohibited trading") in their funds. The following procedures describe how we, as your recordkeeper, will comply with fund company instructions designed to prevent or minimize prohibited trading.

Various fund companies instruct intermediaries to perform standardized trade monitoring while others perform their own periodic monitoring and request trading reports when they suspect that an individual is engaging in prohibited trading. If an individual's trading activity is determined to constitute prohibited trading, as defined by the applicable fund company, the individual will be notified that a trading restriction will be implemented if prohibited trading does not cease. (Some funds may require that trading restrictions be implemented immediately without warning, in which case notice of the restriction will be provided to the individual and plan, if applicable). If the individual continues to engage in prohibited trading, the individual will be restricted from making transfers into the identified fund(s) for a specified time period, as determined by the applicable fund company. Individuals are always permitted to make transfers out of the identified fund(s) to other available investment options. When the fund company's restriction period has been met, the individual will automatically be allowed to resume transfers into the identified fund(s).

Additionally, if prohibited trading persists, the fund company may reject all trades initiated by the plan, including trades of individuals who have not engaged in prohibited trading.

Note: certain plan sponsors have or may elect to implement plan level restrictions to prevent or minimize individual prohibited trading. To the extent that such procedures are effective, we may not receive requests for information from the fund companies or requests to implement the restrictions described above.

10/16/07

Business Continuity Plans Notice

GWFS Equities, Inc., (GWFS) a wholly owned subsidiary of Great-West Life & Annuity Insurance Company and an affiliate of First Great-West Life & Annuity Insurance Company*, maintains a comprehensive business continuity plan designed to respond reasonably and effectively to events that lead to significant business disruption, such as natural disasters, power outages, or other events of varying scope. This plan defines critical functions and systems, alternate work locations, vital books and records, and staff resources, and provides for the continuation of business operations with minimal impact, depending on the severity and scope of the disruption. The plan is reviewed and tested no less than once annually to ensure that the information in the plan is kept current and that documented recovery and continuity strategies adequately support its business operations. Of utmost importance to the plan is the ability for customers to maintain access to securities accounts and assets in those accounts.

In the event that one of the Call Centers or back office operation facilities becomes unavailable for any reason, calls would be re-routed to one of the firm's alternative call center or operations facilities.

In the event of a significant business disruption to the primary office and/or data center, access to customer accounts will be provided via the Company's Web site and voice response system, operated from an alternative data center. Customer Service will continue to be provided by re-routing telephone calls to a Call Center located in one or more alternative sites located outside of the region.

While no contingency plan can eliminate the risk of business interruption, or prevent temporary delays with account access, the firm's continuity plan is intended to mitigate all reasonable risk and resume critical business operations within 24 hours or the next business day, whichever is later.

* Record keeping and administrative services are provided by Great-West Life & Annuity Insurance Company, or one of its affiliates. Securities offered in your account may be offered through another broker/dealer firm other than GWFS Equities, Inc. Please contact your investment provider for more information if needed.

This disclosure is subject to modification at any time. The most current version of this disclosure can be found on the Web site or can be obtained by requesting a written copy by mail.

Privacy Notice Exhibit

The Great-West Family of Companies

Great-West Life & Annuity Insurance Company
The Great-West Life Assurance Company (US operations)
First Great-West Life & Annuity Insurance Company
Advised Assets Group, LLC
GWFS Equities, Inc. ‡
The Canada Life Assurance Company (US operations)
Emjay Corporation
Emjay Retirement Plan Services, Inc.
FASCore, LLC
Great-West Life & Annuity Insurance Company of South Carolina
GW Capital Management, LLC
Maxim Series Fund, Inc.
National Plan Coordinators of Delaware, Inc. ‡
Great-West Healthcare of Georgia, Inc. *
Orchard Trust Company, LLC
Westkin Properties Ltd.

‡ www.gwrs.com
* www.greatwesthealthcare.com

Revised 10/2009 (standard + CA)

The Great-West Family of Companies protects your privacy. We have strict policies to keep your nonpublic personal information private. We may share it with affiliates and third parties that we do business with, and in other ways permitted by law.

Information We Collect. We collect and store information. It comes from forms that you complete, from business you have conducted with us and other parties we do business with and from consumer and insurance reporting companies.

Security of Your Information. We have physical, administrative, and technical safeguards in place to protect your privacy.

Access to Information. The only employees who have access to your records are those who need it for business reasons.

Our Information Sharing Practices. We limit the information we share and the parties we share it with. We share your information to help you do business with us. What we share depends on the types of products or services you request. For example, we may share information:

- ❑ from business forms that you complete (such as your name, address, SSN, plan or ID number, assets and income from your application)
- ❑ about your business with us, or others (such as your policy or contract coverage and benefits and payment history)
- ❑ about your relationship with us (such as the products or services you purchased)
- ❑ from your employer, benefit plan sponsor, or group product (such as your name, address, SSN, plan or ID number and age)
- ❑ from consumer and insurance reporting organizations (such as your credit, financial or health history; please note, these organizations may retain information provided to us and disclose it to others)
- ❑ from other third parties (such as health and demographic information)
- ❑ from visitors to our Web sites (such as information you provide online by completing forms, site visit data and "cookies")

Sharing of Health Information. We won't share your health information, unless such sharing is permitted or required by law. For a description of how we share your health information, please contact our Privacy Officer at the address noted below.

Sharing Information with Other Parties. You may permit us to share your information with other parties. Your information may be shared without your consent with our affiliates and other third parties if permitted by law. We do not share your information for any purpose that requires an opt-in or opt-out.

Our affiliates are listed and include, but are not limited to, our broker-dealers and our trust company. Your information may be shared to serve you better or to make it easier for you to do

business with us.

We may also share your information with vendors and financial institutions. Vendors perform services for us such as processing transactions. Financial institutions such as banks have marketing agreements with us. We have agreements with these parties requiring them to protect the privacy of your information. They are not allowed to use the information other than as specified or permitted by law.

Other disclosures that may be made without your consent, include:

- ❑ To detect or prevent fraud & other criminal activity;
- ❑ To a medical professional for eligibility or audit purposes;
- ❑ In response to a question from a government agency;
- ❑ For purposes otherwise permitted or required by law;
- ❑ In response to a subpoena or court order;
- ❑ To a group policy holder to report claims experience or for an audit;
- ❑ In connection with a sale or merger of all or part of our business;
- ❑ To a government agency to determine your eligibility for benefits they may have to pay for;
- ❑ To a peer review committee to evaluate a medical professional;
- ❑ To a certificate holder or policyholder to provide information about the status of a transaction.

Our Treatment of Information about Former Customers. If our relationship ends, we will not share your information with third parties except as the law requires or permits.

Access to Information. You may access your information by submitting a written request that describes the information. We will respond within 30 business days or as required by state law. Our response will explain the nature and substance of the information on record. We will identify, if recorded, the parties we shared your information with over the last 2 years.

Right to Correct, Amend or Delete Information. You may submit a written request to us to correct, amend or delete any information in our records. We will respond to your request within 30 business days or as required by state law.

If we agree to your request, we will notify you in writing. We will provide the corrected information to any person you identify that has received the information in the last 2 years and to any insurance reporting organization we may have provided the information to over the last 7 years. If we refuse your request, we will explain why and you will have the right to file a statement of disagreement.

We reserve the right to revise this policy as needed. If changes are made, we'll send you a revised notice and post the new policy on the www.greatwest.com web site.

Privacy Officer
Great-West Life & Annuity Insurance Company
8525 East Orchard Road
Greenwood Village, CO 80111

SECTION 457 CUSTODIAL ACCOUNT AGREEMENT WITH WELLS FARGO BANK, N.A.

THIS SECTION 457 CUSTODIAL ACCOUNT AGREEMENT is made by and between the **City of Glendale, Arizona** (herein "Employer"), and Wells Fargo Bank, National Association (herein "Custodian").

WHEREAS, Employer maintains an eligible deferred compensation plan(s) (herein the "Plan(s)") under section 457 of the Internal Revenue Code.

WHEREAS, Employer desires to set aside Plan(s) assets to be held in a funded arrangement under section 457(g) of the Internal Revenue Code maintained for the exclusive benefit of Plan(s) participants and their beneficiaries.

WHEREAS, section 457(g)(3) of the Internal Revenue Code provides that custodial accounts described in section 401(f) of the Internal Revenue Code shall be treated as trusts pursuant to that section.

WHEREAS, Employer desires to engage the services of the Custodian to hold all assets and income of the Plan(s) in a custodial account for the exclusive benefit of participants and their beneficiaries, as defined in section 401(f) of the Internal Revenue Code.

WHEREAS, the Custodian is willing to act as custodian and deemed trustee of the Plan(s) as set forth in section 457(g)(3) of the Internal Revenue Code to provide these services for the Plan(s) on the condition that Employer has entered or is entering into a service agreement with Great-West whereby Great-West will provide recordkeeping services for all Plan(s) assets held pursuant to this Agreement.

NOW, THEREFORE, Be it resolved, that the Employer desires to appoint and hereby so appoints, effective as of **March 1, 2013**, Wells Fargo Bank, National Association, and Wells Fargo Bank, National Association desires to accept such appointment and to accept the custody continued hereby. The parties also hereto agree as follows:

1. Establishment of Custodial Account.

   a. In order to carry out the purposes of the Plan(s), Employer hereby creates and establishes a custodial account (herein the "Custodial Account"). The Custodian accepts the Custodial Account and agrees to act as Custodian hereunder, but only on the terms and conditions set forth in this Agreement. Subject to the terms and conditions of this Agreement, all right, title and interest in and to the Custodial Account shall be vested exclusively in the Custodian.

   b. The Custodial Account shall include only those assets that the Custodian accepts. Only assets actually received by the Custodian will become part of the Custodial Account. The Employer acknowledges and agrees that it is responsible for effectuating the transfer of any Plan(s) assets to be held in the Custodial Account to Custodian.

   c. The Custodial Account established hereunder is intended to satisfy the requirements of section 457(g)(3) of the Internal Revenue Code, and to be treated as a trust solely for purposes of applicable tax laws under rules similar to the rules under section 401(f) as contemplated by that section. In no event shall the Custodial Account be treated as a trust for purposes of state law. Notwithstanding anything herein to the contrary, it shall be

impossible, prior to the satisfaction of all liabilities with respect to the employees and their beneficiaries covered by the Plan(s), for any part of the funds of the Custodial Account to be used for, or diverted to, purposes other than for the exclusive benefit of the participants or their beneficiaries as provided for in the Plan(s). Except as provided in the Plan(s) and consistent with applicable law, the assets of the Custodial Account shall never inure to the benefit of the Employer and shall be held for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the Plan(s) and Custodial Account. The Employer agrees that it will abide by this provision and that it will not cause the Custodian to violate this rule either by its direction or otherwise.

2. Services to be Provided by Custodian and Obligations of the Parties. The obligations of the Custodian shall be limited to those expressly imposed upon it by this Agreement, notwithstanding any reference herein to the Plan(s), and no further duties or obligations of the Custodian, such as a duty to value Plan(s) investments, determine the prudence or authorization of any Plan(s) investment, or diversify Plan(s) investments, shall be implied. The Custodian shall not be liable in discharging its duties hereunder if it acts in good faith and in accordance with the terms of this Agreement and in accordance with applicable federal tax laws, rules and regulations. The Custodian shall, upon direction from Employer, perform the following services; provided, however, that for purposes of this Agreement the Custodian may rely on direction by the Employer to Great-West pursuant to and consistent with the terms of the services agreement among the parties thereto:

a. Open and maintain a Custodial Account in the name of the Plan(s) and hold in such an account all cash, securities and other property initially deposited plus any additional cash and securities that may be received from time to time for the Custodial Account; provided, however, that nothing in this Agreement shall require the Custodian to maintain actual physical custody of assets held for the Plan(s), to which the Custodian has title, through a broker held securities account or insurance company separate account, or to maintain actual physical custody of mutual fund shares. The Custodian shall have no duty or authority to ascertain whether any contributions should be made to the Custodial Account pursuant to the Plan(s), to determine the amount of any contribution to be made pursuant to the terms of the Plan(s), or to bring any action to enforce any obligation to make any contribution to the Plan(s).

b. Act upon written direction from the Employer or from one or more investment advisors duly appointed in writing by the Employer, as provided in Section 5 hereof. The Custodian shall have no duty to determine any facts or the propriety of any action taken or omitted by it pursuant to such directions.

c. Be responsible for the collection of all investment income relating to the assets in the account.

d. Make payments from the Custodial Account to participants or their beneficiaries as the Employer shall direct in writing, and amounts so paid shall no longer constitute a part of the Custodial Account. The Employer shall report withholding of any federal, state or local taxes that may be required to be withheld with respect to such payments and shall remit such amounts withheld to the appropriate taxing authorities or determine that such amounts have been reported, withheld and remitted.

e. The Employer shall pay or, if not paid by the Employer, shall direct the Custodian to pay from the Custodial Account, the reasonable expenses relating to the Plan(s) and Custodial Account, including, without limitation, investment management, accounting, legal, actuarial expenses, and any expenses which have been approved by the Employer; provided, however

that expenses paid pursuant to this section shall not include fees for custodial services to Custodian.

3. Powers of the Custodian. The Custodian is authorized and empowered to:

a. Hold assets in the name of the Custodian, which may include entering into depository arrangements for the safekeeping of records relevant to the ownership of such assets with any entity or entities as the Custodian may choose.

b. Invest the assets of the Custodial Account in such investment vehicles as directed by Employer or a duly appointed investment advisor, including annuity or insurance contracts issued by licensed insurance companies, and to enter into amendments to such annuity or insurance contracts as so directed. The Custodian shall have no duty or responsibility to determine the appropriateness of any Plan(s) investment, or to cause such investments to be changed. The Employer shall be responsible to determine whether the Plan(s) and the investments directed by it are authorized by state law. The Custodian shall forward all notices, proposed contract amendments, rate or fee changes or other communications regarding all annuity or insurance contracts held in the Custodial Account to the Employer, and shall act on behalf of the Custodial Account with respect to any such notice, proposed amendment, change, or other communication only as directed by the Employer. Any rights of a contractholder under any such group annuity contract to discontinue, amend, or otherwise modify the contract shall be exercised only upon the specific written direction of the Employer to the issuer of the contract or by the Custodian at the Employer's express written direction.

c. Make transfers among investment vehicles or disbursements from the Custodial Account as directed by the Employer or, if applicable, by the Plan(s) participants.

d. Employ agents other than persons on its regular payroll and delegate to them such ministerial and other non-discretionary duties as it sees fit and to rely upon such information furnished by such agents.

e. Vote any securities held in the Custodial Account, issue proxies to vote such securities, or exercise any other rights incidental to the securities including tender offers, as directed by the Employer.

f. Pay taxes of any and all kinds levied or assessed against the Custodial Account as directed by the Employer.

g. Delegate to Great-West, any or all ministerial duties arising out of this Agreement, and appoint Great-West as agent of Custodian for such purposes, including opening accounts with investment companies, and paying expenses and making distributions from the Custodial Account. In no event shall Custodian delegate to Great-West the right to hold title to the assets of the Plan(s) or Custodial Account.

h. Make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any other instruments that may be necessary or appropriate to carry out the custodianship duties and powers.

i. Hold uninvested such cash funds as may appear reasonably necessary based upon directions of the Employer to meet the anticipated cash requirements of the Plan(s) from time to time and to deposit the same or any part thereof, either separately or together with other funds

under the control of the Custodian, in its own deposit department or to deposit the same in its name as Custodian in such other depositories as it may select.

j. Institute, prosecute, maintain, or defend any proceeding at law or in equity concerning the Custodial Account or the assets thereof, at the sole cost and expense of the Custodial Account, and to compromise, settle, and adjust any claims and liabilities asserted against or in favor of the Custodial Account or of the Custodian; but the Custodian shall be under no duty or obligation to institute, maintain, or defend any action, suit, or other proceeding unless it shall have been indemnified to its satisfaction against any and all loss, cost, expense, and liability it may sustain or anticipate by reasons thereof.

k. Retain any funds or property subject to any dispute without liability for the payment of interest, and to decline to make payment or delivery thereof until final adjudication is made my a court of competent jurisdiction.

4. Reports. Custodian, or agent of Custodian, shall furnish to Employer and any duly appointed investment advisors a periodic statement of account no less frequently than annually, reflecting an inventory of assets in the account, all activity during the previous period, and a market value for the assets of the account. Custodian, or its agent, will furnish such reports including reports to Employer's accountant or other examiners upon Employer's request which shall be based upon the records maintained by Great-West, and which shall be provided to Custodian on a quarterly basis.

5. Authorized Persons. The Employer and any duly appointed investment advisor shall furnish a list to the Custodian (and from time to time whenever there are changes therein) of the individuals authorized to transmit instructions to the Custodian concerning the assets in the account and written direction regarding the form of such instructions. If the Employer has implemented the voice response system for participants, all participants are deemed to be authorized individuals solely for purposes of directing investment of their individual account balances. The Custodian shall be entitled to rely on instructions from participants received through the voice response system as well as on the oral advice as confirmed in writing or written advice of other authorized individuals. The Custodian shall treat as genuine and may rely on any notice or communication without further verification that it reasonably believes is from an authorized party, as defined above, and shall be protected in doing so by the Employer.

6. Compensation Payable to Custodian. The Custodian shall be entitled to receive reasonable compensation for services provided under this Agreement in connection with the Plan(s). Such compensation shall be paid as set forth on the fee schedule attached hereto as Exhibit 1, and may be changed from time to time by agreement of the parties.

Reasonable compensation includes float received from the deposit of funds pending investment or presentment of checks for payment in non-interest bearing suspense or demand deposit accounts maintained by Wells Fargo for brief periods of time in order to facilitate the servicing of the plan. The Custodian receives compensation from the use of these uninvested funds, which accrues on payments made from the Plan (such as distributions and expense payments) and on contributions or other funds received too late in the day to be invested for the Plan that same day. Float on distribution payments begins to accrue when the funds are transferred from the Plan to a trust clearing account (generally within one business day of the distribution request), and ends on the date the payment clears or is returned to the Plan. Checks are generally mailed within two business days of the distribution request. Float on contributions and other funds received too late in the day to be invested that same day (or received without sufficient information to invest them properly) begins to accrue on the date the funds are received and ends on the date the amounts are deposited to the plan, which is generally the next business day if the Custodian has complete information relating to the investment of such funds; float may continue to accrue if the Custodian has insufficient information regarding the

contributions or deposits to invest them properly in the Plan (e.g., incomplete participant contribution information or incorrect account number).

Depending on its anticipated funding needs, uninvested funds are generally used to either reduce the Custodian's overall borrowing from other sources (such as in the Federal Funds market) or invested in short-term investments (such as its Federal Reserve Account). Uninvested funds from the Plan are not segregated from other deposit funds, so attributing an exact earnings or interest factor applicable to the Plan's uninvested funds is not possible. Earnings on the float (or the corresponding reduction in borrowing, depending on anticipated funding needs) depends on numerous factors such as current interest rates, Federal Funds rates, credit risk, and the duration of the particular debt instrument.

7. Amendment and Termination. This Agreement may be amended by written agreement of the parties at any time. This Agreement shall continue in effect unless or until terminated by either party upon thirty (30) days' written notice to the other party; provided that Custodian shall continue to act as Custodian of the Custodial Account until a successor Custodian is appointed. If no successor Custodian is appointed within ninety (90) days of such written notice of termination, Custodian shall be authorized to petition a court of competent jurisdiction for a declaration appointing a successor Custodian, and to charge the Custodial Account for the reasonable costs, fees, and expenses of such legal process. Upon termination, all securities held in the account shall be delivered by the Custodian to a successor custodian appointed by the Employer or as otherwise directed in writing by the Employer. Notwithstanding the foregoing, this Agreement shall automatically terminate in the event that a contract for the provision of one or more funding mediums for the Custodial Account and recordkeeping services through Great-West are discontinued or terminated without renewal, effective as of the date of such discontinuance or termination, with no further notice from or to either party; provided that Custodian shall continue to act as Custodian of the Custodial Account until a successor Custodian is appointed. If no successor Custodian is appointed within ninety (90) days of such written notice of termination, Custodian shall be authorized to petition a court of competent jurisdiction for a declaration appointing a successor Custodian, and to charge the Custodial Account for the reasonable costs, fees, and expenses of such legal process.

8. Limitation of Liability. Custodian shall not be liable for any claims, liabilities, or expenses arising from or alleged to arise from any action or inaction taken by Custodian pursuant to the direction of Employer or any authorized agent thereof. Employer specifically releases Custodian from any liability except to the extent Custodian has committed negligence or malfeasance in the exercise of its responsibilities hereunder, or has breached the provisions of this Agreement.

9. Notices.

Notices to the Employer shall be directed and mailed as follows:

City of Glendale
5850 W. Glendale Avenue
Glendale, AZ 85301
Attention: Jim Brown, Acting Director of Human Resources

Employer EIN #86-6000247

Notices to the Custodian shall be directed and mailed as follows:

Wells Fargo Bank, N.A.
Institutional Retirement and Trust
1740 Broadway, MAC#C7300-105
Denver, CO 80274
Attention: Leslieann Gallagher and Andrea L. Stellish

Notices to Great-West shall be directed and mailed as follows:

Great-West Life & Annuity Insurance Company
8515 East Orchard Road
Englewood, Colorado 80111

Attention: Laura G. Miller
AVP & Counsel, Legal Department

Great-West Group No.: **98742-01**

10. Written Direction. If a provision of this agreement requires that a communication or document be provided to the Custodian in writing or written form, that requirement may also be satisfied by a facsimile transmission, electronic mail or other electronic transmission of text (including electronic records attached thereto), if the Custodian reasonably believes such communication or document has been signed, sent or presented (as applicable) by any person or entity authorized to act on behalf of the Employer. If this agreement requires that a communication or document be signed, an electronic signature satisfies that requirement. Any electronic mail or other electronic transmission of text will be deemed signed by the sender if the sender's name or electronic address appears as part of, or is transmitted with, the electronic record. The Custodian will not incur any liability to anyone resulting from actions taken reasonably and in good faith reliance on such communication or document. Nor shall the Custodian incur any liability in executing instructions from any person or entity authorized to act on behalf of the Employer prior to receipt by it of notice of the revocation of the written authority of such person or entity.

11. Inspection Privileges. The books, records, documents, accounting procedures, and practices of the Custodian relevant to this Agreement are subject to examination by the Employer, including but not limited to an annual audit by an independent auditor designated by the Employer.

12. Governing Law. This Agreement shall be governed by and enforced under the laws of the State of **Arizona**. The Custodial Account hereby created is sitused in Colorado and all questions regarding its administration shall be determined under the law of the State of Colorado.

13. Severability. In case any provisions of this Agreement shall be held illegal or invalid for any reason, their illegality or invalidity shall not affect the remaining parts of this Agreement, and this Agreement shall be construed and enforced as if the illegal and invalid provisions had never been a part of the Agreement.

14. Assignment. This Agreement shall not be assigned without the express written consent of all parties to this Agreement, which consent shall not be unreasonably withheld; provided, however, that this provision is subject to and shall in no way limit the effect of Section 3 hereof (relating to the power of Custodian to delegate certain duties to Great-West, and appoint Great-West as its agent for certain purposes).

15. Successors and Assigns. This Agreement shall be binding upon the respective successors and assigns of the Employer and the Custodian.

16. The attached "Addendum" is hereby incorporated as part of this Agreement.

16. Effective Date. This Agreement shall be effective **March 1, 2013.**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

EMPLOYER:

City of Glendale,
an Arizona municipal corporation

By: _____

Its: _____

Date _____

ATTEST:

_____
City Clerk (SEAL)

APPROVED AS TO FORM:

_____
City Attorney

CUSTODIAN:

Wells Fargo Bank,
National Association

By: _____

Its: _____

Date _____

ATTACHMENT A

SHAREHOLDER COMMUNICATIONS ACT DISCLOSURE

Plan Name: **City of Glendale Deferred Compensation Plan**

The Securities and Exchange Commission adopted the Beneficial Owner Information Disclosure Rule #14b-2 (Rule) in 1986 as part of its effort to improve communications between publicly held companies and beneficial owners of the securities registered in the name of certain nominees.

Under these rules, Wells Fargo is required to contact each customer for whom we hold securities and determine whether you authorize us to provide your name, address and share position to the issuer of the securities you own. For your protection, the rules prohibit the requesting company from using your name and address for any purpose other than corporate communications.

Please complete the authorization below by checking one of the alternatives. Note: Under the Rule, Wells Fargo is required to treat a non-response as a "YES" disclosure response.

☐ You are authorized to release my name, address and share position ("YES" response).

☐ You are NOT authorized to release my name, address and share position ("NO" response).

City of Glendale, AZ
Employer

Authorized Signature:_____

Title:_____

Date: _____

EXHIBIT 1

FEE SCHEDULE

Wells Fargo Bank, N.A.
and
Great West Life & Annuity Insurance Company

Schedule of Charges for Custodial Services

This Schedule may be revised or modified at time of renewal of the Employer's Service Agreement with Great-West.

Base Charge

The Custodian's compensation for the custodial services being provided under this agreement is included in the fees being received by Great-West under the Service Agreement between the Employer and Great-West. Great-West will forward such custodial fees to Wells Fargo Bank, N.A. at no additional cost to the Employer.

ADDENDUM

Custodian ("Contractor") further agrees as follows:

I. Immigration Law Compliance.

A. Contractor, 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 of Glendale ("City") retains the legal right to inspect the papers of Contractor or subcontractor employee who performs work under this 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 Section I.

E. Contractor 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. Contractor 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. Contractor's warranty and obligations under this Section I 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.

II. Prohibitions. Contractor 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.

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

REALITY INVESTING® ADVISORY SERVICES AGREEMENT

This Reality Investing® Advisory Services Agreement (this "Agreement") is entered into as of the ___ day of _____ 2013 by the City of Glendale, an Arizona municipal corporation (the "Plan Sponsor") and Advised Assets Group, LLC ("AAG"), a Colorado limited liability company authorized to do business in Arizona and located at 8515 East Orchard Road, Greenwood Village, Colorado 80111.

RECITALS

Whereas, Plan Sponsor has established a deferred compensation plan under section 457(b) of the Internal Revenue Code (the "Plan"); and

Whereas, the Plan Sponsor has selected Great-West Life & Annuity Insurance Company ("Great-West"), to provide administrative, recordkeeping, and other services to the Plan as set forth in the service agreement between the Plan Sponsor and Great-West ("Service Agreement"); and

Whereas, AAG, a wholly owned subsidiary of Great-West, makes available investment guidance, advisory, and discretionary managed account services ("Reality Investing®") to deferred compensation plan participants; and

Whereas, AAG has selected an Independent Financial Expert ("IFE") pursuant to Department of Labor Advisory Opinion 2001-09A issued on December 14, 2001 to provide such services to AAG for use under Reality Investing; and

Whereas, the IFE has developed a methodology and proprietary software and technology used to provide participant level investment advice and discretionary managed account services; including personalized Internet-based guidance, investment advisory services, and discretionary managed account services with respect to investment choices held within deferred compensation plans; and

Whereas, the Plan Sponsor desires to make Reality Investing available to participants ("Participants") in the Plan pursuant to the terms outlined in Appendix A, attached hereto and incorporated herein; and

Now therefore, the parties hereto, in consideration of the mutual covenants and representations herein contained, do hereby agree as follows:

TERMS

Article 1
Selection

Plan Sponsor hereby agrees to retain AAG as investment adviser to the Plan to provide the services selected on Appendix A, as described in Article 2. By utilizing the Reality Investing services described herein, the Plan Sponsor agrees to be bound by the terms and conditions of this Agreement.

Plan Sponsor Initials: _____

Article 2
Services

2.1 AAG will make available Reality Investing to Participants in accordance with Appendix A. Reality Investing includes Online Investment Guidance, Online Investment Advice, and Managed Account Service as described in Appendix A.

Under Reality Investing, AAG does not provide advice for, recommend allocations of, or provide management services for individual stocks, self-directed brokerage accounts, guaranteed certificate funds, or employer-directed monies. A Participant's balance in employer-directed monies or transfer-restricted funds may be liquidated or transferred. AAG may not recognize certain types of transfer restrictions as applicable to adviser-initiated transfers. Participants may be required to liquidate the above-referenced funds prior to or as a condition of enrolling in Managed Accounts, subject to Plan and/or investment provider restrictions.

The Plan Sponsor must select and at all times maintain Core Investment Options that cover the following broad asset categories in order to utilize the Online Investment Advice and the Managed Account Service under Reality Investing: Fixed Income/Cash, Bond, Large Cap, Small/Mid Cap, and International. The asset classes and Core Investment Options must meet the requirements of the IFE which may be amended from time to time. Should the requirements of the IFE not be met, AAG and the IFE have the right to suspend Reality Investing until the requirements of the IFE are satisfied. The IFE is solely responsible for determining the adequacy of exposure to the aforementioned asset classes and for determining the core asset class exposures needed for the provision of Online Investment Advice and the Managed Accounts Service.

AAG will on an ongoing basis review the methodology and services of the IFE and integrate the Plan's Core Investment Options into Reality Investing. AAG may make available to the Plan Sponsor certain periodic written reports related to Reality Investing.

Plan Sponsor agrees to provide or to assist AAG in obtaining all participant data that is necessary to perform its duties under this Agreement, including but not limited to: date of birth, income, gender, and state of residence.

2.2 Plan Sponsor hereby authorizes AAG to make Reality Investing available to Participants in accordance with Appendix A, using Participant information provided to AAG by Participants, the Plan Sponsor or its agents, and/or AAG's affiliates. Plan Sponsor acknowledges and agrees that Reality Investing will be provided by AAG based on the methodology and proprietary software provided by the IFE.

2.3 If the Plan Sponsor has multiple plans with identical investment options, the Plan Sponsor understands, acknowledges and agrees that, unless otherwise specified, the Plan Sponsor's election under this agreement to offer the Reality Investing services on one Plan will be considered by AAG to apply to all Plans with identical investment option lineups, such that the Reality Investing services will be offered across all of those plans. Additionally, participant-level enrollment elections into the Managed Account services for one plan will apply across all plans and may supersede past or future participant investment elections on other plans sponsored by Plan Sponsor.

2.4 Plan Participants shall pay all AAG fees, in accordance with the terms outlined in Appendix A, for the respective services utilized. Plan Sponsor authorizes Great-West to

collect these fees on behalf of AAG and to deduct fees from Plan Participant accounts that enroll in Reality Investing and become actual users, in accordance with Appendix A.

2.5 AAG has authorized GWFS Equities, Inc. ("GWFS") and its licensed agents and registered representatives who are Great-West employees (collectively referred to as "Solicitors") to solicit, refer and market AAG's Reality Investing advisory services to potential and current investment advisory clients. GWFS is a Broker/Dealer, registered with the SEC and is an affiliate of AAG. The registered representatives of GWFS are employees of Great-West. AAG and GWFS, are wholly-owned subsidiaries of Great-West. In addition to their salary, Solicitors registered with GWFS and employed by Great-West, may earn additional bonus compensation for soliciting, referring and marketing AAG's advisory services.

2.6 AAG may provide additional services pursuant to instruction or direction from the Plan Sponsor. Any fees for such additional services will be agreed upon by AAG and the Plan Sponsor prior to the provision of additional services.

Article 3
Representations and Warranties

3.1 Both Parties. Each party hereto represents, warrants and consents that (a) it is authorized to enter into and perform its obligations under this Agreement; (b) any actions by, or filings with, any governmental body required for the party to enter into and perform its obligations under this Agreement have been taken or made or will be taken or made when required; (c) entering into and performing its obligations under this Agreement does not violate any applicable law, rule or regulation or its organizational documents or any other binding instrument; (d) this Agreement has been duly executed and delivered; and (e) it will perform its obligations in compliance with all applicable laws, rules and regulations.

3.2. AAG.

(a) AAG represents that it is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). AAG acknowledges and agrees that it acts as a fiduciary of the Plan(s) under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), if applicable, to the extent it provides fee-based investment advice or management to Participants under Reality Investing.

(b) AAG represents that the IFE is not affiliated with AAG or Great-West and that AAG has entered into an agreement with the IFE. AAG's agreement with the IFE includes representations that the IFE: (a) is registered as an investment adviser under the Advisers Act, and (b) will maintain the required federal or state investment advisory registrations that permit it to perform its obligations under its agreement with AAG, and (c) will act, at all times in providing the methodology and software for AAG's suite of advisory services (the "Program") in conformity with the requirements imposed upon an IFE as described in the Advisory Opinion 2001-09A issued on December 14, 2001 by the U.S. Department of Labor (the "DOL") and any modifications or amendments thereto, to the extent that the Advisory Opinion is applicable to the operation of the Program.

3.3 Plan Sponsor. Plan Sponsor represents that it is the Plan fiduciary with the authority to execute this Agreement on behalf of the Plan and its Participants and commit to the terms of this Agreement. Plan Sponsor, by itself and on behalf of the Plan, represents

and acknowledges that it has received and read AAG's Form ADV Part II (or equivalent), consistent with Rule 204-3 of the Advisers Act. Plan Sponsor acknowledges that the Core Investment Options offered through the Plan(s) were chosen by the Plan Sponsor and not by AAG, Great-West, or the IFE.

Article 4
Term, Termination & Substitution of IFE

4.1 Term and Termination of this Agreement. This Agreement shall be in effect on March 1, 2013 or such later date as this Agreement has been signed by both the Plan Sponsor and AAG (the "Effective Date") and continue in force for five years from the Effective Date ("Initial Term"). Plan Sponsor may, at its option, extend the term of this Agreement two (2) additional years in one (1) year increments. This Agreement may be terminated prior to the end of the Initial Term or any Renewal Term in the following circumstances:

(a) Plan Sponsor may terminate this Agreement upon written notice to AAG if Plan Sponsor determines in good faith that the Agreement is not consistent with its fiduciary duties under ERISA, if applicable, or applicable state law;

(b) *In the event that Plan Sponsor terminates its Service Agreement with Great-West*, or the Service Agreement expires pursuant to its own terms, *this Agreement shall automatically terminate, effective on the same date the Service Agreement between Plan Sponsor and Great-West terminates or expires; or*

(c) AAG may terminate this Agreement under the conditions set forth in Section 4.2;

(d) *Plan Sponsor may terminate this Agreement without cause upon thirty days written notice to AAG. AAG may terminate this Agreement without cause upon one hundred eighty (180) days written to the Plan Sponsor; or*

Upon termination of this Agreement for any reason, all Actual Users, as defined in Appendix A, will be immediately restricted from using Reality Investing.

4.2 Substitution of the IFE. During the term of this Agreement, AAG reserves the right to replace the IFE in its sole discretion. AAG will promptly notify the Plan Sponsor of any such change. In such event, a replacement Appendix A will be provided to Plan Sponsor, if, in AAG's sole discretion, a replacement Appendix A is deemed necessary. In the event AAG is unable to contract with a suitable replacement IFE, this Agreement shall automatically terminate upon written notice to the Plan Sponsor.

Article 5
Confidentiality

5.1 AAG and the IFE's Confidential Information. Plan Sponsor acknowledges that information regarding AAG, the IFE, and Reality Investing including, without limitation, the databases, hardware, software, programs, engine, protocols, models, displays and manuals, including, without limitation, the selection, coordination, and arrangement of the contents thereof are intellectual property and trade secrets, proprietary to AAG and/or the IFE, as applicable, and constitute "Confidential Information." Plan Sponsor acknowledges that all nonpublic information regarding the business and affairs of AAG and the IFE including, but not limited to, business plans, agreements with third parties, fees, services, customers, and finances, constitute Confidential Information.

5.2 Plan Sponsor's Confidential Information. All nonpublic information regarding the Plan, the business and affairs of the Plan Sponsor, all Plan Sponsor intellectual property and all personal information of Participants including, but not limited to, the names,

addresses, social security numbers, financial information and compensation data of the Participants, learned by AAG or the IFE in the performance of this Agreement constitutes Confidential Information of the Plan Sponsor. Notwithstanding the foregoing, AAG may provide nonpublic information it learns about Participants to the Plan Sponsor and the plan provider for reporting purposes.

5.3 Non-Confidential Information. Anything in this Agreement to the contrary notwithstanding, except with regard to personal information of Participants, the term "Confidential Information" does not include information regarding a party which (i) was, is or becomes generally available to the public other than as a result of a disclosure by the receiving party or any of its affiliates, agents or advisors, (ii) was or becomes available to a party or its affiliates from a source other than the disclosing party or its affiliates or advisors, provided that such source is not bound by a confidentiality agreement for the benefit of the disclosing party, (iii) was within a party's possession prior to being furnished by or on behalf of the other party provided that the sources of such information were not covered by a confidentiality agreement in favor of the party owning the confidential information, provided such confidentiality agreement was known to the receiving party at the time the information is obtained.

5.4 Treatment of Confidential Information. Confidential Information will be used by a party in connection with the performance of its obligations under this Agreement. Each party will receive the Confidential Information in confidence and not disclose it to any third party except as may be necessary to perform its obligations under this Agreement, to review or evaluate the services provided or as required by law or as agreed to in writing by the other party. Each party further agrees to take or cause to be taken all reasonable precautions to maintain the secrecy and confidentiality of the Confidential Information. Neither party may disclose, and shall make reasonable efforts to prevent the disclosure of, any part of the Confidential Information to another person except as permitted by this Article 5. Confidential Information may be disclosed to a party's directors, officers, employees, consultants, representatives, and the Plan's recordkeeper (each a "Representative") who need to know in order to further the purposes and intent of this Agreement. Disclosure of Confidential Information may be made to such Representative only after the Representative has been informed of the confidential nature of such information and has agreed to be bound by the terms of this Agreement's confidentiality provisions.

Article 6
Miscellaneous

6.1 Notwithstanding anything else contained herein, this Agreement may be amended, supplemented or restated only with the written consent of both parties. The parties agree that they will amend, supplement or restate this Agreement as necessary to comply with changes to applicable law, as amended from time to time. For the purposes of this Section 6.1, "written consent of both parties" shall be deemed to include electronic mail transmissions only if such transmissions include PDF or other facsimile transmissions clearly reproducing the manual signature of an officer of each party who is authorized to execute an amendment of this Agreement and specifically referencing this Section of this Agreement.

6.2 This Agreement and its Appendices constitute the entire agreement between the parties relating to the subject matter hereof.

6.3 This Agreement will be governed by, and interpreted according to, Arizona law without regard to its conflict of law principles, except to the extent it may be preempted by federal law.

6.4 Plan Sponsor acknowledges that neither AAG nor Great-West makes any representation concerning the tax treatment regarding an election by a Plan Sponsor to pay (or have the Plan or Participant pay) for Reality Investing.

6.5 AAG is not liable for any losses a Participant may incur if the value of his or her account should decrease related to the Participant's use of any component of Reality Investing and/or the Participant's investment decisions in following, or not following, any investment advice produced through Reality Investing except as provided in Section 6.7.

6.6 Plan Sponsor or its designee, including any third parties retained by Plan Sponsor, shall provide all data and information necessary for AAG's performance of the Reality Investing services in a manner and format acceptable to AAG. Plan Sponsor agrees that AAG shall be entitled to fully rely upon the accuracy and completeness of data and information submitted by the Plan Sponsor to AAG, and that AAG will have no duty or responsibility to verify such data or information.

6.7 Neither party shall be liable for any delay or failure to perform its obligations (other than a failure to comply with payment obligations) hereunder if such delay or failure is caused by an unforeseeable event beyond the reasonable control of a party, including without limitation: act of God; fire; flood; earthquake; labor strike; sabotage; fiber cut; embargoes; power failure, e.g., rolling blackouts, electrical surges or current fluctuations; lightning; supplier's failures; act or omissions of telecommunications common carriers; material shortages or unavailability or other delay in delivery; lack of or delay in transportation; government codes, ordinances, laws, rules, regulations or restrictions; war or civil disorder, or act of terrorism.

6.8 Indemnity and Limitation of Liability.

(a) AAG agrees to indemnify the Plan Sponsor and the Plan, hold each of them harmless and defend each of them from any Liability (as defined below) directly resulting from any or all of the following: (i) any breach of fiduciary duty by AAG; (ii) AAG's nonperformance of its obligations under this Agreement or (iii) negligence or willful misconduct by AAG or the IFE, to the extent that such Liability is not caused by the Plan Sponsor's material breach of this Agreement, or solely caused the negligence or willful misconduct of the Plan Sponsor or a Participant user.

(b) The Plan Sponsor agrees to indemnify AAG, hold them harmless and defend them from any Liability (as defined below) directly resulting from either or both of the following: (i) any breach of fiduciary duty by the Plan Sponsor; or (ii) the Plan Sponsor's material nonperformance of its obligations under this Agreement.

For purposes of this Section 6.8, "Liability" means liability, damages, losses, and expenses, including court costs, reasonable attorneys' fees, cost of claim processing, investigation, and litigation.

Neither party will be responsible to the other party for any Liability attributable to an act or omission of a Participant user, the other party, or a third party. NO PARTY WILL BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT OR PUNITIVE DAMAGES

Each party's indemnity extends to the other party's fiduciaries, agents, directors, elected officials, officers, trustees, custodians and employees. Each party shall give prompt notice of the claim, complete information and reasonable assistance to defend or settle the claim. The indemnity does not cover any Liability for which the indemnified party actually receives reimbursement or indemnification from another person, including under a liability insurance policy. Any finding that any aspect of this indemnification provision is unenforceable by operation of law will not affect any other portion of this provision.

6.9 If any provision of this Agreement is invalid or unenforceable, the remainder of the Agreement will remain in effect.

6.10 Except as specifically provided herein, neither party may assign any of its rights or obligations under this Agreement without the written consent of the other party, which will not be unreasonably withheld or delayed. This Agreement will bind and inure to the benefit of the parties as well as their permitted successors and assigns.

6.11 The failure of a party to enforce any provision or obligation of this Agreement will not constitute a waiver of the provision or obligation or of any future obligation. A party's delay or failure in performance resulting from causes or conditions beyond its reasonable control will not constitute a breach or default.

6.12 Notices will be in writing and sent to the address specified in this Agreement or to any new address the party has supplied.

6.13 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original instrument, but all of which counterparts together shall constitute one and the same instrument. Transmission by facsimile of an executed counterpart signature page hereof by a party hereto shall constitute due execution and delivery of this Agreement by such party.

6.14 Insurance. AAG currently maintains an Errors and Omission Liability Insurance policy of $5,000,000 in the aggregate. Notwithstanding the prior sentence, AAG will maintain an Errors and Omission Liability Insurance policy of $2,000,000 in the aggregate during the term of this Agreement. AAG will also be covered under the commercial general liability policy carried by Great-West or Great-West's parent company.

The Errors and Omissions coverage shall apply to liability for a professional error, act or omission arising out of the scope of services as defined. AAG accepts that any retroactive date under a claims-made policy shall precede the effective date of this Agreement, and that continuous coverage will be maintained until the time work under this Agreement is completed. The policy shall contain a waiver of subrogation in favor of the Plan Sponsor. AAG will provide Plan Sponsor with a certificate of insurance as evidence of this coverage prior to beginning work under this Agreement.

The insurance company issuing the policy required above shall have an AM Best financial rating of "A-" or better and be authorized by the State of Arizona Department of Insurance to transact business within the State, unless otherwise approved by the Plan Sponsor.

The Plan Sponsor reserves the right to terminate this Agreement if AAG fails to maintain such insurance coverage.

6.15 Notices. All notices, requests, demands or other communications provided for or required by this Agreement (or any instrument or document delivered pursuant to this Agreement) will be in writing.

Notices to AAG will be addressed as follows:

David McLeod
Managing Director
Advised Assets Group, LLC
8515 E. Orchard Road, 10T2
Greenwood Village, Colorado 80111

With a copy to:

Bev Byrne
Chief Compliance Officer and Chief Financial Services Counsel
8525 E. Orchard Road, 2T3
Greenwood Village, Colorado 80111

Notices to Plan Sponsor will be addressed as follows:

Jim Brown, or any successor Human Resource Director
5850 West Glendale Avenue
Glendale, Arizona 85301

With a copy to:

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

Each party may designate a different address by sending written notice to the other parties, to be effective within ten (10) days of the date of the notice.

6.16 The attached Addendum relating to immigration compliance, prohibitions on business in Iran/Sudan, and conflicts of interest is hereby incorporated as part of this Agreement.

(Signatures appear on the following page.)

The parties enter this Agreement as of the Effective Date, as defined herein.

City of Glendale,
an Arizona municipal corporation

By:_____

Its:_____

ATTEST:

_____
City Clerk (Seal)

Approved as to form:

_____
City Attorney

Advised Assets Group, LLC,
a Colorado limited liability company

By:_____

Its;_____

APPENDIX A – REALITY INVESTING TERM SHEET

Plan Sponsor: **City of Glendale**

Plan(s): **City of Glendale Section 457 Deferred Compensation Plan**

Initial Term: **Five years from the Effective Date.**

A. Participant Fees.

Participant means an employee who is enrolled in and has established an account in the Plan. Participants that enroll in any of the below services become actual users ("Actual Users").

Online Investment Guidance – AAG's online investment guidance tool (the "Guidance Service") is geared toward Participants who wish to manage their own retirement accounts. It is an online tool that provides personalized asset allocation assistance without recommending any one specific fund. There is no fee for using Online Investment Guidance.

Online Investment Advice – AAG's online investment advice service (the "Advice Service") is geared toward Participants who wish to manage their own retirement accounts while taking advantage of on-line guidance and investment advice. Participants are provided on-line guidance and investment advice for a personalized recommended investment portfolio. This is an online tool that provides personalized investment option specific recommendations based upon a participant's financial situation. Each enrolled Participant receives a personalized investment portfolio that reflects the Plan Core Investment Options and the Participant's retirement timeframe, life stages, risk tolerance, and overall financial picture, including assets held outside the Plan (if the Participant elects to provide this information), which may be taken into consideration when determining the allocation of assets in the Participant's Plan account (AAG does not provide advice for, recommend allocations of, or manage a Participant's outside or non-Core Investment Option assets). Core Investment Options are those investment options selected for use in the Plan by Plan Sponsor that provide investment choice under the following asset categories: Fixed Income/Cash, Bond, Large Cap, Small/Mid Cap, and International. Core Investment Options do not include any employer stock alternatives or self-directed brokerage option alternatives. The Participant then implements the recommended investment portfolio and manages his or her retirement account on-line. Under the Advice service, the participant will monitor his own account.

The fee for Online Investment Advice is $25.00 per year, or $6.25 per quarter. This fee can be paid for by the Plan Sponsor or the Plan Participant. If it is paid for by the Participant, the fee will be debited from the accounts of those Actual User accounts within the last five (5) to seven (7) business days of each quarter; however, if the Actual User cancels his or her enrollment in Online Investment Advice, the fee will still be debited from the Actual User's account within the last five (5) to seven (7) days prior to the end of the quarter that the cancellation was processed. As well, if the Plan terminates its Service Agreement with Great-West, the fee will be debited upon such termination. Enrollment in the Online Investment Advice at any time during a quarter will result in the Actual User account being debited, or the Plan Sponsor incurring the charge for the quarterly fee.

Plan Sponsor Initials: _____

Plan Sponsor agrees the Online Investment Advice fee will be paid for by a Plan Participant, as described above, unless the following box is checked.

☐ Plan Sponsor Pay

Managed Account Service – AAG's discretionary managed accounts (Managed Account") is geared toward Participants who wish to have a qualified financial expert select among the Plan's available Core Investment Options and manage their retirement accounts for them. The Participant receives a personalized investment portfolio that reflects the Plan Core Investment Options and the Participant's retirement timeframe, life stages, risk tolerance and overall financial picture, including assets held outside the Plan (if the Participant elects to provide this information), which may be taken into consideration when determining the allocation of assets in the Participant's Plan account (AAG does not provide advice for, recommend allocations of, or manage a Participant's outside or non-Plan assets). Under Managed Account, AAG has discretionary authority over allocating among the available Core Investment Options, without prior Participant approval of each transaction.

Managed Account assets in the Plan's Core Investment Options will be automatically monitored, rebalanced, and reallocated every quarter by AAG based on data resulting from the methodologies and software employed by the IFE to respond to market performance and to ensure optimal account performance over time. Participants will receive an account update and forecast statement annually and can update personal information at any time by calling AAG at the Plan's toll-free customer service number, or visiting the Plan's web site.

The tiered pricing described in the table below applies to Managed Account Service. Actual Users will be charged a quarterly fee based on their account balance that AAG manages on the day the fee is debited. The fee will generally be debited from the Actual User's account within the last five (5) to seven (7) business days of each quarter. If the Actual User cancels participation in the Managed Account Service, the fee will be based on the Actual User's account balance on the date of cancellation and will be debited from the Actual User's account within five (5) to seven (7) business days prior to the end of that quarter. As well, if the Plan terminates its Service Agreement with Great-West, the fee will be debited upon such termination. The fee for an Actual User is depicted below.

☐ Managed Accounts Participant Annual Fee

Participant Account Balance	***Managed Account Annual Fee***
First $100,000 of account balance	0.65 %
Next $150,000, up to $250,000 account balance	0.55 %
Next $150,000, up to $400,000 account balance	0.45 %
Amounts greater than $400,000	0.35 %

For example, if an Actual User's account balance subject to Managed Account Service is $50,000, the fee is 0.65% of the account balance. If the account balance subject to Managed Account Service is $500,000, the first $100,000 will be subject to a fee of

Plan Sponsor Initials: _____

0.65%, the next $150,000 will be subject to a fee of 0.55%, the next $150,000 will be subject to a fee of 0.45%, and amounts over $400,000 will be subject to a fee of 0.35%.

Plan Sponsor agrees the Managed Account Service fee will be paid for by a Plan Participant, as described above, unless the following box is checked.

☐ Plan Sponsor Pay

AAG reserves the right to offer certain plan discounted fees or other promotional pricing.

Actual Users must allocate all of their account balance to the Managed Account Service. Partial management of the account whereby Actual Users can invest in other Core Investment Options while also participating in the Managed Account Service is not an option. Once enrolled in the Managed Account Service, Actual Users will no longer be able to make allocation changes to their accounts online, via paper, or through the Plan's existing toll-free customer service number. In addition, Actual Users will not be able to make fund-to-fund transfers, change fund allocations, or utilization of dollar cost averaging and/or rebalancer. Actual Users may still request and be approved for loans, take a distribution, and retain full inquiry access to their account. All of the aforementioned functionality will be restored to the Actual User's account no later than the next business day markets are open after they cancel their participation in the Managed Account Service.

Actual Users may cancel their participation in Managed Account Service at any time by completing the cancellation form available online through the Plan web site or by calling AAG at the Plan's existing toll-free customer service number.

B. Communication and Ongoing Maintenance Fee: Included. The communication and ongoing maintenance fee includes monitoring the use of Reality Investing, and integrating Reality Investing communications into the Plan's overall communications campaign, including enrollment materials, forms, web site, and group meetings.

As part of a participant's enrollment in the Managed Account service, the participant will receive the Managed Account Welcome Kit shortly after enrollment. The participant will receive an Annual Kit shortly after their birthday. Each kit provides the participant an update on their account and reaching their retirement goals. Standard materials may include a discussion of Reality Investing in enrollment/education materials, on the web site, and/or in personalized Participant materials. Additional or custom Participant communications materials may be used by AAG and may be paid for by AAG, Great-West or the Plan Sponsor. Such additional or custom communications may include targeted marketing techniques based upon participant demographical and/or account data (including but not limited to age, income, deferral rates, current investment elections) to identify participants who may benefit from participation in the Managed Account Service.

C. Addition of New Plans: Tax-deferred plans not listed at the top of this Appendix A that are added to Plan Sponsor's program after the Effective Date will not be included in this Agreement, and will be subject to additional fees.

Plan Sponsor Initials: _____

D. Reality Investing will have limited capabilities for purposes of enrollment, rebalancing or reforecasting for approximately up to ten (10) business days following changes to the investment option lineup. Other functionality will be available during this time. AAG and the IFE need to conduct a new analysis of the available investment option array to accommodate these changes. This analysis will take approximately 10 business days, during which time, the Online Investment Guidance, Online Investment Advice, and Managed Account services will not be available for participant use. Once the analysis is complete, the Online Investment Guidance, Online Investment Advice, and Managed Account services will once again be available.

Plan Sponsor Initials: _____

ADDENDUM

Custodian ("Contractor") further agrees as follows:

I. Immigration Law Compliance.

A. Contractor, 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 of Glendale ("City") retains the legal right to inspect the papers of Contractor or subcontractor employee who performs work under this 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 Section I.

E. Contractor 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. Contractor 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. Contractor's warranty and obligations under this Section I 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.

II. Prohibitions. Contractor 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.

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

Plan Sponsor Initials: _____

C- _____

CONTRACT FOR ADVISORY SERVICES
WITH GALLOWAY ASSET MANAGEMENT, LLC

This INVESTMENT ADVISORY SERVICES AGREEMENT ("Agreement") is made and entered into as of this_____day of_____,2013("Effective Date") by and between (i) the City of Glendale, an Arizona municipal corporation ("Client"), and (ii) Galloway Asset Management, LLC, an Arizona limited liability company and its affiliates and agents (hereafter referenced, collectively, as "Galloway"). Any reference in this Agreement to the "Parties" is a reference to both Client and Galloway. Any reference in this Agreement to a "Party" is a reference to either Client or Galloway, as appropriate in the circumstances.

RECITALS

WHEREAS, Client has established governmental retirement and savings plans ("Plans") qualified as exempt from taxation under certain provisions of the Internal Revenue Code (the "Code");

WHEREAS Client has contracted with Great-West Life & Annuity Insurance Company ("Plan Provider"), to administer the Plans;

WHEREAS, Galloway is an investment advisor, unaffiliated with Plan Provider, that is registered as an Investment Advisor with the United States Securities and Exchange Commission ("SEC").

WHEREAS Plan Provider has specified various investment options as suitable for investment by Plan participants (the "Investments"), and Galloway has represented it is competent to advise Plan participants about which of these Investments they should buy or sell within their individual Plan portfolios, as well as the amount of such buy or sell allocations.

WHEREAS Galloway wishes to be retained by Client to provide investment advice to Plan participants as to the investment choices available to them under the Plans;

WHEREAS Client desires to retain Galloway to provide investment advice to the Plans and their participants under the terms and conditions set forth herein;

NOW THEREFORE, Client and Galloway agree as follows:

1. **SCOPE OF SERVICES.** Galloway shall provide the services specified in Exhibit A to this Agreement (the "Services").

2. **AGREEMENT DOCUMENTS EXHIBITS AND RECITALS.**

a. The following documents are hereby incorporated into this Agreement by this reference ("Agreement Documents"). In the event of any conflict among the Agreement Documents, the Agreement Documents will control in the following order:

1. This Agreement, including the cover page and Parts I through IV.

2. Exhibit A - Scope of Services

b. All exhibits, attachments, and recitals to this Agreement are hereby incorporated into this Agreement by this reference.

3. **TERM OF THE AGREEMENT.**

a. **Initial Term.** The initial term of this Agreement ("Initial Term") shall begin on the Effective Date and shall continue in full force and effect for a period of five (5) years unless earlier terminated as set forth in this Agreement. At the end of the Initial Term, Client is empowered, at its sole election, to extend or renew the Agreement as set forth in this Section.

b. **Extensions Beyond Additional Term.** Any extension and renewal of this Agreement beyond the Additional Term shall require the mutual consent of the Parties, and shall be subject to the conditions mutually acceptable to the Parties, which conditions shall be set forth in a separate writing between the Parties.

4. **INSURANCE.** At its sole expense, Galloway shall purchase and maintain the minimum insurance coverage required by law. Each insurance policy required under this Agreement must be in effect at or prior to the commencement of Services under this Agreement and remain in effect for the duration of this Agreement, including any warranty periods. Galloway shall provide evidence thereof to client at or prior to the commencement of Service under this Agreement.

5. **REPRESENTATIONS.**

a. Galloway Representations. Galloway makes the following representations, which are agreed to be material to and form a part of the inducement for this Agreement:

1. Galloway has the expertise, support staff and facilities necessary to provide the Services described in this Agreement and the attached Exhibit A;

2. To the best of Galloway's knowledge, Galloway does not have any actual or potential interests adverse to Client or the participants in

the Plans nor does Galloway represent a person or firm with an interest adverse to the Client or Plan participants with reference to the subject of this Agreement. Galloway has procedures in place to disclose any actual or potential conflicts as set forth in the separate Galloway Asset Management Registered Investment Advisory Form ADV Disclosure Brochure provided to Client and available to all participants of the Plans. The Client acknowledges having received a copy of Part 2 of Galloway's Form ADV, attached Exhibit B;

3. Galloway shall diligently provide all required Services in a timely, ethical and professional manner and in accordance with the terms and conditions stated in this Agreement and as otherwise required by SEC registered investment advisers;

4. Galloway is duly registered with the SEC as an investment adviser under the Investment Advisers Act of 1940, as amended, and agrees to notify Client promptly of any change in this status. Company shall take all steps necessary to maintain such registration during the Initial Term or any Additional Term of this Agreement;

5. Galloway has the requisite legal capacity and authority to execute, deliver and perform its obligations under this Agreement. This Agreement has been duly authorized, executed and delivered by Galloway and is the legal, valid and binding agreement of Galloway, enforceable against Galloway in accordance with its terms. Galloway's execution of this Agreement and the performance of its obligations hereunder do not conflict with or violate any provisions of Galloway's governing documents or any obligations by which Galloway is bound, whether arising by contract, operation of law or otherwise. Galloway will deliver to Client evidence of Galloway's authority and compliance with its governing documents upon Client's request;

6. Galloway has obtained all licenses and registrations required to enable Galloway to lawfully provide the Services in accordance with the terms and conditions of this Agreement;

7. Galloway shall make available for Client's review its most current policies concerning insider trading, ethics and compliance matters;

8. Galloway shall provide access to any information provided by Client or any participants in the Plans only to those of its employees who are subject to Galloway's Code of Ethics, or as otherwise permitted by Plan participants as to their own personal information. Each person employed by Galloway with access to the confidential information of Client or any participants in the Plans shall refrain from disclosing such information to third parties, unless disclosure is otherwise required by law;

9. Galloway shall allocate such personnel and devote such efforts as are necessary for it to carry out its duties under this Agreement;

10. Galloway shall never borrow money from Client or any participants in the Plans, nor use their funds or deposits, except as authorized by law, the Plan Provider Agreement and this Agreement;

11. Galloway shall never be an endorser, surety or obligor of the assets of the Plans;

12. In performing its Services hereunder, Galloway shall be a fiduciary to the Client and all participants in the Plan and accordingly, shall have a duty of loyalty to make recommendations and act in the best interests of the Client and all participants in the Plans. As a fiduciary, Galloway is obligated to exercise scrupulous good faith and candor in the performance of the Services, and refrain from self-dealing.

b. Client Representations. To the best of its knowledge, Client makes the following representations, which are agreed to be material to and form a part of the inducement for this agreement.

1. Client is empowered and has taken all action necessary to enter into and perform this Agreement and the person executing this Agreement on Client's behalf is duly authorized and empowered to do so and deliver this Agreement for Client;
2. This Agreement constitutes a legal, valid and binding obligation of Client, enforceable against Client in accordance with its terms, and
3. Client's execution, performance and delivery of this Agreement shall not result in Client violating any applicable law or breaching or otherwise impairing any of its contractual obligations.

6. **SUBCONTRACTING.** Galloway may not subcontract work (or the performance of Services) under this Agreement to third parties without Client's express written consent. If Galloway has received authorization to subcontract work to third parties, it is agreed that all subcontractors performing work under the Agreement shall comply with its provisions and shall be bound by all terms of this Agreement. Further, all agreements between Galloway and its permitted subcontractors shall provide that the terms and conditions of this Agreement shall be incorporated therein.

7. **INDEPENDENT CONTRACTOR.** In the performance of all Services under this Agreement, Galloway shall be, and acknowledges that Galloway is, in fact and law, an independent contractor and not an agent or employee of the Client or any participant in the Plans. Galloway has and retains the right to exercise full supervision and control of the manner and methods of providing Services to the Client and all participants in the Plans under this Agreement. Galloway retains full supervision and control over the employment, direction, compensation and

discharge of all persons assisting Galloway in the provision of Services under this Agreement. With respect to Galloway's employees, if any, Galloway shall be solely responsible for payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employee taxes, of whatever nature, and compliance with any and all other laws regulating employment.

8. **SUCCESSORS AND ASSIGNS, BINDING EFFECT.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective permitted successors and assigns.

9. **COMPLIANCE WITH APPLICABLE LAWS.**

a. **General.** Galloway shall procure all permits and licenses, and pay all charges and fees necessary and incidental to the lawful conduct of its business and its performance of the Services. Galloway must stay fully informed of existing and future Federal, State and local laws, ordinances, and regulations that in any manner affect the fulfillment of this Agreement and shall comply with the same at its own expense. Galloway bears full responsibility for training, safety, and providing necessary equipment for all of its personnel to achieve compliance prior to the Effective Date. Upon request, Galloway shall demonstrate to Client's satisfaction any programs, procedures, and other activities used to ensure compliance.

b. **Drug-Free Workplace.** Client has adopted a policy establishing a drug-free workplace for itself and those doing business on City property to ensure the safety and health of all persons working on City contracts and projects. Galloway agrees to prohibit the use of intoxicating substances and the use or possession of illegal drugs by all of its personnel while in the course of performing their duties for Client and any participants of the Plans under this Agreement, but this prohibition shall not preclude Galloway from attending receptions with Plan participants where alcohol is served.

c. **Federal and State Immigration Laws.** Galloway shall comply with the Immigration Reform and Control Act of 1986 (IRCA) in connection with its performance of the Services under this Agreement and to permit Client or its agents to inspect applicable personnel records to verify such compliance. Galloway shall ensure and keep appropriate records to demonstrate that all of its personnel performing the Services in Arizona have a legal right to live and work in the United States.

(i) Under the provisions of A.R.S. § 41-4401, Galloway hereby warrants to Client that Galloway and each of its authorized subcontractors will comply with, and are contractually obligated to comply with, all Federal Immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A) (hereinafter "Contractor Immigration Warranty").

(ii) A breach of the Contractor Immigration Warranty shall constitute a material breach of this Agreement and shall subject Galloway to penalties up to and including immediate termination of this Agreement at Client's sole election.

(iii) Client retains the right to inspect the papers of all of Galloway's personnel who provides Services under this Agreement to ensure that Galloway or its authorized subcontractors are complying with the Contractor Immigration Warranty. Galloway agrees to assist Client with respect to any such inspections.

(iv) Client may, at its sole election, conduct random verification of the employment records of Galloway and any of its authorized subcontractors to ensure compliance with the Contractor Immigration Warranty. Galloway agrees to assist Client in regard to any random verification.

(v) Neither Galloway nor any of its authorized subcontractors shall be deemed to have materially breached the Contractor Immigration Warranty if Galloway (or any of its authorized subcontractors) establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214, subsection A.

d. **Nondiscrimination.** Galloway represents and warrants that it does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and represents and warrants that it complies with all applicable Federal, State and local laws and executive orders regarding employment. Galloway and its personnel will comply with applicable provisions of Title VII of the U.S. Civil Rights Act of 1964, as amended, section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) and applicable rules in performance under this Agreement.

e. **No Scrutinized Business Operations in Sudan or Iran.** During the Initial Term and any applicable Additional Term of this Agreement, Galloway shall be in compliance with A.R.S. §§ 35-391 and 35-393, which prohibit Galloway from having "scrutinized business operations" in Sudan or Iran as those terms are defined in the aforesaid statutes. Galloway confirms that as of this date, it conducts no scrutinized business operations in the nations of Iran or Sudan, and shall conduct none during the Initial Term or any Additional Term. In the event Galloway conducts scrutinized business operations in Iran or Sudan during any term of this Agreement, Client may elect to terminate this Agreement immediately.

10. **SERVICES TO OTHER CLIENTS.** Client understands Galloway and its affiliates perform, among other things, research, brokerage, and investment advisory services for clients similar to Client and plans similar to the Plans. Client recognizes that Galloway and its affiliates may give, recommend, or provide advice and take action in the performance of their duties to others which may differ from recommendations or advice given, or in the timing and nature of action taken, with respect to the Client or Plan participants. Nothing in this Agreement shall impose on Galloway any obligation to recommend for purchase or sale by or for the Client or any Plan participant any security that Galloway may recommend for another of its clients. By reason of its investment banking or other activities, Galloway and its affiliates may from time to time acquire confidential or material non-public information. Client understands and accepts that Galloway will not be free to divulge, nor act upon, such information with respect to Galloway's activities under this Agreement.

11. **BASIS OF ADVICE.** Client acknowledges that Galloway obtains information from a wide variety of publicly available sources and certain private sources. The advice provided by Galloway to Client or any Plan participants is based upon its reasonable analysis of such information and Galloway cannot guarantee the accuracy or validity of the data upon which its analysis, policy recommendations, or studies are based. With respect to previous investment performance information, Client acknowledges that such information is not necessarily indicative of future results.

12. **LEGAL, ACCOUNTING AND ACTUARIAL SERVICES.** Galloway is not engaged in the business of rendering legal, accounting or actuarial advice or services and Client acknowledges that Galloway has suggested that competent lawyers, accountants or actuaries be retained to render legal, accounting or actuarial services with respect to the Plans.

13. **AUDITS AND RECORDS.** Galloway shall preserve its records related to this Agreement for a minimum of 5 years after the expiration of the Agreement. The Client or its authorized agent reserves the right to inspect any records related to the performance of work specified herein, subject to the preservation of client confidentiality as required by law. In addition, Client may inspect any and all relevant records kept by Galloway in relation to the Agreement. Galloway shall permit such inspections and audits during normal business hours and upon reasonable notice by Client or its auditors or representatives. The audit of records may occur at Galloway's place of business or at Client's offices, as determined by Client.

14. **BACKGROUND CHECK.** Client may conduct criminal, driver history, and all other requested background checks of Galloway's personnel responsible for performing Services under the Agreement or who might have access to Client's (or any Plan participant) information, data, or facilities in accordance with the City's current background check policies. Client may request that any officer, employee, or agent of Galloway that the background check reveals a criminal history that represents a concern to Client be removed from working with Client or any Plan participants.

15. **PUBLIC RECORDS.** Galloway acknowledges that Client is a public entity, subject to Arizona's public records laws (A.R.S. § 39-121 et. seq.) and that any documents related to this Agreement may be subject to disclosure pursuant to State law in response to a public records request or to subpoena or other judicial process.

16. **AMENDMENTS.** There shall be no oral changes to this Agreement. This Agreement shall only be modified in a writing signed by both Parties. No charge for extra work or material will be allowed unless approved in writing, in advance, by Client.

17. **DEFAULT.**

    a. A Party shall be in default if that Party:

        (i) Is or becomes insolvent or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects its capability to perform under the Agreement;

        (ii) Is the subject of a petition for involuntary bankruptcy not removed within 60 Days;

        (iii) Conducts business in an unethical or illegal manner; or

        (iv) Fails to carry out any term, promise, or condition of the Agreement.

    b. Whenever any Party in good faith has identified any defects or otherwise has reason to question the other's intent or ability to perform under Subsection 19(a), the former Party may demand that the other Party give a written assurance of its intent to perform and cure any defects in performance. In the event that such demand is made and no written assurance is given within 5 business days, and any defects are not cured within 10 business days, the demanding Party may treat this failure as an anticipatory repudiation of the Agreement and may then immediately terminate this Agreement without having to issue a 30 Day Notice of Termination as otherwise specified in Section 6.

18. **REMEDIES.** The remedies set forth in this Agreement are not exclusive, and each Party shall have resort to any remedy allowed by law. Election of one remedy shall not preclude the use of other remedies. In the event of any Party's default in its obligations hereunder:

    a. The non-defaulting Party may terminate the Agreement after providing notice and an opportunity for the defaulting Party to provide written notice of assurance and to cure any defects if required in accordance with Section 19(b), and the termination shall be effective immediately or at such other date as specified by the non-defaulting, terminating Party.

b. To the extent permitted by applicable law, neither Party to this Agreement, including their respective officers, officials, directors, managers, employees, shareholders, lawyers, trustees, agents, successors or permitted assigns, shall liable to the other for any amounts other than those expressly described as payable herein, except for losses resulting from a Party's misconduct, gross negligence or bad faith breach of contract or fiduciary duty. Neither Party shall be liable for incidental, special, or consequential damages.

c. The prevailing Party in any litigation arising out of or concerning this Agreement shall be awarded its reasonable attorneys' fees and all costs and expenses of collection and litigation, whether those fees and costs are incurred at trial or on appeal or in connection with any mediation or court-ordered arbitration. Such an award shall be made for the prevailing Party and against the non-prevailing Party by the court or arbitrator adjudicating the litigation and not a jury.

d. As required by A.R.S. § 12-1518(B), the Parties agree that they will use non-binding arbitration in all disputes arising out of this Agreement which are subject to mandatory arbitration pursuant to rules adopted under A.R.S. § 12-133.

19. **NON-WAIVER OF RIGHTS.** There shall be no waiver of any provision of this Agreement unless approved in writing and signed by the waiving Party. Failure or delay to exercise any rights or remedies provided herein or by law or in equity, or the acceptance of, or payment for, any Services hereunder, shall not release the other Party of any of the warranties or other obligations of the Agreement and shall not be deemed a waiver of any such rights or remedies.

20. **EXCLUSIVITY.** Galloway's performance of the Services is on a non-exclusive basis, and Galloway may act as investment adviser for persons other than Client. This Agreement does not confer upon Galloway the right to provide or perform Services for persons other than Client or other departments or instrumentalities of the City, although for the term of this Agreement, Client shall use Galloway as its exclusive provider of the Services for participants in the Plans, and for the Plan Provider.

21. **CONTINUATION DURING DISPUTES.** Galloway agrees that during any dispute between the Parties, Galloway will continue to perform its obligations until the dispute is settled, until Galloway is instructed to cease performance by Client, or enjoined or prohibited by judicial action from performing the Services or is otherwise required or obligated to cease performance by other provisions in this Agreement.

22. **TERMINATION FOR CONFLICT OF INTEREST (A.R.S. § 38-511).** Pursuant to A.R.S. § 38-511, Client may cancel this Agreement within 3 years after its execution, without penalty or further obligation, if any person significantly

involved in initiating, securing, drafting, or creating the Agreement for Client becomes an employee or agent of Galloway.

23. **INDEMNIFICATION/LIABILITY.**

a. **Indemnification, General.** To the fullest extent permitted by Law, each Party shall defend, indemnify, and hold the other Party and its respective officers, officials, managers, agents, attorneys and employees, harmless from and against any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments, including costs, attorneys', witnesses', and expert witnesses' fees, and expenses incident thereto, relating to, arising out of, or resulting from that Party's negligent or intentionally wrongful acts, errors, mistakes or omissions (or that of its authorized subcontractors) in connection with its performance of its obligations under, (or its failure to perform its obligations under) this Agreement.

b. **No City Liability For Plan Advice**. Client assumes no liability for any advice provided by Galloway to any participant in the Plans under and pursuant to this Agreement.

24. **WARRANTY.** Galloway warrants that all Services will be performed in a professional manner. If any Services are performed in a substandard or unsatisfactory manner, as determined by Client, Galloway will re-perform the Services until they comply with the standards set forth in this Agreement and otherwise comply with Client's reasonable expectations.

25. **THE CITY'S RIGHT TO RECOVER AGAINST THIRD PARTIES.** Galloway shall do nothing to prejudice Client's right to recover against third parties for any loss, destruction, or damage to Client's property (or that of any participant in the Plan) as a result of Galloway's performance of Services hereunder. At Client's request and expense, Galloway shall assist Client to prosecute or defend lawsuits and execute instruments of assignment to obtain recoveries against any third parties causing Client or any participants in the Plan damage.

26. **SALES/USE TAX, OTHER TAXES.**

a. Galloway shall be responsible for payment of all taxes including Federal, State, and local taxes related to or arising out of Galloway's Services under this Agreement, including by way of illustration but not limitation, Federal and State income tax, social security tax, unemployment insurance taxes, and any other taxes or business license fees as required.

b. Client is exempt from paying certain Federal Excise Taxes and will furnish an exemption certificate upon request. Client is <u>not</u> exempt from State and local sales/use taxes.

27. **OWNERSHIP.** All documents, pamphlets, brochures, books, data compilations, reports, materials and films, analyses, web presentations, recordings,

broadcasts, and promotional materials of every form and description, whether in written, analog, digital, film or electronic form, prepared by Galloway (or its agents) pursuant to this Agreement or in connection with the performance of the Services and delivered to Client or any participants in the Plans (collectively, the "Materials") are and shall remain the property of Galloway, but Client shall have a perpetual license, without fee, to retain and use the Materials as it see fit, and Client shall have no obligation to return the originals or copies of the Materials to Galloway upon termination of this Agreement. Notwithstanding the foregoing, except as required by law or authorized by Galloway, or except as required for use by Plan Provider or Client's custodians, counsel, auditors, actuaries, or other representatives, or as demanded by regulatory authorities, Client shall not disseminate or disclose the Materials to third parties unless required by law to do so.

28. **USE OF NAME.** This Agreement does not authorize use or reference by Galloway of the name or logo of the City or the Committee in any public advertising or publicity announcement or other marketing materials. Any such authorization must be obtained in advance by separate written agreement.

29. **NO THIRD PARTY BENEFICIARIES.** This Agreement is intended for the exclusive benefit of Galloway, Client and, to the extent (and only to the extent) desired by Client, the participants in the Plans. Nothing set forth in this Agreement is intended to create, or shall create, any benefits, rights, or responsibilities in any third parties.

30. **SEVERABILITY.** If any provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect. The Parties will negotiate diligently in good faith for such amendment(s) of this Agreement as may be necessary to achieve the original intent of this Agreement, notwithstanding such invalidity or unenforceability.

31. **PROVISIONS REQUIRED BY LAW.** Any provision required by law to be in this Agreement is a part of this Agreement as if fully restated therein.

32. **INTEGRATION CLAUSE.** This Agreement, including all attachments and exhibits hereto, shall supersede all prior oral or written agreements, if any, between the Parties, and shall constitute the entire agreement between the Parties with respect to the Services to be performed.

33. **TIME OF THE ESSENCE.** Time is of the essence to the performance of the Parties' obligations under this Agreement.

34. **NOTICES.** All notices to be given pursuant to this Agreement shall be delivered to the Parties at their respective addresses identified. Notices may be (i) personally delivered; (ii) sent via certified or registered mail, postage prepaid; (iii) sent via overnight courier. If provided by personal delivery, receipt shall be deemed effective upon delivery. If sent via certified or registered mail, receipt shall be deemed effective 3 business days after being deposited in the United

States mail. If sent via overnight courier, receipt shall be deemed effective 2 business days after the sending thereof.

TO GALLOWAY:

Galloway Asset Management, LLC
1930 North Arboleda, Suite 117
Mesa, AZ 85213
Attn: Michael Galloway
(480) 325-8668
(480) 325-1664

TO CITY:

City of Glendale
5850 West Glendale Avenue
Glendale, AZ 85301
Attn: Jim Brown, Interim Executive Director-HR and Risk Management
(623) 930-2277

With a copy to:
City Attorney
City of Glendale
5850 West Glendale Avenue
Glendale, AZ 85301
(623) 930-2930

35. **GOVERNING LAW, FORUM.** This Agreement shall be governed by the laws of the State of Arizona. The exclusive forum selected for any proceeding or suit in law or equity arising from or incident to this Agreement shall be Maricopa County, Arizona.

36. **AUTHORITY TO BIND CLIENT.** Except as otherwise authorized herein, it is understood that in Galloway's performance of any and all duties under this Agreement, Galloway has no authority to bind Client to any agreements or undertakings.

37. **SURVIVING PROVISIONS.** Notwithstanding any completion, termination, or other expiration of this Agreement, all provisions which, by the terms of reasonable interpretation thereof, set forth rights and obligations that extend beyond completion, termination, or other expiration of this Agreement, shall survive and remain in full force and effect. Except as specifically provided in this Agreement, completion, termination, or other expiration of this Agreement shall not release any party from any liability or obligation arising prior to the date of termination.

38. **CONFIDENTIALITY.** All information supplied to and all work or Services processed or completed by Galloway shall be kept confidential and will not be disclosed except as required by law or as directed by Client or any participant in the Plans, as applicable.

39. **LOANS AND WITHDRAWALS.** Galloway shall not process loans or hardship withdrawals for participants in the Plans. Participant payroll functions and court orders are processed directly by the City or Plan Provider.

40. **CITY COORDINATION WITH PLAN PROVIDER.** In order for Galloway to provide the Services, City shall coordinate with Plan Provider to provide Galloway with read-only access to participant account systems.

41. **CITY ACKNOWLEDGEMENTS.** City acknowledges that Plan Provider is not responsible for the investment advice provided by Galloway pursuant to this Agreement, and shall not be responsible for the training or supervision of any Galloway personnel responsible for providing Services to the Plans and/or their participants.

42. **AUTHORITY.** The Parties and their representatives signing this Agreement are duly authorized agents of the Parties hereto and have full authority to enter into this Agreement on behalf of the Parties for whom they are signing.

THIS AGREEMENT shall be in full force and effect only after it has been approved and executed by the duly authorized City officials.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF GLENDALE
An Arizona Municipal Corporation

By: _____

Its: _____

GALLOWAY ASSET MANAGEMENT, LLC
An Arizona Limited Liability Company

By: _____
Michael Galloway
Managing Member

ATTESTED:

By: _____
City Clerk (SEAL)

APPROVED AS TO FORM:

By: _____
City Attorney

EXHIBIT A – SCOPE OF SERVICES

Galloway shall provide the following services in connection with the Agreement:

A. Participant-level advice. Upon the request of any participant in the Plans, Galloway shall advise such participants concerning their investment allocations within the Plans. Upon request of participants with assets in the (SDBO) Self Directed Brokerage Option, Galloway may provide such participants with advisory services concerning their investments through the SDBO.

B. Marketing, Enrollment, Education. Galloway will supplement Plan Provider personnel in the area of marketing enrollment, and education. Galloway may provide Plan marketing services to Client or other departments or subdivisions of the City, as well as provide enrollment and education services to participants in the Plans. Such services shall include face-to-face meetings with Client as well as with participants upon request; small, group meetings for City departments or work areas that request such meetings; and counseling and education for eligible Plan participants concerning the Arizona Public Safety Personnel Retirement System. Galloway will also supplement the Plan Provider's counseling and education on the Arizona State Retirement System.

C. Client Benefits Include. Galloway will provide to Client's plan participants; Financial Planning and analysis, assistance and support to the members of the deferred compensation board, counseling and guidance on pension system plans, face-to-face meetings with an investment advisor, customized worksite education seminars and classes, specific investment recommendations on core fund lineup selection, electronic newsletters and investment alerts when applicable.

EXHIBIT B – Galloway Asset Management, ADV Part II

See Attached

Part 2A of Form ADV - Firm Brochure

GALLOWAY ASSET MANAGEMENT, LLC

Registered Investment Advisor Disclosure Brochure
March 27, 2012

Corporate Office:
1930 North Arboleda, Suite 117
Mesa, AZ 85213
480-325-8668
1-877-778-2351 (Toll Free)
480-325-1664 (Fax)
www.Galloway911.com

Other Office Locations:
Scottsdale, Arizona Office
8111 E Thomas Rd, Suite 120
Scottsdale, AZ 85251
480-471-2331
480-471-2283 (Fax)

Phoenix, Arizona Office *(By Appointment Only)*:
8821 North 7th Street, Suite 210
Phoenix, AZ 85020
480-325-8668

Newport Beach, California Office *(By Appointment Only)*:
4695 MacArthur Court, 11th Floor
Newport Beach, CA 92660
949-798-5768

This brochure provides information about the qualifications and business practices of Galloway Asset Management, LLC. If you have any questions about the contents of this brochure, please contact us at 480-325-8668 or Cindy@Galloway911.com. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority.Galloway Asset Management, LLC ("GAM", "Advisor" or "Firm") is an investment advisor registered with the Securities and Exchange Commission (SEC). Registration does not imply any level of skill or training. Additional information about Galloway Asset Management, LLC also is available on the SEC's website at www.adviserinfo.sec.gov.

Item 2 - Material Changes

This Form ADV Part 2A Firm Brochure has been created to comply with new requirements adopted by the SEC on July 28, 2010. Each update of the brochure must now include a summary of all material changes since the last annual update. The following are material changes since GAM's last brochure update on May, 16, 2011:

- Item 4 – Advisory Business: The amount of client assets GAM manages as of March 26, 2012 on a discretionary basis is $164,411,084.00 and on a Non-Discretionary basis is $953,506.00.

Item 3 - Table of Contents

Contents

Item 1 – Cover Page 1

Item 2 - Material Changes 2

Item 3 - Table of Contents 3

Item 4 - Advisory Business 4

Item 5 - Fees and Compensation 5

Item 6 - Performance-Based Fees and Side-By-Side Management 7

Item 7 - Types of Clients 8

Item 8 - Methods of Analysis, Investment Strategies and Risk of Loss 10

Item 9 - Disciplinary Information 12

Item 10 - Other Financial Industry Activities and Affiliations 13

Item 11 - Code of Ethics, Participation or Interest in Client Transactions and Personal Trading 14

Item 12 - Brokerage Practices 15

Item 13 - Review of Accounts 18

Item 14 - Client Referrals and Other Compensation 19

Item 15 - Custody 20

Item 16 - Investment Discretion 21

Item 17 - Voting Client Securities 22

Item 18 - Financial Information 23

Item 4 - Advisory Business

GAM is an investment advisor registered with the Securities and Exchange Commission (SEC) and has been in business since June 26, 2006. The principal owner of GAM is Public Safety Financial, LLC.

GAM is a registered investment advisor firm providing investment advice and portfolio management.

GAM offers asset allocation services known as GAM Portfolios. GAM Portfolios are model portfolios made designed to meet differing investment objectives. Upon assessment of the client's risk tolerance and consideration of the client's investment objectives and financial information, GAM may recommend a model portfolio or customized strategy that is appropriate for the client. GAM shall be granted discretionary authority by the client to select and invest the client's portfolio in specific investments in accordance with the model portfolio or customized portfolio. Part of GAM's services involves elements of financial planning in which there is no charge.

Client has the ability to place reasonable limitations and restrictions on the types of investments made on its behalf by GAM. Client must request those reasonable restrictions in writing, if any, to GAM. GAM's Clients are advised to promptly notify GAM if there are any changes to all relevant information, including financial condition, net worth, or investment objections.

GAM may provide services to the participants of municipal deferred compensation plans. GAM, upon participant's request, offers investment allocation advice within the plan, may provide advisory services with participant's investments thru a Self Directed Brokerage Option, enrollment and education services.

The amount of client assets GAM manages as of March 26, 2012on a discretionary basis is $164,411,084.00 and on a Non-Discretionary basis is $953,506.00.

Item 5 - Fees and Compensation

GAM Portfolios

The annual asset-based fee for advisory services is charged as a percentage of assets under management. For directly managed accounts, the fee is a standard 1.25% per year, paid quarterly, in arrears for the initial quarter and in advance for subsequent quarters. All fees due are established in each client's Investment Advisory Agreement.

In rare circumstances, all fees may be negotiable. In addition, certain affiliated persons of GAM and family members and personal acquaintances of GAM's affiliated persons may receive advisory services at a discounted rate which is not available to advisory clients generally.

Advisory fees will be directly debited from a client account, with the client's prior required written authorization. The account is held by an independent custodian and the custodian agrees to disburse these fees quarterly. The authorization will be made in writing in the form of a limited power of attorney provided by the client's custodian. The client will receive a statement from GAM, as well as reports from the account's custodian. GAM will liquidate money market shares to pay the fee and, if money market shares or cash value are not available, other investments will be liquidated.

Assets that are deposited into or withdrawn from an account after the beginning of a quarter will result in a pro-rate fee.

Clients may terminate at any time. If a client cancels, all prepaid fees will be promptly refunded on a pro-rated basis, upon client signing a termination form. In cases where clients were not provided this disclosure brochure at least 48 hours prior to entering into an advisory agreement with GAM, the client shall have the right to terminate their agreement within five business days after entering into the agreement with a full refund of advisory fees paid (if any).

Implementation of Recommendations Outside of GAM Portfolios

While GAM's services are provided with the intention of the client implementing recommendations within the GAM Portfolios, clients are not obligated to do so. If clients elect to have an IAR implement the client's recommendations outside of the GAM Portfolios, implementation will be made through the IAR in the IAR's capacity as a registered representative or insurance agent of Cambridge Investment Research, Inc. (Cambridge). When clients implement recommendations through the IAR in one these separate capacities, the IAR will receive commissions and related compensation, such as 12b-1 or trail fees, resulting from the client's purchase of recommended securities or insurance products. While GAM has procedures in place that endeavor to at all time to put the interest of the clients first as a part of the GAM's fiduciary duty, clients should be aware that the receipt of commissions and additional compensation itself creates a conflict of interest and gives the IAR an incentive to recommend investment and insurance products based on the compensation received rather than on the client's needs.

Investment advisory clients are under no obligation to purchase from their GAM IAR any securities or insurance products that he or she recommends and may purchase recommended products from the broker-dealer or insurance company of their choice. GAM may waive or reduce the amount of the investment advisory fee as a result of the additional fees and/or commissions being earned. Any adjustment to the investment advisory fee is at the discretion of GAM and will be disclosed to the client prior to implementing transactions.

Commissions may be higher or lower at Cambridge than at other broker/dealers. Registered representatives are restricted to only offering those products and services that have been reviewed and approved for offering to the public by Cambridge and for which Cambridge has obtained a selling agreement.

Services to Municipal Deferred Compensation Plans and Participants

GAM may provide services to the participants of municipal deferred compensation plans. GAM, upon participant's request, offers investment allocation advice within the plan, may provide advisory services with participant's investments thru a Self Directed Brokerage Option, enrollment and education services. Compensation to GAM for these services varies and is set forth through contracts with GAM and the municipality.

GAM is a Fiduciary to the City of Tempe's (Arizona) DC Plan

GAM serves as a fiduciary to the City of Tempe's governmental defined contributions plans. GAM does not receive any compensation for these services; however, individual plan participants can hire GAM to manage accounts.

Additional Fees and Expenses

Mutual Fund and Other Internal Investment Charges

When GAM recommends mutual funds in its GAM Portfolios, GAM generally recommends only no-load or load-waived mutual funds. However, all mutual funds, exchange traded funds and other investment company securities (Funds) incur certain types of charges and expenses, which are paid from the value of the mutual funds' shares. These charges and expenses include investment management, transaction, administrative, distribution, transfer agent, custodial, legal, audit and other customary fees. If your account holds any such Fund shares, you will be indirectly paying these expenses of the respective Funds, which are in addition to your GAM investment advisory fee. You are encouraged to read the prospectuses of any Funds which are purchased in your account for a more complete explanation of these fees and expenses.

Investments Available without GAM's Services

Clients may invest in mutual funds or other investments without the services of GAM. In that case, the client would not receive the services provided by GAM which are designed, among other things, to assist the client in determining which fund or funds are most appropriate to the client's financial condition and objectives. Accordingly, the client should review both the fees charged by the funds and the fees charged by GAM to fully understand the total amount of fees

to be paid by the client and be able to evaluate the value of the advisory services being provided.

While GAM believes its fees are competitive with fees charges by other investment advisors for comparable services, comparable services may be available from other sources for lower fees than those charged by GAM. Tax Consequences of Transactions - No Legal or Tax Advice

GAM does not hold itself to be and is not an estate planning attorney, a certified public accountant (CPA) or a tax consultant. Referrals to other professionals are given to clients seeking answers to questions relating to such matters.

Clients are advised that any redemptions and exchanges between Funds and other securities transactions in the clients Portfolio Management and Review account might have tax consequences, which clients should discuss with their independent tax advisor.

Brokerage and Custodial Charges

In addition to GAM's Portfolio Management and Review fee, clients will also pay any brokerage or custodial costs associated with their account. For more information about GAM's brokerage recommendations and arrangements, please refer to Item 12, Brokerage Practices, of this brochure.

Item 6 - Performance-Based Fees and Side-By-Side Management

GAM does not charge any performance-based fees. Performance based fees are those based on a share of capital gains on or capital appreciation of the assets of a client. All fees charged by GAM are disclosed in Item # 5, Fees and Compensation.

Item 7 - Types of Clients

GAM provides services to individuals, trusts, estates, charitable organizations, corporations and business entities.

There is no minimum investment required to invest in GAM Portfolios.

Item 8 - Methods of Analysis, Investment Strategies and Risk of Loss

Methods of Analysis

In advising clients investing in GAM Portfolios, GAM develops model portfolio investment recommendations using reports from third-party sources, including Morningstar.

The mutual funds will be selected on the basis of any or all of the following criteria: the fund's performance history; the industry sector in which the fund invests; the track record of the fund's manager; the fund's investment objectives; the fund's management style and philosophy; and the fund's management fee structure. Each client's individual needs and circumstances will determine portfolio weighting between funds and market sectors.

Investment Strategies

The following GAM Portfolios are currently available:

All-Inclusive Portfolios (may include mutual funds, equities, closed end funds, exchange traded funds, and real estate investment trusts (REITs)
High Risk
Medium High Risk
Medium Risk
Medium Low Risk
Low Risk

Risk of Loss

All investments, including mutual funds, ETFs, and annuity and life insurance sub-accounts involve investment risk and may lose value.

Clients should note that if the firm effects short-term transactions on behalf of client accounts, such transactions may result in short term gains or losses for federal and state tax purposes. Clients should review the treatment of such tax consequences with their accountant or tax counsel.

All investments and investment programs have certain risks that are associated with them and which the investor must bear. Following are the types of risk that may arise to clients due to the types of securities that are recommended to or purchased for clients or that relate to the firm's investment strategies:

Business Risk – the risk that the price of an investment will change due to factors unique to that company, investment or market segment and not the market in general.

Liquidity Risk – the risk associated with the ease of being able to quickly convert the value of a security into an equivalent amount of cash. For example, money market funds are readily convertible (liquid) while certain limited partnership units or real estate are not.

Financial Risk – the risk to specific companies' future earnings due to their use of debt. Companies that borrow money must pay it back at some future date, plus the interest charges. This increases the uncertainty about the company because it must have enough income to pay back this amount at some time in the future.

Exchange Rate (Currency) Risk – the risk that investors in foreign investments may be subject to different exchange rates at the time they wish to convert investment proceeds back to their home currency. If exchange rate risk is high, even though substantial profits may have been made in the foreign markets, a less favorable exchange rate may reduce or eliminate these profits.

Country (Political) Risk – the risk that a major change in the political or economic environment of a foreign country may devalue investments made in that country. This risk is usually restricted to emerging or developing countries that do not have stable economic or political environments.

Market Risk – the risk that the price of a particular investment will change as a result of overall market conditions that are not specific to that particular company or investment.

Interest Rate Risk – the risk that interest rate changes will affect the price of a particular investment. For example, when interest rates rise, the price of bonds generally fall.

Global Risk – the risk that events in one part of the world can affect investments across the globe.

Item 9 - Disciplinary Information

GAM is required to disclose the facts of any legal or disciplinary events that are material to a client's evaluation of its advisory business or the integrity of management.

At this time, GAM does not have any disciplinary information to report.

Item 10 - Other Financial Industry Activities and Affiliations

GAM's management, Michael Galloway and Christopher Hoerchler are also Registered Representatives with a broker/dealer, Cambridge Investment Research, Inc. When placing securities transactions through Cambridge, they earn normal and customary commissions. Please refer to Item 5, Fees and Compensation, Implementation of Recommendations Outside of GAM Portfolios.

GAM IARs may be licensed life insurance agents with various insurance companies and may sell insurance products to GAM advisory clients. IARs as a licensed life agent, may be able to implement insurance recommendations for advisory clients. In this event, the IAR will receive customary commissions for insurance and/or annuity sales. Please refer to Item 5, Fees and Compensation. Clients of GAM are not obligated in any manner to use the insurance services provided by GAM IARs.

Item 11 - Code of Ethics, Participation or Interest in Client Transactions and Personal Trading

Code of Ethics

GAM's Code establishes that no person employed by the Firm shall prefer their own interests to those of advisory clients and, among other things, prohibits the use of material public information. Further, the Code requires that certain associated persons submit annual securities holdings reports and quarterly securities transaction reports to the firm's designated officer who is responsible for reviewing them for compliance with the Code. Additionally, the Firm's Code also requires the pre-approval of any acquisition of securities in a limited offering or initial public offering. Clients and prospective clients may obtain a copy of the Firm's Code upon request by contacting Cindy Lance at the Firm's principal office address.

Participation or Interest in Client Transactions and Personal Trading

On occasion, representatives of GAM may buy or sell for their own accounts securities that they recommend to clients. As these situations may present a conflict of interest, GAM has adopted a Code of Ethics (Code) that sets forth standards of business conduct, including compliance with applicable state and federal securities laws that it requires of its associated persons.

Item 12 - Brokerage Practices

Recommendation of Cambridge Investment Research, Inc. for Commission-based Transactions

Some of GAM IARs are also registered representatives (RRs) of Cambridge Investment Research, Inc.(Cambridge) and are required by Cambridge to place any commissionable transactions through Cambridge. Therefore, If commission clients want GAM to implement the advice outside of the GAM Portfolios, Cambridge will be recommended to the clients. As registered representatives of Cambridge Investment Research, Inc., the IARs of GAM will also receive sales commissions and other related compensation, such as 12B-1 service fees or trail fees, on any products purchased, including insurance policies.

> Cambridge has a wide range of approved securities products for which Cambridge performs due diligence prior to selection. Cambridge's RRs are required to adhere to these products when implementing securities transactions through Cambridge. Commissions charged for these products may be higher or lower than commissions clients may be able to obtain if transactions were implemented through another broker/dealer. In addition, certain back-office, operational, technology and other administrative support that Cambridge provides GAM's IARs also benefit GAM.

Additionally, product sponsors such as variable and investment companies and limited partnerships which are recommended to clients may provide support to GAM. Such support includes research, educational information, and monetary support for due diligence trips and client events.

NOTE: The value of products, research and services given to GAM is not a factor in determining the selection of broker/dealers or the reasonableness of their commissions. Clients should be aware that a conflict exists between the interests of GAM and the interests of the clients; and the client is under no obligation to act upon GAM's recommendations; and if the client elects to follow any of the recommendations, the client is under no obligation to effect the transaction through GAM or its associated persons in their individual capacities.

Recommendation of Broker/Dealers for GAM Portfolios

Because Michael Galloway is a RR with Cambridge, he (and, therefore, GAM) is subject to certain Cambridge restrictions concerning his use of other custodians and broker-dealers. To fulfill certain FINRA requirements, Cambridge has established a list of custodian and brokerage firms which may be utilized for custody and trade execution in client accounts by its registered representatives who are also affiliated with an investment advisor.

GAM participates in both Charles Schwab's (Schwab) and TD Ameritrade's (TDA's) institutional customer programs and requires clients who wish to use GAM Portfolios to direct us to use Schwab or TDA (Recommended Brokers). Both Schwab and TDA are on the list of broker-dealer/custodians that are acceptable to Cambridge.

Cambridge will retain a portion of GAM's investment management fee as a charge to GAM (not the client) for the above-referenced functions Cambridge' is required to carry out by FINRA. This fee will not increase execution or brokerage charges to the client or the fee the client has agreed to pay GAM pursuant to the client's advisory agreement.

Clients should be aware of the following important facts regarding GAMs exclusive use of Schwab and TDA:

- This limitation on the use of broker-dealers may affect GAM's ability to achieve most favorable execution of client transactions, and therefore may cost clients more money; and
- Not all investment advisors require clients to use specified broker-dealers.

Recommended Brokers provide GAM with access to its institutional trading and custody services, which are typically not available to the Recommended Brokers retail investors. These services generally are available to independent investment advisors on an unsolicited basis, at no charge to them for Schwab accounts, there is no charge so long as a total of at least $10 million of the advisor's clients' assets is maintained in accounts at Schwab and is not otherwise contingent upon GAM committing to Schwab any specific amount of business (assets in custody or trading)]. Recommended Brokers' services include brokerage, custody, research and access to mutual funds and other investments that are otherwise generally available only to institutional investors or would require a significantly higher minimum initial investment.

For GAM clients' accounts maintained in their custody, Recommended Brokers generally do not charge separately for custody but are compensated by the account holder through commissions or other transaction-related fees for securities trades that are executed through the Recommended Brokers or that settle into Recommended Brokers' accounts. Recommended Brokers may also receive SEC Rule 12-(b)-1 and/or other fees from mutual fund companies.

Recommended Brokers also make available to GAM other products and services that benefit GAM but may not benefit its clients' accounts. Some of these other products and services assist GAM in managing and administering clients' accounts. For example, these may include software and other technology that provide access to client account data (such as trade confirmations and account statements); facilitate trade execution (and allocation of aggregated trade orders for multiple client accounts); provide research, pricing information and other market data; facilitate payment of GAM's fees from its clients' accounts; and assist with back-office functions, recordkeeping and client reporting. Many of these services generally may be used to service all or a substantial number of GAM accounts, including accounts not maintained at the Recommended Brokers.

Schwab also makes available to GAM other services intended to help GAM manage and further develop its business enterprise. These services may include consulting, publications and conferences on practice management, information technology, business succession, regulatory compliance and marketing. In addition, Schwab may make available, arrange and/or pay for these types of services rendered to GAM by independent third parties. Schwab may discount or waive fees it would otherwise charge for some of these services or pay all or a part of the fees of a third party providing these services to GAM.

GAM's recommendation that clients maintain their assets in accounts at Schwab may be based in part on the benefit to GAM of the availability of some of the foregoing products and services and not solely on the nature, cost or quality of custody and brokerage services provided by Schwab, which may create a potential conflict of interest. The benefits received from Schwab do not depend upon the amount of transactions directed to Schwab.

TD AMERITRADE may also pay for business consulting and professional services received by GAM's related persons and may also pay or reimburse expenses (including travel, lodging, meals and entertainment expenses) for its personnel to attend conferences or meetings relating to the program or to TD AMERITRADE's advisor custody and brokerage services generally.

Some services made available by TD AMERITRADE are intended to help GAM manage and further develop its business enterprise. The benefits received by Advisor or its personnel through participation in the program do not depend on the amount of brokerage transactions directed to TD AMERITRADE.

As part of its fiduciary duties to clients, GAM endeavors at all times to put the interests of its clients first. Clients should be aware, however, that the receipt of economic benefits by GAM or its related persons in and of itself creates a potential conflict of interest. Clients are advised there is an incentive for GAM and its IARs to recommend a broker/dealer over another based on the products and services that will be received rather than the client's best interest.

Item 13 - Review of Accounts

GAM Portfolios

Reviews:

Michael Galloway, President of GAM, regularly monitors the underlying securities within the accounts and he reviews the portfolios at least annually.

Clients are requested to meet either in person or by telephone at least annually with their GAM representative to review their accounts. The client may request additional meetings at any time. Accounts are reviewed in the context of each client's stated investment objectives and guidelines. More frequent reviews may be triggered by material changes in variables such as the client's individual circumstances, or the market, political or economic environment.

Reports:

Portfolio Management clients will receive statements at least quarterly and confirmations of transactions from their broker dealer/custodian. GAM provides an additional statement unless contracted for at the inception of the advisory relationship.

Financial Planning

Reviews:

While reviews may occur at different stages depending on the nature and terms of the specific engagement of GAM, typically no formal reviews will be conducted for financial planning or consulting clients, except as contracted for at the inception of the financial planning or consulting engagement.

Reports:

Clients will receive reports as contracted for at the inception of the client relationship or as may be requested by a client.

Item 14 - Client Referrals and Other Compensation

GAM has an arrangement with Cambridge Investment Research, Inc where certain investment advisor representatives (IARs) of Cambridge's affiliated RIA, Cambridge Investment Research Advisors, Inc (CIRA) refer business to GAM. Those IARs are paid a percentage of the advisory fee by GAM on the accounts they refer to GAM.

Item 15 - Custody

Except for the direct billing of account fees (as authorized by clients in writing), GAM does not have any arrangements by which it accepts or undertakes custody of client funds or securities. Client funds and securities are always held with a qualified custodian, such as Schwab or TDA, who will provide the client with an account statement at least each calendar quarter. The account statement shows the amount of GAM's management fees that are deducted from the client's account during the period covered by the statement. Clients should review the account statements provided by their custodian carefully for accuracy.

Item 16 - Investment Discretion

GAM manages client accounts on a discretionary basis in which the client grants GAM authority in the Investment Advisory Agreement. GAM takes discretion over the following activities: the securities to be purchased or sold, the amount of securities to be purchased or sold, and when transactions are made.

Item 17 - Voting Client Securities

As a matter of firm policy and practice, GAM does not have any authority to and does not vote proxies on behalf of advisory clients. Clients retain the responsibility for receiving and voting proxies for any and all securities maintained in client portfolios. However, upon Client's request, GAM may provide advice to clients regarding the Client's voting of proxies.

Item 18 - Financial Information

GAM does not require or solicit the prepayment of more than $1,200 in fees, six months or more in advance. In addition, GAM does not have any financial condition that is reasonably likely to impair its ability to meet contractual commitments to clients.

Schwab Personal Choice Retirement Account® (PCRA) Plan Application

Please be sure to:

- **Read sections 5-9**
- **Complete sections 1-4 and Exhibit A**
- **Sign this application on page 5, section 10.**

1. INTRODUCTION

This *Schwab Personal Choice Retirement Account® (PCRA) Application* ("Account Application") is entered into by and among Wells Fargo Bank, N.A. as the trustee or custodian ("Trustee/Custodian") of the City of Glendale Section 457 Deferred Compensation Plan ("Plan"), City of Glendale ("Plan Sponsor") as the Plan Sponsor of the plan and Charles Schwab & Co., Inc. ("Schwab").

The Trustee/Custodian has been directed by the Plan Sponsor to enroll the Plan in the Schwab Personal Choice Retirement Account ("PCRA") Program with Schwab.
The Plan (or Trust, if any) permits Plan Sponsor to direct the Trustee/Custodian to establish a plan-level brokerage account ("Plan-level Account") at Schwab and to allow the Participants of the Plan who execute an electronic PCRA Account Application (or a *Schwab Personal Choice Retirement Account® Participant Limited Power of Attorney (LPOA)* Agreement ("LPOA Agreement") with Schwab ("Participants") to conduct business at Schwab.

The following together with the Schwab One® Account Agreement and any administrative services agreement between the Plan's recordkeeper and Schwab ("Services Agreement"), constitute the terms and conditions governing the account(s) established by the Trustee or Custodian at the direction of the Plan Sponsor.

2. PLAN SPONSOR INFORMATION

Plan Sponsor Name	Plan Number	Plan Sponsor Tax ID Number
City of Glendale	98742-01	86-6000247

Type of Business	State of Incorporation
Municipality	Arizona

Contact Name / Email Address	Title	Phone
Jim Brown / jwbrown@glendaleaz.com	Acting HR Director	623-930-2277

Street Address	City	State	Zip Code
5850 West Glendale Ave	Glendale	AZ	85301

3. PLAN INFORMATION

Plan Name	Plan Tax ID Number
City of Glendale Section 457 Deferred Compensation Plan	86-6000247

Date Plan Established	Type of Plan
	457(b)

Total Plan Assets	Number of Participants	Plan Year End
$70M	1001	12/31

4. TRUSTEE / CUSTODIAN INFORMATION

Name	Tax ID Number	State of Incorporation
Wells Fargo Bank, N.A.	94-1347393	Colorado

Contact	Title	Phone
Andrea L. Stellish	Vice President Government Relations	303-863-4624

Street Address	City	State	Zip Code
1740 Broadway MAC#C7300-015	Denver	CO	89274

5. ACCOUNT ESTABLISHMENT

The Plan-level Account shall be established in the name of the Trustee/Custodian for the interest of the Plan. In addition, separate self-directed brokerage accounts ("PCRA accounts") shall be established in the name of the Trustee/Custodian for the interest of the

Plan related to each Participant who executes an electronic PCRA Account Application. Participant accounts shall be subject to the PCRA Account Application executed by the Participant.

The Plan Sponsor, pursuant to the Plan, has directed the Trustee to execute the Account Application under which Schwab is authorized to act upon the instructions of each Participant pursuant to the terms and conditions of this Account Application, the Schwab One Account Agreement, the Services Agreement and the PCRA Account Application. A PCRA Account Application will be executed by each Participant, setting forth the terms and conditions under which Schwab will act on the instructions of the Participant. The Trustee/Custodian, acting pursuant to the direction of the Plan Sponsor, authorizes Schwab to act on instructions received from a Participant pursuant to each such PCRA Account Application, the terms and conditions of which are set forth thereon.

6. **MONEY FUND.** All uninvested cash held in the Plan-level Account will be automatically invested in the Schwab Money Market Fund.

7. **PCRA TRADING.** Investment options available through PCRA Accounts may be limited by the PCRA Trading Menu attached as Exhibit A.

8. DELEGATION OF AUTHORITY TO THE PLAN'S RECORDKEEPER

By signing this application, the Trustee/Custodian acknowledges that the Plan's recordkeeper will have the ability to instruct Schwab with respect to the establishment of the Plan-level Account and multiple PCRA accounts. . The Trustee/Custodian, as directed by the Plan Sponsor, has the authority to delegate additional powers to the Plan's recordkeeper. The following additional powers are hereby delegated to the Plan's recordkeeper by the Trustee/Custodian

A. **Relay Trading Authorization.** Instruct Schwab to execute trades in the Plan-level Account under limited circumstances and to liquidate PCRA account assets upon instruction from the Plan Sponsor.

B. **Disbursement Authorization to Account Registration.** Instruct Schwab to disburse Plan funds to accounts that are registered to the Trustee/Custodian(s) at Schwab or another financial institution.

Relay Trading Authorization. The Plan's recordkeeper may direct Schwab as to the investment of the Plan-level Account under limited circumstances, as to the liquidation of PCRA accounts as needed, and to take other actions necessary or incidental to the execution of such instructions. Schwab, and other persons to whom Schwab has given instructions in order to implement the Plan's recordkeeper's instructions, may rely on Plan's recordkeeper's instructions without obtaining any approval, counter-signature, or co-signature. In the limited situations described above, the Plan's recordkeeper's authority will include, without limitation:

- the authority to give instructions for transactions in securities and financial instruments, including the buying and selling of stocks, bonds, debentures, notes, subscription warrants, stock purchase warrants, options, mutual fund shares, evidences of indebtedness, and any other securities, instruments or contracts relating to securities; and
- where necessary to complete any transaction, the authority to transfer, convert, endorse, sell, assign, set over, and deliver any assets held in the Plan-level Account or the PCRA Accounts and to make, execute, and deliver any and all written instruments of assignment and transfer.

Authority to Disburse to Account Registration. The Plan's recordkeeper may direct Schwab to remit checks, wire funds and otherwise make disbursement of funds held in the Plan-level Account to banks and other financial institutions for the Plan's benefit. Accordingly, Schwab is authorized to take such actions, upon Plan's recordkeeper's written instructions.

Whenever this delegation of authority is attached to any instrument of assignment and transfer, all persons shall be entitled, without further inquiry or investigation and regardless of the date of the delegation of authority, to act in reliance upon the assumption that the assets named in such instrument were duly and properly transferred, endorsed, sold, assigned, set over and delivered, and that, with respect to such assets, the authority conferred here in is still in full force and effect.

The Trustee/Custodian may revoke the delegation of authority at any time by giving written notice to Schwab.

9. **AGREEMENT BETWEEN TRUSTEE/CUSTODIAN, PLAN SPONSOR AND SCHWAB.** The Trustee/Custodian, by signing this Application at the direction of the Plan Sponsor, hereby requests that Schwab open the Plan-level Account and also a PCRA Account for the benefit of each Participant who executes a PCRA Account Application/LPOA Agreement. All parties hereto shall be bound by the terms of the Account Agreement (which includes this Application, the Schwab One Account Agreement, the PCRA Account Application/LPOA Agreement executed by the Participant and other written

agreements, if any, between the Plan Sponsor, the Trustee/Custodian or the Plan's recordkeeper and Schwab). If any party hereto does not receive or understand the Account Agreement, such party will notify Schwab.

The Plan Sponsor certifies that the Trust underlying the Plan (if any) is not subject to backup withholding because the Plan is an organization exempt from federal income tax under Internal Revenue Code.

Each party represents, warrants and certifies that the representations made by it in this Agreement are true, complete and accurate. The Plan Sponsor and the Trustee/Custodian each represent, warrant and certify that the Trust (if any) is in full force and effect and has not been revoked, modified or amended in any manner which would cause the representations made by each as contained in this Agreement to be inaccurate or incorrect. Schwab will rely on this Agreement and upon the representations made herein unless and until it receives a written Notice of Amendment, written notice of changed Trustee/Custodian or written notice of any events affecting the Plan Sponsor's powers described above. The Plan Sponsor agrees to send written notice promptly to Schwab of any change in Trustee/Custodian, or any amendment or modification to the Trust which would cause the representations contained in this Agreement to be or become inaccurate or of the occurrence of any event which would affect the Trust's revocability, the Trustee/Custodian's or the Plan Sponsor's powers or any representations made in this Agreement.

The Plan Sponsor, (or the Plan as applicable) and the Trustee/Custodian hereby indemnify and hold harmless Schwab and each of its officers, directors, employees and agents from, and holds such persons harmless against, any claims, judgment, surcharges, settlement amounts or other liabilities or costs of defense or settlement (including attorneys' fees) arising out of or related to any actual or alleged improper or unsuitable actions taken at the Plan Sponsor's, the Trustee/Custodian's or the Plan's recordkeeper's direction in connection with the PCRA established at Schwab pursuant to this Agreement. Provided, however, that Schwab must first notify the Plan Sponsor, the Trustee/Custodian and the Plan's recordkeeper of any claim and tender defense of the same to the Plan Sponsor, Trustee/Custodian and Plan's recordkeeper as a condition precedent to indemnity hereunder.

Schwab hereby indemnifies and holds harmless the Plan Sponsor and the Trustee/Custodian and their affiliates and subsidiaries, and each of their respective officers, directors, employees, and agents from, and holds such person harmless against, any claims judgment, surcharges, settlement amounts or other liabilities or costs of defense or settlement (including reasonable attorneys' fees) arising out of or related to any actual or alleged improper or unsuitable actions taken by Schwab in connection with the PCRA established at Schwab pursuant to this Agreement.

The representations and obligations stated herein shall survive termination of the Trust (if any) and the Account Agreement relating to the PCRA. This cross-indemnification is made by the Plan Sponsor, the Trustee/Custodian and Schwab and shall not be limited by the Plan Sponsor's or the Trustee/Custodian's documentation concerning the representations made herein.

Required Arbitration Disclosures. Regulatory authorities require that any brokerage agreement containing a predispute arbitration agreement must disclose that this agreement contains a predispute arbitration clause. This Agreement contains a predispute arbitration clause. By signing an arbitration agreement, the parties agree as follows:

- **All parties to this agreement are giving up the right to sue each other in court, including the right to a trial by jury, except as provided by the rules of the arbitration forum in which a claim is filed.**
- **Arbitration awards are generally final and binding; a party's ability to have a court reverse or modify an arbitration award is very limited.**
- **The ability of the parties to obtain documents, witness statements and other discovery is generally more limited in arbitration than in court proceedings.**
- **The arbitrators do not have to explain the reason(s) for their award unless, in an eligible case, a joint request for an explained decision has been submitted by all parties to the panel at least 20 days prior to the first scheduled hearing date.**
- **The panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with the securities industry.**
- **The rules of some arbitration forums may impose time limits for bringing a claim in arbitration. In some cases, a claim that is ineligible for arbitration may be brought in court.**
- **The rules of the arbitration forum in which the claim is filed, and any amendments thereto, shall be incorporated into this agreement.**

No person shall bring a putative or certified class action to arbitration, nor seek to enforce any predispute arbitration agreement against any person who has initiated in court a putative class action; or who is a member of a putative class who has not opted out of the class with respect to any claims encompassed by the putative class action until:

1. the class certification is denied;

2. the class is decertified; or

3. the customer is excluded from the class by the court.

Such forbearance to enforce an agreement to arbitrate shall not constitute a waiver of any rights under this Agreement except to the extent stated herein.

Arbitration Agreement. Any controversy or claim arising out of or relating to (i) this Agreement, any other agreement with Schwab, an instruction or authorization provided to Schwab or the breach of any such agreements, instructions, or authorizations; (ii) the Account, any other Schwab account or Services; (iii) transactions in the Account or any other Schwab account; (iv) or in any way arising from the relationship with Schwab, its parent, subsidiaries, affiliates, officers, directors,

employees, agents or service providers, including any controversy over the arbitrability of a dispute, will be settled by arbitration.
This arbitration agreement will be binding upon and inure to the benefit of the parties hereto and their respective representatives, attorneys-in-fact, heirs, successors, assigns and any other persons having or claiming to have a legal or beneficial interest in the Account, including court-appointed trustees and receivers. This arbitration agreement will also inure to the benefit of third party service providers that assist Schwab in providing Services ("Third Party Service Providers") and such Third Party Service Providers are deemed to be third party beneficiaries of this arbitration agreement.
The parties agree that this arbitration agreement will apply even if the application to open the Account is denied and will survive the closure of your Account and/or the termination of services rendered under this Agreement.
Such arbitration will be conducted by, and according to the securities arbitration rules and regulations then in effect of, the Financial Industry Regulatory Authority (FINRA) or any national securities exchange that provides a forum for the arbitration of disputes, provided that Schwab is a member of such national securities exchange at the time the arbitration is initiated. Any party may initiate arbitration by filing a written claim with FINRA or such eligible national securities exchange. If arbitration before FINRA or an eligible national securities exchange is unavailable or impossible for any reason, then such arbitration will be conducted by, and according to the rules and regulations then in effect of, the American Arbitration Association (AAA). If arbitration before the AAA is unavailable or impossible for any reason, the parties agree to have a court of competent jurisdiction appoint three (3) arbitrators to resolve any and all disputes or controversies between or among the parties. Each party shall bear its own initial arbitration costs, which are determined by the rules and regulations of the arbitration forum. In the event of financial hardship, the arbitration forum may waive certain costs in accordance with such rules. At the conclusion of the hearing, the arbitrators will decide how to assess the costs of the arbitration among the parties.
Any award the arbitrator makes shall be final and binding, and judgment on it may be entered in any court having jurisdiction. This arbitration agreement shall be enforced and interpreted exclusively in accordance with applicable federal laws of the United States, including the Federal Arbitration Act. Any costs, fees or taxes involved in enforcing the award shall be fully assessed against and paid by the party resisting enforcement of said award.
For FINRA arbitrations, FINRA will appoint a single public arbitrator in customer cases decided by one arbitrator. In customer cases decided by three arbitrators, investors have the option of choosing an arbitration panel with two public arbitrators and one non-public arbitrator (Majority-Public Panel Rule) or a panel of all public arbitrators (Optional All-Public Panel Rule). If the customer declines to elect a panel selection method in writing by the applicable deadline, the Majority-Public Panel Rule for selecting arbitrators will apply.
All notices from one party to the other involving arbitration shall be considered to have been fully given when so served, mailed by first-class, certified or registered mail, or otherwise given by other commercially accepted medium of written notification.
In addition to the above provisions, if a party to this Agreement is or becomes a non-U.S. resident at the time of any controversy subject to this arbitration agreement, such party acknowledges and agrees to the following additional provisions:

(1) The rules of the organization administering the arbitration specifically provide for the formal designation of the place at which the arbitration is to be held.
(2) Entering into this Agreement constitutes consent to submit to the personal jurisdiction of the courts of the state of California, U.S.A., to interpret or enforce any or all of these arbitration provisions. Judgment on any arbitration award may be entered in any court having jurisdiction, or application may be made to such court for judicial acceptance of the award and an order of enforcement, as the case may be.
(3) The exclusive language to be used by the parties and the arbitrators in the arbitration proceedings shall be English. Any party wishing an interpreter shall make all arrangements directly with the interpreter and shall assume all costs of the service.
If a party is a foreign government or state, state-owned or state-operated enterprise or other instrumentality of a foreign government or state, such party waives all rights of sovereign immunity and neither the Federal Act of State doctrine nor the doctrine of sovereign immunity shall apply insofar as any enforcement in courts located in the U.S.A. is concerned.

Waiver of Class Action or Representative Action. Neither you nor Schwab shall be entitled to arbitrate any claims as a class action or representative action, and the arbitrator(s) shall have no authority to consolidate more than one parties' claims or to proceed on a representative or class action basis. You and Schwab agree that any actions between us and/or Related Third Parties shall be brought solely in our individual capacities. You and Schwab hereby waive any right to bring a class action, or any type of representative action against each other or any Related Third Parties in court. You and Schwab waive any right to participate as a class member, or in any other capacity, in any class action or representative action brought by any other person, entity or agency against Schwab or you.

Responsibility for Investment Decisions. The Plan Sponsor and the Trustee/Custodian each acknowledge and agree that

- Schwab will merely execute trades as directed by Participant or the Plan's recordkeeper acting on behalf of the Plan Sponsor or Trustee/Custodian in accordance with a delegation of authority acceptable to Schwab;
- Schwab does not give legal or tax advice, and will not advise the Plan Sponsor, the Trustee/Custodian, or the Plan's recordkeeper concerning the nature, potential value, or suitability of any particular security, transaction or investment strategy;
- Schwab is not acting as a fiduciary;
- The Plan Sponsor (and not Schwab) is responsible for investigating and selecting the Plan's recordkeeper;

- The Plan's recordkeeper is not affiliated with or controlled or employed by Schwab, and Schwab has not approved, recommended or endorsed the Plan's recordkeeper;
- Schwab has no duty to supervise or monitor trading by the Plan's recordkeeper or Participant in the Brokerage Account;
- Schwab has no duty to review the documents under which the Plan is maintained, to update these documents, or to request a determination letter from the Internal Revenue Service concerning the Plan documents;
- Schwab has no duty to determine or review allocations of contributions among Participants, or to perform any recordkeeping functions for the Plan; provided that the forgoing shall not affect Schwab's obligations to furnish accurate account statements to Participants and the Plan's recordkeeper and to provide certain information to the Trustee/Custodian;
- Schwab has no duty to review Plan investments for compliance with ERISA (including determining whether any investments constitute prohibited transactions under ERISA) or to determine whether Plan investments will result in exposure to the tax on unrelated business taxable income, or to review the Plan documents to determine whether any investment instructions are in accordance with the terms of the Plan other than to review the transaction for compliance with the previously agreed limitations;
- Schwab has no duty to assist in complying with any obligations that may be imposed under ERISA, including, without limitation, the reporting, Participant disclosure or bonding requirements of ERISA (except with respect to the furnishing of account statements to Participants and the Plan's recordkeeper and such reporting obligations to the Trustee/Custodian);
- Schwab has no duty to determine the valuation of any assets in the Account that are not traded on a recognized exchange; and
- Other than complying with its obligations to act as instructed, Schwab has no duty to assist in complying with any legal obligations that may apply to distributions from the Plan, to determine whether any distributions are required under the "required minimum distribution: rules of the Internal Revenue Code, to determine whether any distributions that Schwab may be instructed to make are properly authorized under the terms of the Plan, or to review any beneficiary designations that may be made by Plan Participants.

10. SIGNATURES

Please note that the Schwab Personal Choice Retirement Account® (PCRA) Plan Application contains a pre-dispute arbitration agreement.

Trustee/Custodian's Signature _____
Date _____

Name *(please print)* _____

As an authorized signer for the Plan Sponsor, I acknowledge, with my signature below, that the responsible plan fiduciary (Plan Sponsor) has received a Fee Disclosure Report (explanation of fees and services) from Charles Schwab & Co., Inc., which contains information required by C.F.R. Section 2250.408b-2(c)(1) (the ERISA Section 408 (b)(2) regulation).

Plan Sponsor's Signature _____
Date _____

Name *(please print)* _____

Exhibit A: ***TO BE COMPLETED AND SUBMITTED WITH APPLICATION***

Schwab Personal Choice Retirement Account® (PCRA) Delegation of Trading Authority and Trading Menu

All PCRAs associated with the Plan have the ability to trade. A Participant will never be restricted from selling a position unless Schwab is instructed by the Trustee(s)/Custodian(s) and/or Plan Sponsor. Trustee(s)/Custodian(s) and/or Plan Sponsor acknowledge that they are responsible for determining whether any of the investments elected below are permissible under the terms of the Plan, the Internal Revenue Code (the "Code"), or the Employee Retirement Income Security Act of 1974 ("ERISA"), an that Schwab shall have no responsibility or liability with respect to such determination. Generally, 403(b) contributions can only be invested in SEC-registered fund shares. **Trading restrictions.** PCRAs may not include trading on collectibles, currencies, precious metals, real estate, futures, commodities, private placements, margin account or short sales. If specifically allowed by Participant's retirement plan, Participant may be able to write covered calls and buy protective puts. Participant should complete a **Schwab Personal Choice Retirement Account (PCRA) Options Application—Participant** form to be approved to trade options.
Completing each section below indicates the securities PCRA participants have the ability to trade and creates the Plan trading menu and delegation of trading authority:

1. Delegation of Trading Authority to a Schwab Investment Advisor (check the appropriate box below)

☑ By execution of a Schwab Personal Choice Retirement Account® (PCRA) Limited Power of Attorney (LPOA) for a Schwab Investment Advisor, participant may grant authority to an Investment Advisor who has a relationship with Schwab, to trade in participant's PCRA. A participant may also authorize Schwab to pay investment advisory and related fees to the Investment Advisor from their PCRA.

☐ Delegation of trading authority to a Schwab Investment Advisor is not permitted under this plan.

2. Taxable Mutual Funds:

☑ All except those written below

☐ Schwab Mutual Fund OneSource® service mutual funds/SchwabFunds® only[1]

☐ None except those listed in Section 10

3. Tax-Exempt Mutual Funds:

☑ All except those written below

☐ Schwab Mutual Fund OneSource service mutual funds/SchwabFunds only[1]

☐ None except those listed in Section 10

4. Equities:

☐ All except those written below

☐ Listed only[2]

☑ Listed and NASDAQ market securities only[3]

☐ Exchange-traded funds (ETFs)[4]

☐ Closed-end mutual funds (CEMs)

☑ ETFs and CEMs

☐ None except those listed in Section 10

5. Publicly Traded Limited Partnerships[5]:

☐ All except those written below

☑ None except those listed in Section 10

6. Taxable Fixed Income[6]:

☑ All except those written below

☐ None except those listed in Section 10

☐ Certificates of deposit (CDs) only

7. Tax-Exempt Fixed Income:

☑ All except those written below

☐ None except those listed in Section 10

☐ Treasuries only

1740 Broadway MAC#C7300-015 Denver CO 89274

FOR CHARLES SCHWAB USE ONLY:

Account Number

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8. Foreign Securities[7]:

☐ All except those written below

☑ None except those listed in Section 10

9. Options: (Options trading is limited to writing covered calls and buying protective puts.)

☐ Yes. Options trading is permitted on the Plan-level account by the Plan document and on all associated PCRAs. Note: All parties with trading authority must complete a separate option application.

☑ No. Option trading is not permitted.

10. Please list all exceptions below (NOTE - employer securities are ineligible and must be included below):

Fund/Security Description	CUSIP Symbol
No restrictions on core funds	

[1]Mutual Fund OneSource® funds and SchwabFunds® have no loads and no transaction fees. Schwab can effect purchases and redemptions of shares of these funds without charging a transaction fee because we receive remuneration from the registered investment company and/or its affiliates for services rendered in connection with the Mutual Fund OneSource service. The remuneration is based on the net asset value of certain shares held in Schwab customers' brokerage accounts. Short-term redemption fees may apply. Further information is available on request.

[2]Equity trading is limited to securities listed on the New York Stock Exchange (NYSE), American Stock Exchange (AMEX) and other exchanges (excludes The Nasdaq Stock Market, Inc. [NASDAQ] and over-the-counter [OTC] securities).

[3]Equity trading is limited to those securities referenced in footnote 2 above and any NASDAQ national market or small-cap market securities. Securities that are not available to trade include pink sheets and bulletin board stocks.

[4] Exchange-traded funds (ETFs) are subject to risks similar to those of stocks

[5]Restricting publicly traded limited partnerships will exclude the purchase of any publicly traded security that reports income via a K-1 Form and as a result could generate Unrelated Business Taxable Income (UBTI). These securities primarily consist of Limited Partnerships and Royalty Trusts.

[6]Excludes debt securities issued by Charles Schwab & Co., Inc. and its affiliates. These securities are not allowed to be purchased in a PCRA.

[7]Restricting foreign securities does not include ADR securities traded on a domestic equity exchange or NASDAQ.

FOR CHARLES SCHWAB USE ONLY:

Account Number

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LETTER OF INSTRUCTION REGARDING
SELF-DIRECTED BROKERAGE ACCOUNT

The Plan Sponsor offers the City of Glendale Section 457 Deferred Compensation Plan ("the Plan") and has signed a Schwab Personal Choice Retirement Account Plan Application to offer the Schwab PCRA self-directed brokerage account (SDB) to participants in the Plan;

Partial Liquidation Authorization

If the participant has not complied with a request to transfer m oney from their SDB account to their core account in the Plan, the Plan Sponsor hereby instructs the Recordkeeper to transfer available funds from the money market portion of the participant's SDB account for one of the following reasons:

1) to fund a required m inimum distribution under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended and Treasury regulations promulgated thereunder (the "Code");

2) to comply with requirements of a Domestic Relations Order (DRO) within the meaning of the Code;

3) to fund a processing error,

4) to make a corrective distribution, or

5) for the collection of Plan or core account-related fees.

If there are insufficient funds in the money market portion of the participant's SDB account to fulfill the request and it is necessary to liquidate securities in the participant's SDB account and the participant fails to provide liquidation instructions, the Plan Sponsor may provide written instructions to the Recordkeeper identifying the specific securities and the number of shares or units to be liquidated. Alternatively, the Plan Sponsor may provide instructions to fully liquidate a participant's SDB account, terminate the SDB account agreement, and restrict SDB accounts from further use by the participant. If partial liquidation instructions are not provided by the Plan Sponsor and funding is required for one of the above-stated reasons, Plan Sponsor hereby authorizes the Recordkeeper to instruct Schwab to fully liquidate the participant's SDB account, move the proceeds to the core account and process the appropriate payment.

Additional fees and charges may be assessed for any liquidation of funds from the SDB account in accordance with the terms of the SDB account agreement. Brokerage transaction fees will be charged on each position sold. Therefore, selling multiple stocks or mutual funds will result in higher fees.

Full Liquidation Authorization

The Plan Sponsor hereby instructs the Recordkeeper to instruct Schwab to fully liquidate a participant's SDB account, terminate the SDB account agreement, and restrict it from further use by the participant for one of the following reasons:

A) Upon notification of the death of a participant, unle ss the Plan allows in-kind transfers of SDB account assets and the beneficiary has selected this option; or

B) When the participant's account is to be 100% liquidated due to the Plan's deminimus payout requirements.

Additional fees and charges may be assessed for any liquidation of funds from the SDB account in accordance with the terms of the SDB account agreement. Therefore, selling multiple stocks or mutual funds will result in higher fees.

The Plan Sponsor represents that it is authorized to give th e Recordkeeper this Letter of Instruction and any instructions provided pursuant to it.

Plan Sponsor's Signature _____ Date _____

GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY

A Stock Company

8515 East Orchard Road Greenwood Village, CO 80111

For service, call 1-800-537-2033 (extension 73343)

APPLICATION FOR GROUP ANNUITY CONTRACT

SECTION A. PLAN SPONSOR			
NAME OF PLAN SPONSOR **City of Glendale**			FEDERAL TAX ID # **86-6000247**
ADDRESS **5850 West Glendale Avenue, Glendale, Arizona 85301** STREET CITY STATE ZIP CODE			SITUS **Arizona**
TELEPHONE # **(623) 930-2277**	FAX #		TYPE OF ENTITY: ☒ **Government**
FULL LEGAL NAME OF PLAN **City of Glendale Section 457 Deferred Compensation Plan**			
SECTION B. CONTRACTHOLDER			
NAME OF TRUSTEE IF DIFFERENT THAN THE PLAN SPONSOR			FEDERAL TAX ID #, if applicable
ADDRESS STREET CITY STATE ZIP CODE			SITUS, if applicable
TELEPHONE #	FAX #		TYPE OF ENTITY:

SECTION C. PRODUCT INFORMATION

☒ **Fixed-Variable Annuity**

SECTION D. PLAN INFORMATION

☒ **457(b) Governmental Plan**

SECTION E. DEFAULT INVESTMENT OPTION

☒ Other Investment Option: **Vanguard Target Retirement Income Fund**

SECTION F. FIXED ACCOUNTS

☒ None

SECTION G. SERIES ACCOUNTS	**SECTION H. SEPARATE ACCOUNTS**
☒ None	☒ **Great-West Guaranteed Government Fund**

SECTION I. AGREEMENT AND SIGNATURES

AGREEMENT:

By signing this Application, Plan Sponsor and Contractholder, if other than Plan Sponsor, understand, accept, and otherwise agree to the provisions of the attached Group Annuity Contract, certify and otherwise represent that the information contained on this application is true and correct to the best of their knowledge, and agree to notify Great-West of any changes to the information provided above.

Signature of Plan Sponsor Date

Signature of Trustee if different than Plan Sponsor Date

Title

Title

FRAUD NOTICE

NOTICE: Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit, or knowingly presents false information in an application for insurance may be guilty of a crime and may be subject to fines, confinement in prison, and denial of insurance benefits, depending upon state law.

STATE INSURANCE FRAUD WARNINGS

FOR DC RESIDENTS ONLY: WARNING: it is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant. **NOTICE TO AR, CO, KY, LA, ME, NM, and TN RESIDENTS ONLY: Any person who, knowingly and with intent to injure, defraud or deceive any insurance company or other person, files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which may be a crime and may subject such person to criminal and civil penalties, fines, imprisonment, or a denial of insurance benefits.**	**FOR NJ RESIDENTS ONLY**: Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties. **NOTICE TO OH, OK AND PA RESIDENTS ONLY**: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent act, which is a crime and subjects such person to criminal and civil penalties. **NOTICE TO VA AND WA RESIDENTS ONLY**: It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

CITY OF GLENDALE, an Arizona municipal corporation

_____

Horatio Skeete, Acting City Manager

ATTEST:

_____

Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

_____

Craig Tindall, City Attorney

GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY
A Stock Company
8515 East Orchard Road Greenwood Village, CO 80111

For service, call 1-800-537-2033 (extension 73343)

Group Fixed and Variable
Deferred Annuity Contract
Non-Participating

PLAN SPONSOR:	**City of Glendale**
CONTRACTHOLDER:	**City of Glendale**
PLAN:	**City of Glendale Section 457 Deferred Compensation Plan**
CONTRACT NUMBER	**98742-01**
CONTRACT DATE	**_____, 20_____**

Great-West Life & Annuity Insurance Company ("Great-West") agrees to pay annuity benefits on behalf of Participants who choose an annuity payment option under this Group Fixed and Variable Deferred Annuity Contract ("Contract"). The provisions on the following pages, together with the Application for this Contract, and other documents referenced in Section 11.2, are part of this Contract.

Signed for Great-West Life & Annuity Insurance Company and effective on the Contract Date.

Secretary President

This Contract is a legal contract between Contractholder, Plan Sponsor and Great-West Life & Annuity Insurance Company. PLEASE READ THIS CONTRACT CAREFULLY.

THIS CONTRACT MAY PROVIDE PAYMENTS OR VALUES WHICH ARE NOT GUARANTEED AS TO FIXED DOLLAR AMOUNT BUT MAY INCREASE OR DECREASE ACCORDING TO THE INVESTMENT EXPERIENCE OF A VARIABLE ACCOUNT OR SEPARATE ACCOUNT.

TABLE OF CONTENTS

SECTION 1. DEFINITIONS 4

SECTION 2. OWNERSHIP PROVISIONS 6
2.1 Ownership of the Contract 6
2.2 Ownership of the Series Account 6
2.3 Transfer and Assignment 6
2.4 Trust 6

SECTION 3. FUTUREFUNDS II SERIES ACCOUNT 7
3.1 FutureFunds II Series Account 7
3.2 Changes within the FutureFunds II Series Account 7

SECTION 4. PARTICIPANT ACCOUNT VALUE 8
4.1 Fixed Account Value 8
4.2 Variable Account Value 8
4.3 Accumulation Unit Value 8
4.4 Net Investment Factor 8
4.5 Accumulation Unit 9
4.6 Separate Account Value 9
4.7 Transaction Date 9

SECTION 5. CONTRIBUTIONS AND DEPOSITS TO PARTICIPANT ACCOUNTS 10
5.1 Contributions 10
5.2 Limitations on Salary Reduction Contributions 10
5.3 Deposits to Participant Accounts 10
5.4 Allocation of Contributions and Deposits 10

SECTION 6. CONTRACT CHARGES AND FEES 11
6.1 Contract Maintenance Charge 11
6.2 Variable Asset Charge 11
6.3 Contract Termination Charge 11
6.4 Fees Imposed by Investment Option Provider 11
6.5 Service Charges and Fees 11
6.6 Payment of Charges and Fees 11

SECTION 7. PARTICIPANT-, ALTERNATE PAYEE-, AND BENEFICIARY-DIRECTED TRANSFERS AMONG INVESTMENT OPTIONS OFFERED BY THE PLAN 12

SECTION 8. DISTRIBUTIONS FROM PARTICIPANT ACCOUNTS 13
8.1 Distribution Requirements 13
8.2 Rollovers 13
8.3 Establishment of Alternate Payee Account 13
8.4 Required Minimum Distributions during the Participant's Lifetime 13
8.5 Distributions after the Participant's Death 13
8.6 Plan-to-Plan Transfers 13
8.7 Transfers from a Governmental Plan for the Purchase of Permissive Service Credits 14

SECTION 9. PAYMENT OPTIONS 15
9.1 Requests for Distributions to a Participant, Beneficiary or Alternate Payee 15
9.2 Conditions of Payment 15
9.3 Total or Partial Lump Sum Payment Option 15
9.4 Periodic Payment Options 15
9.5 Annuity Payment Options 15
9.6 Election of Annuity Options 16

9.7 Misstatement of Age or Death 16

SECTION 10. CONTRACT TERMINATION 17
10.1 Notice of Contract Termination and Selection of Termination Option(s) 17
10.2 Contract Termination Provisions 17
10.3 Contract Termination due to Plan Termination 17

SECTION 11. GENERAL PROVISIONS 18
11.1 Contract 18
11.2 Entire Contract 18
11.3 Contract Modification 18
11.4 Modification of Fixed Account Options 18
11.5 Restorations 19
11.6 Plan Provisions 19
11.7 Non-Participating 19
11.8 Currency and Contributions and Deposits 19
11.9 Notices 19
11.10 Disclaimer 19
11.11 Representations 19
11.12 Non-Waiver 19
11.13 Information 19

SECTION 1. DEFINITIONS

Accumulation Unit – an accounting measure used to determine the value of each Variable Account.

Administrative Offices – 8515 East Orchard Road, Greenwood Village, CO 80111.

Alternate Payee – any spouse, former spouse, child or other dependent of a Participant or any other person recognized under applicable law who is recognized by a Qualified Domestic Relations Order as having a right to receive all or a portion of the benefit payable under a Plan with respect to such Participant.

Annuitant – the person upon whose life the payment of an annuity is based.

Annuity Commencement Date – the date annuity payments begin to an Annuitant.

Applicable Tax – the amount of tax, if any, charged by a state or other governmental authority.

Beneficiary – a person or entity named by the Participant to receive all or a portion of the Participant's account at his or her death.

Business Day – any day and during the hours on which the New York Stock Exchange is open for trading.

Code – the Internal Revenue Code of 1986, as amended from time to time, or any future United States Internal Revenue law that replaces it, including corresponding Treasury Regulations and Internal Revenue Service guidance.

Contributions – salary reduction contributions, Participant after-tax contributions, employer contributions, or other contributions made to the Plan by or on behalf of a Participant under the Code.

Deposits – rollovers, plan to plan transfers, Transfers, or other amounts, other than Contributions, paid into the Participant Account under the Plan.

Distributions – amounts paid to a Participant, Beneficiary or Alternate Payee, pursuant to the terms of the Plan and the Code.

Eligible Fund – a mutual fund or other investment portfolio in which a Variable Account's assets may be invested.

Fixed Account – an investment option, the assets of which are part of the General Account of Great-West.

Fixed Account Value – the sum of the Fixed Accounts.

FutureFunds II Series Account – a Separate Account consisting of sub-accounts called Variable Accounts.

General Account – Great-West's assets other than those held in any segregated investment account.

Great-West – Great-West Life & Annuity Insurance Company, located at the Administrative Offices.

Guaranteed Interest Rate – the minimum interest rate on an annual effective basis, if any, described on a Fixed Account or Separate Account rider.

Participant – an individual eligible to participate in the Plan, with assets in a Participant Account.

Participant Account – a separate record in the name of each Participant, Beneficiary or Alternate Payee, which reflects his or her share in the Variable Account(s), Separate Account(s), and Fixed Account(s).

Participant Account Value – the sum of the Variable Account Value, the Separate Account Value, and the Fixed Account Value credited to the Participant Account.

Participant Effective Date – the date on which the first Contribution or Deposit is credited to a Participant Account.

Payee – a person entitled to receive all or a portion of the value of the Participant Account.

Plan – the name of the plan as noted on the first page of the Contract.

Plan Sponsor – an entity maintaining the Plan on behalf of Participants, Alternate Payees and Beneficiaries. In a multiple employer plan, the Plan Sponsor shall be considered the entity maintaining the multiple employer plan on behalf of participating employers and the participating employers Participants, Alternate Payees and Beneficiaries.

Qualified Domestic Relations Order – a domestic relations order that creates or recognizes the existence of an Alternate Payee's right to, or assigns to an Alternate Payee the right to receive all or a portion of the benefits payable with respect to a Participant and that complies with the requirements of the Code and ERISA, if applicable, and is approved by the Plan.

Request – an inquiry or instruction in a form satisfactory to Great-West. A valid Request must be: (1) received by Great-West at its Administrative Offices in good order; and (2) submitted in accordance with the provisions of this Contract, or as required by Great-West. The Request is subject to any action taken by Great-West before the Request was processed.

Separate Account – a segregated investment account established under Colorado law by Great-West from time to time.

Separate Account Value – the value of the Separate Accounts, other than the FutureFunds II Series Account.

Start-Up Costs – the amounts incurred by Great-West in acquiring and implementing the plan, which may include but are not limited to restorations, commissions or other costs.

Transfer – the reinvestment or exchange of all or a portion of the Participant Account balance from one investment option or provider under the Plan to another.

Valuation Date – a Business Day on which the net asset value or unit value of each Variable Account is determined.

Valuation Period – the period between successive Valuation Dates.

Variable Accounts – sub-accounts of the FutureFunds II Series Account, each of which invests in an Eligible Fund.

Variable Account Value – the sum of the Variable Accounts.

SECTION 2. OWNERSHIP PROVISIONS

2.1 Ownership of the Contract

Contractholder is the owner of the Contract and is identified on the first page of the Contract. The Plan Sponsor and the Contractholder have certain rights and privileges as set forth under this Contract.

2.2 Ownership of the Series Account

Great-West is the owner of the assets of the FutureFunds II Series Account.

2.3 Transfer and Assignment

The interests of the Contractholder and Plan Sponsor in this Contract may not be transferred, sold, assigned, pledged, charged, encumbered, or in any way alienated; however, if the Plan is consolidated or merged with another plan or if the assets and liabilities of the Plan are transferred to another plan, the Contract may be assigned to the new Plan Sponsor and/or trustee.

2.4 Trust

The Contract may be used in lieu of a trust agreement for purposes of satisfying Code sections 401(a), 401(f) and 457(g) and no portion of the amount contributed to the Contract, plus earnings thereon, may be used for or diverted to any purpose other than the exclusive benefit of Participants and their Beneficiaries prior to the satisfaction of all liabilities to them.

SECTION 3. FUTUREFUNDS II SERIES ACCOUNT

3.1 FutureFunds II Series Account

The FutureFunds II Series Account is a Separate Account maintained and held apart from Great-West's General Account and any other investment account of Great-West, and is governed by the laws of Great-West's state of domicile. The FutureFunds II Series Account is divided into sub-accounts called Variable Accounts. Income, gains or losses, realized and unrealized, on assets in each Variable Account are credited or charged against that Variable Account without regard to income, gains or losses in Great-West's General Account or any other Separate or Variable Account. The portion of the assets of the FutureFunds II Series Account equal to the reserves and other liabilities of the FutureFunds II Series Account will not be charged with liabilities that arise from any other business conducted by Great-West.

3.2 Changes within the FutureFunds II Series Account

Great-West may make additional Variable Accounts available to Plan Sponsor within the FutureFunds II Series Account. These Variable Accounts will invest in investment portfolios suitable for the Group Annuity Contract. Great-West reserves the right to eliminate Variable Accounts, to combine two or more Variable Accounts or to substitute a new investment portfolio for the portfolio in which a Variable Account invests. Such an action may become necessary if, in Great-West's judgment, a portfolio or Variable Account no longer suits the purposes of the Group Annuity Contract. This may happen due to a change in laws or regulations, or a change in a portfolio's or account's investment objectives or restrictions, or because the portfolio or account is no longer available for investment, or for some other reason. Subject to any required regulatory approvals, Great-West reserves the right to transfer assets in the Variable Accounts to another Variable Account.

If any of the above actions result in a material change in the underlying investments of a Variable Account in which Plan Sponsor and Participants, Beneficiaries and Alternate Payees are invested, Great-West will provide at least sixty (60) calendar days written notice to Plan Sponsor of the change at Plan Sponsor's last known address on file with Great-West.

In the event Great-West initiates changes to available Variable Accounts which change investment options available under the Plan, Great-West will provide at least sixty (60) calendar days written notice to Plan Sponsor at Plan Sponsor's last known address on file with Great-West. This notice shall explain any Variable Account change(s), communicate the timeline and effective date of any account change, provide information on the fees received by Great-West, and explain Plan Sponsor's right to opt out of any Variable Account change. The absence of an objection by Plan Sponsor to such notice will be considered consent to the change(s). If Great-West is provided notice from a fund company that results in a change to the investment options available under the Plan, Great-West will provide Plan Sponsor with notice of that change as soon as administratively feasible.

If Great-West does not receive an objection from Plan Sponsor to a Great-West initiated-change, Transfers between account options as disclosed in the notice will be completed by Great-West as of the effective date of the change. Such allocation will be in effect until such time as Great-West receives a written Request for a different allocation.

If Plan Sponsor provides written objection to Great-West within the sixty (60) calendar day notice period, Great-West will not make the fund change at issue. If Plan Sponsor objects to the fund change, Great-West may terminate this Contract pursuant to Section 10.1 of this Group Annuity Contract.

SECTION 4. PARTICIPANT ACCOUNT VALUE

4.1 Fixed Account Value

The Fixed Account Value in the Participant Account is calculated as follows:

(a) all Contributions and Deposits to a Fixed Account option made by or on behalf of the Participant, Alternate Payee and Beneficiary; plus

(b) all interest credited to the Contractholder's assets in the Fixed Account on an annual effective basis pursuant to the Guaranteed Interest Rate applicable to the Fixed Account; less

(c) any amounts transferred or distributed from the Fixed Account; less

(d) any applicable charges, fees and Applicable Tax, if any.

4.2 Variable Account Value

The value of the Variable Accounts held in the Participant Account will be determined by multiplying the number of Accumulation Units for that Variable Account held in the Participant Account by the Accumulation Unit value for that Variable Account. Charges, fees and Applicable Tax, if any, may affect the Variable Account Value.

4.3 Accumulation Unit Value

The Accumulation Unit value of a Variable Account on any Valuation Date is equal to: (a) the Accumulation Unit value of that Variable Account as of the immediately preceding Valuation Date; multiplied by (b) the net investment factor for the Valuation Period ending on the Valuation Date on which the Accumulation Unit value is being determined.

The Accumulation Unit value may increase, decrease, or remain unchanged as a result of the value of the net investment factor.

4.4 Net Investment Factor

The net investment factor for a Variable Account is a calculated value that measures the investment performance of that account from one Valuation Period to the next. The net investment factor for any Valuation Period is determined by dividing (a) by (b), and then subtracting (c) from the result where:

(a) is the net result of:

  (i) the net asset value per share or unit value per unit of the investment portfolio share in which the account invests determined at the end of the current Valuation Period; plus

  (ii) the per share or unit value per unit amount of any dividend (including a deduction for an investment advisory fee) or capital gains distribution made by that investment portfolio on shares held in the account if the "ex-dividend" date occurs during the current Valuation Period; and plus or minus

  (iii) a per share or unit charge or credit for any taxes reserved for, which is determined by Great-West to have resulted from the operations of that account;

(b) is the net asset value per share or unit value per unit of the investment portfolio share in which the sub-account invests determined at the end of the immediately preceding Valuation Period; and

(c) is the daily variable asset charge, as amended from time to time, adjusted for the number of days in the Valuation Period.

4.5 Accumulation Unit

Contributions and Deposits received at the Administrative Offices of Great-West before the close of a Valuation Period will be allocated as requested and applied as of that date based upon the Accumulation Unit value for that Variable Account.

The number of Accumulation Units credited for each Participant, Alternate Payee and Beneficiary to a Variable Account is determined by: (a) the dollar amount allocated to that Variable Account; divided by (b) the value of the Accumulation Unit for that Variable Account for the Valuation Date on which the Contribution or Deposit is allocated to that Variable Account.

The number of Accumulation Units will not change because of a later change in the Accumulation Unit value. However, the Accumulation Unit value will vary to reflect the investment experience of the Variable Account.

4.6 Separate Account Value

The value of any Separate Account, other than the Variable Accounts in the FutureFunds II Series Account, is described in the applicable Separate Account rider attached hereto.

4.7 Transaction Date

All Requests, Contributions and Deposits received in good order with all required documentation at Great-West's Administrative Offices prior to the close of business of the New York Stock Exchange will be processed as of the date received, and if received after the close of business of the New York Stock Exchange will be processed on the next Business Day. However, Great-West shall not be liable for the results of any delay or interruption due to causes or conditions beyond its control including, without limitation, labor disputes, riots, war and war-like operations including acts of terrorism, epidemics, explosions, sabotage, acts of God, failure of power, fire or other casualty, natural disasters or disruptions in orderly trading on any relevant exchange or market, including disruptions due to extraordinary market volume that result in substantial delay in receipt of correct data.

SECTION 5. CONTRIBUTIONS AND DEPOSITS TO PARTICIPANT ACCOUNTS

5.1 Contributions

Prior to the termination of the contract and unless otherwise described in a Fixed or Separate Account rider(s), if any, Contributions may be made at any time, pursuant to the terms of the Plan.

Great-West shall not be responsible for determining the amount of Contributions to be made for any Participant. The Contribution amounts will be allocated to Participant Accounts pursuant to the accompanying Contribution report. The Contribution report must be submitted in a manner acceptable to Great-West and shall be conclusive and binding on the Plan and on any person or entity claiming an interest under the Contract. When the Contribution report does not coincide with the Contribution received and the inconsistency is not resolved within a period of time required under the law, Great-West may return the Contribution.

Great-West's prior approval may be required before a Contribution may be made that causes a Participant Account Value to exceed $1,000,000.

5.2 Limitations on Salary Reduction Contributions

Each Participant's salary reduction Contributions, if any, must satisfy any limitations imposed by the Plan or the Code.

5.3 Deposits to Participant Accounts

Deposits will be accepted insofar as they are permitted under the terms of the Plan and applicable Code requirements.

5.4 Allocation of Contributions and Deposits

Contributions and Deposits, less Applicable Tax, if any, will be allocated in the Participant Account when received by Great-West at its Administrative Offices, subject to Section 4.7 of this Contract.

Contributions and Deposits will be allocated as directed by the Participant among any number of currently offered Variable Account, Separate Account and Fixed Account options available under the Contract. If the offered Variable Account, Separate Account or Fixed Account options are changed, Contributions and Deposits may be redirected and the account balance may be reallocated subject to the terms of the accounts selected.

SECTION 6. CONTRACT CHARGES AND FEES

6.1 Contract Maintenance Charge

An annual contract maintenance charge may apply. However, if the Participant Effective Date is after January 1, the initial contract maintenance charge for that Participant Account will apply during the calendar quarter after the Participant's one-year anniversary (calculated from the Participant Effective Date) and will be pro-rated for the remainder of the year.

The deduction of the contract maintenance charge will be pro-rated among the applicable Variable Account Value, Separate Account Value and/or Fixed Account Value on the date of deduction. Whenever a deduction for a contract maintenance charge is made from a Variable Account, Great-West will cancel Accumulation Units having a total value equal to the amount of the deduction. Whenever a deduction for a contract maintenance charge is made from a Separate Account or Fixed Account, Great-West will reduce the Participant Account Value in an amount equal to the deduction.

6.2 Variable Asset Charge

Great-West may deduct an annual variable asset charge from the Variable Account Value. One three hundred sixty-fifth of the per annum charge shall be deducted daily.

6.3 Contract Termination Charge

Upon termination of the Contract by Plan Sponsor, a contract termination charge based upon a percentage of total plan assets may apply.

6.4 Fees Imposed by Investment Option Provider

Any and all fees imposed by the provider of any investment option offered by the Plan and invested in by the Participant, Alternate Payee and Beneficiary, including but not limited to redemption fees, shall be deducted from the Participant Account Value.

6.5 Service Charges and Fees

Great-West and Plan Sponsor may enter into an agreement for services to the Plan not otherwise provided under this Contract. Charges and fees for these services will be described in the agreement.

6.6 Payment of Charges and Fees

With the exception of the variable asset charge and any fees imposed by the providers of any investment option, all charges and fees may be billed directly to Plan Sponsor. If Plan Sponsor does not elect to have such charges and fees billed to Plan Sponsor, such charges and fees shall be deducted from the Participant Account Value.

In all instances where Plan Sponsor has elected to be billed for any fees and charges and any of the fees or charges are unpaid after the date billed, as disclosed in and pursuant to the procedures in the fee disclosure and/or service agreement for the Plan, Plan Sponsor and Contractholder hereby instructs Great-West to debit Participant Accounts. Great-West may continue to deduct charges and fees quarterly from Participant Accounts unless and until Plan Sponsor provides Great-West with written instructions to reinitiate billing.

Great-West may change any charges and fees upon not fewer than 30 days advance written notice to Plan Sponsor.

SECTION 7. PARTICIPANT-, ALTERNATE PAYEE-, AND BENEFICIARY-DIRECTED TRANSFERS AMONG INVESTMENT OPTIONS OFFERED BY THE PLAN

Upon receipt of a satisfactory Request meeting all of the requirements of this section, Great-West will process a single-sum Transfer of all or a portion of a Participant Account in the Plan. Transfers must:

(a) satisfy the terms of the Plan in accordance with the appropriate provisions of the Code; and

(b) satisfy any restrictions in the attached Fixed Account and/or Separate Account rider(s), if any, and any trading restrictions imposed by the investment option provider, including but not limited to mutual fund restrictions on market timing or excessive trading.

SECTION 8. DISTRIBUTIONS FROM PARTICIPANT ACCOUNTS

8.1 Distribution Requirements

Notwithstanding any provision herein to the contrary, Distributions to a Payee may only be made in accordance with the terms of the Plan and applicable Code sections and any terms of the Fixed and Separate Account rider(s), if any, and will be tax reported under the applicable rules in effect on the date of Distribution. Great-West will rely on information provided by Plan Sponsor or its designee with respect to the timing and amount of any benefit payable to a Payee under this Contract. Great-West will not process any Distributions to a Payee without Plan Sponsor or its designee instructions.

8.2 Rollovers

If the Payee of an eligible rollover Distribution elects to have the Distribution paid directly to a specified eligible retirement plan, as defined in Code section 402(c)(8)(B), then the Distribution will be paid to that eligible retirement plan in a direct rollover. If the Plan provides for mandatory Distributions under Section 401(a)(31)(B) of the Code, such Distributions shall be sent to the IRA provider selected by Plan Sponsor pursuant to the Plan Sponsor's or its designee's instructions.

8.3 Establishment of Alternate Payee Account

A Request in connection with a Qualified Domestic Relations Order (QDRO) must be approved by Plan Sponsor, except as otherwise agreed. Great-West will make payment to the Alternate Payee and/or establish a Participant Account on behalf of the Alternate Payee named in such order. The Alternate Payee shall be treated as a surviving spouse for purposes of Code section 401(a)(9) and shall be responsible for submitting a Request to begin Distributions in accordance with the Code.

8.4 Required Minimum Distributions during the Participant's Lifetime

Participants are required by the Code to begin receiving required minimum Distributions as of their required beginning date, which is April 1 of the calendar year following the later of: (a) attainment of age 70½; or (b) retirement, or such other date as may be prescribed in the Code. Required minimum Distributions made under this Contract will only be made in a manner consistent with Code section 401(a)(9). It is the Participant's or Plan Sponsor's responsibility to Request payments in accordance with the minimum distribution requirements. Great-West is not responsible for any penalties resulting from a failure to Request timely payments in the proper amount.

8.5 Distributions after the Participant's Death

If the Participant dies, the amount payable on death will be the Participant Account Value net of any outstanding loan balance. Distributions to Beneficiaries must begin on or before the designated Beneficiary's required beginning date in a manner and amount consistent with Code section 401(a)(9) as it is in effect at the time of the Distribution.

It is the Beneficiary's responsibility to Request payments and to pay any penalties resulting from a failure to Request timely payments in the proper amount. A Beneficiary may not receive more than the Participant Account Value.

8.6 Plan-to-Plan Transfers

A Participant or Beneficiary may direct that all or a portion of the Participant Account Value be transferred in a single sum to a contract under another Plan Sponsor's plan. Such transfers will be permitted provided:

(a) Both the transferor and transferee plan provide for such transfers, and the transfer satisfies the terms of the Plan and applicable provisions of the Code;

(b) In the case of a transfer for a Participant, the Participant is an employee or former employee of the Plan Sponsor (or the business of the Plan Sponsor) for the receiving plan;

(c) In the case of a transfer for a Beneficiary, the Participant was an employee or former employee of the Plan Sponsor (or the business of the Plan Sponsor) for the receiving plan;

(d) Great-West receives a satisfactory Request for such transfer; and

(e) The restrictions, if any, contained in the attached Fixed Account and/or Separate Account rider(s), if any, allow such transfer.

8.7 Transfers from a Governmental Plan for the Purchase of Permissive Service Credits

If the Plan so provides, a Participant may direct that all or a portion of the Participant Account Value be transferred in a single sum to a qualified defined benefit plan that is a governmental plan (as defined in Code section 414(d)). Such transfers will be permitted provided:

(a) The transfer satisfies the terms of the Plan in accordance with the appropriate provisions of the Code;

(b) Great-West receives a satisfactory Request for such transfer; and

(c) The restrictions, if any, contained in the attached Fixed Account and/or Separate Account rider(s) allow such transfer.

SECTION 9. PAYMENT OPTIONS

9.1 Requests for Distributions to a Participant, Beneficiary or Alternate Payee

As long as the Participant Account Value is greater than zero and as allowed by the Plan and Code, a Request may be made to:

(a) Elect an annuity payment option, provided such Request is made at least 30 days before the Annuity Commencement Date;

(b) Elect a non-annuity payment option and designate the date payment shall commence; or

(c) Change from one payment option to a different payment option, if allowed under the terms of the payment option selected.

9.2 Conditions of Payment

Approved Distributions shall be effective on the later of: (a) the date elected subject to any restrictions of the Plan and Code and any Fixed or Separate Account rider(s), if any; or (b) the date of the Request.

9.3 Total or Partial Lump Sum Payment Option

If, based upon information provided by Plan Sponsor, the Payee is entitled to a Distribution under the applicable terms and provisions of the Plan and the Code sections governing the Plan, all or a portion of a Participant Account may be applied to a lump sum payment option selected by the Payee.

Subject to the provisions of any attached Fixed Account and/or Separate Account rider(s), if any, the amount to be distributed is: (i) the amount requested as a lump sum; less (ii) the Applicable Tax, if any, as of the date of the amount distributed, and (iii) any applicable fees and charges.

9.4 Periodic Payment Options

If, based upon information provided by Plan Sponsor, the Payee is entitled to a Distribution under the applicable terms and provisions of the Plan and the Code sections governing the Plan, all or a portion of a Participant Account may be applied to a periodic payment option selected by the Payee, subject to any restrictions in a Fixed or Separate Account rider(s), if any. Charges and fees will continue to apply. An Applicable Tax, if any, may apply. Periodic payment elections are subject to the administrative procedures of Great-West in effect at the time of the election and the periodic payment options Great-West makes available at the time of Distribution.

If a Participant is receiving periodic payments, such payments will cease as of receipt by Great-West of notice of the Participant's death. The deceased Participant's Beneficiary may then elect a payment option under this Section 9 meeting all the requirements of Code section 401(a)(9).

9.5 Annuity Payment Options

If, based upon information provided by Plan Sponsor, the Payee is entitled to a Distribution under the applicable terms and provisions of the Plan and the Code sections governing the Plan, all or a portion of a Participant Account may be applied to an annuity payment option selected by the Payee, so long as the requirements of Code section 401(a)(9) are met. Thereafter, this Contract shall no longer be applicable with respect to amounts in the annuity payment option.

The amount to be applied to an annuity payment option is: (i) the portion of the Participant Account Value elected by Payee subject to any restrictions in a Fixed or Separate Account rider(s), if any, less (ii) Applicable Tax, if any, less (iii) any fees and charges described in the Contract.

The minimum amount that may be applied under the elected annuity option is $5,000. If any payments to be made under the elected annuity payment option will be less than $50, Great-West may make the payments in the most frequent interval that produces a payment of at least $50.

Great-West will issue a certificate to each Annuitant describing the benefits payable under the elected annuity payment option.

9.6 Election of Annuity Options

An Annuitant is required to elect an annuity payment option. The Annuitant must Request an annuity payment option or change an annuity payment option no later than 30 days prior to the Annuity Commencement Date.

To the extent available under the Plan, the available annuity payment options are:

Income for Single Life Only

Income for Single Life with Guaranteed Period

Income for Joint Life Only

Income for Joint Life with Guaranteed Period

Income for a Specific Period

Any other form of annuity payment permitted under the Plan, if acceptable to Great-West.

The annuity option that will always be available is the Income for Single Life Only Annuity. If this annuity option is elected, Great-West will make payments to the Annuitant at a frequency specified in the annuity certificate for the duration of the Annuitant's lifetime. Payments will cease pursuant to the terms of the certificate.

Minimum Monthly Payment for Each $1,000 of Participant Account Value
Applied to Purchase a Lifetime Monthly Annuity

Age of Payee	Lifetime Monthly Payment
50	$4.00
55	4.28
60	4.66
65	5.20
70	5.98
75	7.16

9.7 Misstatement of Age or Death

Great-West may require adequate proof of the age and death of any Payee before processing a Request for or making any payment. If the age of the Payee has been misstated, the payments established for him/her under the applicable payment option will be made on the basis or his/her correct age.

If payments made pursuant to an annuity payment option were too large because of a misstatement of age, Great-West may deduct the difference from the next payment or payments with interest. If payments were too small, Great-West may add the difference to the next payment with interest. Any interest payable will be made at the rate required by law.

SECTION 10. CONTRACT TERMINATION

10.1 Notice of Contract Termination and Selection of Termination Option(s)

Either Great-West or Plan Sponsor may terminate this Contract with advance written notice to the other party or parties. The contract termination date shall be the seventy-fifth (75th) day after the date written notice is received in the Administrative Offices in good order. If the seventy-fifth (75th) day is not a Business Day, the contract termination date shall be the Business Day immediately following the seventy-fifth (75th) day. Prior to the contract termination date, Great-West and Plan Sponsor may agree to an alternate contract termination date. Contract termination may not occur on the date selected by Plan Sponsor unless Great-West has received all required information. In such event, Great-West shall maintain Participant Account Values until Great-West receives all required information in good order.

10.2 Contract Termination Provisions

Plan Sponsor shall direct Great-West to pay the Participant Account Values as described below.

Variable Accounts: Upon Request, Great-West will remit the Variable Account Value at market value pursuant to Plan Sponsor's instructions within seven (7) days after the contract termination date.

Separate Account(s): Plan Sponsor shall select one of the contract termination options described in the Separate Account rider(s). Great-West will remit the Separate Account Value pursuant to the contract termination option selected.

Fixed Account(s): Great-West will remit the Fixed Account Value pursuant to the Fixed Account rider(s) contract termination option selected.

Plan Sponsor and Contractholder hereby instructs Great-West to deduct any outstanding charges and fees, including the contract termination charge, if applicable, due to Great-West from the amount remitted from any of the Fixed, Separate or Variable Accounts.

10.3 Contract Termination due to Plan Termination

If Plan Sponsor terminates the Plan, it shall notify Great-West of such Plan Termination and that final Contributions have been remitted to Great-West. Upon notice of Contract Termination Due to Plan Termination, Plan Sponsor agrees to provide any and all information and instructions Great-West requires to properly comply with Plan Sponsor's notification of Plan Termination and subject to the provisions of the Fixed or Separate Account rider(s), if any.

Plan Sponsor acknowledges that the amount distributed from the Contract upon Plan Termination shall be equal to the balance of each Participant Account as reflected in the records of Great-West on the date of Distribution subject to the provisions in the Fixed and Separate Account rider(s), if any, less all outstanding charges or fees, including an applicable contract termination charge, and reduced by any required income tax withholding or other applicable fees due upon Distribution.

Plan Sponsor shall file any and all required Forms 5500.

If the Plan is abandoned, orphaned or if Plan Sponsor cannot be located or Plan Sponsor fails to provide appropriate representations and instructions to Great-West in connection with termination of the Plan, Great-West is authorized to accept notices, representations and instructions from the Plan administrator or trustee, the bankruptcy trustee for Plan Sponsor, the U.S. Department of Labor, if applicable, or an authorized and appropriate representative of Plan Sponsor. Great-West may also utilize any procedures promulgated by the U.S. Department of Labor, if applicable, or other applicable regulatory agencies for abandoned or orphaned plans including the facilitation of Distributions to Payees performed by a Qualified Termination Administrator, as that term is defined under Federal law and regulations promulgated thereunder, or comparable person as allowed by applicable law.

SECTION 11. GENERAL PROVISIONS

11.1 Contract

Great-West has issued this Contract to Plan Sponsor and Contractholder in consideration of the Application and payment of the initial Contribution or Deposit.

11.2 Entire Contract

This Contract, including the Application, amendments, endorsements, letter agreements, specification page, if any, and Fixed and Separate Account or other rider(s), if any, constitute the entire contract between Plan Sponsor and Great-West.

All statements in the Application, in the absence of fraud, have been accepted as representations and not warranties. Only the President, Vice-President, or the Secretary of Great-West, or their authorized designees, can agree on behalf of Great-West to modify any provisions of this Contract.

One or more provisions of this Contract may be clarified by letter agreement, amendment, or other writing executed by both Great-West and Plan Sponsor.

11.3 Contract Modification

Great-West may modify this Contract from time to time to conform it to changes in tax or other law, including applicable regulations and rulings, without consent of Plan Sponsor or any other person. Great-West will provide notice and a copy of any such modification to Plan Sponsor as soon as reasonably practicable.

Plan Sponsor and Great-West may, by written agreement, make other modifications to this Contract, subject to the approval of the appropriate state department of insurance, if applicable. No such modification will, without the written consent of Plan Sponsor, affect the terms, provisions, or conditions of this Contract, which are or may be applicable to Contributions or Deposits made prior to the date of such modification.

11.4 Modification of Fixed Account Options

Great-West may offer new or cease offering existing Fixed Account options, or make other changes to the Fixed Account options as Great-West deems necessary, and subject to the approval of the state insurance department, if applicable. If Great-West changes material provisions of its Fixed Account options, Great-West will provide at least sixty (60) calendar days written notice to the Plan Sponsor. This notice shall explain any Fixed Account change(s), communicate the timeline and effective date of any Fixed Account change and explain Plan Sponsor's right to opt out of any Fixed Account change. Plan Sponsor's absence of an objection to such notice will be considered consent to the change(s).

If Great-West replaces Fixed Account options and does not receive an objection from the Plan Sponsor, Transfers between account options as disclosed in the notice will be completed by Great-West as of the effective date of the change. Such allocation will be in effect until such time as Great-West receives a written Request for a different allocation.

If Plan Sponsor provides written objection to Great-West within the sixty (60) calendar day notice period, Great-West will not make the Fixed Account change at issue. If Plan Sponsor objects to the Fixed Account change, Great-West may terminate this Contract by providing written notice pursuant to Section 10.1 of this Contract.

11.5 Restorations

Great-West may agree to restore any back-end load charges, market value adjustments, or other investment charges deducted from plan assets under a prior investment option.

11.6 Plan Provisions

In all cases, the plan document shall determine (subject to the Code) the specific features of the Plan, which may include the availability of certain types of investment options, Distributions, loans, and other features allowed but not mandated by the Code. Any provision of this Contract which deals with a feature not included in the Plan shall not apply.

11.7 Non-Participating

This Contract is Non-Participating, meaning that it is not eligible to share in Great-West's divisible surplus.

11.8 Currency and Contributions and Deposits

All amounts to be paid to or by Great-West must be in currency of the United States of America. All Contributions and Deposits to this Contract must be made payable to Great-West or to a designee acceptable to Great-West.

11.9 Notices

Any notice or demand by Great-West to or upon Plan Sponsor or any Payee may be given by mailing it to that person's last known address as stated in Great-West's file via the United States Postal Service or last known email address or facsimile number on file.

An application, report, Request, election, direction, notice or demand by Plan Sponsor or a Payee will be made in a form satisfactory to Great-West. When Great-West requires it, Plan Sponsor will obtain the signature of the Payee on forms provided by Great-West. Great-West must first approve any written materials developed by any other person describing this Contract.

11.10 Disclaimer

Nothing contained in this Contract shall be construed to be tax or legal advice, and Great-West assumes no responsibility or liability for any costs, including but not limited to taxes, penalties or interest incurred by the Plan, Plan Sponsor or any other Payee arising out of a determination of liability. Great-West shall not be held liable for the negligence, willful misconduct, or failure to perform of any third party.

11.11 Representations

Great-West shall be entitled to rely and act solely on the reports, directions, proofs, notices, elections, and other information furnished to it by Contractholder, Plan Sponsor, Participant, Alternate Payees, Beneficiaries or their respective agent, and such acts shall be conclusive and binding as to all persons or corporations claiming an interest hereunder.

11.12 Non-Waiver

The waiver by Great-West of any breach of any term or condition in this Contract will not be deemed a waiver of any prior or subsequent breach.

11.13 Information

Plan Sponsor shall furnish all information that Great-West may reasonably require for the administration of this Contract. Great-West shall not be responsible for any obligation under this Contract until it receives all requested information in a form acceptable to Great-West.

GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY
A Stock Company
8515 East Orchard Road Greenwood Village, CO 80111

For inquiries, information or resolution of complaints, call 1-800-537-2033 (extension 73343)

Guaranteed Government Fund
SEPARATE ACCOUNT RIDER

This Guaranteed Government Fund ("GGF") Separate Account rider ("Rider") is part of the Great-West Life & Annuity Insurance Company ("Great-West") Contract to which it is attached. Terms defined in the Contract have the same meaning where used in this Rider.

The GGF is a Separate Account. All or a portion of Contributions and Deposits may be allocated to the GGF.

Definitions

Competing Fund is any of the following types of funds offered under the Plan:

a) any stable value fund;
b) any fund with a known or periodically declared rate of interest;
c) any money market fund; or
d) any bond fund with a duration of three (3) years or less
e) any other fund that Great-West deems to be competing.

Any fund offered to Participants only as a part of a self-directed brokerage arrangement shall not be considered a competing fund to the extent offered only to Participants utilizing this option.

Plan Sponsor-Initiated Event is any action that materially impacts assets in the GGF as it relates to the Plan, including but not limited to the following: a spin-off; sale; merger; full or partial Plan termination, including a Distribution of assets performed by a Qualified Termination Administrator, as that term is defined under Federal statutes and regulations promulgated thereunder, or a comparable person as allowed by applicable law; a terminating union in a multi-employer Plan; a terminating participating employer in a multiple employer Plan; a terminating political subdivision of a governmental 457(b) Plan; or a layoff of at least 20% of work force in any twelve (12) month period.

Event Date is the date Great-West recognizes a Plan Sponsor-Initiated Event. This date will also be the calculation date for purposes of calculating the Market Value and Book Value.

Guaranteed Interest Rate is an effective annual interest rate of 0%.

Credited Interest Rate

The Credited Interest Rate is an annual effective rate of interest determined and declared by Great-West prior to the last day of the calendar quarter, and is effective for the GGF for the next calendar quarter. This annual effective rate will be compounded daily. The Credited Interest Rate will never be less than the Guaranteed Interest Rate.

Market Value

The Market Value of the GGF is determined monthly or on the contract termination date. This value is based on the closing market price for each security in the GGF, less the Investment Management Fee applicable to the Plan.

Book Value

The Book Value of the GGF is the sum of Contributions and Deposits to the GGF, plus interest credited under this contract, plus additional Plan assets invested in the GGF, minus withdrawals, benefit payments and investment management fees.

Distributions

Distributions to a Participant, Beneficiary or Alternate Payee are based on the Book Value and are permitted for the purpose of paying a benefit to a Participant, which includes death, severance of employment, hardship or unforeseeable emergency.

Investment Management Fee

This fee consists of a base Investment Management Fee to compensate Great-West for the management of the GGF and an administrative fee for recordkeeping and other costs associated with the GGF with respect to the Plan. Great-West reserves the right to change the amount of the Investment Management Fee upon sixty (60) days advance written notice to Plan-Sponsor. In no event will the Investment Management Fee exceed an annual effective rate of .40% of the assets in the GGF.

Limitations

The Plan-Sponsor shall not offer Competing Funds under the Plan unless the parties otherwise mutually agree. Should the Plan offer a Competing Fund without Great-West's agreement, or should an existing Plan investment become a Competing Fund that is available under the Plan without Great-West's prior agreement, Great-West shall suspend all Transfers out of the GGF upon at least thirty (30) days advance notice to Participants, Beneficiaries and Alternate Payees invested in the GGF, at the address on file with Great-West. Such suspension shall remain in effect until the Competing Fund is removed as an eligible Plan investment option, or as otherwise mutually agreed by the parties.

Great-West shall defer processing Distribution or Transfer Requests if transactions cannot be executed or settled due to the closing or disruption of financial markets or exchanges. Great-West shall resume the processing of Distributions and Transfers once the disruption is resolved.

Plan-Sponsor-Initiated Events

The Plan-Sponsor shall provide notification to Great-West at least thirty (30) days in advance of an Plan-Sponsor-Initiated Event.

Upon the occurrence of a Plan-Sponsor-Initiated Event, Great-West may elect one of the following options:

a) the Plan-Sponsor will be required to elect a Contract Termination Option with respect to the GGF assets affected by the Plan-Sponsor-Initiated Event;

b) Great-West will remit the lesser of the Book Value or the Market Value upon any Participant, Alternate Payee or Beneficiary Distribution, including a plan-to-plan transfer or transfer from a governmental plan to purchase service credits, that occurs within twelve (12) months after the date Great-West recognizes the Plan-Sponsor-Initiated Event. However, if the average of the 3 year and 5 year Treasury Constant Maturity

rates, as published on the United States Federal Reserve Website, as of the Event Date, is 300 basis points or more above the lowest weekly average of the 3 and 5 year Constant Maturity Treasuries rates over the previous 104 weeks, the duration of this option b) shall be thirty-six (36) months;

c) Great-West and the Plan-Sponsor may agree to another option allowable under applicable law.

Applicability of State Guarantee Funds

Assets in the GGF are not covered by state guarantee funds.

Ownership

Great-West has absolute ownership of the assets of the Separate Account. All monies invested in the Separate Account are maintained and held separate and apart from Great-West's General Account and any other investment account Great-West may have. That portion of the assets of the Separate Account which is equal to the reserves and other contractual liabilities with respect to each Separate Account shall not be chargeable with liabilities arising out of any other business Great-West may conduct. Income, gains or losses, realized and unrealized, on assets in each Separate Account are credited or charged against that Separate Account without regard to other income, gains or losses in other fixed or variable accounts or Great-West's other income, gains or losses.

Contract Termination

At least sixty (60) calendar days before the contract termination date, Plan Sponsor must notify Great-West, in writing of its selection from among the Contract Termination Options described below. Great-West shall remit all GGF amounts pursuant to the Plan Sponsor elections.

The Contract Termination Options are:

1. *Maintenance of Each Participant Annuity Account* - Great-West will maintain each Participant GGF Account Value until it is applied to a payment option or distributed to a Participant or Beneficiary. When such individual transactions are applied or paid, they will be calculated at the Book Value of the GGF Account.
2. *Market Value of the GGF* - Great-West will pay the lesser of the Market Value or the Book Value of the Plan assets in the GGF within 30 days after the contract termination date. After notification of contract termination date, Great-West will sell all non-cash assets in the GGF account attributable to the terminating contract and convert them to cash assets or short-term money market instruments. The time when all non-cash assets have been converted to cash or short-term money market instruments will be no later than the contract termination date.
3. Any other termination option allowable under applicable law, as mutually agreed upon in writing by Plan Sponsor and an authorized officer of Great-West.

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A Stock Company
8515 East Orchard Road Greenwood Village, CO 80111
For service, call 1-800-537-2033 (extension 73343)

Letter Agreement

This Letter Agreement is attached to and made part of the Great-West Life & Annuity Insurance Company Contract (GFVAC 10 FFII), pursuant to Section 11.02 "Entire Contract". This Letter Agreement supersedes and replaces any other previous Letter Agreements or representations.

Great-West Life & Annuity Insurance Company ("Great-West") and City of Glendale ("Plan Sponsor") agree to the following clarifications and modifications of the Great-West's Group Fixed and Variable Deferred Annuity Contract ("Contract"), Contract Number **98742-01**.

1. Contract Maintenance Charge – The Contract Maintenance Charge as described in the Contract is $0.

2. Variable Asset Charge – The Variable Asset Charge as described in the Contract is 0%.

3. Contract Termination Charge – The Contract Termination Charge described in the Contract is 0%.

4. Investment Management Fee – The Investment Management Fee as described in the GGF Rider is **0.40%**.

This Letter Agreement shall become effective on the Contract Date. This Letter Agreement may be modified at any time upon mutual consent of both parties.

GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY
A Stock Company
8515 East Orchard Road Greenwood Village, CO 80111
For service, call 1-800-537-2033 (extension 73343)

APPLICATION FOR GROUP ANNUITY CONTRACT

SECTION A. PLAN SPONSOR		
NAME OF PLAN SPONSOR **City of Glendale**		FEDERAL TAX ID # **86-6000247**
ADDRESS **5850 West Glendale Avenue, Glendale, Arizona 85301** STREET CITY STATE ZIP CODE		SITUS **Arizona**
TELEPHONE # **(623) 930-2277**	FAX #	TYPE OF ENTITY: ☒ **Government**
FULL LEGAL NAME OF PLAN **City of Glendale Section 457 Deferred Compensation Plan**		
SECTION B. CONTRACTHOLDER		
NAME OF TRUSTEE IF DIFFERENT THAN THE PLAN SPONSOR		FEDERAL TAX ID #, if applicable
ADDRESS STREET CITY STATE ZIP CODE		SITUS, if applicable
TELEPHONE #	FAX #	TYPE OF ENTITY:
SECTION C. PRODUCT INFORMATION		
☒ **Fixed-Variable Annuity**		
SECTION D. PLAN INFORMATION		
☒ **457(b) Governmental Plan**		
SECTION E. DEFAULT INVESTMENT OPTION		
☒ Other Investment Option: **Vanguard Target Retirement Income Fund**		
SECTION F. FIXED ACCOUNTS		
☒ None		
SECTION G. SERIES ACCOUNTS	**SECTION H. SEPARATE ACCOUNTS**	
☒ None	☒ **Great-West Guaranteed Government Fund**	

SECTION I. AGREEMENT AND SIGNATURES

AGREEMENT:

By signing this Application, Plan Sponsor and Contractholder, if other than Plan Sponsor, understand, accept, and otherwise agree to the provisions of the attached Group Annuity Contract, certify and otherwise represent that the information contained on this application is true and correct to the best of their knowledge, and agree to notify Great-West of any changes to the information provided above.

Signature of Plan Sponsor Date

Signature of Trustee if different than Plan Sponsor Date

Title

Title

FRAUD NOTICE

NOTICE: Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit, or knowingly presents false information in an application for insurance may be guilty of a crime and may be subject to fines, confinement in prison, and denial of insurance benefits, depending upon state law.

STATE INSURANCE FRAUD WARNINGS

FOR DC RESIDENTS ONLY: WARNING: It is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant. **NOTICE TO AR, CO, KY, LA, ME, NM, and TN RESIDENTS ONLY: Any person who, knowingly and with intent to injure, defraud or deceive any insurance company or other person, files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which may be a crime and may subject such person to criminal and civil penalties, fines, imprisonment, or a denial of insurance benefits.**	**FOR NJ RESIDENTS ONLY**: Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties. **NOTICE TO OH, OK AND PA RESIDENTS ONLY**: Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent act, which is a crime and subjects such person to criminal and civil penalties. **NOTICE TO VA AND WA RESIDENTS ONLY**: It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY
A Stock Company
8515 East Orchard Road Greenwood Village, CO 80111

For service, call 1-800-537-2033 (extension 73343)

Group Fixed and Variable
Deferred Annuity Contract
Non-Participating

PLAN SPONSOR:	**City of Glendale**
CONTRACTHOLDER:	**City of Glendale**
PLAN:	**City of Glendale Section 457 Deferred Compensation Plan**
CONTRACT NUMBER	**98742-01**
CONTRACT DATE	**_____, 20_____**

Great-West Life & Annuity Insurance Company ("Great-West") agrees to pay annuity benefits on behalf of Participants who choose an annuity payment option under this Group Fixed and Variable Deferred Annuity Contract ("Contract"). The provisions on the following pages, together with the Application for this Contract, and other documents referenced in Section 11.2, are part of this Contract.

Signed for Great-West Life & Annuity Insurance Company and effective on the Contract Date.

Secretary President

This Contract is a legal contract between Contractholder, Plan Sponsor and Great-West Life & Annuity Insurance Company. PLEASE READ THIS CONTRACT CAREFULLY.

THIS CONTRACT MAY PROVIDE PAYMENTS OR VALUES WHICH ARE NOT GUARANTEED AS TO FIXED DOLLAR AMOUNT BUT MAY INCREASE OR DECREASE ACCORDING TO THE INVESTMENT EXPERIENCE OF A VARIABLE ACCOUNT OR SEPARATE ACCOUNT.

TABLE OF CONTENTS

SECTION 1. DEFINITIONS 4

SECTION 2. OWNERSHIP PROVISIONS 6
2.1 Ownership of the Contract 6
2.2 Ownership of the Series Account 6
2.3 Transfer and Assignment 6
2.4 Trust 6

SECTION 3. FUTUREFUNDS II SERIES ACCOUNT 7
3.1 FutureFunds II Series Account 7
3.2 Changes within the FutureFunds II Series Account 7

SECTION 4. PARTICIPANT ACCOUNT VALUE 8
4.1 Fixed Account Value 8
4.2 Variable Account Value 8
4.3 Accumulation Unit Value 8
4.4 Net Investment Factor 8
4.5 Accumulation Unit 9
4.6 Separate Account Value 9
4.7 Transaction Date 9

SECTION 5. CONTRIBUTIONS AND DEPOSITS TO PARTICIPANT ACCOUNTS 10
5.1 Contributions 10
5.2 Limitations on Salary Reduction Contributions 10
5.3 Deposits to Participant Accounts 10
5.4 Allocation of Contributions and Deposits 10

SECTION 6. CONTRACT CHARGES AND FEES 11
6.1 Contract Maintenance Charge 11
6.2 Variable Asset Charge 11
6.3 Contract Termination Charge 11
6.4 Fees Imposed by Investment Option Provider 11
6.5 Service Charges and Fees 11
6.6 Payment of Charges and Fees 11

SECTION 7. PARTICIPANT-, ALTERNATE PAYEE-, AND BENEFICIARY-DIRECTED TRANSFERS AMONG INVESTMENT OPTIONS OFFERED BY THE PLAN 12

SECTION 8. DISTRIBUTIONS FROM PARTICIPANT ACCOUNTS 13
8.1 Distribution Requirements 13
8.2 Rollovers 13
8.3 Establishment of Alternate Payee Account 13
8.4 Required Minimum Distributions during the Participant's Lifetime 13
8.5 Distributions after the Participant's Death 13
8.6 Plan-to-Plan Transfers 13
8.7 Transfers from a Governmental Plan for the Purchase of Permissive Service Credits 14

SECTION 9. PAYMENT OPTIONS 15
9.1 Requests for Distributions to a Participant, Beneficiary or Alternate Payee 15
9.2 Conditions of Payment 15
9.3 Total or Partial Lump Sum Payment Option 15
9.4 Periodic Payment Options 15
9.5 Annuity Payment Options 15
9.6 Election of Annuity Options 16

9.7 Misstatement of Age or Death 16

SECTION 10. CONTRACT TERMINATION 17
10.1 Notice of Contract Termination and Selection of Termination Option(s) 17
10.2 Contract Termination Provisions 17
10.3 Contract Termination due to Plan Termination 17

SECTION 11. GENERAL PROVISIONS 18
11.1 Contract 18
11.2 Entire Contract 18
11.3 Contract Modification 18
11.4 Modification of Fixed Account Options 18
11.5 Restorations 19
11.6 Plan Provisions 19
11.7 Non-Participating 19
11.8 Currency and Contributions and Deposits 19
11.9 Notices 19
11.10 Disclaimer 19
11.11 Representations 19
11.12 Non-Waiver 19
11.13 Information 19

SECTION 1. DEFINITIONS

Accumulation Unit – an accounting measure used to determine the value of each Variable Account.

Administrative Offices – 8515 East Orchard Road, Greenwood Village, CO 80111.

Alternate Payee – any spouse, former spouse, child or other dependent of a Participant or any other person recognized under applicable law who is recognized by a Qualified Domestic Relations Order as having a right to receive all or a portion of the benefit payable under a Plan with respect to such Participant.

Annuitant – the person upon whose life the payment of an annuity is based.

Annuity Commencement Date – the date annuity payments begin to an Annuitant.

Applicable Tax – the amount of tax, if any, charged by a state or other governmental authority.

Beneficiary – a person or entity named by the Participant to receive all or a portion of the Participant's account at his or her death.

Business Day – any day and during the hours on which the New York Stock Exchange is open for trading.

Code – the Internal Revenue Code of 1986, as amended from time to time, or any future United States Internal Revenue law that replaces it, including corresponding Treasury Regulations and Internal Revenue Service guidance.

Contributions – salary reduction contributions, Participant after-tax contributions, employer contributions, or other contributions made to the Plan by or on behalf of a Participant under the Code.

Deposits – rollovers, plan to plan transfers, Transfers, or other amounts, other than Contributions, paid into the Participant Account under the Plan.

Distributions – amounts paid to a Participant, Beneficiary or Alternate Payee, pursuant to the terms of the Plan and the Code.

Eligible Fund – a mutual fund or other investment portfolio in which a Variable Account's assets may be invested.

Fixed Account – an investment option, the assets of which are part of the General Account of Great-West.

Fixed Account Value – the sum of the Fixed Accounts.

FutureFunds II Series Account – a Separate Account consisting of sub-accounts called Variable Accounts.

General Account – Great-West's assets other than those held in any segregated investment account.

Great-West – Great-West Life & Annuity Insurance Company, located at the Administrative Offices.

Guaranteed Interest Rate – the minimum interest rate on an annual effective basis, if any, described on a Fixed Account or Separate Account rider.

Participant – an individual eligible to participate in the Plan, with assets in a Participant Account.

Participant Account – a separate record in the name of each Participant, Beneficiary or Alternate Payee, which reflects his or her share in the Variable Account(s), Separate Account(s), and Fixed Account(s).

Participant Account Value – the sum of the Variable Account Value, the Separate Account Value, and the Fixed Account Value credited to the Participant Account.

Participant Effective Date – the date on which the first Contribution or Deposit is credited to a Participant Account.

Payee – a person entitled to receive all or a portion of the value of the Participant Account.

Plan – the name of the plan as noted on the first page of the Contract.

Plan Sponsor – an entity maintaining the Plan on behalf of Participants, Alternate Payees and Beneficiaries. In a multiple employer plan, the Plan Sponsor shall be considered the entity maintaining the multiple employer plan on behalf of participating employers and the participating employers Participants, Alternate Payees and Beneficiaries.

Qualified Domestic Relations Order – a domestic relations order that creates or recognizes the existence of an Alternate Payee's right to, or assigns to an Alternate Payee the right to receive all or a portion of the benefits payable with respect to a Participant and that complies with the requirements of the Code and ERISA, if applicable, and is approved by the Plan.

Request – an inquiry or instruction in a form satisfactory to Great-West. A valid Request must be: (1) received by Great-West at its Administrative Offices in good order; and (2) submitted in accordance with the provisions of this Contract, or as required by Great-West. The Request is subject to any action taken by Great-West before the Request was processed.

Separate Account – a segregated investment account established under Colorado law by Great-West from time to time.

Separate Account Value – the value of the Separate Accounts, other than the FutureFunds II Series Account.

Start-Up Costs – the amounts incurred by Great-West in acquiring and implementing the plan, which may include but are not limited to restorations, commissions or other costs.

Transfer – the reinvestment or exchange of all or a portion of the Participant Account balance from one investment option or provider under the Plan to another.

Valuation Date – a Business Day on which the net asset value or unit value of each Variable Account is determined.

Valuation Period – the period between successive Valuation Dates.

Variable Accounts – sub-accounts of the FutureFunds II Series Account, each of which invests in an Eligible Fund.

Variable Account Value – the sum of the Variable Accounts.

SECTION 2. OWNERSHIP PROVISIONS

2.1 Ownership of the Contract

Contractholder is the owner of the Contract and is identified on the first page of the Contract. The Plan Sponsor and the Contractholder have certain rights and privileges as set forth under this Contract.

2.2 Ownership of the Series Account

Great-West is the owner of the assets of the FutureFunds II Series Account.

2.3 Transfer and Assignment

The interests of the Contractholder and Plan Sponsor in this Contract may not be transferred, sold, assigned, pledged, charged, encumbered, or in any way alienated; however, if the Plan is consolidated or merged with another plan or if the assets and liabilities of the Plan are transferred to another plan, the Contract may be assigned to the new Plan Sponsor and/or trustee.

2.4 Trust

The Contract may be used in lieu of a trust agreement for purposes of satisfying Code sections 401(a), 401(f) and 457(g) and no portion of the amount contributed to the Contract, plus earnings thereon, may be used for or diverted to any purpose other than the exclusive benefit of Participants and their Beneficiaries prior to the satisfaction of all liabilities to them.

SECTION 3. FUTUREFUNDS II SERIES ACCOUNT

3.1 FutureFunds II Series Account

The FutureFunds II Series Account is a Separate Account maintained and held apart from Great-West's General Account and any other investment account of Great-West, and is governed by the laws of Great-West's state of domicile. The FutureFunds II Series Account is divided into sub-accounts called Variable Accounts. Income, gains or losses, realized and unrealized, on assets in each Variable Account are credited or charged against that Variable Account without regard to income, gains or losses in Great-West's General Account or any other Separate or Variable Account. The portion of the assets of the FutureFunds II Series Account equal to the reserves and other liabilities of the FutureFunds II Series Account will not be charged with liabilities that arise from any other business conducted by Great-West.

3.2 Changes within the FutureFunds II Series Account

Great-West may make additional Variable Accounts available to Plan Sponsor within the FutureFunds II Series Account. These Variable Accounts will invest in investment portfolios suitable for the Group Annuity Contract. Great-West reserves the right to eliminate Variable Accounts, to combine two or more Variable Accounts or to substitute a new investment portfolio for the portfolio in which a Variable Account invests. Such an action may become necessary if, in Great-West's judgment, a portfolio or Variable Account no longer suits the purposes of the Group Annuity Contract. This may happen due to a change in laws or regulations, or a change in a portfolio's or account's investment objectives or restrictions, or because the portfolio or account is no longer available for investment, or for some other reason. Subject to any required regulatory approvals, Great-West reserves the right to transfer assets in the Variable Accounts to another Variable Account.

If any of the above actions result in a material change in the underlying investments of a Variable Account in which Plan Sponsor and Participants, Beneficiaries and Alternate Payees are invested, Great-West will provide at least sixty (60) calendar days written notice to Plan Sponsor of the change at Plan Sponsor's last known address on file with Great-West.

In the event Great-West initiates changes to available Variable Accounts which change investment options available under the Plan, Great-West will provide at least sixty (60) calendar days written notice to Plan Sponsor at Plan Sponsor's last known address on file with Great-West. This notice shall explain any Variable Account change(s), communicate the timeline and effective date of any account change, provide information on the fees received by Great-West, and explain Plan Sponsor's right to opt out of any Variable Account change. The absence of an objection by Plan Sponsor to such notice will be considered consent to the change(s). If Great-West is provided notice from a fund company that results in a change to the investment options available under the Plan, Great-West will provide Plan Sponsor with notice of that change as soon as administratively feasible.

If Great-West does not receive an objection from Plan Sponsor to a Great-West initiated-change, Transfers between account options as disclosed in the notice will be completed by Great-West as of the effective date of the change. Such allocation will be in effect until such time as Great-West receives a written Request for a different allocation.

If Plan Sponsor provides written objection to Great-West within the sixty (60) calendar day notice period, Great-West will not make the fund change at issue. If Plan Sponsor objects to the fund change, Great-West may terminate this Contract pursuant to Section 10.1 of this Group Annuity Contract.

SECTION 4. PARTICIPANT ACCOUNT VALUE

4.1 Fixed Account Value

The Fixed Account Value in the Participant Account is calculated as follows:

(a) all Contributions and Deposits to a Fixed Account option made by or on behalf of the Participant, Alternate Payee and Beneficiary; plus

(b) all interest credited to the Contractholder's assets in the Fixed Account on an annual effective basis pursuant to the Guaranteed Interest Rate applicable to the Fixed Account; less

(c) any amounts transferred or distributed from the Fixed Account; less

(d) any applicable charges, fees and Applicable Tax, if any.

4.2 Variable Account Value

The value of the Variable Accounts held in the Participant Account will be determined by multiplying the number of Accumulation Units for that Variable Account held in the Participant Account by the Accumulation Unit value for that Variable Account. Charges, fees and Applicable Tax, if any, may affect the Variable Account Value.

4.3 Accumulation Unit Value

The Accumulation Unit value of a Variable Account on any Valuation Date is equal to: (a) the Accumulation Unit value of that Variable Account as of the immediately preceding Valuation Date; multiplied by (b) the net investment factor for the Valuation Period ending on the Valuation Date on which the Accumulation Unit value is being determined.

The Accumulation Unit value may increase, decrease, or remain unchanged as a result of the value of the net investment factor.

4.4 Net Investment Factor

The net investment factor for a Variable Account is a calculated value that measures the investment performance of that account from one Valuation Period to the next. The net investment factor for any Valuation Period is determined by dividing (a) by (b), and then subtracting (c) from the result where:

(a) is the net result of:

(i) the net asset value per share or unit value per unit of the investment portfolio share in which the account invests determined at the end of the current Valuation Period; plus

(ii) the per share or unit value per unit amount of any dividend (including a deduction for an investment advisory fee) or capital gains distribution made by that investment portfolio on shares held in the account if the "ex-dividend" date occurs during the current Valuation Period; and plus or minus

(iii) a per share or unit charge or credit for any taxes reserved for, which is determined by Great-West to have resulted from the operations of that account;

(b) is the net asset value per share or unit value per unit of the investment portfolio share in which the sub-account invests determined at the end of the immediately preceding Valuation Period; and

(c) is the daily variable asset charge, as amended from time to time, adjusted for the number of days in the Valuation Period.

4.5 Accumulation Unit

Contributions and Deposits received at the Administrative Offices of Great-West before the close of a Valuation Period will be allocated as requested and applied as of that date based upon the Accumulation Unit value for that Variable Account.

The number of Accumulation Units credited for each Participant, Alternate Payee and Beneficiary to a Variable Account is determined by: (a) the dollar amount allocated to that Variable Account; divided by (b) the value of the Accumulation Unit for that Variable Account for the Valuation Date on which the Contribution or Deposit is allocated to that Variable Account.

The number of Accumulation Units will not change because of a later change in the Accumulation Unit value. However, the Accumulation Unit value will vary to reflect the investment experience of the Variable Account.

4.6 Separate Account Value

The value of any Separate Account, other than the Variable Accounts in the FutureFunds II Series Account, is described in the applicable Separate Account rider attached hereto.

4.7 Transaction Date

All Requests, Contributions and Deposits received in good order with all required documentation at Great-West's Administrative Offices prior to the close of business of the New York Stock Exchange will be processed as of the date received, and if received after the close of business of the New York Stock Exchange will be processed on the next Business Day. However, Great-West shall not be liable for the results of any delay or interruption due to causes or conditions beyond its control including, without limitation, labor disputes, riots, war and war-like operations including acts of terrorism, epidemics, explosions, sabotage, acts of God, failure of power, fire or other casualty, natural disasters or disruptions in orderly trading on any relevant exchange or market, including disruptions due to extraordinary market volume that result in substantial delay in receipt of correct data.

SECTION 5. CONTRIBUTIONS AND DEPOSITS TO PARTICIPANT ACCOUNTS

5.1 Contributions

Prior to the termination of the contract and unless otherwise described in a Fixed or Separate Account rider(s), if any, Contributions may be made at any time, pursuant to the terms of the Plan.

Great-West shall not be responsible for determining the amount of Contributions to be made for any Participant. The Contribution amounts will be allocated to Participant Accounts pursuant to the accompanying Contribution report. The Contribution report must be submitted in a manner acceptable to Great-West and shall be conclusive and binding on the Plan and on any person or entity claiming an interest under the Contract. When the Contribution report does not coincide with the Contribution received and the inconsistency is not resolved within a period of time required under the law, Great-West may return the Contribution.

Great-West's prior approval may be required before a Contribution may be made that causes a Participant Account Value to exceed $1,000,000.

5.2 Limitations on Salary Reduction Contributions

Each Participant's salary reduction Contributions, if any, must satisfy any limitations imposed by the Plan or the Code.

5.3 Deposits to Participant Accounts

Deposits will be accepted insofar as they are permitted under the terms of the Plan and applicable Code requirements.

5.4 Allocation of Contributions and Deposits

Contributions and Deposits, less Applicable Tax, if any, will be allocated in the Participant Account when received by Great-West at its Administrative Offices, subject to Section 4.7 of this Contract.

Contributions and Deposits will be allocated as directed by the Participant among any number of currently offered Variable Account, Separate Account and Fixed Account options available under the Contract. If the offered Variable Account, Separate Account or Fixed Account options are changed, Contributions and Deposits may be redirected and the account balance may be reallocated subject to the terms of the accounts selected.

SECTION 6. CONTRACT CHARGES AND FEES

6.1 Contract Maintenance Charge

An annual contract maintenance charge may apply. However, if the Participant Effective Date is after January 1, the initial contract maintenance charge for that Participant Account will apply during the calendar quarter after the Participant's one-year anniversary (calculated from the Participant Effective Date) and will be pro-rated for the remainder of the year.

The deduction of the contract maintenance charge will be pro-rated among the applicable Variable Account Value, Separate Account Value and/or Fixed Account Value on the date of deduction. Whenever a deduction for a contract maintenance charge is made from a Variable Account, Great-West will cancel Accumulation Units having a total value equal to the amount of the deduction. Whenever a deduction for a contract maintenance charge is made from a Separate Account or Fixed Account, Great-West will reduce the Participant Account Value in an amount equal to the deduction.

6.2 Variable Asset Charge

Great-West may deduct an annual variable asset charge from the Variable Account Value. One three hundred sixty-fifth of the per annum charge shall be deducted daily.

6.3 Contract Termination Charge

Upon termination of the Contract by Plan Sponsor, a contract termination charge based upon a percentage of total plan assets may apply.

6.4 Fees Imposed by Investment Option Provider

Any and all fees imposed by the provider of any investment option offered by the Plan and invested in by the Participant, Alternate Payee and Beneficiary, including but not limited to redemption fees, shall be deducted from the Participant Account Value.

6.5 Service Charges and Fees

Great-West and Plan Sponsor may enter into an agreement for services to the Plan not otherwise provided under this Contract. Charges and fees for these services will be described in the agreement.

6.6 Payment of Charges and Fees

With the exception of the variable asset charge and any fees imposed by the providers of any investment option, all charges and fees may be billed directly to Plan Sponsor. If Plan Sponsor does not elect to have such charges and fees billed to Plan Sponsor, such charges and fees shall be deducted from the Participant Account Value.

In all instances where Plan Sponsor has elected to be billed for any fees and charges and any of the fees or charges are unpaid after the date billed, as disclosed in and pursuant to the procedures in the fee disclosure and/or service agreement for the Plan, Plan Sponsor and Contractholder hereby instructs Great-West to debit Participant Accounts. Great-West may continue to deduct charges and fees quarterly from Participant Accounts unless and until Plan Sponsor provides Great-West with written instructions to reinitiate billing.

Great-West may change any charges and fees upon not fewer than 30 days advance written notice to Plan Sponsor.

SECTION 7. PARTICIPANT-, ALTERNATE PAYEE-, AND BENEFICIARY-DIRECTED TRANSFERS AMONG INVESTMENT OPTIONS OFFERED BY THE PLAN

Upon receipt of a satisfactory Request meeting all of the requirements of this section, Great-West will process a single-sum Transfer of all or a portion of a Participant Account in the Plan. Transfers must:

(a) satisfy the terms of the Plan in accordance with the appropriate provisions of the Code; and

(b) satisfy any restrictions in the attached Fixed Account and/or Separate Account rider(s), if any, and any trading restrictions imposed by the investment option provider, including but not limited to mutual fund restrictions on market timing or excessive trading.

SECTION 8. DISTRIBUTIONS FROM PARTICIPANT ACCOUNTS

8.1 Distribution Requirements

Notwithstanding any provision herein to the contrary, Distributions to a Payee may only be made in accordance with the terms of the Plan and applicable Code sections and any terms of the Fixed and Separate Account rider(s), if any, and will be tax reported under the applicable rules in effect on the date of Distribution. Great-West will rely on information provided by Plan Sponsor or its designee with respect to the timing and amount of any benefit payable to a Payee under this Contract. Great-West will not process any Distributions to a Payee without Plan Sponsor or its designee instructions.

8.2 Rollovers

If the Payee of an eligible rollover Distribution elects to have the Distribution paid directly to a specified eligible retirement plan, as defined in Code section 402(c)(8)(B), then the Distribution will be paid to that eligible retirement plan in a direct rollover. If the Plan provides for mandatory Distributions under Section 401(a)(31)(B) of the Code, such Distributions shall be sent to the IRA provider selected by Plan Sponsor pursuant to the Plan Sponsor's or its designee's instructions.

8.3 Establishment of Alternate Payee Account

A Request in connection with a Qualified Domestic Relations Order (QDRO) must be approved by Plan Sponsor, except as otherwise agreed. Great-West will make payment to the Alternate Payee and/or establish a Participant Account on behalf of the Alternate Payee named in such order. The Alternate Payee shall be treated as a surviving spouse for purposes of Code section 401(a)(9) and shall be responsible for submitting a Request to begin Distributions in accordance with the Code.

8.4 Required Minimum Distributions during the Participant's Lifetime

Participants are required by the Code to begin receiving required minimum Distributions as of their required beginning date, which is April 1 of the calendar year following the later of: (a) attainment of age 70½; or (b) retirement, or such other date as may be prescribed in the Code. Required minimum Distributions made under this Contract will only be made in a manner consistent with Code section 401(a)(9). It is the Participant's or Plan Sponsor's responsibility to Request payments in accordance with the minimum distribution requirements. Great-West is not responsible for any penalties resulting from a failure to Request timely payments in the proper amount.

8.5 Distributions after the Participant's Death

If the Participant dies, the amount payable on death will be the Participant Account Value net of any outstanding loan balance. Distributions to Beneficiaries must begin on or before the designated Beneficiary's required beginning date in a manner and amount consistent with Code section 401(a)(9) as it is in effect at the time of the Distribution.

It is the Beneficiary's responsibility to Request payments and to pay any penalties resulting from a failure to Request timely payments in the proper amount. A Beneficiary may not receive more than the Participant Account Value.

8.6 Plan-to-Plan Transfers

A Participant or Beneficiary may direct that all or a portion of the Participant Account Value be transferred in a single sum to a contract under another Plan Sponsor's plan. Such transfers will be permitted provided:

(a) Both the transferor and transferee plan provide for such transfers, and the transfer satisfies the terms of the Plan and applicable provisions of the Code;

(b) In the case of a transfer for a Participant, the Participant is an employee or former employee of the Plan Sponsor (or the business of the Plan Sponsor) for the receiving plan;

(c) In the case of a transfer for a Beneficiary, the Participant was an employee or former employee of the Plan Sponsor (or the business of the Plan Sponsor) for the receiving plan;

(d) Great-West receives a satisfactory Request for such transfer; and

(e) The restrictions, if any, contained in the attached Fixed Account and/or Separate Account rider(s), if any, allow such transfer.

8.7 Transfers from a Governmental Plan for the Purchase of Permissive Service Credits

If the Plan so provides, a Participant may direct that all or a portion of the Participant Account Value be transferred in a single sum to a qualified defined benefit plan that is a governmental plan (as defined in Code section 414(d)). Such transfers will be permitted provided:

(a) The transfer satisfies the terms of the Plan in accordance with the appropriate provisions of the Code;

(b) Great-West receives a satisfactory Request for such transfer; and

(c) The restrictions, if any, contained in the attached Fixed Account and/or Separate Account rider(s) allow such transfer.

SECTION 9. PAYMENT OPTIONS

9.1 Requests for Distributions to a Participant, Beneficiary or Alternate Payee

As long as the Participant Account Value is greater than zero and as allowed by the Plan and Code, a Request may be made to:

(a) Elect an annuity payment option, provided such Request is made at least 30 days before the Annuity Commencement Date;

(b) Elect a non-annuity payment option and designate the date payment shall commence; or

(c) Change from one payment option to a different payment option, if allowed under the terms of the payment option selected.

9.2 Conditions of Payment

Approved Distributions shall be effective on the later of: (a) the date elected subject to any restrictions of the Plan and Code and any Fixed or Separate Account rider(s), if any; or (b) the date of the Request.

9.3 Total or Partial Lump Sum Payment Option

If, based upon information provided by Plan Sponsor, the Payee is entitled to a Distribution under the applicable terms and provisions of the Plan and the Code sections governing the Plan, all or a portion of a Participant Account may be applied to a lump sum payment option selected by the Payee.

Subject to the provisions of any attached Fixed Account and/or Separate Account rider(s), if any, the amount to be distributed is: (i) the amount requested as a lump sum; less (ii) the Applicable Tax, if any, as of the date of the amount distributed, and (iii) any applicable fees and charges.

9.4 Periodic Payment Options

If, based upon information provided by Plan Sponsor, the Payee is entitled to a Distribution under the applicable terms and provisions of the Plan and the Code sections governing the Plan, all or a portion of a Participant Account may be applied to a periodic payment option selected by the Payee, subject to any restrictions in a Fixed or Separate Account rider(s), if any. Charges and fees will continue to apply. An Applicable Tax, if any, may apply. Periodic payment elections are subject to the administrative procedures of Great-West in effect at the time of the election and the periodic payment options Great-West makes available at the time of Distribution.

If a Participant is receiving periodic payments, such payments will cease as of receipt by Great-West of notice of the Participant's death. The deceased Participant's Beneficiary may then elect a payment option under this Section 9 meeting all the requirements of Code section 401(a)(9).

9.5 Annuity Payment Options

If, based upon information provided by Plan Sponsor, the Payee is entitled to a Distribution under the applicable terms and provisions of the Plan and the Code sections governing the Plan, all or a portion of a Participant Account may be applied to an annuity payment option selected by the Payee, so long as the requirements of Code section 401(a)(9) are met. Thereafter, this Contract shall no longer be applicable with respect to amounts in the annuity payment option.

The amount to be applied to an annuity payment option is: (i) the portion of the Participant Account Value elected by Payee subject to any restrictions in a Fixed or Separate Account rider(s), if any, less (ii) Applicable Tax, if any, less (iii) any fees and charges described in the Contract.

The minimum amount that may be applied under the elected annuity option is $5,000. If any payments to be made under the elected annuity payment option will be less than $50, Great-West may make the payments in the most frequent interval that produces a payment of at least $50.

Great-West will issue a certificate to each Annuitant describing the benefits payable under the elected annuity payment option.

9.6 Election of Annuity Options

An Annuitant is required to elect an annuity payment option. The Annuitant must Request an annuity payment option or change an annuity payment option no later than 30 days prior to the Annuity Commencement Date.

To the extent available under the Plan, the available annuity payment options are:

Income for Single Life Only

Income for Single Life with Guaranteed Period

Income for Joint Life Only

Income for Joint Life with Guaranteed Period

Income for a Specific Period

Any other form of annuity payment permitted under the Plan, if acceptable to Great-West.

The annuity option that will always be available is the Income for Single Life Only Annuity. If this annuity option is elected, Great-West will make payments to the Annuitant at a frequency specified in the annuity certificate for the duration of the Annuitant's lifetime. Payments will cease pursuant to the terms of the certificate.

Minimum Monthly Payment for Each $1,000 of Participant Account Value
Applied to Purchase a Lifetime Monthly Annuity

Age of Payee	Lifetime Monthly Payment
50	$4.00
55	4.28
60	4.66
65	5.20
70	5.98
75	7.16

9.7 Misstatement of Age or Death

Great-West may require adequate proof of the age and death of any Payee before processing a Request for or making any payment. If the age of the Payee has been misstated, the payments established for him/her under the applicable payment option will be made on the basis or his/her correct age.

If payments made pursuant to an annuity payment option were too large because of a misstatement of age, Great-West may deduct the difference from the next payment or payments with interest. If payments were too small, Great-West may add the difference to the next payment with interest. Any interest payable will be made at the rate required by law.

SECTION 10. CONTRACT TERMINATION

10.1 Notice of Contract Termination and Selection of Termination Option(s)

Either Great-West or Plan Sponsor may terminate this Contract with advance written notice to the other party or parties. The contract termination date shall be the seventy-fifth (75th) day after the date written notice is received in the Administrative Offices in good order. If the seventy-fifth (75th) day is not a Business Day, the contract termination date shall be the Business Day immediately following the seventy-fifth (75th) day. Prior to the contract termination date, Great-West and Plan Sponsor may agree to an alternate contract termination date. Contract termination may not occur on the date selected by Plan Sponsor unless Great-West has received all required information. In such event, Great-West shall maintain Participant Account Values until Great-West receives all required information in good order.

10.2 Contract Termination Provisions

Plan Sponsor shall direct Great-West to pay the Participant Account Values as described below.

Variable Accounts: Upon Request, Great-West will remit the Variable Account Value at market value pursuant to Plan Sponsor's instructions within seven (7) days after the contract termination date.

Separate Account(s): Plan Sponsor shall select one of the contract termination options described in the Separate Account rider(s). Great-West will remit the Separate Account Value pursuant to the contract termination option selected.

Fixed Account(s): Great-West will remit the Fixed Account Value pursuant to the Fixed Account rider(s) contract termination option selected.

Plan Sponsor and Contractholder hereby instructs Great-West to deduct any outstanding charges and fees, including the contract termination charge, if applicable, due to Great-West from the amount remitted from any of the Fixed, Separate or Variable Accounts.

10.3 Contract Termination due to Plan Termination

If Plan Sponsor terminates the Plan, it shall notify Great-West of such Plan Termination and that final Contributions have been remitted to Great-West. Upon notice of Contract Termination Due to Plan Termination, Plan Sponsor agrees to provide any and all information and instructions Great-West requires to properly comply with Plan Sponsor's notification of Plan Termination and subject to the provisions of the Fixed or Separate Account rider(s), if any.

Plan Sponsor acknowledges that the amount distributed from the Contract upon Plan Termination shall be equal to the balance of each Participant Account as reflected in the records of Great-West on the date of Distribution subject to the provisions in the Fixed and Separate Account rider(s), if any, less all outstanding charges or fees, including an applicable contract termination charge, and reduced by any required income tax withholding or other applicable fees due upon Distribution.

Plan Sponsor shall file any and all required Forms 5500.

If the Plan is abandoned, orphaned or if Plan Sponsor cannot be located or Plan Sponsor fails to provide appropriate representations and instructions to Great-West in connection with termination of the Plan, Great-West is authorized to accept notices, representations and instructions from the Plan administrator or trustee, the bankruptcy trustee for Plan Sponsor, the U.S. Department of Labor, if applicable, or an authorized and appropriate representative of Plan Sponsor. Great-West may also utilize any procedures promulgated by the U.S. Department of Labor, if applicable, or other applicable regulatory agencies for abandoned or orphaned plans including the facilitation of Distributions to Payees performed by a Qualified Termination Administrator, as that term is defined under Federal law and regulations promulgated thereunder, or comparable person as allowed by applicable law.

SECTION 11. GENERAL PROVISIONS

11.1 Contract

Great-West has issued this Contract to Plan Sponsor and Contractholder in consideration of the Application and payment of the initial Contribution or Deposit.

11.2 Entire Contract

This Contract, including the Application, amendments, endorsements, letter agreements, specification page, if any, and Fixed and Separate Account or other rider(s), if any, constitute the entire contract between Plan Sponsor and Great-West.

All statements in the Application, in the absence of fraud, have been accepted as representations and not warranties. Only the President, Vice-President, or the Secretary of Great-West, or their authorized designees, can agree on behalf of Great-West to modify any provisions of this Contract.

One or more provisions of this Contract may be clarified by letter agreement, amendment, or other writing executed by both Great-West and Plan Sponsor.

11.3 Contract Modification

Great-West may modify this Contract from time to time to conform it to changes in tax or other law, including applicable regulations and rulings, without consent of Plan Sponsor or any other person. Great-West will provide notice and a copy of any such modification to Plan Sponsor as soon as reasonably practicable.

Plan Sponsor and Great-West may, by written agreement, make other modifications to this Contract, subject to the approval of the appropriate state department of insurance, if applicable. No such modification will, without the written consent of Plan Sponsor, affect the terms, provisions, or conditions of this Contract, which are or may be applicable to Contributions or Deposits made prior to the date of such modification.

11.4 Modification of Fixed Account Options

Great-West may offer new or cease offering existing Fixed Account options, or make other changes to the Fixed Account options as Great-West deems necessary, and subject to the approval of the state insurance department, if applicable. If Great-West changes material provisions of its Fixed Account options, Great-West will provide at least sixty (60) calendar days written notice to the Plan Sponsor. This notice shall explain any Fixed Account change(s), communicate the timeline and effective date of any Fixed Account change and explain Plan Sponsor's right to opt out of any Fixed Account change. Plan Sponsor's absence of an objection to such notice will be considered consent to the change(s).

If Great-West replaces Fixed Account options and does not receive an objection from the Plan Sponsor, Transfers between account options as disclosed in the notice will be completed by Great-West as of the effective date of the change. Such allocation will be in effect until such time as Great-West receives a written Request for a different allocation.

If Plan Sponsor provides written objection to Great-West within the sixty (60) calendar day notice period, Great-West will not make the Fixed Account change at issue. If Plan Sponsor objects to the Fixed Account change, Great-West may terminate this Contract by providing written notice pursuant to Section 10.1 of this Contract.

11.5 Restorations

Great-West may agree to restore any back-end load charges, market value adjustments, or other investment charges deducted from plan assets under a prior investment option.

11.6 Plan Provisions

In all cases, the plan document shall determine (subject to the Code) the specific features of the Plan, which may include the availability of certain types of investment options, Distributions, loans, and other features allowed but not mandated by the Code. Any provision of this Contract which deals with a feature not included in the Plan shall not apply.

11.7 Non-Participating

This Contract is Non-Participating, meaning that it is not eligible to share in Great-West's divisible surplus.

11.8 Currency and Contributions and Deposits

All amounts to be paid to or by Great-West must be in currency of the United States of America. All Contributions and Deposits to this Contract must be made payable to Great-West or to a designee acceptable to Great-West.

11.9 Notices

Any notice or demand by Great-West to or upon Plan Sponsor or any Payee may be given by mailing it to that person's last known address as stated in Great-West's file via the United States Postal Service or last known email address or facsimile number on file.

An application, report, Request, election, direction, notice or demand by Plan Sponsor or a Payee will be made in a form satisfactory to Great-West. When Great-West requires it, Plan Sponsor will obtain the signature of the Payee on forms provided by Great-West. Great-West must first approve any written materials developed by any other person describing this Contract.

11.10 Disclaimer

Nothing contained in this Contract shall be construed to be tax or legal advice, and Great-West assumes no responsibility or liability for any costs, including but not limited to taxes, penalties or interest incurred by the Plan, Plan Sponsor or any other Payee arising out of a determination of liability. Great-West shall not be held liable for the negligence, willful misconduct, or failure to perform of any third party.

11.11 Representations

Great-West shall be entitled to rely and act solely on the reports, directions, proofs, notices, elections, and other information furnished to it by Contractholder, Plan Sponsor, Participant, Alternate Payees, Beneficiaries or their respective agent, and such acts shall be conclusive and binding as to all persons or corporations claiming an interest hereunder.

11.12 Non-Waiver

The waiver by Great-West of any breach of any term or condition in this Contract will not be deemed a waiver of any prior or subsequent breach.

11.13 Information

Plan Sponsor shall furnish all information that Great-West may reasonably require for the administration of this Contract. Great-West shall not be responsible for any obligation under this Contract until it receives all requested information in a form acceptable to Great-West.

GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY
A Stock Company
8515 East Orchard Road Greenwood Village, CO 80111

For inquiries, information or resolution of complaints, call 1-800-537-2033 (extension 73343)

Guaranteed Government Fund
SEPARATE ACCOUNT RIDER

This Guaranteed Government Fund ("GGF") Separate Account rider ("Rider") is part of the Great-West Life & Annuity Insurance Company ("Great-West") Contract to which it is attached. Terms defined in the Contract have the same meaning where used in this Rider.

The GGF is a Separate Account. All or a portion of Contributions and Deposits may be allocated to the GGF.

Definitions

Competing Fund is any of the following types of funds offered under the Plan:

a) any stable value fund;
b) any fund with a known or periodically declared rate of interest;
c) any money market fund; or
d) any bond fund with a duration of three (3) years or less
e) any other fund that Great-West deems to be competing.

Any fund offered to Participants only as a part of a self-directed brokerage arrangement shall not be considered a competing fund to the extent offered only to Participants utilizing this option.

Plan Sponsor-Initiated Event is any action that materially impacts assets in the GGF as it relates to the Plan, including but not limited to the following: a spin-off; sale; merger; full or partial Plan termination, including a Distribution of assets performed by a Qualified Termination Administrator, as that term is defined under Federal statutes and regulations promulgated thereunder, or a comparable person as allowed by applicable law; a terminating union in a multi-employer Plan; a terminating participating employer in a multiple employer Plan; a terminating political subdivision of a governmental 457(b) Plan; or a layoff of at least 20% of work force in any twelve (12) month period.

Event Date is the date Great-West recognizes a Plan Sponsor-Initiated Event. This date will also be the calculation date for purposes of calculating the Market Value and Book Value.

Guaranteed Interest Rate is an effective annual interest rate of 0%.

Credited Interest Rate

The Credited Interest Rate is an annual effective rate of interest determined and declared by Great-West prior to the last day of the calendar quarter, and is effective for the GGF for the next calendar quarter. This annual effective rate will be compounded daily. The Credited Interest Rate will never be less than the Guaranteed Interest Rate.

Market Value

The Market Value of the GGF is determined monthly or on the contract termination date. This value is based on the closing market price for each security in the GGF, less the Investment Management Fee applicable to the Plan.

Book Value

The Book Value of the GGF is the sum of Contributions and Deposits to the GGF, plus interest credited under this contract, plus additional Plan assets invested in the GGF, minus withdrawals, benefit payments and investment management fees.

Distributions

Distributions to a Participant, Beneficiary or Alternate Payee are based on the Book Value and are permitted for the purpose of paying a benefit to a Participant, which includes death, severance of employment, hardship or unforeseeable emergency.

Investment Management Fee

This fee consists of a base Investment Management Fee to compensate Great-West for the management of the GGF and an administrative fee for recordkeeping and other costs associated with the GGF with respect to the Plan. Great-West reserves the right to change the amount of the Investment Management Fee upon sixty (60) days advance written notice to Plan-Sponsor. In no event will the Investment Management Fee exceed an annual effective rate of .40% of the assets in the GGF.

Limitations

The Plan-Sponsor shall not offer Competing Funds under the Plan unless the parties otherwise mutually agree. Should the Plan offer a Competing Fund without Great-West's agreement, or should an existing Plan investment become a Competing Fund that is available under the Plan without Great-West's prior agreement, Great-West shall suspend all Transfers out of the GGF upon at least thirty (30) days advance notice to Participants, Beneficiaries and Alternate Payees invested in the GGF, at the address on file with Great-West. Such suspension shall remain in effect until the Competing Fund is removed as an eligible Plan investment option, or as otherwise mutually agreed by the parties.

Great-West shall defer processing Distribution or Transfer Requests if transactions cannot be executed or settled due to the closing or disruption of financial markets or exchanges. Great-West shall resume the processing of Distributions and Transfers once the disruption is resolved.

Plan-Sponsor-Initiated Events

The Plan-Sponsor shall provide notification to Great-West at least thirty (30) days in advance of an Plan-Sponsor-Initiated Event.

Upon the occurrence of a Plan-Sponsor-Initiated Event, Great-West may elect one of the following options:

a) the Plan-Sponsor will be required to elect a Contract Termination Option with respect to the GGF assets affected by the Plan-Sponsor-Initiated Event;

b) Great-West will remit the lesser of the Book Value or the Market Value upon any Participant, Alternate Payee or Beneficiary Distribution, including a plan-to-plan transfer or transfer from a governmental plan to purchase service credits, that occurs within twelve (12) months after the date Great-West recognizes the Plan-Sponsor-Initiated Event. However, if the average of the 3 year and 5 year Treasury Constant Maturity

rates, as published on the United States Federal Reserve Website, as of the Event Date, is 300 basis points or more above the lowest weekly average of the 3 and 5 year Constant Maturity Treasuries rates over the previous 104 weeks, the duration of this option b) shall be thirty-six (36) months;

c) Great-West and the Plan-Sponsor may agree to another option allowable under applicable law.

Applicability of State Guarantee Funds

Assets in the GGF are not covered by state guarantee funds.

Ownership

Great-West has absolute ownership of the assets of the Separate Account. All monies invested in the Separate Account are maintained and held separate and apart from Great-West's General Account and any other investment account Great-West may have. That portion of the assets of the Separate Account which is equal to the reserves and other contractual liabilities with respect to each Separate Account shall not be chargeable with liabilities arising out of any other business Great-West may conduct. Income, gains or losses, realized and unrealized, on assets in each Separate Account are credited or charged against that Separate Account without regard to other income, gains or losses in other fixed or variable accounts or Great-West's other income, gains or losses.

Contract Termination

At least sixty (60) calendar days before the contract termination date, Plan Sponsor must notify Great-West, in writing of its selection from among the Contract Termination Options described below. Great-West shall remit all GGF amounts pursuant to the Plan Sponsor elections.

The Contract Termination Options are:

1. *Maintenance of Each Participant Annuity Account* - Great-West will maintain each Participant GGF Account Value until it is applied to a payment option or distributed to a Participant or Beneficiary. When such individual transactions are applied or paid, they will be calculated at the Book Value of the GGF Account.
2. *Market Value of the GGF* - Great-West will pay the lesser of the Market Value or the Book Value of the Plan assets in the GGF within 30 days after the contract termination date. After notification of contract termination date, Great-West will sell all non-cash assets in the GGF account attributable to the terminating contract and convert them to cash assets or short-term money market instruments. The time when all non-cash assets have been converted to cash or short-term money market instruments will be no later than the contract termination date.
3. Any other termination option allowable under applicable law, as mutually agreed upon in writing by Plan Sponsor and an authorized officer of Great-West.

GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY
A Stock Company
8515 East Orchard Road Greenwood Village, CO 80111
For service, call 1-800-537-2033 (extension 73343)

Letter Agreement

This Letter Agreement is attached to and made part of the Great-West Life & Annuity Insurance Company Contract (GFVAC 10 FFII), pursuant to Section 11.02 "Entire Contract". This Letter Agreement supersedes and replaces any other previous Letter Agreements or representations.

Great-West Life & Annuity Insurance Company ("Great-West") and City of Glendale ("Plan Sponsor") agree to the following clarifications and modifications of the Great-West's Group Fixed and Variable Deferred Annuity Contract ("Contract"), Contract Number **98742-01**.

1. Contract Maintenance Charge – The Contract Maintenance Charge as described in the Contract is $0.

2. Variable Asset Charge – The Variable Asset Charge as described in the Contract is 0%.

3. Contract Termination Charge – The Contract Termination Charge described in the Contract is 0%.

4. Investment Management Fee – The Investment Management Fee as described in the GGF Rider is **0.40%**.

This Letter Agreement shall become effective on the Contract Date. This Letter Agreement may be modified at any time upon mutual consent of both parties.

CITY COUNCIL REPORT

Meeting Date:	**2/12/2013**
Meeting Type:	**Voting**
Title:	**RETIREE HEALTH SAVINGS ACCOUNT CONTRACT WITH EDUCATORS BENEFIT CONSULTANTS, LLC**
Staff Contact:	**Jim Brown, Interim Executive Director, Human Resources and Risk Management**

Purpose and Recommended Action

Staff is requesting Council waive reading beyond the title and adopt a resolution authorizing the City Manager to enter into a contract with Educators Benefit Consultants, LLC (EBC), a subsidiary of Great-West Retirement Services, to administer the Retiree Health Savings (RHS) accounts contract for the City of Glendale.

Background Summary

The city's Deferred Compensation Committee is made up of employees from across the organization and they are tasked with reviewing information as it pertains to the employee deferred compensation plan and providing input on the fund selections and services rendered by the city's deferred compensation provider. This committee conducted a comprehensive Request for Proposal (RFP) process in the selection of an employee deferred compensation provider. Included in that proposal, was also a request regarding the ability to administer the city's Retirement Health Savings (RHS) plans. As a result of this process, Great-West Retirement Services (Great-West) has been selected for recommendation to Council to be awarded the contract to provide employee deferred compensation services to the city. The current deferred compensation provider, ICMA RC, administers the RHS accounts for the city's participants. The contract with ICMA RC ends effective March 31, 2013 and effective April 1, 2013 upon approval of the City Council; EBC will be the new RHS provider.

Community Benefit/Public Involvement

Providing a retiree health savings plan for city employees assists in the attraction and retention of quality staffing for city services.

Budget and Financial Impacts

There is no impact to the city's budget.

CITY COUNCIL REPORT

Capital Expense? Yes ☐ No ☒

Budgeted? Yes ☐ No ☒

Requesting Budget or Appropriation Transfer? Yes ☐ No ☒

If yes, where will the transfer be taken from?

Attachments

Staff Report

Resolution

Agreement

STAFF REPORT

To:	**Horatio Skeete, Acting City Manager**
From:	**Jim Brown, Interim Executive Director, Human Resources and Risk Management**
Item Title:	**RETIREE HEALTH SAVINGS ACCOUNT CONTRACT WITH EDUCATORS BENEFIT CONSULTANTS, LLC**
Requested Council Meeting Date:	**2/12/2013**
Meeting Type:	**Voting**

PURPOSE

The purpose of this report is to request the City Manager forward this item to the City Council for their consideration and approval. This is a request for Council to adopt a resolution authorizing the City Manager to enter into a contract with Educators Benefit Consultants, LLC (EBC), a subsidiary of Great-West Retirement Services, to administer the Retiree Health Savings (RHS) accounts contract for the City of Glendale.

BACKGROUND

The city's Deferred Compensation Committee is made up of employees from across the organization and they are tasked with reviewing information as it pertains to the employee deferred compensation plan and providing input on the fund selections and services rendered by the city's deferred compensation provider. This committee conducted a comprehensive Request for Proposal (RFP) process in the selection of an employee deferred compensation provider. Included in that proposal, was also a request regarding the ability to administer the city's Retirement Health Savings (RHS) plans. As a result of this process, Great-West Retirement Services (Great-West) has been selected for recommendation to Council to be awarded the contract to provide employee deferred compensation services to the city. The current deferred compensation provider, ICMA RC, administers the RHS accounts for the city's participants. The contract with ICMA RC ends effective March 31, 2013, and effective April 1, 2013, upon approval of City Council; EBC will be the new RHS provider.

There are three RHS plans currently offered to staff:

- **A City-Wide account**, for employees retiring with 10 years or more of service. The account is funded by contributions at the time of retirement: 100% of sick leave, paid at 40% of the average hourly wage over the last 36 months of employment; and, 100% of vacation leave over 160 accrued hours, up to the allowed maximum.

- **FOP account**, for dues paying members of the Fraternal Order of Police (sworn staff only). The account is funded by contributions at the time of retirement: 100% of sick leave, paid

at 50% of the average hourly wage over the last 36 months of employment. No vacation hours go into the RHS. Employee contributions are also made from each paycheck starting with the month service requirements are met: 1-7 years of service, zero contributions; 8-15 years of service, one percent of base pay toward contributions; 16+ years of service, two percent of base pay toward contributions.

- **Fire Department account** for members of the Fire Department covered by the Memorandum of Understanding (Fire Fighters, Engineers & Captains). At separation of service: 100% of sick leave, paid at 50% of the average hourly wage over the last 36 months of employment. No vacation hours go into the RHS. After the employee completes probation, $72.81 per pay period is deposited into the RHS. In addition, the city will pay $72.81 per pay period for FY 2012-13. This amount will change based on the Memorandum of Understanding. In FY2013-14, the city's contribution will go up to $85 per pay period and in FY2014-15, the city's contribution will go up to $100 per pay period.

City employees who meet the above criteria are required to participate in the RHS account.

ANALYSIS

- The Deferred Compensation Committee unanimously agreed to recommend to Council the contract with Great-West as the city's sole deferred compensation plan provider.
- Staff is recommending that Council approve the contract with EBC to administer the city's RHS accounts
- The Health Retirement Account fees are paid by the participant.
- ICMA RC has sent a termination of administrator letter to the city indicating the intent to terminate its contract to provide services for the RHS account effective March 31, 2013.
- The proposed implementation date of the RHS contract with EBC is April 1, 2013.

FISCAL IMPACTS

There is no fiscal impact to the city with the contracting of EBC to administer the RHS Accounts.

RESOLUTION NO. 4644 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, ADOPTING AN AMENDED AND RESTATED RETIREE HEALTH SAVINGS ACCOUNT (RHSA) PLAN AS ADMINISTERED BY EDUCATORS BENEFIT CONSULTANTS, LLC; AND AUTHORIZING AND APPROVING THE DOCUMENTS NECESSARY TO IMPLEMENT THE RETIREE HEALTH SAVINGS ACCOUNT PLAN.

WHEREAS, the City of Glendale provides eligible employees with the opportunity to participate in a retiree health savings account plan; and

WHEREAS, the City's current retiree health savings program provider, ICMA-RC, elected to terminate its services; and

WHEREAS, the City of Glendale conducted a solicitation for proposals to manage the City's retiree health savings program; and

WHEREAS, the City of Glendale wishes to adopt an amended and restated retiree health savings account plan and approve other documents necessary to implement the City's retiree health savings account plan.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That the Council of the City of Glendale hereby approves and adopts the City of Glendale health savings account plan for eligible employees in the form of Educators Benefit Consultants, LLC Non-ERISA HRA Basic Plan and Trust Document ("Plan"), and authorizes the City Manager to sign the Plan and the Educators Benefit Consultants, LLC Retiree Health Savings Account (RHSA) Adoption Agreement. A copy of said Plan and Adoption Agreement shall be kept on file with the Clerk of the City of Glendale.

SECTION 2. That the Council of the City of Glendale hereby approves, and authorizes the City Manager to sign, the Administrative Services Agreement with Educators Benefit Consultants, LLC ("EBC").

SECTION 3. The City Manager and the Executive Director of Human Resources and Risk Management (or the employee who may be designated to perform the functions of these positions) ("Managing Body") have authority to make decisions for the City of Glendale, as the Adopting Employer. EBC is appointed as an Administrator to perform claims determination and other administrative functions with respect to the Plan.

SECTION 4. That the Council of the City of Glendale hereby approves, and authorizes the City Manager to sign, the MG Trust Company, LLC Custodial Account Agreement (Without

Investment Advice) in order to appoint MG Trust Company LLC as the directed custodian to hold, invest and distribute the Plan assets.

SECTION 5. That the Council of the City of Glendale hereby approves, and authorizes the City Manager to sign, the Business Associate Agreement for HIPAA Compliance, to govern the uses of protected health information EBC will obtain in performing its duties under the Plan and Administrative Services Agreement.

SECTION 6. That the City Manager, or his designee, is hereby authorized and directed to execute any ancillary agreements, documents, forms, and written materials that may be necessary for the implementation and administration of the Plan.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this _____ day of _____, 2013.

_____
M A Y O R

ATTEST:

_____
City Clerk (SEAL)

APPROVED AS TO FORM:

_____
City Attorney

REVIEWED BY:

_____
Acting City Manager

C-_____

City of Glendale

Retiree Health Savings Plan
BASIC PLAN AND TRUST DOCUMENT

Original Effective Date: July 1, 2008

Amended and Restated:_____

TABLE OF CONTENTS

ARTICLE I. INTRODUCTION....1

ARTICLE II. DEFINITIONS....2

ARTICLE III. ADOPTING EMPLOYER....6

ARTICLE IV. ELIGIBILITY AND PARTICIPATION OF EMPLOYEES....7

ARTICLE V. BENEFITS UNDER THE PLAN....9

ARTICLE VI. CONTRIBUTIONS....12

ARTICLE VII. CLAIMS DETERMINATIONS AND REVIEW OF DENIED CLAIM....13

ARTICLE VIII. HIPAA PRIVACY AND SECURITY PROVISIONS....17

ARTICLE IX. PLAN ADMINISTRATION....21

ARTICLE X. PLAN AMENDMENT AND TERMINATION....23

ARTICLE XI. THE TRUST....24

ARTICLE XII. DUTIES AND POWERS OF TRUSTEE....25

ARTICLE XIII. CHANGES IN TRUSTEE....30

ARTICLE XIV. GENERAL PROVISIONS....31

ARTICLE XV. CONTINUATION COVERAGE....34

ARTICLE I.
INTRODUCTION

1.1 **Establishment.** The executed Adoption Agreement plus this Basic Plan and Trust Document constitute the "Plan" for an Adopting Employer. The Effective Date of the Plan is set forth in the Adoption Agreement.

1.2 **Purpose.** The purpose of the Plan is to provide certain Employees with an opportunity to receive reimbursement for certain Health Care Expenses as provided in this Plan. It is the intention of the Adopting Employer that the benefits payable under this Plan be eligible for exclusion from the gross income of Participants as provided by Sections 105(b) and 106 of the Code. In addition, it is the intention of the Adopting Employer that the Plan qualify as a Health Reimbursement Arrangement ("HRA") under IRS Revenue Ruling 2002-41 (June 26, 2002) and IRS Notice 2002-45 (June 26, 2002).

The purposes of the Trust are (1) to provide a source of funds to pay benefits under the Plan, and (2) to permit Trust assets to be invested and such earnings be not taxable under Section 115 of the Code.

1.3 **HIPAA Privacy and Security Rules.** This Plan is a "covered entity" for purposes of the Privacy Rules and Security Rules as described in Article VIII.

1.4 **Not ERISA Plan.** This Plan is not an employee welfare benefit plan for purposes of ERISA.

ARTICLE II.
DEFINITIONS

The following words and phrases are used in this Plan and shall have the meanings set forth in this Article unless a different meaning is clearly required by the context or is defined within an Article.

2.1 **Adopting Employer** means the entity that adopts this Plan by completing and executing an Adoption Agreement, which may include a joint powers agreement.

2.2 **Adoption Agreement** means the separate agreement completed, or portions thereof, and executed by an Adopting Employer setting forth the Adopting Employer's selection of options under the Plan.

2.3 **Authorized Representative** means, for the claims and appeal procedures, the person entitled to act on behalf of the claimant with respect to a benefit claim or appeal. In order for the Plan to recognize a person as an Authorized Representative, written notification to that affect signed by the claimant and notarized must be received by the Plan. An assignment for purposes of payment is ***not*** designation of an "Authorized Representative."

2.4 **Basic Plan and Trust Document** means this document, which together with an executed Adoption Agreement constitutes the Plan for an Adopting Employer.

2.5 **Claims Administrator** means, unless specifically noted otherwise in the Adoption Agreement, EBC, LLC. If for any reason there is no entity so identified or the contractual relationship ends, the Adopting Employer shall act as the Claims Administrator.

2.6 **Code** means the Internal Revenue Code of 1986, as amended from time to time.

2.7 **Covered Individual** means a Participant, the legal Dependent of a Participant and the Spouse of a Participant, and any other person appropriately covered under the Plan.

2.8 **Dependent** means, unless specifically noted in the Adoption Agreement, a person who is a dependent for purposes of Section 105(b) and Section 152 of the Code determined without regard to subsections (b)(1), (b)(2) and (d)(1)(B) thereof.

2.9 **Employee** means any person employed by the Adopting Employer on or after the Effective Date, except that it shall not include a self-employed individual as described in Section 401(c) of the Code. All employees who are treated as employed by a single employer under Subsections (b), (c) or (m) of Section 414 of the Code are treated as employed by a single employer for purposes of this Plan.

Employee does not include the following:

(a) Any employee included within a unit of employees covered by a collective bargaining unit unless such agreement expressly provides, whether specifically or generally, for coverage of the employee under this Plan;

(b) Any employee who is a nonresident alien and receives no earned income from the Adopting Employer from sources within the United States; and

(c) Any employee who is a leased employee as defined in Section 414(n)(2) of the Code.

2.10 **EBC, Inc.** means Educators Benefit Consultants, LLC

2.11 **ERISA** means the Employee Retirement Income Security Act of 1974 and regulations thereunder, as amended from time to time. Plans sponsored by public sector entities are not subject to ERISA.

2.12 **Employer Contribution** means a non-elective contribution made by the Adopting Employer on behalf of each Participant in the Plan. The Employer Contribution is an amount that has not been actually or constructively received by the Participant, and it is made available to the Participant exclusively for reimbursement under the Plan.

2.13 **Entry Date** means the date as of which an Employee becomes a Participant in this Plan as set forth in the Adoption Agreement.

2.14 **ePHI** means PHI maintained or transmitted in electronic media, including, but not limited to, electronic storage media (i.e., hard drives, digital memory medium) and transmission media used to exchange information in electronic storage (i.e., internet, extranet, and other networks). PHI transmitted via facsimile and telephone is not considered to be transmissions via electronic media.

2.15 **HC Account** means "health care account" and is the record keeping account established by the Plan for each Participant.

2.16 **Health Care Expense** means, unless otherwise specifically noted in the Adoption Agreement, an expense incurred by a Covered Individual for medical care to the maximum extent permitted by law, but only to the extent that the Covered Individual incurring the expense is not reimbursed for the expense through another source, including other insurance or other accident or health plan. Notwithstanding the foregoing, if the Adopting Employer sponsors a cafeteria plan, Health Care Expense shall not include premiums that may be paid on a pre-tax basis in accordance with the terms of such cafeteria plan, which may include premiums for major medical coverage provided by the Employer and premiums for coverage under an insurance contract, health maintenance organization agreement, or other benefit agreement providing coverage issued on a non-group, individual basis.

A Health Care Expense shall include medical care as defined in Section 213(d) of the Code as modified to the extent required by law. To the extent Health Care Expense is defined in the Adoption Agreement to include premiums for qualified long-term care insurance, the amount of such premium that will qualify as a Health Care Expense shall be limited to the portion that constitutes "eligible long-term care premiums" as defined in Section 213(d)(10) of the Code.

A Health Care Expense is incurred at the time the medical care or service which gave rise to the expense is furnished.

2.17 **HIPAA** means the Health Insurance Portability and Accountability Act of 1996 and regulations thereunder, as amended from time to time.

2.18 **Health Reimbursement Arrangement ("HRA")** means an employer funded medical reimbursement program within the meaning of IRS Revenue Ruling 2002-41 (June 26, 2002) and IRS Notice 2002-45 (June 26, 2002). The City of Glendale's Retirement Health Savings Plan is an HRA be definition.

2.19 **Highly Compensated Individual** means an individual who is (1) one of the five (5) highest paid officers, (2) a shareholder who owns more than 10 percent in value of the stock of the

employer, or (3) among the highest paid twenty-five percent (25%) of all Employees, except (1) Employees who have not completed 3 years of service, (2) Employees who have not attained age twenty-five (25), (3) part-time or seasonal Employees, (4) Employees not included in the plan who are included under a collective bargaining agreement, and (5) Employees who are nonresident aliens and who receive no earned income from a source within the United States.

2.20 **Managing Body** means the person or persons with authority to make decisions for the Adopting Employer.

2.21 **Participant** means an Employee who has become and not ceased to be a Participant pursuant to Article IV. In addition, Participant includes persons "deemed" to be Participants under specific provision of this Plan.

2.22 **PHI** means health information that:

(a) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse;

(b) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and

(c) either identifies the individual or reasonably could be used to identify the individual.

PHI includes ePHI.

2.23 **Plan** means the Adopting Employer's plan as may be amended from time to time. It consists of a completed Adoption Agreement plus the Basic Plan and Trust Document. The name of the Plan is set forth in the Adoption Agreement.

2.24 **Plan Administrator** means the entity, person or persons responsible for the Plan's administration as determined under Section 7.1.

2.25 **Plan Year** means the twelve (12) month period beginning and ending as indicated in the Adoption Agreement. The initial Plan Year may be a "short" Plan Year beginning and ending as indicated in the Adoption Agreement. The records of the Plan will be kept based upon the Plan Year.

2.26 **Privacy Rules** means the *Standards and Privacy of Individually Identifiable Health Information* at 45 C.F.R. part 160 and part 164 at subparts A and E.

2.27 **Security Incident** means "security incident" as defined in 45 C.F.R. Section 164.304, which generally defines "security incident" to include attempted or successful unauthorized access, use, disclosure, modification, or destruction of ePHI.

2.28 **Security Rules** means the *Security Standards and Implementation Specifications* at 45 CFR Part 160 and Part 164, subpart C.

2.29 **Sponsor** means the Adopting Employer.

2.30 **Spouse** means, unless specifically noted in the Adoption Agreement, an individual who is legally married to a Participant (and who is treated as a spouse under the Code).

2.31 **Trust** means a trust described under Section 115 of the Code for the purpose of accepting and holding Employer Contributions, and limited to other contributions made under the Plan.

2.32 **Trustee** means the individual and/or entity identified in the Adoption Agreement.

2.33 **Trust Custodian** means the entity designated by Trustee to custody funds as outlined in the custodial agreement.

ARTICLE III.
ADOPTING EMPLOYER

3.1 **Adoption of Plan.** An eligible employer may adopt the Plan by resolution duly adopted by its Managing Body, as represented and warranted in the Adoption Agreement, and upon execution of an Adoption Agreement.

3.2 **Cessation of Employer Participation.** An Adopting Employer may cease to be an Adopting Employer in accordance with Article IX.

3.3 **Recordkeeping and Reporting.** An Adopting Employer shall furnish, or arrange for the furnishing, to the Claims Administrator the information with respect to each Covered Individual necessary to enable the Claims Administrator to maintain records sufficient to determine the benefits due to or which may become due and to prepare and provide any reports required by law.

ARTICLE IV.
ELIGIBILITY AND PARTICIPATION OF EMPLOYEES

4.1 **Eligibility Requirements.** Each Employee shall be eligible to participate in this Plan upon meeting the eligibility requirements set forth in the Adoption Agreement.

4.2 **Participant Status.** An Employee who has met the eligibility requirements described in Section 4.1 shall be a Participant as of the Employee's Entry Date.

4.3 **Conditions of Participation.** As a condition of participation and receipt of benefits under this Plan, the Participant agrees to:

(a) Observe all Plan rules and regulations;

(b) Consent to inquiries by the Claims Administrator and Plan Administrator with respect to any provider of services involved in a claim under this Plan;

(c) Submit to the Plan Administrator all reports, bills, and other information required by the Plan or which the Claims Administrator and Plan Administrator may reasonably require; and

(d) Cooperate with all reasonable requests of the Claims Administrator and Plan Administrator that may by necessary for the proper administration of the Plan.

Failure to do so relieves the Plan, Plan Administrator, Claims Administrator and Sponsor of any obligations under this Plan with respect to that Participant and any others claiming entitlement to benefits under this Plan through that Participant.

4.4 **Termination of Contributions.** A Participant shall cease to be eligible to receive contributions under this Plan at midnight of the following dates:

(a) The date of the death of the Participant;

(b) The date of termination of the Participant's employment with the Adopting Employer (does not include termination payments that were agreed upon while actively employed);

(c) The date of the Participant's failure to meet the eligibility requirements of Section 4.1, as may be amended from time to time in accordance with Article X; or

(d) The date of termination of the Plan in accordance with Article X.

Termination of contributions under this Plan shall not prevent a Participant from receiving continuation coverage required by applicable law.

4.5 **Termination of Participation.** A Participant automatically ceases to be a Participant (i.e., access to the HC Account terminates) at midnight of the earliest of the following dates:

(a) The date of the death of the Participant;

(b) The date the balance of the Participant's HC Account reaches zero, if no further contributions will be made to said account under Article X;

(c) The date of the termination of the Participant's employment with the Adopting Employer; or

(d) The date of termination of the Plan in accordance with Article X.

Termination of participation in this Plan shall not prevent a former Participant from receiving continuation coverage required by applicable law.

4.6 **Deemed Participants.** For certain purposes, persons that were not Employees are deemed to be Participants as required by law.

ARTICLE V.
BENEFITS UNDER THE PLAN

5.1 **Health Care ("HC") Account.** The HC Account will be credited with the Employer Contribution. A Participant's HC Account will be decreased from time to time in the amount of payments made to the Participant for Health Care Expenses.

5.2 **Claims for Reimbursement.** Claims for reimbursement under this Plan shall be made by completing a claim form and submitting such form to the Claims Administrator of this Plan. The claim form shall be accompanied by a third party receipt or invoice substantiated the incurred expense. The Claims Administrator is entitled to rely on the information provided on the claim form in processing claims under this Plan. Unless otherwise specifically noted in the Adoption Agreement, a claim must be submitted for payment within 365 days from the date it is incurred. Where circumstances beyond the Participant's control prevent submission within the described time frame, notice of a claim with an explanation of the circumstances may be accepted by the Claims Administrator as a timely filing. Claims shall be determined in accordance with Article VII.

5.3 **Incurred Expenses.** To be reimbursable, the Participant must have incurred a Health Care Expense after his/her Entry Date. An expense is "incurred" when the Participant is provided with the care giving rise to the Health Care Expense, not when the service is billed or paid. Reimbursement shall not be made for future projected expenses.

5.4 **Timing of Reimbursement.** Unless specifically provided otherwise in the Adoption Agreement, a Participant shall be reimbursed at least (a) once per month, or (b) when the total reimbursement for Health Care Expenses first equals or exceeds $50.00.

5.5 **Maximum Reimbursement.** Unless specifically provided otherwise in the Adoption Agreement, the maximum reimbursement a Participant may receive at any time shall be the amount of the Participant's HC Account balance at the time the reimbursement request is processed. Except as limited by the preceding sentence, there is no maximum reimbursement amount a Participant may receive during a Plan Year. The maximum reimbursement requirements apply to the Participant, Spouse, and Dependents on an aggregate basis, not an individual basis. If a Participant's claim is for an amount that is more than the Participant's current HC Account balance, the excess, unreimbursed part of the claim will be carried into the subsequent month(s), to be paid as the balance of the Participant's HC Account becomes adequate. Notwithstanding the foregoing, the excess, unreimbursed portion of a claim will not be carried over into the subsequent month(s) if: (a) the claim has been pending at least eighteen (18) months; or (b) no further contributions will be made to the Participant's HC Account under Article VI.

5.6 **Participant's Death.** In the event a Participant dies having incurred a Health Care Expense which would have been reimbursable out of the Participant's HC Account had the Participant not died and a person or the Participant's estate has paid for or assumed liability for the expense, reimbursement may be made to that person or the estate for that payment or assumption. Participant's Spouse and/or legal Dependent shall have continued access to account for eligible health care expenses as Participants in the Plan until such time as the account balance is $0.00 (zero).

5.7 **Nondiscrimination.** This Plan is intended to be nondiscriminatory and to meet the requirements under applicable sections of the Code. If the Plan Administrator determines before or during any Plan Year, that the Plan may fail to satisfy any nondiscrimination requirement imposed by the Code or any limitation on benefits provided to Highly Compensated Individuals, the Plan Administrator shall take such action as the Plan Administrator deems appropriate, under rules uniformly applicable to similarly situated Participants, to assure compliance with such requirements or limitation. Such action may include recharacterizing the HC Account or HC Accounts as "restricted" to insurance premium reimbursement.

5.8 **HC Account Forfeitures.** Unless specifically provided otherwise in the Adoption Agreement, any amount remaining in a Participant's HC Account shall be forfeited following the later to occur of:

(a) The termination of Participant's participation in the Plan due to death, leaving behind no eligible beneficiaries,

(b) The termination of any continuation coverage provided by the Plan under applicable law, or

(c) The termination of any coverage provided by the Plan in lieu of continuation coverage required by applicable law.

(d) Separation from service of Employer prior to attainment of benefit eligibility or vesting criteria.

The Plan Administrator may use such forfeited amounts to defray the reasonable administrative costs of the Plan or for any other purpose permitted by law. Any amounts remaining after payment of fees will be divided among all existing participants on a per capita basis. However, under no circumstances will the amounts revert to the Adopting Employer.

5.9 **Medical Support Orders.** Notwithstanding any provision of this Plan to the contrary this Plan shall recognize medical child support orders as required under applicable state law. Participants involved in a divorce or child custody matter should be directed to have their legal counsel contact the Claims Administrator.

5.10 **Coordination with Cafeteria Plan.** To the extent the Adopting Employer also sponsors a cafeteria plan within the meaning of Section 125 of the Code, and a Covered Individual incurs expenses eligible for reimbursement under both programs, unless specifically provided otherwise in the Adoption Agreement, the cafeteria plan will pay first. However, the choice cannot be left to the Participant.

5.11 **Further Limitations on Benefits.**

(a) This Plan does not cover expenses incurred for any loss caused by or resulting from injury or disease for which benefits are payable under any worker's compensation law or other employer, union, association or governmental sponsored group insurance plan;

(b) This Plan does not cover expenses incurred for any loss caused by or resulting from injury or disease for which benefits are received by the Participant, the Participant's Spouse or the Participant's Dependent under any health and accident insurance policy or program, whether or not premiums are paid by the Adopting Employer or by the Participant, the Participant's Spouse or the Participant's Dependent child.

(c) Amounts reimbursed under a dependent care assistance program described in Section 129 of the Code shall not be reimbursed under this Plan.

(d) Other limitations, if any, as set forth in the Adoption Agreement.

ARTICLE VI.
CONTRIBUTIONS

6.1 **Employer Contributions.** The Adopting Employer shall make a fixed contribution per Participant as set forth in the Adoption Agreement. The amount of the Employer Contribution, and any restrictions on the use thereof, shall be identified in the Adoption Agreement and communicated to the Participants. The amount of the Employer Contribution may change from year to year as announced by the Adopting Employer prior to the Plan Year start and reflected in the Adoption Agreement. Unless specifically provided otherwise in the Adoption Agreement, the Employer Contribution shall be available for reimbursement as soon as received by the Trustee and placed in the Trust.

6.2 **No Employee Contributions.** Except for contributions required for continuation coverage as described in Section 5.10, no contributions other than Employer Contributions are required nor will they be accepted.

6.3 **Trust.** All contributions shall be held in the Trust.

ARTICLE VII.
CLAIMS DETERMINATIONS AND REVIEW OF DENIED CLAIM

Unless otherwise specifically noted in the Adoption Agreement, the following procedures apply:

7.1 **Initial Claim Determination.**

(a) **Time Frame for Decision.** The decision maker must determine the claim within thirty (30) days of receipt of the claim.

(b) **Extension of Time.** If the decision maker is not able to determine the claim within this time period due to matters beyond its control, the decision maker may take an additional period of up to fifteen (15) days to determine the claim. If this additional time will be needed, the decision maker must notify the claimant or the claimant's Authorized Representative prior to the expiration of the initial thirty (30) day time period for determining the claim. This extension is only available once.

(c) **Notification**: The notification of the need for the extension must include a description of the "matters beyond the Plan's control" that justify the extension and the date by which a decision is expected.

(d) **Incomplete Claims.** There is no special rule if a claim is incomplete. Incomplete claims can be addressed through the extension of time described above. If the reason for the extension is the failure to provide necessary information and the claimant is appropriately notified, the decision maker's period of time to make a decision is "tolled."

(e) **Tolling: The period of time in which the decision maker must determine a claim is suspended from the date upon which notification of the missing necessary information is sent until the date upon which the claimant responds.**

(f) **Notification: For this purpose, notification can be made orally to the claimant or the** health care professional, unless the claimant requests written notice.

The notification will include a time frame in which the necessary information must be provided. Once the necessary information has been provided, the decision maker must decide the claim within the extension described above. If the requested information is not provided within the time specified, the claim may be decided without that information.

7.2 **Decision.**

(a) **Notification of Decision.** Written (or electronic) notification of the decision maker's determination must be provided to the claimant or the claimant's Authorized Representative. Such notification must be provided only where the decision is adverse.

> "**Adverse**" means:
> - A denial, reduction, or termination of, or
> - A failure to provide or make payment (in whole or in part) for a benefit.

(b) **Adverse Decision.** For adverse claim determinations, the notification shall reflect at least the following:

- state the specific reason(s) for determination;
- reference specific Plan provision(s) upon which the determination is based;
- describe additional material or information necessary to complete the claim and why such information is necessary;
- describe Plan procedures and time limits for appeal of the determination, and the right to obtain information about those procedures and the right to sue in federal court; and
- disclose any internal rule, guidelines, protocol or similar criterion relied on in making the adverse determination (or state that such information will be provided free of charge upon request); and
- where the decision involves scientific or clinical judgment, disclose either (1) an explanation of the scientific or clinical judgment applying the terms of the Plan to claimant's medical circumstances, or (2) a statement that such explanation will be provided at no charge upon request.

Notice of the adverse determination may be provided in written or electronic form. Electronic notices will be provided in a form that complies with applicable legal requirements.

(c) **Not Adverse Decision.** For claim determinations that are not adverse, notice will be provided that informs the claimant or the claimant's Authorized Representative the claim has been accepted.

7.3 **Access to Relevant Documents.**

In order (1) to evaluate whether to request review of an adverse determination, and (2) if review if requested, to prepare for such review, the claimant or the claimant's Authorized Representative will have access to all relevant documents.

> **Relevant:** A document, record or other information is "relevant" if it was relied upon in making the determination, or was submitted to the Plan, considered by the Plan, or generated in the course of making the benefit determination without regard to whether it was relied upon.

7.4 Appeal a Denied Claim.

If a claim is denied, in whole or part, the claimant or the claimant's Authorized Representative may request the denied claim be reviewed.

(a) **Requesting Review.** The claimant or the claimant's Authorized Representative has a period of one hundred eighty (180) days to appeal the claim determination. The appeal request must be in writing and should be sent to the address specified in the notification of adverse decision described above.

(b) **Submission & Consideration of Comments.** The claimant or the claimant's Authorized Representative will have the opportunity to submit documents, written comments, or other information in support of the appeal. The review of the adverse benefit determinations will take into account all new information, whether or not presented or available at the initial determination. No deference will be afforded to the initial determination.

(c) **Consultation with Independent Medical Expert.** In the case of a claim denied on the grounds of a medical judgment, a health professional with appropriate training and experience will be consulted. The health care professional who is consulted on appeal will not be the individual who was consulted, if any, during the initial determination or a subordinate of that individual.

> **Disclosure**: If the advice of a medical or vocational expert was obtained by the Plan in connection with the claim denial, the names of each such expert shall be provided, regardless of whether the advice was relied upon.

(d) **Time Frame for Decision.** If claimant or the claimant's Authorized Representative requests a review of a denied claim within the time frame described above, the decision maker shall review of claim and make a determination no later than sixty (60) days from the date the review request was received.

(e) **Decision.** The review of the appeal will be conducted by the Plan Administrator. It will be made by a person different from the person who made the initial determination and such person will not be a subordinate of the original decision maker. The information in the administrative record shall be reviewed. Additional information submitted shall be considered. The decision shall be based upon that information plus the terms of the `Plan and past interpretations of the same and similar Plan provisions. The decision maker may rely upon protocols, guidelines, or other criterion.

(f) **Notification of Decision.** Written (or electronic) notification of the decision maker's determination must be provided to the claimant or the claimant's Authorized Representative. Such notification must be provided whether the decision is adverse or not adverse.

"**Adverse**" means:
- A denial, reduction, or termination of, or
- A failure to provide or make payment (in whole or in part) for a benefit.

(g) **Adverse Decision.** For adverse appeal determinations, the notification shall reflect at least the following:

- state the specific reason(s) for determination;
- reference specific Plan provision(s) upon which the determination is based;
- describe Plan procedures and time limits for appeal of the determination, and the right to obtain information about those procedures and the right to sue in federal court;
- disclose any internal rules, guidelines, protocol or similar criterion relied on in making the adverse determination (or state that such information will be provided free of charge upon request);
- a statement indicating entitlement to receive upon request, and without charge, reasonable access to or copies of all documents, records or other information relevant to the determination; and
- where the decision involves scientific or clinical judgment, disclose either (1) an explanation of the scientific or clinical judgment applying the terms of the Plan to claimant's medical circumstances, or (2) a statement that such explanation will be provided at no charge upon request.

Notice of the adverse determination may be provided in written or electronic form. Electronic notices will be provided in a form that complies with applicable legal requirements.

(h) **Not Adverse Decision.** For appeal determinations that are not adverse, notice will be provided that informs the claimant or the claimant's Authorized Representative the decision has been reversed, and the claim accepted.

ARTICLE VIII.
HIPAA PRIVACY AND SECURITY PROVISIONS

The Privacy Rules and Security Rules under HIPAA apply to this Plan. For purposes of this Section, "Plan Sponsor" refers to the Adopting Employer as the Plan Sponsor and as the entity capable of acting on behalf of the covered entity, the Plan.

8.1 **Use and Disclosure of PHI.** The Plan will use PHI to the extent of and in accordance with the uses and disclosures permitted by HIPAA. Specifically, the Plan will use and disclose PHI for purposes related to health care treatment, payment for health care and health care operations. The Plan will also use and disclose PHI as permitted by authorization of the subject of PHI.

(a) **Payment** includes activities undertaken by the Plan to obtain premiums or determine or fulfill its responsibility for coverage and provision of Plan benefits that relate to an individual to whom health care is provided. These activities include, but are not limited to, the following:

(1) Determination of eligibility, coverage and cost sharing amounts (for example, cost of a benefit, plan maximums and co-payments as determined for an individual's claim);

(2) Coordination of benefits;

(3) Adjudication of health benefits claims (including appeals and other payment disputes);

(4) Subrogation of health benefit claims;

(5) Establishing employee contributions;

(6) Risk adjusting amounts due based on enrollee health status and demographic characteristics;

(7) Billing, collection activities and related health care data processing;

(8) Claims management and related health care data processing, including auditing payments, investigating and resolving payment disputes and responding to participant inquiries about payments;

(9) Obtaining payment under a contract for reinsurance (including stop-loss and excess of loss insurance);

(10) Medical necessity reviews or reviews of appropriateness of care or justification of charges;

(11) Utilization review, including pre-certification, preauthorization, concurrent review and retrospective review;

(12) Disclosure to consumer reporting agencies related to the collection of premiums or reimbursement (the following PHI may be disclosed for payment purposes: name and address, date of birth, Social Security number, payment history, account number and name and address of provider and/or health Plan; and

(13) Reimbursement to the Plan.

(b) **Health care operations** include, but are not limited to, the following activities:

(1) Quality assessment;

(2) Population-based activities relating to improving health or reduction health care costs, protocol development, case management and care coordination, disease management, contacting health care providers and patients with information about treatment alternatives and related functions;

(3) Rating provider and Plan performance, including accreditation, certification, licensing or credentialing activities;

(4) Underwriting, premium rating and other activities relating to the creation , renewal or replacement of a contract of health insurance or health benefits, and ceding, securing or placing a contract for reinsurance of risk relating to health care claims (including stop-loss insurance and excess of loss insurance);

(5) Conducting or arranging for medical review, legal services and auditing function, including fraud and abuse detection and compliance programs;

(6) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the Plan, including formulary development and administration, development or improvement of payment methods or coverage policies;

(7) Business management and general administration activities of the Plan, including, but not limited to:

a. Management activities relating to the implementation of and compliance with HIPAA's administrative simplification requirements;

b. Customer service, including data analyses for policyholders;

(8) Resolution of internal grievances;

(9) Due diligence in connection with the sale or transfer of assets to a potential successor in interest, if the potential successor in interest is a covered entity under HIPAA or following completion of the sale or transfer, will become a covered entity.

8.2 **Plan Sponsor's Obligations under Privacy Rule.** Under HIPAA, The Plan may not disclose PHI to the Plan Sponsor (as defined in the Privacy Rules under HIPAA) unless the Plan Sponsor agrees to certain conditions. As the Plan Sponsor, the Adopting Employer agrees to the following conditions, thereby allowing the Plan to disclose PHI to the Adopting Employer. The Adopting Employer will:

(a) Not use or further disclose PHI other than as permitted or required by the Plan document or as required by law;

(b) Ensure that any agents, including a subcontractor, to whom the Plan provides PHI received from the Plan agree to the same restrictions and conditions that apply to the Plan Sponsor with respect to such PHI;

(c) Not use or disclose PHI for employment related actions and decision unless authorized by an individual;

(d) Not use or disclose PHI in connection with any other benefit or employee benefit plan of the Plan Sponsor unless authorized by an individual;

(e) Report to the Plan any PHI use or disclosure, that is inconsistent with the uses or disclosures provided for, of which it becomes aware;

(f) Make available to an individual for inspection and copying PHI about the individual as allowed by and in accordance with HIPAA;

(g) Make PHI available for amendment and incorporate any amendments to PHI in accordance with HIPAA;

(h) Make available the information required to provide an accounting of disclosures;

(i) Make internal practices, books and records relating to the use and disclosure of PHI received from Plan available to the HHS Secretary for the purposes of determining the Plan's compliance with HIPAA; and,

(j) If feasible, return or destroy all PHI received for the Plan that the Plan Sponsor still maintains in any form, and retain no copies of such PHI when no longer needed for the purpose for which disclosure was made (or if return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction infeasible).

8.3 **Plan Sponsor's Obligations under Security Rules.** If the Plan Sponsor creates, receives, maintains, or transmits ePHI, the Plan Sponsor will:

(a) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI;

(b) Ensure that any agents, including subcontractors, to whom the Plan Sponsor provides ePHI or to whom ePHI is provided on behalf of Plan Sponsor implement reasonable and appropriate security measures to protect the ePHI;

(c) Report to the Plan any Security Incident of which it becomes aware; and

(d) Implement reasonable and appropriate security measures to ensure that only those persons identified in Section 8.4 have access to ePHI and that such access is limited to the purposes identified in Section 8.5.

8.4 **Adequate separation between the Plan and the Plan Sponsor must be maintained.** In accordance with HIPAA, only the following employees or classes of employees may be given access to PHI:

(1) The benefit manager; and,

(2) Staff designated by the benefits manager.

The Plan Sponsor shall identify, by name, these persons in writing to the Claims Administrator.

8.5 **Limitation of PHI Access and Disclosure.** The persons described in Section 8.4 above may only have access to and use and disclose PHI for Plan administration functions that the Plan Sponsor performs for the Plan.

8.6 **Noncompliance Issues.** If the person described in Section 8.4 above does not comply with this Plan document, the Plan Sponsor shall provide a mechanism for resolving issues of noncompliance, including, but not limited to, disciplinary sanctions.

ARTICLE IX.
PLAN ADMINISTRATION

9.1 **Plan Administrator.**

(a) The Plan Administrator shall be responsible for the general supervision of the Plan and therefore shall have authority to control and manage the operation and administration of the Plan. The Plan Administrator shall perform any and all acts necessary or appropriate for the proper management and administration of the Plan.

(b) The Adopting Employer shall be the Plan Administrator unless its Managing Body designates a person or persons other than the Adopting Employer to be the Plan Administrator. The Adopting Employer shall also be the Plan Administrator if the person or persons so designated cease to be the Plan Administrator.

(c) The Plan Administrator may designate an individual or entity to act on its behalf with respect to certain powers, duties, and/or responsibilities regarding the operation and administration of this Plan. Unless reflected in the Adoption Agreement otherwise, EBC, Inc. is the Claims Administrator.

9.2 **Agent for Service of Legal Process.** The agent for service of legal process for the Plan is the Plan Administrator.

9.3 **Allocation of Responsibility for Administration.** The Plan Administrator shall have the sole responsibility for the administration of this Plan as is specifically described in this Plan. The designated representatives of the Plan Administrator shall have only those specific powers, duties, responsibilities, and obligations as are specifically given to them under this Plan. The Plan Administrator warrants that any directions given, information furnished, or action taken by it shall be in accordance with the provisions of the Plan authorizing or providing for such direction, information or action. It is intended under this Plan that the Plan Administrator shall be responsible for the proper exercise of its own powers, duties, responsibilities, and obligations under this Plan and shall not be responsible for any act or failure to act of another Employee of the Adopting Employer. Neither the Plan Administrator (including any designee), nor the Adopting Employer makes any guarantee to any Participant in any manner for any loss or other event because of the Participant's participation in this Plan.

9.4 **Rules and Decisions.** Except as otherwise specifically provided in the Plan, the Plan Administrator may adopt such rules and procedures as it deems necessary, desirable, or appropriate. All rules and decisions of the Plan Administrator shall be uniformly and consistently applied to all Participants in similar circumstances. When making a determination or calculation, the Plan Administrator shall be entitled to rely upon information furnished by a Participant, the Adopting Employer, or legal counsel, or other entity acting on behalf of the Adopting Employer or Plan Administrator.

9.5 **Records and Reports.** The Plan Administrator shall be responsible for complying with all reporting, filing and disclosure requirements for the Plan.

9.6 **Authorization of Benefit Payments.** The Plan Administrator (or the Claims Administrator as its designee) shall issue directions to the Trustee concerning all benefits which are to be paid from the Trust, pursuant to the provisions of the Plan, and warrants that all such directions are in accordance with the Plan.

9.7 **Compensation and Expenses.** The Claims Administrator shall be entitled to reasonable fees for its services hereunder. Unless specifically provided otherwise in the Adoption Agreement, such fees and any expenses incurred by the Claims Administrator in connection with the Plan (including expenses and fees of persons hired or employed by them) shall be charged to the Plan and paid from the Trust. Also, unless specifically provided otherwise in the Adoption Agreement, the Trust shall be the sole source of payment to the Claims Administrator.

9.8 **Other Powers and Duties of the Administrator.** The Plan Administrator shall also have such other duties and powers as may be necessary to discharge its duties under the Plan including but not limited to the following:

(a) Discretion to construe and interpret the Plan in a non-discriminatory manner, to decide all questions of eligibility and to determine all questions arising in the administration and application of the Plan;

(b) To receive from the Adopting Employer and from Participants such information as shall be necessary for the proper administration of the Plan;

(c) To furnish the Adopting Employer, upon request, such annual reports with respect to the administration of the Plan as are reasonable and appropriate; and

(d) To appoint individuals to assist in the administration of the Plan and any other agents the Plan Administrator deems advisable including legal and actuarial counsel. The Plan Administrator shall not have the power to add to, subtract from, or modify any of the terms of the Plan, to change or add to any benefits provided by the Plan, or to waive or fail to apply any requirements of eligibility for a benefit under this Plan.

ARTICLE X.
PLAN AMENDMENT AND TERMINATION

10.1 **Plan Amendment by Adopting Employer.** The Adopting Employer reserves the right to amend, alter, or wholly revise this Basic Plan and Trust Document or the Adoption Agreement, prospectively or retrospectively, at any time by the action of its Managing Body, and the interest of each Participant is subject to the powers so reserved. The Adopting Employer expressly may amend, alter or wholly revise this Basic Plan and Trust Document or the Adoption Agreement if it determines it necessary or desirable, with or without retroactive effect, to comply with the law. Such changes shall not affect any right to benefits that accrued prior to such amendments. Such amendment shall be made in writing and shall be delivered promptly to the Claims Administrator, Plan Administrator, Trust Custodian and Trustee.

Notwithstanding the above, no amendment may be made that would increase substantially the duties or liabilities of the Trustee without its written consent or that would divert any part of the Trust assets to any use or purpose other than for the exclusive benefit of the Participants and other individuals entitled to benefits under the Plan; provided, however, that any such amendment may be made that may be or become necessary in order that the Trust qualifies under the provisions of Section 115 of the Code, as amended, or in order that all provisions of the Trust will conform to all valid requirements of applicable federal and state laws.

10.2 **Adopting Employer's Right to Terminate Plan.** Although the Adopting Employer expects the Plan and Trust to be maintained for an indefinite time, the Adopting Employer reserves the right to terminate the Plan and/or or any portion thereof at any time. In the event of the dissolution, merger, consolidation, or reorganization of the Adopting Employer, the Plan shall terminate unless the Plan is continued by a successor to the Adopting Employer in accordance with the resolution of such successor's Managing Body. Such termination shall not affect any right to benefits that accrued prior to such termination. Such action shall be made in writing and shall be delivered promptly to the Claims Administrator, Plan Administrator, and Trustee.

ARTICLE XI.
THE TRUST

11.1 **Trust.** All assets of each Plan maintained by the Adopting Employer shall be held in the Trust by the Trustee. The Trust is intended to qualify as an Integral Part Trust under Section 115 of the Code.

11.2 **Source of the Trust Funds.** The Trustee shall hold all contributions received by it in trust and administer the Trust in accordance with this Plan.

11.3 **Payments from Trust.** The Trust Custodian will, within a reasonable length of time after receipt of written notice from the Plan Administrator (or its designee such as the Claims Administrator under the Plan), make distributions. Such payments may be made directly to such person or persons, natural or otherwise, at such time and in such amounts as the Plan Administrator (or its designee such as the Claims Administrator under the Plan) directs, and the Trust Custodian will have no duty to question the propriety of any such direction.

11.4 **Erroneous Contributions.** Notwithstanding any other provision herein to the contrary:

(a) If a contribution is made by the Adopting Employer by mistake of fact or law, such contribution may be returned to the Adopting Employer within one year of date on which such contribution was made. The amount that may be returned shall be the lesser of: (1) the amount of the contribution, or (2) the amount of the contribution minus any investment losses allocable to the contribution.

(b) If a contribution is made by the Adopting Employer upon a condition related to the status of the contribution under applicable law, such contribution may be returned to the Adopting Employer or transferred to another employee benefit plan to be used for the benefit of the Participants. Such contributions shall be returned or transferred within one year of a determination that the condition has not been satisfied. The amount that may be returned to the Adopting Employer shall be the lesser of: (1) the amount of the contribution, or (2) the amount of the contribution minus any investment losses allocable to the contribution. The amount that may be transferred to another plan shall be the greater of: (1) the amount of the contribution, or (2) the amount of the contribution plus any earnings or investment return allocable to such amount.

The Trust Custodian shall return or transfer contributions under this Section 11.4 only in accordance with instructions from the Plan Administrator, and the Trustee shall have no duty to determine whether the return of such contributions is permitted under this Section 11.4 and the Plan.

11.5 **Transfer of Assets.** If directed by the Adopting Employer, upon termination of the Trust, the Trust Custodian shall transfer all of the Trust's assets to another Section 115 trust or any other funding vehicle. The Trust Custodian shall be entitled to rely upon the representations of the Adopting Employer that the recipient trust is qualified to accept the transfer. To the extent the transfer adversely affects this Trust or the recipient trust, the Adopting Employer shall indemnify and hold harmless this Trust Custodian, the Claims Administrator, and all others so negatively impacted.

ARTICLE XII.
DUTIES AND POWERS OF TRUSTEE

12.1 **General Responsibility.** (If elected in the Adoption Agreement that the Trustee shall be a directed Trustee, then the Trustee's discretionary duties hereunder shall be exercised by the Plan Administrator). The general responsibilities of the Trustee shall be as follows:

(a) Except as expressly provided otherwise herein, the Trustee shall have exclusive authority and discretion to manage and control the assets of the Plan held in the Trust.

(b) The Trustee shall hold, administer, invest and reinvest, and disburse the Trust assets in accordance with the powers and subject to the restrictions stated herein. (Or if elected in the Adoption Agreement: The duties of the Trustee hereunder are as a directed trustee and the Trustee shall act solely in accordance with the instructions of the Plan Administrator. Nothing in this Agreement is intended to give the Trustee any discretionary responsibility, authority or control with respect to the management or administration of the Plan or the management of the assets of the Plan. Further, the Trustee is not a party to the Plan and has no duties or responsibilities other than those that may be expressly contained in this Agreement and applicable law. In any case in which a provision of this Agreement conflicts with any provision in the Plan, this Agreement shall control.)

(c) The Trustee shall disburse monies and other properties from the Trust on direction of the Plan Administrator (the Claims Administrator or its designee under the Plan), pursuant to the provisions of the Plan to the payee or payees at the time or times specified by the Plan Administrator in directions to the Trustee. Such directions shall be in writing and shall be signed by the person or persons thereto authorized by the Plan Administrator. Except as otherwise provided under applicable law, the Trustee shall be under no liability for any distribution made by it pursuant to such directions and shall be under no duty to make inquiry as to whether any distribution made by it pursuant to any such direction is made pursuant to the provisions of the Plan. The receipt of the payee shall constitute a full acquittance to the Trustee.

12.2 **Exercise of Trustee's Duties.** The Trustee shall discharge its duties hereunder solely in the best interest of the Participants and other persons entitled to benefits under the Plan, and (a) for the exclusive purpose of (1) providing benefits to Participants and other persons entitled to benefits under the Plan; and (2) defraying reasonable expenses of administering the Trust and the Plan; and (b) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a fiduciary capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

12.3 **General Powers.** With respect to the Trust assets and subject only to the limitations expressly provided in this Basic Plan and Trust Document, the Trustee shall have the following powers, rights and duties in addition to those vested in them elsewhere in this Basic Plan and Trust Document or by law:

(a) To receive and hold all contributions paid to it; provided, however, that the Trustee shall have no duty to require any contributions to be paid to it, or to determine that the contributions received by it comply with the Plan or with any resolution of the governing body of the Plan Administrator or any resolution of the governing body of any Adopting

Employer; and, further provided that the Trustee shall have no responsibility with respect to the operation or administration of the Plan;

(b) To manage, operate, sell, contract to sell, grant options with respect to, convey, exchange, partition, transfer, abandon, improve, repair, insure, lease for any term (although commencing in the future or extending beyond the term of this Basic Plan and Trust Document) and otherwise deal with all property, real or personal, in such manner, for such considerations, and on such terms and conditions as the Trustee shall decide;

(c) To retain in cash (pending investment, reinvestment or payment of benefits) any reasonable portion of the Trust assets and to deposit cash in any depository selected by it, provided such deposits bear a reasonable rate of interest;

(d) To compromise, contest, arbitrate, settle or abandon claims and demands (exclusive of claims and demands arising under the Plan);

(e) To begin, maintain or defend any litigation necessary in connection with the investment, reinvestment or administration of the Trust;

(f) To have all rights of an individual owner, including the power to give proxies, to vote stocks, to join in or oppose (alone or jointly with others) voting trusts, mergers, consolidations, foreclosures, reorganizations, recapitalizations or liquidations, and to exercise or sell stock subscription or conversion rights;

(g) To hold securities or other property in the name of the Trustee or its nominee, or nominees, or in such other form as it determines best, with or without disclosing the trust relationship, provided the records of the Trustee shall indicate the actual ownership of such securities or other property;

(h) To retain any funds or property subject to any dispute without liability for the payment of interest, and to decline to make payment or delivery thereof until final adjudication is made by a court of competent jurisdiction;

(i) To pay any tax, charge or assessment attributable to any benefit which, in the Trustee's opinion, it shall or may be required to pay out of such benefit; and to require before making any payment such release or other document from any taxing authority and such indemnity from the intended payee as the Trustee shall deem necessary for its protection;

(j) To employ agents, attorneys, investment counsel, accountants or other persons (who also may be employed by or represent the Plan Administrator and/or an Employer) for such purposes as the Trustee considers desirable and appropriate;

(k) To furnish the Plan Administrator or the Adopting Employer with such information in the Trustee's possession as those entities may need for tax or other purposes; and

(l) To perform any and all other acts in the judgment of the Trustee necessary or appropriate for the proper and advantageous management, investment and distribution of the Trust assets.

12.4 **Investments.** Except as otherwise expressly provided herein and subject to Section 12.6, the Trustee shall have exclusive authority and discretion to invest and reinvest the principal and income of the Trust in real or personal property of any kind and shall do so with the care, skill,

prudence, and diligence under the circumstances then prevailing that a prudent man acting in a fiduciary capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Trustee shall diversify the investments of the Trust so as to minimize the risk of large losses, unless under the circumstances they are clearly prudent not to do so. No investment shall be made which would involve a prohibited transaction under the applicable law. The Trustee shall comply wit any applicable laws of any state proscribing or limiting the investment of trust funds by corporate or individual Trustees in or to certain kinds, types, or classes of investments or limiting the value or proportion of the trust assets that may be invested in any one property or kind, type, or class of investment. Investments and reinvestments shall be subject to the above standard, and without limiting the generality of the foregoing, shall also be subject to the following:

(a) Investments shall be as consistent as reasonably possible with any funding policy communicated to the Trustee in writing by the Plan Administrator. The Trustee may rely on the most recent such communication received by it without further inquiry or verification.

(b) The Trustee may invest and reinvest principal and income of the Trust savings accounts or savings certificates, short term investments (including commingled short term investment funds) in common, preferred, and other stocks of any corporation; voting trust certificates; interests in investment trusts, including, without limiting the generality thereof, participations issued by an investment company as defined in the Investment Company Act of 1940, as from time to time amended; bonds, notes, and debentures, secured or unsecured; mortgages on real or personal property; conditional sales contracts; and real estate and leases; provided that no investment shall be made in the real property or the stocks, bonds, notes or other obligations of an Adopting Employer or any of its subsidiaries unless there shall first have been obtained an opinion of counsel for the Adopting Employer, or a ruling from the Internal Revenue Service that such investment will not jeopardize the tax exempt status of the Trust under Section 115 of the Code, as the same may be amended from time to time, to be terminated.

(c) The Trustee may invest and reinvest the principal and income of the Trust through any common or collective trust fund or pooled investment fund maintained by the Trustee for the collective investment of funds held by it in a fiduciary capacity. The provisions of the document governing any such common or collective trust fund as it may be amended from time to time shall govern any investment therein and are hereby made a part of this Basic Plan and Trust Document.

12.5 **Compensation and Expenses.** The Trustee shall be entitled to reasonable fees for its services hereunder. Unless specifically provided otherwise in the Adoption Agreement, such fees and any expenses incurred by the Trustee in connection with the Trust held hereunder (including expenses and fees of persons employed by them) shall be charged to the Trust. Also, unless specifically provided otherwise in the Adoption Agreement, the Trust shall be the sole source of payment to the Trustee.

12.6 **Directed Investments.** If indicated in the Adoption Agreement, Participants shall be responsible for directing the investment of their HC Account balances. The following requirements apply to directed investments:

(a) The Trustee shall select the list of available investments taking into consideration the characteristics of the Plan and persons covered under the Plan.

(b) The Trustee shall establish direction procedures based upon the types of investments available. Such procedures shall include instructions regarding making and changing investments and allocations of HC Account assets among investments.

(c) The earnings/losses of the directed investments are allocated only to that particular Participant's HC Account.

12.7 **Investment in Mutual Fund Sponsored by the Trustee.** To the extent the Trustee is authorized to exercise investment discretion pursuant to this Basic Plan and Trust Document, the Trustee is authorized to invest in shares of beneficial interest in one or more investment portfolios (the "Portfolios"), each of which is or shall be established and organized as a diversified company under the Investment Company Act of 1940 and with respect to which the Trustee or affiliates of the Trustee act as custodian or investment advisor. The Plan Administrator represents that it has received (a) a prospectus describing each of the available Portfolios, (b) full and written disclosure of investment advisory and any other fees payable by the Plan Administrator by the Trust and by the Portfolios, and (c) a statement as to the reasons why the Trustee considers purchases of shares of beneficial interest in one or more Portfolios to be appropriate for the Trust. Subject to the limitation of the following sentence, the Plan Administrator hereby approves the Trustee's purchase and sale, in its sole discretion, of shares of beneficial interest in one or more of the Portfolios on behalf of the Trust. This approval is limited to the advisory and other fees paid by the Portfolio in relation to the fees charged to or paid by the Trust and does not relate to any other aspect of the investment of the assets of the Trust in the Portfolios. The Trustee acknowledges that it must notify the Plan Administrator of any change in the rates of these charges with respect to the assets of the Trust invested in the Portfolios.

12.8 **Records and Accounts of the Trustee.** The Trustee shall maintain accurate and detailed records and accounts of all transactions hereunder. Within thirty (30) days following the close of each calendar quarter, or following the close of such other reporting period as may be agreed upon by the Trustee and the Plan Administrator, the Trustee shall file with the Plan Administrator a written account setting forth the balance in the Trust at the beginning of the period, current contributions during the period, distributions from the Trust and the balance in the Trust assets at the end of the period. The Trustee shall also file a written account listing the property held in the Trust as of the close of each period. All such records and accounts shall be open to inspection at all reasonable times by any person designated by the Plan Administrator or Adopting Employer.

12.9 **Annual Report.** As soon as practicable following the close of each fiscal year of the Trust and following the effective date of the removal or resignation of any Trustee, the Trustee shall file with the Plan Administrator a written report (unless the report is waived by the Plan Administrator) setting forth all transactions with respect to the Trust during such fiscal year or during the period from the close of the last fiscal year to the date of such removal or resignation and listing the assets of the Trust and the market value thereof as of the close of the period covered by such report.

12.10 **Approval of Reports.** Upon the receipt by the Trustee of the Plan Administrator's written approval of any such written account or report, or upon the lapse of ninety (90) days after the Plan Administrator's receipt of each written account or report, said written account or report shall be deemed to be approved by it except as to matters, if any, covered by written objections theretofore delivered to the Trustee by the Plan Administrator regarding which the Trustee has not given an explanation or made adjustments satisfactory to it. The Trustee, to the extent

permitted by law, shall be released and discharged as to all items, matters, and things set forth in such written account or report other than the matters covered in such written objections as provided herein. The Trustee, nevertheless, shall have the right to have its accounts approved by judicial proceedings if they so elect, in which event the Trustee and the Plan Administrator shall be the only necessary parties. Further, in the event that the Plan Administrator duly delivers to the Trustee written objections to any matters set forth in any such written account or report and said objections are not explained or adjusted to the satisfaction of the Plan Administrator, each shall likewise have the right to have the Trustee's accounts reviewed by judicial proceedings if they so elect, in which event the Trustee and the Plan Administrator shall be the only necessary parties.

12.11 **Decisions of Trustee.** If there should be more than one Trustee, in case of disagreement among the Trustees, the decision of a majority of them shall determine the issue and the act of a majority of them shall be the act of the Trustees.

ARTICLE XIII.
CHANGES IN TRUSTEE

13.1 **Resignation.** A Trustee may resign at any time by giving thirty (30) days advance written notice to the Plan Administrator.

13.2 **Removal and Appointment of Successor Trustee.** The Plan Administrator may remove a Trustee by giving thirty (30) days advance written notice to the Trustee, subject to providing the removed Trustee with a copy of the successor Trustee's acceptance of the trusteeship. The Plan Administrator shall appoint a successor Trustee. If no successor is appointed, or for any period during which there is no appointed Trustee, the Plan Administrator shall serve as the Trustee.

13.3 **Duties of Resigning or Removed Trustee and of Successor Trustee.** If the Trustee resigns or is removed, that Trustee shall promptly transfer and deliver the assets of the Trust to the successor Trustee, after reserving such reasonable amount as the Trustee shall deem necessary to provide for the Trustee's fees, expenses, and any sums chargeable against the Trust for which the Trustee may be liable. Within one hundred twenty (120) days, the resigned or removed Trustee shall furnish to the Plan Administrator and the successor Trustee an account of the administration of the Trust from the date of its last account (unless the account is waived by the Plan Administrator). Each successor Trustee shall succeed to the title to the Trust vested in the Trustee's predecessor without the signing or filing of any further instrument, but any resigning or removed Trustee shall execute all documents and do all acts necessary to vest title to any successor Trustee. Each successor shall have all the powers, rights and duties conferred by this Trust Agreement as if originally named Trustee. No successor Trustee shall be personally liable for any act or failure to act of a predecessor Trustee.

13.4 **Waiver of Written Notice.** Any written notice requirement required under this Article XII may be waived by mutual agreement of the Trustee and the Plan Administrator.

ARTICLE XIV.
GENERAL PROVISIONS

14.1 **No Reversion to the Plan Administrator or Adopting Employer.** No part of the corpus or income of the Trust shall revert to an Adopting Employer unless otherwise noticed in the Adoption Agreement. No part of the corpus or income of the Trust shall be used for or diverted to, purposes other than the exclusive benefit of Participants and other persons entitled to benefits under the Plan. Should the Trust terminate, any assets remaining shall be used for a purpose consistent with the Plan and as permitted by law.

14.2 **Persons Dealing with the Trust.** No person dealing with the Trust shall be required to see to the application of any money paid or property delivered to the Trustee, or to determine whether or not the Trust is acting pursuant to any authority granted to them under the Basic Plan and Trust Document.

14.3 **Non-Alienation of Benefits.** Benefits payable under this Plan shall not be subject to anticipation, alienation, sale, transfer, execution, or levy of any kind either voluntary or involuntary, including any such liability which is for alimony or other payments for the support of a spouse or former spouse, or for any other relative of the Participant, prior to actually being received by the person entitled to the benefit under the terms of the Plan, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to benefits payable under the Plan shall be void. The Trustee, Adopting Employer, Plan Administrator and/or Claims Administrator shall not in any manner be made liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to benefits under the Plan.

14.4 **Action by Employer.** Whenever the Adopting Employer, under the terms of this Plan, is permitted or required to do or perform any act or matter or thing, it shall be done and performed by the Managing Body of the Adopting Employer or such representatives of the Adopting Employer as the Managing Body may designate.

14.5 **Indemnification of the Trustees.** Unless prohibited or specifically required otherwise by applicable law, the Adopting Employer hereby agrees to indemnify the Trustee for and to hold it harmless against any and all liabilities, losses, costs or expenses (including legal fees and expenses) of whatsoever kind and nature which may be imposed on, incurred by or asserted against the Trustee at any time by reason of the Trustee's service under this Basic Plan and Trust Document provided that the Trustee did not act dishonestly or in willful or negligent violation of the law or any applicable regulation under which such liability, loss, cost or expense arose.

14.6 **No Guarantee of Tax Consequences.** Notwithstanding any provision in this Plan to the contrary, this Plan makes no commitment or guarantee that any amounts paid to or on behalf of a Participant under this Plan will be excludable from the Participant's gross income for federal or state income tax purposes. It shall be the obligation of each Participant to determine whether each payment is excludable from the Participant's gross income for federal and state income tax purposes, and to notify the Plan Administrator if the Participant has reason to believe that any such payment is not so excludable.

14.7 **Governing Law.** Unless otherwise specified in the Adoption Agreement, this Plan shall be construed and enforced according to the laws of Arizona except to the extent preempted by federal law.

14.8 **Family and Medical Leave Act of 1993 ("FMLA").** Notwithstanding any provision of this Plan to the contrary, this Plan shall be operated and maintained in a manner consistent with FMLA, to the extent the Adopting Employer is subject to such law.

14.9 **Newborns' and Mothers' Health Protection Act ("NMHPA").** Notwithstanding any provision of this Plan to the contrary, this Plan shall be operated and maintained in a manner consistent with NMHPA. Federal law requires the following statement be included in the Plan document, verbatim:

Under federal law, group health plans and health insurance issuers offering group health insurance generally may not restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child to less than 48 hours following a vaginal delivery, or less than 96 hours following a cesarean section. However, the plan or issuer may pay for a shorter stay if the attending physician (e.g., your physician, nurse, or midwife, or a physician assistant), after consultation with the mother, discharges the mother or newborn earlier. Also, under federal law, plans and issuers may not set the level of benefits or out-of-pocket costs so that any later portion of the 48-hour (or 96-hour) stay is treated in a manner less favorable to the mother or newborn than any earlier portion of the stay. In addition, a plan or issuer may not, under federal law, require that a physician or other health care provider obtain authorization for prescribing a length of stay of up 48 hours (or 96 hours). However, to use certain providers or facilities, or to reduce your out-of-pocket costs, you may be required to obtain precertification. For information on pre-certification, contact your Plan Administrator.

14.10 **Women's Health and Cancer Rights Act of 1998 ("WHCRA").** Notwithstanding any provision of this Plan to the contrary, this Plan shall be operated and maintained in a manner consistent with WHCRA.

14.11 **Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA").** Notwithstanding any provision of this Plan to the contrary, this Plan shall be operated and maintained in a manner consistent with USERRA, and the Plan Administrator shall, within the parameters of the law, establish uniform policies by which to provide such continuation coverage required by USERRA.

14.12 **Plan Not a Contract of Employment.** The Plan is not an employment agreement and does not assure the continued employment of any Employee or Participant for any period of time. Nothing contained in the Plan shall interfere with the Adopting Employer's right to discharge an Employee or Participant at any time, regardless of the effect such discharge may have upon the individual as a Participant in this Plan.

14.13 **Medicare Secondary Payer.** The Plan shall comply with the Medicare secondary payer rules found in 42 U.S.C. § 1395y. The Plan shall pay benefits primary to Medicare if: (a) the Participant is employed by the Adopting Employer and is actually covered by Medicare by reason of obtaining the age of 65; (b) at the time the claim is made the Adopting Employer employs 100 or more employees, the Participant is employed by the Adopting Employer, and the Participant is actually covered by Medicare by reason of disability; and (c) the Participant is entitled to Medicare by reason of end stage renal disease and the claim is made during the twelve (12) month period beginning in the first month in which such Participant is entitled to benefits under Medicare (regardless of whether he/she applies for such benefits). In all other cases, the Plan shall pay benefits secondary to Medicare.

14.14 **Medicare Part D.** The Plan shall cooperate with Medicare Part D prescription drug plans (and Covered Individuals who are enrolled in such plans) with respect to coordination of benefits between he Plan and the Medicare Part D plan, including the provision of information to the

Medicare Part D plan (or the Covered Individuals) regarding the benefits provided under the Plan for costs covered by the Medicare Part D plan. Covered Individuals enrolled in Medicare Part D plans shall cooperate with the Plan so that the Plan may perform its obligations under this subsection.

14.15 **Certificates of Creditable Coverage.** When coverage terminates, or upon request by a Covered Individual during coverage or within two (2) years of termination of coverage under this Plan, Covered Individuals will be provided with a certification of creditable coverage by the Plan Administrator (or its designee). A request for a certification of creditable coverage should be directed to the Plan Administrator. Upon request, the Plan Administrator (or its designee) will issue the certification of creditable coverage as soon as reasonably possible.

ARTICLE XV.
CONTINUATION COVERAGE

Note: Adopting Employers with less than twenty (20) Employees are not subject to COBRA.

15.1 Generally. The Plan is a group health plan that, unless the Adopting Employer is not subject to COBRA, is subject to the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), as amended. If COBRA is applicable, COBRA procedures shall be established and followed consistent with applicable law

15.2 Notification Procedures. The Plan requires the notifications described below with respect to continuation coverage under COBRA:

(a) **Notice of qualifying event.** Under the law, a Covered Individual (or a representative acting on behalf of the Covered Individual) has the responsibility to inform the Plan of a divorce, legal separation, or a child losing dependent status under the Plan (the "qualifying event") within sixty (60) days of the latest of: (i) the date of the qualifying event; (ii) the date coverage would be lost because of the qualifying event; or (iii) the date on which the Covered Individual was informed of the responsibility to provide notice and the procedures for doing so. The notification must be provided in writing and be mailed to the Plan. Oral notification, including notification by telephone is not acceptable. Electronic (including emailed or faxed) or hand-delivered notifications are not acceptable. The notification must be postmarked no later than the last day of the sixty (60) day notice period described above. The notification must:

(1) state the name of the Plan;

(2) state the name and address of the employee or former employee who is or was covered under the Plan;

(3) state the name(s) and address(es) of all Covered Individuals who lost coverage due to the qualifying event;

(4) include a detailed description of the event;

(5) identify the effective date of the event; and

(6) be accompanied by any documentation providing proof of the event (i.e., the divorce decree).

If no notification is received within the required time period, no continuation coverage will be provided. If the notification is incomplete, it will be deemed timely if the Plan is able to determine the plan to which it applies, the identity of the employee and the Covered Individuals, the qualifying event, and the date on which the qualifying event occurred, provided that the missing information is provided within thirty (30) days. If the missing information is not provided within that time, the notification will be ineffective and no continuation coverage will be provided.

(b) **Notice of second qualifying event.** A Covered Individual (or a representative acting on behalf of the Covered Individual) must notify the Plan of the death of the employee, divorce or separation from the employee, or a dependent child's ceasing to be eligible for coverage as a dependent under the Plan, if that event occurs within the eighteen (18) month continuation period (or an extension of that period for disability or for pre-termination Medicare entitlement). The notification must be provided within sixty (60) days after such a second qualifying event occurs in order to be entitled to an extension of the continuation period. The notification must be provided in writing and be mailed to

the Plan. Oral notification, including notice by telephone is not acceptable. Electronic (including emailed or faxed) or hand-delivered notifications are not acceptable. The notification must be postmarked no later than the last day of the sixty (60) day notice period described above. The notification must:

(1) state the name of the Plan;

(2) state the name and address of the employee or former employee who is or was covered under the Plan;

(3) state the name(s) and address(es) of all Covered Individuals who lost coverage due to the initial qualifying event and who are receiving COBRA coverage at the time of the notice;

(4) identify the nature and date of the initial qualifying event that entitled the Covered Individuals to COBRA coverage;

(5) include a detailed description of the event;

(6) identify the effective date of the event; and

(7) be accompanied by any documentation providing proof of the event (i.e., the divorce decree).

If no notification is received within the required time period, no extension of the continuation period will be provided. If the notification is incomplete, it will be deemed timely if the Plan is able to determine the plan to which it applies, the identity of the employee and the Covered Individuals, the qualifying event, and the date on which the qualifying event occurred, provided that the missing information is provided within thirty (30) days. If the missing information is not provided within that time, the notification will be ineffective and no extension of the continuation period will be provided.

(c) **Notice of disability.** A Covered Individual (or a representative acting on behalf of the Covered Individual) must notify the Plan when a Covered Individual has been determined to be disabled under the Social Security Act within sixty (60) days of the latest of: (i) the date of the disability determination; (ii) the date of the qualifying event; (iii) the date coverage would be lost because of the qualifying event; or (iv) the date on which the Covered Individual was informed of the responsibility to provide notice and the procedures for doing so. Notwithstanding the foregoing, notification must be provided before the end of the first eighteen (18) months of continuation coverage. The notification must be provided in writing and be mailed to the Plan. Oral notification, including notice by telephone is not acceptable. Electronic (including emailed or faxed) or hand-delivered notices are not acceptable. The notification must be postmarked no later than the last day of the sixty (60) day notice period described above. The notification must:

(1) state the name of the Plan;

(2) state the name and address of the employee or former employee who is or was covered under the Plan;

(3) state the name(s) and address(es) of all Covered Individuals who lost coverage due to the initial qualifying event and who are receiving COBRA coverage at the time of the notice;

(4) identify the nature and date of the initial qualifying event that entitled the qualified beneficiaries to COBRA coverage;

(5) state the name of the disabled Covered Individual;

(6) identify the date upon which the disabled Covered Individual became disabled;

(7) identify the date upon which the Social Security Administration made its determination of disability; and

(8) include a copy of the determination of the Social Security Administration.

If no notification is received within the required time period, no extension of the continuation period will be provided. If the notification is incomplete, it will be deemed timely if the Plan is able to determine the plan to which it applies, the identity of the employee and the Covered Individuals, the qualifying event, and the date on which the qualifying event occurred, provided that the missing information is provided within thirty (30) days. If the missing information is not provided within that time, the notification will be ineffective and no extension of the continuation period will be provided.

If such person has been determined under the Social Security Act to no longer be disabled, the person must notify the Plan of that determination within thirty (30) days of the later of: (i) the date of such determination; or (ii) the date on which the Covered Individual was informed of the responsibility to provide notice and the procedures for doing so. The notification must be in writing and be mailed to the Plan. Regardless of when the notification is provided, continuation coverage will terminate retroactively on the first day of the month that begins thirty (30) days after the date of the determination, or the end of the initial coverage period, if later. If the notification is not provided within the required time, the Plan reserve the right to seek reimbursement of any benefits provided by the Plan between the date coverage terminates and the date the notification is provided.

(d) **Notice of Coverage Under Another Group Health Plan or Medicare.** A Covered Individual must notify the Plan immediately if any Covered Individuals receiving continuation coverage actually become covered by another group health plan or Medicare. Regardless of when such notification is provided, coverage will terminate retroactively to the date of the coverage under the other group health plan or Medicare. If, for whatever reason, a Covered Individual on continuation coverage receives any benefits under the Plan after coverage is to cease under the foregoing rule, the Plan reserve the right to seek reimbursement from such Covered Individual.

15.3 Alternative in Lieu of COBRA Continuation. Following termination of employment, a Covered Individual (and the Covered Individual's Spouse and Dependents) will be allowed to spend down the balance of their HC Account if they choose to continue to access their HC Account in lieu of COBRA continuation coverage. If the Covered Individual chooses to spend down their HC Account, the Covered Individual (and their Spouse and Dependents) may generally continue to submit claims for Health Care Expenses until the earlier of (i) the fifth (5th) anniversary of the date of the Participant's termination of employment, or (ii) the account balance reaches zero.

Upon the death of a Covered Individual, the Covered Individual's surviving Spouse and Dependents will be allowed to spend down the balance of the Covered Individual's HC Account if they choose to continue to access the Covered Individual's HC Account in lieu of COBRA continuation coverage. If they choose to spend down the Covered Individual's HC Account, the Covered Individual's surviving Spouse and Dependents may generally continue to submit claims for Health Care Expenses until the account balance reaches zero.

The Plan Administrator also reserves the right to offer other alternatives to COBRA to the extent not precluded by applicable law.

(Signatures on following page)

Adopted and effective this _____ day of _____, 2013

City of Glendale,
an Arizona municipal corporation

_____
By: Horatio Skeete
Its: Acting City Manager

APPROVED AS TO FORM:

_____
Craig Tindall, City Attorney

ATTEST:

_____
City Clerk (SEAL)

ADOPTION AGREEMENT

EDUCATORS BENEFIT CONSULTANTS, LLC

RETIREE HEALTH SAVINGS ACCOUNT (RHSA)

Adopted By: City of Glendale, Arizona
Employer

City of Glendale Retiree Health Savings Account (RHSA)
Plan Name

EDUCATORS BENEFIT CONSULTANTS, LLC
BASIC PLAN AND TRUST DOCUMENT
ADOPTION AGREEMENT

This is the Adoption Agreement referred to in the City of Glendale's Retiree Health Savings Account (RHSA) Basic Plan and Trust Document (the "Basic Document"). The Adoption Agreement plus the Basic Document constitute the Plan with respect to the Adopting Employer.

The Adopting Employer hereby makes the following representations and selections:

ADOPTING EMPLOYER INFORMATION:

Employer Name: City of Glendale
Address: 5850 West Glendale
City, State, Zip: Glendale, AZ 85301

Phone/Fax Number: Phone: 623-930-2297 Fax: 623-915-2697

Contact Person:

Name and Title	**Benefits Administrator**
	Attn: Marcie Bravo
Company:	**City of Glendale**
Address:	**5850 W. Glendale Avenue**
City, State Zip:	**Glendale, AZ 85301**
Phone/Fax No:	**Phone: 623-930-2297 Fax: 623-915-2697**
Email Address:	**mbravo-ortuno@glendaleaz.com**

Type of Business Entity: Governmental Entity (municipality)

State Operating Business: Arizona

EIN: 86-6000247

Trust Identification Number: Not applicable

Fiscal Year: July 1 through June 30

EMPLOYEES AND/OR PARTICIPANTS:
There were fifty (50) or more Employees in the last twelve months: ☒ Yes ☐ No
There were twenty (20) or more Employees in the last calendar year: ☒ Yes ☐ No

Check the one that applies (check only one box):

☐ The Plan benefits active Employees only.
☒ The Plan benefits terminated Employees only.
☐ The Plan benefits both active Employees and terminated Employees.

MISCELLANEOUS

Name of Plan and Trust: City of Glendale Retiree Health Savings Account (RHSA)

Addendum(s) Attached: ☒ Yes ☐ No

The City has the ability to add or remove separate classes of employees via City Council Resolution. As each class of employee becomes eligible, the applicable Memorandum of Understanding or Personnel Policy that establishes participation rights in the RHSA shall become part of the Adoption Agreement. The most recent MOU or personnel policy shall prevail.

Joint Powers Agreement Attached: ☐ Yes ☒ No

ARTICLE I: INTRODUCTION

Original Effective Date: For City-wide RHS Plan 3/9/09, For FOP 7/1/08, for Fire Dept. 7/1/06.

Restatement Date (date Adoption Agreement is executed): _____
(month, day, year)

ARTICLE II: DEFINITIONS*
(*Paragraph numbers coincide with paragraph numbers of the Basic Document)

2.1 Adopting Employer means: City of Glendale

2.5 Claims Administrator means: Educators Benefit Consultants, LLC (EBC)

2.8 Dependent means:

☒ As provided in the Basic Document.
☐ Other (Describe):_____

> **Note:** Dependent cannot be defined more broadly than "dependent" for purposes of Section 105 and 152 of the Internal Revenue Code.

If the definition is different for Participants once they terminate employment, complete again:

☒ N/A definition does not change.

☐ As provided in the Basic Document

☐ Other (Describe):_____

2.13 Entry Date means date employee becomes eligible to participate in the Plan.

☒ Post-Employment Plan: Criteria established in the Collective Bargaining Agreement, Memorandum of Understanding or Personnel Policy for each class of employee.

☐ Other (Describe):_____

2.16 Health Care Expense means:

☒ As provided in the Basic Plan (e.g., premium and or out-pocket-medical expenses).

☐ An expense which but for the deductible under a specified group medical coverage sponsored by the Adopting Employer, would have been paid by that group medical coverage.
The specified medical coverage is the _____

☐ Other (Describe):_____

> **Note:** Health Care Expense cannot be defined more broadly than the description in IRS Revenue Ruling 2002-41 and IRS Notice 2002-45, IRC 213(d).

If the definition is different for Participants once they terminate employment, complete again:

☒ N/A – definition does not change.
☐ As provided in the Basic Plan.
☐ An expense which but for the deductible under a specified group medical coverage sponsored by the Adopting Employer, would have been paid by that group medical coverage.
The specified medical coverage is the _____

2.20 Managing Body means person or persons with authority to make decisions for the Adopting Employer. Check all that apply

☒ Council if City or County or School Board if School District
☒ Exec. Director of Human Resources and Risk Management
☒ Other (Describe):_City Manager

_____

2.24 Plan Administrator: City of Glendale and its delegates as contracted

2.25 Plan Year: July 1 through June 30
(month, day through month, day)

The initial "short" Plan Year: Not Applicable

2.30 Spouse means:

☒ As provided in the Basic Document.
☐ Other (Describe):

Note: Must be more restrictive than Code.

If the definition is different for Participants once they terminate employment, complete again:

X N/A – definition does not change.
☐ As provided in the Basic Document.
☐ Other (Describe):

2.32 Trustee means: City of Glendale

2.33 Trust Custodian: MG Trust Company, LLC

ARTICLE IV: ELIGIBILITY AND PARTICIPATION OF EMPLOYEES

4.1 Eligibility requirements are as follows (check and complete only those that apply).

☐ Age (Describe):

☒ Length of Service (Describe): Ten (10) years of service required for employees not subject to MOU with Adopting Employer.

☒ Employment Classification (e.g., union, part-time, full-time) (Describe): Regular status, non-sworn employees; Fire Department employees subject to MOU, and dues-paying members of the Fraternal Order of Police (must be sworn employees).

☐ Coverage under a specified group medical (Describe):

☐ Coverage sponsored by the Adopting Employer (Describe):

☐ Other (Describe):

Note: Other classes of employees may become eligible from time-to-time through employer Resolution process. These Resolutions shall become part of this Adoption Agreement by reference.

4.2 Participant Status (Describe): For all classes of employees, this is a post-employment plan and qualifying event is termination of employment: due to retirement and separation of employment for any reason. Again, please refer to most recent MOU or personnel policy.

ARTICLE V: BENEFITS UNDER THE PLAN

5.2 Claims time period:

☐ As provided in Basic Document.
☒ Other (Describe): An eligible expense may be submitted any time after expense is incurred. This plan **does not** have a 365 day limit from time expense was incurred. .

5.4 Timing of Reimbursement:

☒ As provided in the Basic Document.
☐ Other (Describe)._____

5.5 Maximum Reimbursement:

☒ As provided in the Basic Document
☐ Other (Describe):_____

5.6 Post-death Access by Spouse & Legal Dependents:

☒ As provided in the Basic Document
☐ Other (Describe):_____

Revenue Ruling 2006-36 provides that funds cannot be left to a non-dependent beneficiary. If a Participant passes away with no spouse or legal dependents, the forfeiture rules shall apply after last and final health care expenses have been paid on behalf of deceased Participant.

5.8 Use of forfeiture:

☒ As provided in the Plan Document.
☐ Pay administrative costs which would otherwise be paid from the Trust but only for those Participants in the same classification at the time of the forfeiture.
☐ Funds will be used to cover future contributions into the Plan on behalf of eligible employees.
☐ Under no circumstances shall funds revert back to Adopting Employer to be placed in general assets.
☐ Other (Describe):_____

5.10 Which plan pays first.

☒ As provided in Basic Document.
☐ This Plan
☐ Other (Describe):_____

> **Note:** The choice of which plan pays first cannot be left to the Participant.

5.11 Other Limitations, if any:_____

ARTICLE VI: CONTRIBUTIONS

6.1 Employer Contribution amount, timing, restrictions (check all that apply):

☐ Fixed dollar amount $_____

☐ Per pay period
☐ Per month
☐ Per quarter
☐ Per year
☐ Paid monthly only and only accessible to the extent the Participant has an account balance; or
☐ Paid monthly (or if needed sooner to pay an eligible expense, paid at the time the claim is made)

> **Note:** If you choose the second option above, the employer will be required to "advance" payment to Participants, without discrimination, and will not be able to seek reimbursement for amounts advanced if a Participant terminates employment prior to the end of the Plan Year in which the sums are earned.

☒ Other (Describe): As established in MOU for Fire Department

☐ Restrictions, if any (Describe):_____

☐ Fixed formula (Describe):_____

☐ Per pay period
☐ Per month
☐ Per quarter
☐ Per year
☐ Paid monthly only and only accessible to the extent the Participant has an account balance; or
☐ Paid monthly (or if needed sooner to pay an eligible expense, paid at the time the claim is made)

> **Note:** If you choose the second option above, the employer will be required to "advance" payment to Participants, without discrimination, and will not be able to seek reimbursement for amounts advanced if a Participant terminates employment prior to the end of the Plan Year in which the sums are earned.

☐ Other (Describe):_____

☐ Restrictions, if any (Describe):_____

☒ Contributions of Accumulated Paid Time off, Vacation, or Sick Leave Upon Termination of Employment (Describe): Please refer to current MOU or Personnel Policy for pay out calculations.

Availability for reimbursement of HC Account balance:

☐ As provided in the Basic Document (available as contributions are made to the Trust).

☐ the balance of the Account at the time the claim is submitted; or
☐ the Amount of the employer contribution available for the Plan Year.

> **Note:** If you choose the second option above, the employer will be required to "advance" payment to Participants, without discrimination, and will not be able to seek reimbursement for amounts advanced if a Participant terminates employment prior to the end of the Plan Year in which the sums are earned.

☒ Upon termination of employment.

☐ In the event a Participant terminates employment after the age of 62 or age 55 with 10 years of service, the Account Balance shall not be subject to forfeiture, but shall be eligible for spend down until the Account is spent down to zero ($0.00) dollars.

☐ Other (Describe):_____

ARTICLE VII: CLAIMS DETERMINATIONS AND REVIEW OF DENIED CLAIMS

7.1 Alternative Claims and Review Procedures.

☒ As provided in the Basic Document.
☐ Other (Describe):_____

ARTICLE IX: PLAN ADMINISTRATION

9.7 Reasonable fees of claims Administrator shall be paid as follows:

☒ As provided in the Basic Document.
☐ Charged to the Plan and paid from the general assets of the Adopting Employer
☐ Other (Describe): Optional serve fees, if any, shall be paid by the employer as established in the service agreement.

ARTICLE XII: DUTIES AND POWERS OF TRUSTEE

12.1 Indicate whether Trustee is directed Trustee under the Plan ☒ Yes ☐ No

12.5 Reasonable fees of the Trustees shall be paid as follows:

☒ As provided in the Basic Document
☒ Adopting Employer acting as Trustee is not paid from Plan assets.
☐ Charged to the Plan and paid from the general assets of the Adopting Employer
☐ Other (Describe):_____

12.6 Investment direction:

☐ As provided in Basic Document.
☒ Participant directed.
☐ Other (Describe):_____

ARTICLE XIV: GENERAL PROVISIONS

14.7 Governing law – State of: ARIZONA

ACKNOWLEDGEMENTS

1. **Pursuant to Section 2.9(a), any collectively bargained Employees participating in this Plan participate because the collective bargaining agreement provides for coverage under this Plan.**
2. **This Plan has been duly adopted or authorized to be adopted by the Adopting Employer's Managing Body.**
3. **This Plan is a "covered entity" for purposes of the Privacy Rules under the Health Insurance Portability and Accountability Act (HIPAA).**
4. **The Adoption Agreement may be signed in multiple parts.**

The foregoing approved and adopted this ___ day of _____, 2013.

City of Glendale,
an Arizona municipal corporation

_____
By: Horatio Skeete
Its: Acting City Manager

ATTEST:

_____
City Clerk (SEAL)

APPROVED AS TO FORM:

_____
City Attorney

C-

ADMINISTRATIVE SERVICES AGREEMENT

City of Glendale Retiree Health Savings Account

This Administrative Services Agreement ("Agreement") is made and entered into between City of Glendale, an Arizona municipal corporation ("City" or "Employer"), and Educators Benefit Consultants, LLC, a third party administration company registered with the Arizona Department of Insurance ("EBC"), as of the _____ day of _____, 2013.

RECITALS

A. City sponsors a retiree health savings plan on behalf of its eligible employees (RHS); and

B. ICMA-RC currently administers the RHS for the City; and

C. ICMA-RC exercised its 60-day termination clause for the RHS; and

D. City adopted an amended and restated City of Glendale Retiree Health Savings Account Basic Plan and Trust Document (RHSA) ("Plan") this same date; and

E. City desires to contract with EBC to provide administrative services on behalf of the Plan.

F. City and EBC 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 EBC agree as follows:

1. EBC OBLIGATIONS.

1.1. Plan Documentation. EBC will prepare the following documentation for Plan in order to keep Plan compliant with Internal Revenue Codes (IRC) 105, 106, 213(d), and 115 as applicable. EBC will make recommendations to the City of Glendale ("Employer") as needed on ways to comply with these Code sections. Employer will be notified of the cost, and changes required by the IRS as changes are required.

1.1.1. Plan Document

1.1.2. Adoption Agreement

1.1.3. Trust Document (if trust is desired pursuant to IRC 115

1.1.4. Summary Plan Description – Plan Highlights

1.1.5. Enrollment Forms

1.1.6. Claim Forms

1.1.7. Initial COBRA Notice

1.1.8. Notice of Privacy Practices (also referred to as HIPAA Privacy Notice)

1.1.9. Business Associate Agreement for HIPAA compliance purposes.

1.2. Discrimination Test (D-Test) Performed Annually. EBC shall annually perform and review eligibility and benefits discrimination test in accordance with IRC 105(h). Employer shall receive D-Test Form from EBC and complete and return. EBC shall provide written results and analysis

of test. If the first line of testing provides that employer Plan is discriminating in favor of the highly compensated, EBC will perform another test (the Classification Test). The Classification Test will require census information from the Employer. The fee for performing any Classification Test during the Initial Term of the Agreement is set forth on Exhibit A, Fee Payment Authorization, which is attached and incorporated herein.

1.3. Administrative Duties. EBC shall perform the following:

1.3.1. Process participant claims and determine the amount to be distributed for claim reimbursements.

1.3.2. Prepare benefit and/or account statements for the participants.

1.3.3. Reimburse participants via ACH, check, or debit card process.

1.3.4. Consult on additional plan design issues.

1.3.5. Perform Center for Medicare & Medicaid Services Reporting as required under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007.

1.3.6. Monitor investment offerings in HRAs funded in a trust environment.

1.3.7. Provide participants with ability to change investment designations on-line or via paper forms.

1.3.8. Provide participants with investment performance information and expense.

1.3.9. Provide daily valued funds.

1.3.10. Provide secure web access to daily account activity

1.4. Ongoing Annual Filings. Upon request by Employer, EBC will prepare the following filings. The cost to prepare any of these filings during the Initial Term of the Agreement is set forth on Exhibit A:

1.4.1. Medicare D Creditable Coverage Certificates and government reporting.

1.4.2. COBRA Administration. Because of the complex nature of COBRA, a separate engagement letter to establish performance expectations and other matters will be required.

2. EMPLOYER OBLIGATIONS.

2.1. Timeliness and Accuracy of Data. Employer will provide complete, accurate, and timely employee information to EBC. EBC will rely exclusively on information provided by Employer or Employer's authorized representative(s) in writing, and will have no responsibility to verify independently the accuracy of that information. We assume no responsibility to acquire information other than to request it from you, and will not be liable for any errors or omissions made because of incomplete or incorrect information that you furnish to us. In the event inaccurate or incomplete materials require that we repeat any compliance work already completed, you will be charged an additional fee.

2.2. **Annual Compliance.** Upon request EBC may require employee census data and updated information about your company. Following the receipt of complete information from you, EBC will do the following:

2.2.1. Filing Government Reports – EBC will prepare certain government reports on your behalf. You will be responsible for the timely filing of these reports with the appropriate agency.

2.2.2. Notification of Contacts by Government Agencies – Employer will notify EBC of any plan audits, investigations, or examinations by any governmental agency including, without limitation, the Internal Revenue Service or U.S. Department of Labor. If additional services are requested in connection with any such audit, investigation, or examination,

EBC will provide those services and bill separately for those services under our Fee Schedule.

2.2.3. Qualified Medical Child Support Order ("QMCSO") Determination – Unless Employer otherwise requests us to assist in the determination, Employer will be responsible for the determination of whether court orders comply with the QMCSO requirements of the Code. Assistance from EBC, if requested, requires no additional fee. In the event Employer has possession of any QMCSO requiring the separation of any assets of the Plan, Employer must inform EBC of the required separation.

2.2.4. Other Plans - The Plan's operation and tax qualification is affected by other plans sponsored by the Company (whether currently active or terminated, and whether or not EBC administers them). Employer is responsible for informing EBC of other plans.

3. CONFIDENTIALITY. The EBC design shall not be divulged by the Employer to any third parties, unless required by legal process or law, including Arizona's Public Records law, A.R.S. § 39-101 et seq., or written permission is received from EBC providing that the Employer may divulge aspects of the EBC design when acting as a reference to third parties who are considering adoption of the EBC system.

4. BILLING PROCEDURES AND COLLECTIONS.

4.1. Statements, Late Charges, Stopping of Work – Employer will be billed on an ongoing basis for work performed by EBC that is not taken directly from the participants' accounts.

4.2. EBC will submit monthly invoices (each, a "Payment Application") to Employer and Employer will remit payments based upon the Payment Application as stated below. The period covered by each Payment Application will be one calendar month ending on the last day of the month or as specified in the solicitation.

4.3. After a full and complete Payment Application is received, Employer will process and remit payment within 30 days. Payment may be subject to or conditioned upon Employer's receipt of completed work generated by EBC and its subcontractors.

4.4. Statements are due upon receipt, and become delinquent and subject to late charges if payment is not received by EBC's office within 30 days. If payment is past due in excess of 60 days, EBC reserves the right to stop all work until Employer's account is brought current. In addition, balances not paid within 60 days of the invoice date will bear a late charge equal to 1.5% of the outstanding balance for each month or partial month until paid in full. EBC is not responsible for any late tax filings or penalties, fines, taxes, or other charges that may be assessed.

5. GOVERNING LAW.

5.1. This agreement is made, or to be performed in the Arizona, and shall be interpreted, construed, and enforced in accordance with the substantive law of the State of Arizona. The venue of any arbitration shall be in Maricopa County, Arizona, unless otherwise agreed by Employer and EBC.

6. EFFECTIVE DATE, TERM AND TERMINATION.

6.1. This Agreement will be in effect on March 1, 2013 or such late date as the Agreement has been signed by both Employer and EBC ("Effective Date").

6.2. The term of the Agreement is for a period of five (5) years from March 1, 2013 through February 28, 2018. Employer may, at its option and with the approval of EBC, extend the term of this Agreement an additional two (2) years, renewable on an annual basis. No price adjustments will be reviewed during the initial five-year term of this Agreement. Price adjustments will only be reviewed during the Agreement renewal period.

6.3. This Agreement may be terminated upon thirty (30) days written notice by Employer. This Agreement may be terminated upon one hundred eighty (180) days written notice by EBC.

7. ENTIRE AGREEMENT.

7.1. This Agreement contains the entire agreement between Employer and EBC with respect to your Plan. This Agreement may be modified only by mutual written consent between you and EBC.

8. CONFLICT OF INTEREST.

8.1. EBC acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

9. INSURANCE.

9.1. EBC shall be fully responsible for providing Workers' Compensation or other applicable insurance coverage for itself and its employees and the Employer shall have no responsibility of liability for such insurance coverage.

9.2. EBC shall provide to the Employer a copy of the policy or a certification by the insurance carrier, showing EBC to have in effect during the term of this Agreement, a General Liability Insurance policy, which shall be the primary coverage for EBC activities under this Agreement. The coverage limits of such insurance shall not be less than those listed below.

9.3. EBC certificate(s) shall include all sub-contractors as additional insured's under its policies **or** EBC shall furnish to the Employer separate certificates and endorsements for each subcontractor. All coverage's for sub-contractors shall be subject to the minimum requirements identified above.

9.4. The insurance company issuing the policy required above shall have an AM Best financial rating of "A-" or better and be authorized by the State of Arizona Department of Insurance to transact business within the State. **The certificate and policy shall name the Employer as an additional insured and shall be primary and the Employer's insurance/self-insurance shall be non-contributory coverage. The Employer shall also be an additional insured to the full limits of the liability insurance purchased by EBC even if those limits are in excess of those required by this Agreement.**

9.5. The Employer reserves the right to terminate this Agreement if EBC fails to maintain such insurance coverage.

9.6. EBC must provide certification of insurance compliance within ten (10) calendar days after notification of award. Certification must include: name and address of insurance company; policy number; liability coverage amounts; a statement the policy will not be canceled or failed to be renewed without thirty (30) days written notice to the Employer. Certification to be submitted to: Materials Management, 5850 West Glendale Avenue, Suite 317, Glendale, Arizona 85301.

Type of Insurance (Minimum)	Limits of Liability
Workers' Compensation	Statutory
Employer's Liability	
Each Accident	$100,000
Disease-Each Employee	$100,000
Disease-Policy Limit	$500,000

Commercial General Liability shall cover liability arising from bodily injury, property damage, products-completed operations, personal and advertising injury, independent contractors, and broad form contractual coverage.

Each Occurrence	$1,000,000
Personal and Advertising	$1,000,000

General Aggregate	$2,000,000
Products-Completed Operations	$1,000,000

Automobile Liability – Including bodily injury and property damage for any owned, hired and non-owned vehicles used in the performance of the services

Combined Single Limit (CSL)	$1,000,000

Professional Liability (Errors and Omissions) coverage shall apply to liability for a professional error, act or omission arising out of the scope of services as defined. EBC warrants that any retroactive date under a claims-made policy shall precede the effective date of this Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Agreement is completed. The policy shall contain a waiver of subrogation in favor of the City of Glendale.

Per Claim	$1,000,000
Policy Aggregate	$2,000,000

10. WORKER'S COMPENSATION.

10.1. Workers' Compensation Law (Title 23, Chapter 6, Arizona Revised Statutes) as amended, and all rules and regulations of the Industrial Commission of Arizona made in pursuance thereof. EBC shall secure payment of compensation to employees by insuring the payment of such compensation with the State Compensation Fund or any insurance company authorized by the Insurance Department of Arizona to transact business in the State of Arizona

10.2. EBC further agrees that he shall require any and all sub-contractor performing work under the agreement to comply with said Workers' Compensation Law. It is expressly understood and agreed that all persons employed directly or indirectly by the EBC, or any of his sub-contractor(s), shall be considered the employees of EBC or his sub-contractor(s), and not the employees of the Employer of Glendale.

11. INDEMNIFICATION.

11.1. EBC shall indemnify, defend, save and hold harmless the City of Glendale and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") 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 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 EBC or any of its owners, officers, directors, agents, employees or subEBCs. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such EBC to conform to any Federal, State or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by EBC from and against any and all claims. It is agreed that EBC will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the EBC agrees to waive all rights of subrogation against the City, its officers, officials, agents, and employees for losses arising from the work performed by the EBC for the City.

11.2. EBC shall indemnify and hold harmless Employer and each of its officers, directors, and employees from and against any and all claims, damages or expense of any kind incurred by Employer (including any asserted indemnification claim against Employer by MG Trust or otherwise) as a result of a third party claim that EBC or MG Trust acted in negligence, willfully, or in violation of applicable standard of care in breach of its obligations under this Plan or other agreements.

12. IMMIGRATION LAW COMPLIANCE.

12.1. EBC, 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.

12.2. Any breach of warranty under this section is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.

12.3. City retains the legal right to inspect the papers of any EBC or subcontractor employee who performs work under this Agreement to ensure that EBC or any subcontractor is compliant with the warranty under this section.

12.4. City may conduct random inspections, and upon request of City, EBC shall provide copies of papers and records of EBC demonstrating continued compliance with the warranty under this section. EBC 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.

12.5. EBC agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon EBC and expressly accrue those obligations directly to the benefit of the City. EBC 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.

12.6. EBC'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.

12.7. 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.

13. FOREIGN PROHIBITIONS. EBC 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 statutes, in the countries of Sudan or Iran.

14. NOTICES.

14.1. A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if.

14.1.1. The Notice is in writing; and

14.1.2. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested); and

14.1.3. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:

14.1.3.1. Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service on or before 5:00 p.m.; or

14.1.3.2. The next business day after receipt, if received after 5:00 p.m.

14.1.4. The burden of proof of the place and time of delivery is upon the Party giving the Notice; and

14.1.5. Digitalized signatures and copies of signatures will have the same effect as original signatures.

15. REPRESENTATIVES.

15.1. EBC. EBC's representative (the "EBC's Representative") authorized to act on EBC's behalf with respect to this Agreement, and his or her address for Notice delivery is:

Educators Benefit Consultants, LLC
c/o Paige McNeal
3125 Airport Parkway, NE
Cambridge, MN 55008

15.2. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale
c/o Executive Director of Human Resources and Risk Management
Attn: Jim Brown
5850 West Glendale Avenue
Glendale, Arizona 85301
623-930-2277

With required copy to:

City Manager
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

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

15.3. Concurrent Notices.

15.3.1. All notices to City's representative must be given concurrently to City Manager and City Attorney.

15.3.2. A notice will not be deemed to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.

15.3.3. City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to EBC identifying the designee(s) and their respective addresses for notices.

15.3.4. Changes. EBC or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

16. Entire Agreement; Survival; Counterparts; Signatures.

16.1. Integration. This Agreement contains, except as stated below, the entire agreement between City and EBC and supersedes all prior conversations and negotiations between the parties regarding this Agreement.

16.2. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.

16.3. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.

16.4. The solicitation, any addendums and the response submitted by EBC are incorporated into this Agreement as if attached hereto. Any EBC response modifies the original solicitation as stated. Inconsistencies between the solicitation, any addendums and the response or any excerpts attached as Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

16.5. The Agreement will be interpreted in accordance with the laws of the State of Arizona.

16.6. Survival. Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive the earlier termination of this Agreement.

16.7. Amendment. No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval. Electronic signature blocks do not constitute execution.

16.8. Remedies. All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

16.9. Severability. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be deemed reformed to conform to applicable law.

16.10 Counterparts. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

17. **Dispute Resolution.** Each claim, controversy and dispute (each a "Dispute") between EBC and City will be resolved in accordance with Exhibit B. The final determination will be made by the City.

18. **Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A Fee Payment Authorization

Exhibit B Dispute Resolution

The parties enter into this Agreement as of the Effective Date set forth above.

City of Glendale,
an Arizona municipal corporation

_____
Horatio Skeete, Acting City Manager

ATTEST:

_____
City Clerk (SEAL)

APPROVED AS TO FORM:

_____
City Attorney

EDUCATORS BENEFIT CONSULTANTS, LLC,
an insurance company registered with the Arizona Department of Insurance

_____
By: _____
Its: _____

EXHIBIT A

FEE PAYMENT AUTHORIZATION

Plan: **CITY OF GLENDALE RETIREE HEALTH SAVINGS ACCOUNT (RHSA)**

Employer: **CITY OF GLENDALE, ARIZONA**

Pursuant to the attached "Administration Services Agreement", EBC has been engaged by the "Plan" to provide administration and compliance services. The specific services are outlined in the "Administration Services Agreement". The purpose of this agreement is for the Plan and Employer to acknowledge the fees associated with the compliance services provided by EBC and to authorize EBC to deduct fees for these services directly from participant accounts (either by design, or in the event of non-payment by the Employer).

1. Fees - For the performance of these services , EBC will charge the following:

A. Plan Documentation Fee (Document and Set-up) – One time only **$1,000**

B. Discrimination Test (D-Test) Performed Annually

(a)	**Initial Test: Eligibility and Benefits Test**	**No Charge**
(b)	**If needed: Classification Test**	**$ 850**

C. Post-Employment HRA fees are paid by participant unless another arrangement is made between Employer and EBC.

D. Optional Services – These fees apply if services are requsted by Employer

Ongoing Annual Filings:

☐ Medicare Creditable Coverage Notice
- Annual Notice & the government filing — $250 plus postage

☐ COBRA Administration
- Continuation Packet — $15.00
- Monthly COBRA Admin Fee — $7.00 per participant per month

2. EFT/ACH Authorization for Contributions and Reimbursements

Unless otherwise negotiated, Employer will authorize EBC to receive information via an electronic transaction from the Plan.

By: _____ _____

Print Name: **Date**
Title:
Address:
Phone:

EXHIBIT B

DISPUTE RESOLUTION

1. Disputes.

1.1 Commitment. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.

1.2 Application. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.

1.3 Initiation. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.

1.4 Informal Resolution. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.

A. The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;

B. The parties' senior managers will meet within ten business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and

C. The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

2. Arbitration.

2.1 Rules. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the parties may agree, in writing, that the Dispute will be decided by binding arbitration in accordance with Commercial Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.

A. The parties will exercise best efforts to select an arbitrator within five business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.

B. The arbitrator selected must be an attorney with at least ten years experience, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least ten years.

2.2 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.

2.3 Hearing. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.

2.4 Award. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.

2.5 Final Decision. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.

2.6 Costs. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party shall pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.

3. Services to Continue Pending Dispute. Unless otherwise agreed to in writing, EBC must continue to perform and maintain progress of required services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to EBC in accordance with this Agreement.

4. Exceptions.

4.1 Third Party Claims. City and EBC are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third party who is not obligated by contract to arbitrate disputes with City and EBC.

4.2 Liens. City or EBC may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.

4.3 Governmental Actions. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.

MG TRUST COMPANY, LLC

CUSTODIAL ACCOUNT AGREEMENT

(Without Investment Advice)

TABLE OF CONTENTS

		Page
ARTICLE 1	DEFINITIONS	1
1.1	Account or Custodial Account	1
1.2	Agreement	1
1.3	Code	1
1.4	Custodian	1
1.5	Customer	1
1.6	Designated Representative	1
1.7	ERISA	2
1.8	Force Majeure	2
1.9	Fund	2
1.10	Instruction	2
1.11	Investment Manager	2
1.12	Person	2
1.13	Plan	2
1.14	Trustee	2
ARTICLE 2	ESTABLISHMENT OF CUSTODIAL ACCOUNT	2
ARTICLE 3	APPOINTMENT, ACCEPTANCE AND ROLE OF CUSTODIAN	2
3.1	Appointment; Acceptance	2
3.2	Role	2
3.3	Customer Direction to the Custodian	3
3.4	Designation of Representative	3
3.5	Participant Direction	3
ARTICLE 4	CONTRIBUTIONS AND TRANSFERS	3
4.1	Receipt of Assets	3
4.2	Role of Custodian with Respect to Assets	4
4.3	Location of Evidence of Ownership	4
4.4	Unidentified Assets	4
4.5	Return of Amounts to the Customer	4
ARTICLE 5	INVESTMENTS	4
5.1	Investment Control	4

TABLE OF CONTENTS
(continued)

Page

5.2 Role of Custodian 4
5.3 Nondiscretionary Investment Authority 5
5.4 Investment Restrictions 5
ARTICLE 6 ADMINISTRATIVE MATTERS 6
6.1 Records; Inspection and Audit 6
6.2 Accounting 6
6.3 Valuation of Assets 6
6.4 Record Retention 6
6.5 No Responsibility for Participant-Level Record-keeping or Communications to Participants 6
6.6 Action by the Custodian 6
ARTICLE 7 DISTRIBUTIONS; TAXES 7
7.1 Distributions 7
7.2 Authorization with Respect to Taxes 7
ARTICLE 8 COMPENSATION AND EXPENSES 7
8.1 Generally 7
8.2 Disclosure 7
ARTICLE 9 AMENDMENT, ASSIGNMENT AND TERMINATION 8
9.1 Amendment 8
9.2 Assignment 8
9.3 Termination 8
9.4 Termination of Plan 8
9.5 Customer Bankruptcy 8
ARTICLE 10 INDEMNIFICATION 8
ARTICLE 11 PROVISIONS RELATED TO THE TRUSTEE 9
ARTICLE 12 MISCELLANEOUS 10
12.1 Duty to Defend 10
12.2 Applicable Law 10
12.3 Counterparts 10
12.4 Notices 10

TABLE OF CONTENTS
(continued)

Page

12.5 Limitation on Claims 10
12.6 Arbitration 10
12.7 Exclusive Benefit 10
12.8 Prohibited Transactions 11
12.9 Evidence 11
12.10 Waiver of Notice 11
12.11 Complete Agreement 11
12.12 USA Patriot Act Notification 11
ARTICLE 13 SPECIAL INSTRUCTIONS (OPTIONAL): 11

MG TRUST COMPANY, LLC

CUSTODIAL ACCOUNT AGREEMENT
(Without Investment Advice)

PARTIES

Customer (Plan Sponsor): City of Glendale
Address: 5850 West Glendale
City: Glendale State: Arizona Zip: 85301
Phone Number: (623) 930-2277 Tax ID #: 86-6000247
Type of Entity: Governmental

Name of Plan: City of Glendale Retiree Health Savings Account (RHSA)
Type of Plan: Health Reimbursement Arrangement (post-employment)
Original Effective Date of Plan: For city-wide RHS 3/9/09; For FOP 7/1/08, for Fire Dept. 7/1/06

Separate Trust: ☒ Yes ☐ No Trust Tax ID #: N/A
Type of Trust: ☐ 501(a) exempt ☐ 501(c)(9) VEBA ☒ Section 115 Governmental ☐ Other: _____
Trustee(s) (list all): City of Glendale

Designated Representative: Educators Benefit Consultants, LLC
Address: 3125 Airport Parkway NE
City: Cambridge State: Minnesota Zip: 55008
Phone Number: (888) 507-6053

AGREEMENT

This Custodial Account Agreement ("***Agreement***") is entered into by and among the Customer, the Trustee(s), the Designated Representative(s), and MG Trust Company, LLC, ("***Custodian***") effective as of _____, 2013____.

ARTICLE 1

DEFINITIONS

1.1 **Account or Custodial Account**. "Account" or "Custodial Account" means the account established pursuant to Article 2.

1.2 **Agreement**. "Agreement" means this MG Trust Company, LLC Custodial Account Agreement by and among the Customer, the Trustee(s), the Designated Representative(s), and the Custodian.

1.3 **Code**. "Code" means the Internal Revenue Code of 1986, as amended from time to time.

1.4 **Custodian**. "Custodian" means MG Trust Company, LLC.

1.5 **Customer**. "Customer" means the sponsor of the Plan and Trust designated above.

1.6 **Designated Representative**. "Designated Representative" means any Person named above and authorized by the terms of this Agreement to give directions to the Custodian, or to vote or otherwise manage any asset of the Custodial Account.

1.7 **ERISA**. "ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

1.8 **Force Majeure**. "Force Majeure" means a cause or event outside the reasonable control of the parties or that could not be avoided by the exercise of due care, such as an act of God or any mechanical, electronic or communications failure.

1.9 **Fund**. "Fund" means all of the money, securities, debt instruments and other property which may be transferred, assigned and delivered to the Custodian from time to time to be held in custody hereunder in the Custodial Account, together with the investments made with them, the proceeds received from them, and the gains and accumulations on them, and the portion thereof from time to time remaining, to be held and disposed of by the Custodian (without distinction between principal and interest) in accordance with the terms and provisions of this Agreement and proper directions received by the Custodian.

1.10 **Instruction**. An "Instruction" to the Custodian is any oral, written or electronic direction given in a form and manner required or accepted by the Custodian. The Custodian may require that any Instruction be in writing or in an electronic format, and may recognize standing requests, directions, or requisitions as Instructions.

1.11 **Investment Manager**. "Investment Manager" means any Person defined as such under ERISA Section 3(38), if applicable, who has been appointed in accordance with Section 5.1.1 to manage the investment of all or any specified portion of the Custodial Account.

1.12 **Person**. "Person" means an individual, committee of individuals, partnership, limited liability partnership, joint venture, corporation, limited liability corporation, mutual company, joint-stock company, non-profit or not-for-profit organization, trust, estate, unincorporated organization, association or employee organization.

1.13 **Plan**. "Plan" means the plan maintained by the Customer and designated above, some or all of the assets of which are held by the Custodian pursuant to the terms of this Agreement. The Plan may be a tax qualified retirement plan under Code Section 401(a), an eligible deferred compensation plan under 457(b), or a health and welfare plan, including but not limited to a health reimbursement account or health savings account plan, with a tax exempt trust under Code Section 115 (governmental trusts) or 501(c)(9) (a "VEBA").

1.14 **Trustee**. "Trustee" means the trustee(s) of the Plan, as designated above, or a Person that is treated as a trustee of the Plan pursuant to Code Section 401(f) and the regulations thereunder.

ARTICLE 2

ESTABLISHMENT OF CUSTODIAL ACCOUNT

The Customer hereby requests that the Custodian establish a Custodial Account for and in the name of the Plan for the Customer, and represents that all necessary action has been taken for such appointment and that this Agreement constitutes a legal, valid, and binding obligation of the Customer. The Custodian shall not be obligated to provide detailed accounting for the Account or for any individual investment option, such as with respect to contributions, distributions, loan activity, and rollovers, and Customer agrees to look solely to the Designated Representative or other recordkeeper that Customer has retained for all such detailed information.

ARTICLE 3

APPOINTMENT, ACCEPTANCE AND ROLE OF CUSTODIAN

3.1 **Appointment; Acceptance**. The Custodian, in consideration of the deposit by the Customer of funds into the Account, and other valuable consideration, hereby agrees to act as custodian of the Account on the terms and conditions of this Agreement. The Customer, in consideration of the agreement by the Custodian to perform the duties of a custodian under this Agreement, hereby designates and appoints the Custodian as the custodian of the Account.

3.2 **Role**. The Custodian, as agent of the Customer, but not as fiduciary, shall take, hold, invest, and distribute all of the assets of the Fund in accordance with the terms of this Agreement. The Custodian will serve as a non-discretionary, directed custodian of the Custodial Account. The Custodian is responsible for maintaining custody of the assets held in the Custodial Account, and for investing those assets as directed by the Designated Representative on behalf of the Customer.

The Custodian (in its capacity as such) will not be an administrative or investment fiduciary of the Plan, and nothing in this Agreement is to be interpreted as causing the Custodian to be responsible for the administration or investment of the Fund other than as directed by the Customer or Designated Representative hereunder. The Custodian may refuse to exercise any power that it believes, in its sole judgment, could cause it to become a "fiduciary" or "plan administrator" as defined under ERISA, or cause it to be exercising trust powers in contravention of any state or federal law to which it may be subject.

3.3 **Customer Direction to the Custodian**. Except as provided herein, the Designated Representative shall provide direction to the Custodian on behalf of the Customer. The Custodian shall have no duty to take any action other than as specified in this Agreement unless the Designated Representative provides the Custodian with Instructions. However, each direction is contingent upon the determination by the Custodian that the Instruction can be administered by the Custodian. The Custodian may conclusively rely upon and be protected in acting in good faith upon any Instruction from the Designated Representative or the Customer, or any other notice, request, consent, certificate, or other instrument or paper believed by the Custodian to be genuine and properly executed, or any instrument or paper if the Custodian believes the signature thereon to be genuine.

3.4 **Designation of Representative**. Customer hereby designates and authorizes its Designated Representative to provide Instructions to the Custodian on behalf of the Customer, including to place orders for the purchase and sale of securities, and authorizes the Custodian to disburse funds on behalf of the Customer upon Instruction from such Designated Representative. Customer hereby also authorizes and directs the Custodian to pay for securities and receive payment from the sale of securities or other investment transactions arising out of Instructions of the Designated Representative. Designation of a Designated Representative is subject to the following provisions:

3.4.1 Customer agrees that the Custodian may rely on Instructions from the Designated Representative, and Customer agrees that the Custodian shall be under no duty to make an investigation with respect to any Instructions received from the Designated Representative;

3.4.2 Customer is solely responsible for managing the investment of the Account and for the direction and supervision of the Designated Representative. All Instructions, directions, and/or confirmations received by the Custodian from a Designated Representative shall be deemed to have been authorized by the Customer;

3.4.3 Customer agrees that a Designated Representative is not an agent of the Custodian; and

3.4.4 Customer may remove a Designated Representative and designate a new representative at any time by written notice to the Custodian in a form satisfactory to the Custodian. The Customer will give the Custodian prompt written notice of any change in the identity or authority of any Designated Representative. Removal of a Designated Representative will not have the effect of canceling any Instruction that has been received by the Custodian from the Designated Representative prior to the date that notice of removal is received by the Custodian. Until written notice of such change is received, the Custodian may conclusively rely upon and be protected in acting on the latest identification provided to it without further inquiry or verification.

3.5 **Participant Direction**. If the Custodian is advised by the Customer that the provisions of the Plan and related trust documents so permit, and the Customer so requests, the Custodian shall establish separate participant-directed sub-accounts and all references to the Customer under this Agreement shall be deemed to be references to the participant who is directing investment of such sub-account, except that the address of such participant shall be deemed to be the address of the Customer. The right to amend the Agreement shall remain that of the Customer.

ARTICLE 4

CONTRIBUTIONS AND TRANSFERS

4.1 **Receipt of Assets**. Subject to restrictions mutually acceptable to the Customer and the Custodian on the categories of assets, the Custodian will receive and accept for the Custodial Account all money, securities and other property transferred, assigned and delivered to it from any source by or at the direction of the Customer or a Designated Representative. The Custodian has no duty to inquire into the source of any assets transferred to it or the right of the transferor of such assets to transfer them to the Custodian.

4.2 **Role of Custodian with Respect to Assets**. The Custodian will maintain safe custody of such money, securities and other property as it actually receives for the Custodial Account. The Custodian has no duty or authority to require any contributions or transfers to be made under the Plan to the Custodian, compute any amount to be contributed or transferred under the Plan to the Custodian, determine whether amounts received by the Custodian comply with the Plan, the Code, ERISA, if applicable, or any other applicable law, or enforce contribution amounts for sufficiency under the Code or ERISA, if applicable. The Custodian will not be responsible for any transferred asset until it receives such asset.

4.3 **Location of Evidence of Ownership**. Except as permitted by ERISA, if applicable, the Custodian will not maintain the indicia of ownership of any assets of the Custodial Account outside the jurisdiction of the district courts of the United States.

4.4 **Unidentified Assets**. If the Custodian receives any money, securities or other property from a source other than the Customer and has not received appropriate notification that such assets are to be accepted for the Custodial Account, the Custodian is authorized to return such assets to the Person from whom they were received. The Custodian will not be liable for any assets returned in such circumstances.

4.5 **Return of Amounts to the Customer**. The Custodian will return contributions to the Customer if the Customer or a Designated Representative provides an Instruction to the Custodian to do so. The Customer is solely responsible for ensuring that any Instruction to return any amount to the Customer meets all applicable legal requirements, including those of ERISA, if applicable. The Custodian has no duty or responsibility to question, and may conclusively rely upon, any such Instruction.

ARTICLE 5

INVESTMENTS

5.1 **Investment Control**.

5.1.1 **Customer's Duties**. The Customer will control and manage the investment of the Custodial Account except insofar as the Customer permits participants and beneficiaries to control the investment of Custodial Account assets attributable to their own accounts, delegates investment authority over part or all of the Custodial Account assets to one or more Investment Managers, or delegates investment authority over part or all of the Custodial Account assets to one or more other Designated Representatives. Customer grants to the Custodian all powers reasonably necessary to carry out its investment and other duties under this Agreement, and Customer agrees to furnish the Custodian with such information and Instructions as may be necessary to carry out the provisions of this Agreement and to enable the Custodian to fulfill all legal and regulatory reporting requirements.

5.1.2 **Investment Directions**. All investment directions and other Instructions must be delivered to the Custodian in such manner as the Custodian may reasonably require.

5.2 **Role of Custodian**.

5.2.1 **Processing Transactions**. No investment transaction for the Custodial Account that is to be processed by the Custodian at the direction of the Customer or a Designated Representative will be processed until the Custodian receives the Instruction in proper form. Investment transactions will be processed either as soon as administratively practicable thereafter or, if later, on the scheduled date for processing. The Custodian may rely conclusively on all Instructions given by the Designated Representative which the Custodian believes to be genuine. The Custodian's records of a transaction will be conclusive as the content of any Instructions. Unless otherwise agreed, Instructions shall generally be taken from the Designated Representative. Upon application by the Customer, on a form acceptable to the Custodian and upon approval by the Custodian, the Custodian will accept non-written Instructions from the Customer or Designated Representative subject to immediate confirmation of such Instructions by email or in writing by the Designated Representative

The Custodian will have no responsibility to see that any investment directions comply with the terms of the Plan. However, if the Custodian receives any direction from the Customer or a Designated Representative that appears to the Custodian in its sole judgment to be incomplete or unclear, the Custodian will not be required to act on such directions and may hold uninvested any asset without liability until proper directions are received from the Customer or the Designated Representative. If investment directions are incomplete or unclear, the Custodian must notify the Customer or a Designated Representative within a reasonable period of time. In the absence of proper investment directions, the Custodian will not be liable for interest, market gains or losses on any cash balances maintained in the Custodial Account.

5.2.2 **Legitimate Delay**. The Custodian may delay the processing of any investment transaction due to a Force Majeure, government or NSCC restrictions or changes, exchange, market or NSCC rulings, strikes, interruptions of communications or data processing services, or disruptions in orderly trading on any exchange or market.

5.2.3 **Other Limitations**. Except as may otherwise be required by ERISA, if applicable, the Custodian will invest the Custodial Account as directed by the Designated Representative, and the Custodian will have no discretionary control over, nor any other discretion regarding, the investment or reinvestment of any asset of the Custodial Account. The Custodian has no duty or authority to provide investment advice with respect to the assets of the Custodial Account, monitor investment performance or the diversification of assets, question any investment direction the Custodian receives in proper form, or inquire into the authority or right of the Designated Representative to make any investment direction which the Custodian receives in proper form. The Custodian will not be liable for any loss of any kind which may result from any action taken by it in accordance with an Instruction it receives in proper form or from any action omitted because no Instruction is received.

5.3 **Nondiscretionary Investment Authority**. Subject to ERISA, if applicable:

5.3.1 Customer hereby authorizes and directs the Custodian, in accordance with the provisions of this Agreement, to pay for securities and receive payment from securities or other investment transactions arising out of the Instruction of the Designated Representative. Customer understands that it is solely the Customer's responsibility to direct the Designated Representative to execute trades or other investments for the Account, and all Instructions, directions, and/or confirmations received from the Designated Representative shall be deemed to have been authorized by Customer. Customer agrees that the Custodian shall not supervise the investment of, or advise or make recommendations to the Customer with respect to the purchase, sale or other disposition of any assets of the Fund.

5.3.2 The Custodian is authorized to collect all investment earnings of any nature of the Fund, including interest, dividends, proceeds of the sale and other monies due and collectable that arise from the investment of the assets of the Fund (collectively, "Fund Income") and to credit such Fund Income to the Account.

5.3.3 The Custodian will act solely as agent for the Customer, subject to the Instructions of the Designated Representative. The Custodian shall have no obligation to place orders for the purchase of securities if there are insufficient funds in the Account. Customer authorizes the Custodian to charge the Account for the cost of all securities purchased or received against a payment and to credit the Account with the proceeds received from the securities sold or delivered against payment. In the event of any trades not settled immediately upon placement, the Custodian will have the right, without notice, to sell securities in a reasonably prudent fashion from the Fund sufficient to recover any funds advanced.

5.3.4 Customer authorizes and instructs the Custodian to register all assets of the Fund in the name of the Custodian or of a nominee. Unless otherwise agreed in writing by the parties, registered securities shall be held in the name of:

MG Trust Company, LLC, Custodian
FBO: [Name of Plan]

5.3.5 All proxies received by the Custodian with respect to securities owned by the Fund and other reports to stockholders issued by any issuer will be forwarded to the Customer.

5.4 **Investment Restrictions**. The Customer or Designated Representative shall direct the Custodian to purchase or sell only securities that comply with the Custodian's and/or its affiliate's policies and procedures relating to acceptable securities, and that comply with all applicable rules, regulations, customs and uses of any exchange, market, clearinghouse or self-regulatory organization and applicable state and federal laws and regulations. The Custodian will

hold only those categories of assets mutually agreed to between the Customer and the Custodian. The Customer may add or remove types, categories, or classes of assets or investments only with the consent of the Custodian. Further, the Customer may limit the available investment options under the Plan, and may impose separate limitations for different Accounts or for terminated participants. Nothing in this Article shall be construed to impose investment discretion on the Custodian or its affiliates.

ARTICLE 6

ADMINISTRATIVE MATTERS

6.1 **Records; Inspection and Audit**. The Custodian will keep accurate and detailed records and accounts of all receipts, investments, disbursements and other transactions as required by law with respect to the Custodial Account. All records, books and accounts relating to the Custodial Account will be open to inspection by the Customer, provided the Custodian is given reasonable advance written notice of such inspection by the Customer.

6.2 **Accounting**. On direction of the Customer or Designated Representative, and if agreed to in writing by the Custodian, the Custodian may provide annual or interim accountings, valuations, or other reports concerning the assets of the Custodial Account subject to payment of all required additional fees for such reports. The Custodian's accounting will be at the Custodial Account level rather than the participant level, and the Custodian will not be responsible for participant-level reporting unless it agrees to do so in a separate written agreement with the Customer or a Designated Representative. The Custodian will also furnish the Customer with such other information as the Custodian possesses and which is necessary for the Customer to comply with the reporting requirements of ERISA, if applicable. An accounting will be deemed to have been approved by the Customer unless the Customer or Designated Representative objects to the contents of an accounting within sixty (60) days of its mailing or electronic transmission by the Custodian. Any objections must set forth the specific grounds on which they are based. Upon approval, the Custodian shall be forever released from any and all liability with respect to the Account.

6.3 **Valuation of Assets**. The assets of the Custodial Account will be valued at the most recent fair market value.

6.3.1 **Assets Managed by Investment Manager or Named Fiduciary**. With respect to the portion of the Custodial Account that is invested by an Investment Manager or other named fiduciary, the Custodian may conclusively rely upon the value of any securities or other property in that portion of the Custodial Account as reported to the Custodian by the Investment Manager or other named fiduciary, for all purposes under this Agreement.

6.3.2 **Other Assets**. With respect to the assets in any portion of the Custodial Account that are not managed by an Investment Manager or named fiduciary, or any assets for which an Investment Manager or named fiduciary refuses or fails to provide valuation information, if the fair market value can be determined by reference to readily available sources, then the Custodian will be responsible for determining the fair market value of those assets. For those assets whose value cannot be determined by reference to a readily available source, the Custodian will identify those assets for the Customer and the Customer will direct the Custodian as to the fair market value of those assets. Should the Customer in its sole discretion determine that an independent appraisal of some or all of such assets is necessary, the Customer will be responsible for hiring a qualified independent appraiser, providing all necessary information to the appraiser, reviewing the report of the appraiser, and reporting the appraised value to the Custodian.

6.4 **Record Retention**. The Custodian will retain its records relating to the Custodial Account as long as necessary for the proper administration of the Custodial Account and at least for any period required by applicable law. Writing, photostatting, photographing, micro-filming, magnetic media, mechanical or electrical recording, or other forms of data retention will be acceptable means of record retention.

6.5 **No Responsibility for Participant-Level Record-keeping or Communications to Participants**. Unless otherwise agreed in a separate written agreement between the Customer and the Custodian, the Custodian will not be responsible for participant-level recordkeeping or reporting, including, but not limited to, allocating contributions or gains or losses to recordkeeping accounts of participants, processing participant investment change requests, processing loan or distribution requests, or preparing or providing benefit statements to participants. Similarly, unless otherwise agreed in a separate written agreement between the Customer and the Custodian, the Custodian will not be responsible for any communications to participants and beneficiaries regarding the Plan or the Custodial Account.

6.6 **Action by the Custodian**. The Custodian may delegate ministerial acts, specifically including, but not limited to, the signing and mailing of checks, the printing and mailing of statements, endorsement of stock certificates, execution of transfer instruments and any other document, and the signing of tax returns and governmental reports to be done by any agent of the Custodian.

ARTICLE 7

DISTRIBUTIONS; TAXES

7.1 **Distributions.** The Custodian is authorized to release securities and cash investments in the Account to the Customer, but not to a participant directing the investment of a sub-account as described in Section 3.5, on the written order of the Customer and upon such further written confirmation as the Custodian shall reasonably request. The Custodian may retain such securities as shall be reasonably necessary or appropriate in its opinion to insure that such assets are available to discharge any liabilities of the Customer or the Account to the Custodian, including, but not limited to, unpaid fees, claims, or other expenses or obligations arising under this Agreement.

7.2 **Authorization with Respect to Taxes**. The Custodian may execute, as custodian, any declarations or certificates pertaining to the Account that may be required under any tax law(s) or governmental regulation(s) now or hereafter without prior approval of the Customer. The Custodian may withhold from any distribution to a participant or beneficiary, made at the direction of the Customer or a Designated Representative, all income taxes required by law to be withheld, if any, and pay such withheld amounts to the appropriate taxing authorities. The Customer or its Designated Representative shall calculate all taxes and withholding and shall provide the Custodian all information necessary for the Custodian to carry out such withholding in a timely fashion, and to file all required returns, reports, or other documents with the applicable taxing authorities with respect to distributions by the Custodian to participants and beneficiaries and amounts withheld thereon. If such information is not so provided to the Custodian, the Designated Representative and the Customer shall hold the Custodian harmless from and indemnify it for any liability and related expenses that arise in connection with improper withholding or reporting.

The Custodian shall notify the Designated Representative of any tax levied upon or assessed against the Account of which the Custodian has knowledge. If the Custodian receives no Instructions from the Designated Representative, the Custodian may pay the tax from the Account. If the Designated Representative wishes to contest the tax assessment, it shall give appropriate and timely instructions to the Custodian. The Custodian shall not be required to bring any legal actions or proceedings to contest the validity of any tax assessments unless the Custodian has been indemnified to its satisfaction against loss or expense related to such actions or proceedings, including reasonable attorney's fees.

The Custodian shall have no liability for making any distribution or transfer pursuant to the Instruction of the Designated Representative (including amounts withheld pursuant to this section) and shall be under no duty to make inquiry as to whether any distribution or transfer directed by the Designated Representative is made pursuant to the provisions of the Plan or any applicable law, or as to such Instruction's effect for tax purposes or otherwise.

ARTICLE 8

COMPENSATION AND EXPENSES

8.1 Generally. The Custodian will be entitled to receive compensation for its services provided hereunder as may be agreed upon in writing with the Customer. The Custodian or its affiliate will retain any earnings credited on any funds in the Account pending investment direction and pending distribution as part of its compensation for services provided. The Custodian will also be entitled to reimbursement for all reasonable and necessary costs, expenses, and disbursements incurred by it in the performance of such services, including, without limitation, attorneys' fees. Such compensation and reimbursements shall be a charge against and may be withdrawn by the Custodian from the Custodial Account within a reasonable time, as specified by the Custodian; provided, however, that such amounts may be paid by the Designated Representative on behalf of the Customer, as outlined in a separate written agreement between said parties. In addition, the Trustee shall also be bound by and authorizes the Custodian to pay fees and expenses pursuant to written schedules of fees entered into from time to time by the Customer and/or the Designated Representative and the Custodian. The Customer or Designated Representative has informed the Trustee of such fee schedule and the Trustee and the Trust agree to be bound thereby. The Trustee also authorizes the Custodian to debit such fees and expenses from the Account from time to time without further authorization from the Trustee. The schedule of fees may be changed from time to time upon agreement between the Customer and the Custodian. The Custodian may invest any cash balances of the Fund in a

demand account at Matrix Capital Bank or other like institution. The Custodian shall not be obligated to invest such funds in any interest-bearing account.

8.2 **Disclosure.** The Designated Representative shall disclose any compensation, reimbursements, fees and/or expenses payable from the Account pursuant to Section 8.1, and any changes to such amounts, to the Customer and to the participants, if appropriate or required by law.

ARTICLE 9

AMENDMENT, ASSIGNMENT AND TERMINATION

9.1 **Amendment.** This Agreement may be amended by the Custodian, provided notice of such amendment is sent to Customer at least thirty (30) days prior to the effective date of any such amendment.

9.2 **Assignment.** This Agreement may be assigned by the Custodian without the consent of the Customer, provided notice of such assignment is sent to Customer at least thirty (30) days prior to the effective date of any such assignment.

9.3 **Termination.** This Agreement shall remain in force until terminated, and either the Customer or the Custodian may terminate this Agreement upon thirty (30) days written notice to the other. Upon termination of this Agreement, Customer agrees to name a successor custodian and notify the Custodian in writing of the name of said successor custodian. In the event that Customer does not name a successor Custodian, the Custodian shall distribute cash directly to the Plan or the Trustee and shall reregister in the name of the Plan any securities in the Account that are registered in the Custodian's name.

9.4 **Termination of Plan.** If the Plan is terminated, this Custodial Agreement will nevertheless continue in effect until the earlier of the date as of which all assets of the Custodial Account have been distributed or the Agreement is terminated pursuant to Section 9.3.

9.5 **Customer Bankruptcy.**

9.5.1 If the Customer becomes insolvent, files for or becomes subject to bankruptcy or a similar proceeding in state or federal court, the Customer will notify the Custodian in writing as soon as possible. The notification will include confirmation of the individual(s) who will direct the Custodian. If, within sixty (60) days of such filing the Customer does not notify the Custodian, the Custodian may invoke the provisions of Section 9.5.3.

9.5.2 In the case of bankruptcy, insolvency, or dissolution of the Customer, the Custodian will have the right to petition a court of competent jurisdiction to appoint a new Custodian, the costs of such action being payable from the Custodial Account.

9.5.3 In the case of dissolution of the Customer, or at any other time that the Customer does not respond to requests from the Custodian for confirmation of the individuals who will provide direction to the Custodian, the Custodian may, in its sole discretion, assume the Plan has been terminated and distribute assets according to applicable law. Before the Custodian may make such assumption, however, the Custodian will send to the last known address of the Customer, and the individuals who last had authority for providing direction to the Custodian, via certified mail, a written notice of the Custodian's intent to begin such action. The Custodian will then wait at least thirty (30) days before beginning such action.

9.5.4 If the Custodian receives notice of the Customer's bankruptcy, insolvency or dissolution (either by the Customer or a court of competent jurisdiction), or if the Plan has been deemed abandoned as described in Section 9.5.3, above, any fees and other expenses relating to the provision of services under this Custodial Agreement (whether current or overdue) may be immediately deducted from the Custodial Account.

ARTICLE 10

INDEMNIFICATION

Customer hereby agrees to indemnify, defend and hold the Custodian and any parent, subsidiary, related corporation, or affiliates of the Custodian, including their respective directors, managers, officers, employees and agents, harmless from and against any and all loss, costs, damages, liability, expenses or claims of any nature whatsoever, including but not limited to legal expenses, court costs, legal fees, and costs of investigation, including appeals thereof, arising, directly or indirectly thereof resulting from their reliance upon and any action that it takes in good faith in accordance with any certificate, notice, confirmation, or Instruction, purporting to have been delivered by the Designated Representative. Customer waives any and all claims of any nature it now has or may have against the Custodian and its affiliates, parent company and their respective directors, managers, officers, employees, agents and other representatives, which arise, directly or indirectly, from any action that it takes in good faith in accordance with any certificate, notice, confirmation, or Instruction from the Designated Representative. Customer and the Trustee also hereby agree to indemnify, defend and hold the Custodian and any parent, subsidiary, related corporation, or affiliates of the Custodian, including their respective directors, managers, officers, employees and agents, harmless from and against any and all loss, costs, damages, liability, expenses or claims of any nature whatsoever, including but not limited to legal expenses, court costs, legal fees, and costs of investigation, including appeals thereof, arising, directly or indirectly, out of any loss or diminution of the Fund resulting from changes in the market value of the Fund assets; reliance, or action taken in reliance, on Instructions from Customer or a Designated Representative; any exercise or failure to exercise investment direction authority by Customer or by a Designated Representative; the Custodian's refusal on advice of counsel to act in accordance with any investment direction by Customer or a Designated Representative; any other act or failure to act by Customer or a Designated Representative; any prohibited transaction or disqualification of a Plan due to any actions taken or not taken by the Custodian in reliance on Instructions from the Customer or the Designated Representative; or any other act the Custodian takes in good faith hereunder that arises under this Agreement or the administration of the Fund.

The Custodian shall not be liable to Customer for any act, omission, or determination made in connection with this Agreement except for its gross negligence or willful misconduct. Without limiting the generality of the foregoing, the Custodian shall not be liable for any losses arising from its compliance with Instructions from the Customer or a Designated Representative; or executing, failing to execute, failing to timely execute or for any mistake in the execution of any Instructions, unless such action or inaction is by reason of the gross negligence or willful misconduct of the Custodian.

The provisions of this Article shall survive the termination, amendment or expiration of this Agreement.

ARTICLE 11

PROVISIONS RELATED TO THE TRUSTEE

A trust agreement (the "Trust Agreement" or the "Trust") has been entered into between the Trustee and the Customer with respect to the Plan, which agreement sets forth the duties and obligations of the Trustee. By signing this Agreement, the Trustee certifies that the Trustee has full authority to execute any documents, agreements, and instruments on behalf of the Trust that are binding obligations of the Trust; any Trustee may act individually on behalf of and bind the Trust; there are no other Trustees of the Trust other than those first listed above; the Trustee has the power under the Trust Agreement and applicable law to hold in trust any and all types of securities specified by the Customer or a Designated Representative; and the Trustee has the power to delegate trading authorization to the Designated Representative and has done so by executing this Agreement. The Trustee agrees to inform the Custodian in writing of any amendment to the Trust Agreement, any removal, substitution or other change in the identity of one or more Trustees, or any other event that could alter this certification. The Custodian may rely on instructions from a Designated Representative until such designation is revoked or changed in writing signed by the Trustee and delivered to the Custodian. The Trustee hereby adopts the terms and conditions of this Agreement and agrees that it shall control over any conflicting provisions in the Trust.

The Trustee hereby also certifies that the Trust at all times meets the requirements of the Code Sections applicable thereto, including Sections 401(a) and 501(a), 457(b), 501(c)(9) or 115, as applicable. The Trustee agrees to indemnify, defend and hold the Custodian and any parent, subsidiary, related corporation, or affiliates of the Custodian, including their respective directors, managers, officers, employees and agents ("Indemnified Parties"), harmless from and against any and all loss, costs, damages, liability, expenses or claims of any nature whatsoever, including but not limited to legal expenses, court costs, legal fees, and costs of investigation, including appeals thereof, arising, directly or indirectly, out of the failure of the Fund to meet the requirements of Code Sections 401(a) and 501(a), 457(b), 501(c)(9) or 115, as applicable; any loss or diminution of the Fund resulting from changes in the market value of the Fund assets; reliance or action taken in reliance on Instructions from Customer or a Designated Representative; any exercise or failure to exercise investment direction authority by Customer or by a Designated Representative; the Custodian's refusal on advice of counsel to act in accordance

with any investment direction by Customer or a Designated Representative; any other act or failure to act by Customer or a Designated Representative; any prohibited transaction or disqualification of the Plan due to any actions taken or not taken by the Custodian in reliance on Instructions from the Customer or a Designated Representative; or any other act the Custodian takes in good faith hereunder that arises under this Agreement or the administration of the Fund as directed by the Customer or a Designated Representative. The Trustee acknowledges that the Custodian's duties under the Agreement are ministerial and do not relieve the Trustee of any of the duties set forth in the documents comprising the Plan and any related Trust.

ARTICLE 12

MISCELLANEOUS

12.1 **Duty to Defend**. The Custodian shall not be under any obligation to defend any legal action or engage in any legal proceedings with respect to the Account or with respect to any property held in the Fund. Whenever the Custodian deems it reasonably necessary, the Custodian is authorized to consult with its counsel in reference to the Account and to retain counsel and appear in any action, suit, or proceedings affecting the Account or any of the assets of the Fund. All legal fees, costs, and expenses so incurred shall be paid for by the Customer or in the absence of payment charged against the Account. Without limiting the generality of the foregoing, the Custodian will not settle any action taken as set forth herein, without the prior written consent of the Customer.

12.2 **Applicable Law**.

12.2.1 **Choice of Law**. This Agreement shall be construed and interpreted according to the laws of the State of Colorado to the extent that such laws are not preempted by the laws of the United States of America. All contributions to, and payments from, the Account shall be deemed to take place in the State of Colorado.

12.2.2 **Choice of Venue**. All controversies, disputes, and claims arising under this Agreement and not otherwise resolved will be submitted to the United States District Court for the district where the Custodian has its principal place of business, and by executing this Agreement, each party hereto consents to that court's exercise of personal jurisdiction over them.

12.3 **Counterparts**. This Agreement shall be executed in any number of counterparts, each one of which shall be deemed to be the original although the others shall not be produced.

12.4 **Notices**. The address of the Customer shall be as set forth in this Agreement, but may be changed by providing written notice to the Custodian sent by certified mail, return receipt requested.

12.5 **Limitation on Claims**. No claim may be made by the Customer against the Custodian for any lost profits or any special, indirect or consequential damages in respect of any breach or wrongful conduct in any way related to this Agreement.

12.6 **Arbitration**. The parties acknowledge that this Agreement evidences a transaction involving interstate commerce. The parties agree that any misunderstandings, controversies or disputes arising from this Agreement shall be decided by binding arbitration which shall be conducted, upon request by either party, in Denver, Colorado, before three (3) arbitrators designated by the American Arbitration Association (the "AAA"), in accordance with the terms of the Commercial Arbitration Rules of the AAA, and, to the maximum extent applicable, the United States Arbitration Act (Title 9 of the United States Code). The decision of the majority of the arbitrators shall be binding and conclusive upon the parties. Notwithstanding anything herein to the contrary, either party may proceed to a court of competent jurisdiction to obtain equitable relief at any time, other than to stay arbitration. Further, any such court proceeding shall only be brought in the federal district court in Denver, Colorado. The arbitration panel shall have no authority to award special, indirect, consequential, punitive or other damages not measured by the prevailing party's actual damages. To the maximum extent practicable, an arbitration proceeding under this Agreement shall be concluded within one hundred eighty (180) days of the filing of the dispute with the AAA. The provisions of this arbitration clause shall survive any termination, amendment or expiration of the Agreement and if any term, covenant, condition or provision of this arbitration clause is found to be unlawful or invalid or unenforceable, the remaining parts of the arbitration clause shall not be affected thereby and shall remain fully enforceable. Judgment on any award rendered by the arbitration panel may be entered in any court having competent jurisdiction. The parties shall each pay one-half of the forum and arbitrators' fees. The prevailing party in the

arbitration, or any court proceeding, shall be entitled to its reasonable attorney's fees and expenses from the non-prevailing party.

12.7 **Exclusive Benefit**. Except as permitted by law or by the terms of the Plan or related Trust, at no time prior to the satisfaction of all liabilities with respect to participants and their beneficiaries under the Plan shall any part of the Account be used for or diverted to any purpose other than for the exclusive benefit of the participants and their beneficiaries. The assets of the Account shall be held for the exclusive purpose of providing benefits to participants in the Plan and their beneficiaries and defraying the reasonable expenses of administering the Plan and the Trust. The foregoing limitations shall not apply if the Plan and Trust are not subject to ERISA, unless otherwise required by applicable state or federal law.

12.8 **Prohibited Transactions**. Customer understands that certain transactions are prohibited for plans subject to ERISA and Code Section 4975. If applicable, the Customer will not direct the purchase or sale of any Fund asset to or from a "disqualified person" as defined in Code Section 4975(e), or "party-in-interest" as defined in ERISA Section 3(14), or in any other way direct an investment transaction which would be deemed to be a "prohibited transaction" under applicable law. The Custodian shall have no duty to determine whether any transaction is, or has the potential to be, a "prohibited transaction."

12.9 **Evidence**. Evidence required of anyone under the Custodial Agreement may be by certificate, affidavit, document, facsimile, E-mail or other form which the Person acting in reliance thereon considers to be pertinent and reliable, and to be signed, made, or presented by the proper party.

12.10 **Waiver of Notice**. Any notice required under this Custodial Agreement may be waived in writing by the Person entitled to the notice.

12.11 **Complete Agreement**. This Agreement and any schedule of fees provided by the Custodian or the Designated Representative embodies the entire agreement and understanding of the parties relating to the subject matter hereof.

12.12 **USA Patriot Act Notification**. The following notification is provided to Customer pursuant to Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT. To help the government fight the funding of terrorism and money-laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person or entity that opens an account, including any deposit account, treasury management account, loan, other extension of credit, or other financial services product. What this means for Customer: When Customer opens an account, if Customer is an individual, the Custodian or the Designated Representative will ask for Customer's name, taxpayer identification number, residential address, date of birth, and other information that will allow the Custodian or the Designated Representative to identify Customer, and, if Customer is not an individual, the Custodian or the Designated Representative will ask for Customer's name, taxpayer identification number, business address, and other information that will allow the Custodian or the Designated Representative to identify Customer. The Custodian or the Designated Representative may also ask, if Customer is an individual, to see Customer's driver's license or other identifying documents, and, if Customer is not an individual, to see Customer's legal organizational documents or other identifying documents.

ARTICLE 13

SPECIAL INSTRUCTIONS (OPTIONAL):

1. The attached Addendum relating to immigration compliance, prohibitions on business in Iran/Sudan, and termination for conflicts of interest is hereby incorporated as part of this Agreement.

2. The Customer will establish the Trust via the Glendale City Council's adoption and approval of the "City of Glendale Retiree Health Savings Plan Basic Plan and Trust Document"

(Signatures appear on the following page)

The parties enter this Agreement as of the date set forth above.

City of Glendale,
an Arizona municipal corporation

By:_____

Its:_____

ATTEST:

_____
City Clerk (Seal)

Approved as to form:

_____
City Attorney

MG Trust, LLC,
a State of Colorado limited liability company

By:_____

Its;_____

Educators Benefit Consultants, LLC
a Third Party Administration company registered with the Arizona Department of Insurance

By:_____

Its;_____

ADDENDUM TO MG TRUST COMPANY, LLC CUSTODIAL ACCOUNT AGREEMENT

MG Trust Company, LLC ("Contractor") further agrees as follows:

I. Immigration Law Compliance.

A. Contractor warrants compliance with all immigration laws and regulations that relate to their employees and are applicable to Contractor.

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 of Glendale ("City") retains the legal right to inspect the papers of Contractor who performs work under this Agreement to ensure that Contractor is compliant with the warranty under subsection (A) above.

II. Prohibitions. Contractor 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.

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

(Signatures appear on the following page)

BUSINESS ASSOCIATE AGREEMENT

FOR HIPAA COMPLIANCE

This Business Associate Agreement for HIPPA Compliance ("Agreement") is made and entered between CITY OF GLENDALE, an Arizona municipal corporation ("City" or "Covered Entity"), and Educators Benefit Consultants, LLC ("EBC" or "Business Associate"), a third-party administration company registered with the Arizona Department of Insurance as of _____ day of _____, 2013 ("Effective Date).

RECITALS

A. EBC is the Administrator for the City-sponsored retiree health savings account plan; and

B. EBC regularly uses and comes into contact with Protected Health Information in its performance of contracted services for the City; and

C. Both City and EBC are committed to complying with the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Regulation") and other regulations issued under 45 C.F.R. parts 142 and 160-164 pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

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 EBC agree as follows:

1. Permitted Uses and Disclosures.

1.1 *Services.* Pursuant to the Administrative Services Agreement for City of Glendale Retiree Health Savings Account between the City ("Covered Entity) and EBC ("Business Associate") ("Services Agreement"), Business Associate provides services ("Services") for Covered Entity that involve the use and disclosure of Protected Health Information (PHI). Except as otherwise specified herein, Business Associate may make any and all uses of PHI necessary to perform its obligations under the Service Agreement. All other uses not authorized by this Agreement are prohibited.

1.2 *Business Activities of Business Associate.* Unless otherwise limited herein, Business Associate may disclose the PHI in its possession to third parties for the purpose of its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate, provided that Business Associate warrants to Covered Entity, in writing, that the disclosures are in compliance with HIPAA and any applicable state laws or regulations governing health information.

1.3 *Additional Activities of Business Associate.* Business Associate may:

a) Aggregate the PHI in its possession with the PHI of other covered entities that Business Associate has in its possession through its capacity as a business associate with other covered entities provided that the purpose of such aggregation is to provide Covered Entity with data analyses relating to the RHSA Plan Operations of Covered Entity. Under no circumstances may Business Associate disclose PHI of one Covered Entity to another covered Entity absent the express, written authorization of Covered Entity.

b) De-identify all PHI provided that the de-identification conforms to the requirements of HIPAA and further provided that Covered Entity maintains the documentation required by HIPAA.

2. Use and Disclosure of Protected Health Information (PHI)

2.1 *Responsibilities of Business Associate.* With regard to its use and/or disclosure of PHI, Business Associate hereby agrees to do the following:

a) Use and/or disclose the PHI only as required by this Agreement or as otherwise permitted or required by law.

b) Report to the designated Privacy Officer of Covered Entity, in writing, any use and/or disclosure of the PHI that is not permitted or required by this Agreement of which Business Associate becomes aware of within 10 days of Business Associate's discovery of such unauthorized use and/or disclosure.

c) Establish procedures for mitigating, to the greatest extent possible, any effects from any improper use and/or disclosure of PHI that Business Associate reports to Covered Entity or otherwise becomes known.

d) Use commercially reasonable efforts to maintain the security of the PHI and to prevent unauthorized use and/or disclosure of such PHI.

e) Require all if its subcontractors and agents that receive, use, or have access to PHI under this Agreement to agree, in writing, to adhere to the same restrictions and conditions on the use and/or disclosure of PHI that apply to Business Associate pursuant to this Agreement.

f) Make available all records, books, agreements, policies and procedures relating to the use and/or disclosure of PHI to the Secretary of HHS for purposes of determining Covered Entity's compliance with the Privacy Regulation, subject to attorney-client and other applicable legal privileges.

g) Upon prior written request, make available during normal business hours at Business Associate's offices all records, books, agreements, policies and procedures relating to the use and/or disclosure of PHI to Covered Entity within 15 days for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of this Agreement.

h) Within 45 days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to determine compliance with the terms of this Agreement or respond to a request by an individual for an account of the disclosures of the individual's PHI in accordance with HIPAA.

i) Subject to Section 4.5 below, return to Covered Entity or destroy, within 15 days of the termination of this Agreement, the PHI in its possession and retain no copies (which for purposes of this Agreement shall include destroying all backup tapes).

j) Disclose to its subcontractors, agents or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder.

2.2 *Responsibilities of Covered Entity.* With regard to the use and/or disclosure of PHI by Business Associate, Covered Entity hereby agrees to do the following:

a) Inform Business Associate of any changes in the form of notice of privacy practices (the "Notice") that Covered Entity provides to individuals pursuant to HIPAA, and provide the Business Associate a copy of the Notice currently in use.

b) Inform Business Associate of any changes in, or withdrawal of, the consent or authorization provided to Covered Entity by individuals pursuant to HIPAA.

c) Notify Business Associate, in writing and in a timely manner, of any arrangements permitted or required of Covered Entity under HIPAA that may impact in any manner the use/or disclosure of PHI by Business Associate under this Agreement.

d) Allow Business Associate to make any use and/or disclosure of PHI permitted under HIPAA, except use or disclosure for research is not permitted without prior approval by Covered Entity.

3. Handling of Designated Record Sets

3.1 *Responsibilities of Business Associate.* In the event that the parties mutually agree in writing that the PHI constitutes a Designated Record Set (as defined under HIPAA), Business Associate hereby agrees to do the following:

a) At the request of, and in the time and manner designated by Covered Entity, provide access to the PHI to Covered Entity or the individual to whom such PHI relates or his or her authorized representative in order to meet a request by such individual under HIPAA.

b) At the request of, and in the time and manner designated by Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to HIPAA. Provided, however, that Covered Entity makes the determination that the amendment(s) are necessary because the PHI that is the subject of the amendment(s) has been, or could foreseeably be, relied upon by Business Associate or others to the detriment of the individual who is the subject of the PHI that is amended.

3.2 *Responsibilities of Covered Entity.* In the event that the parties mutually agree in writing that the PHI constitutes a Designated Record Set (as defined under HIPAA), Covered Entity hereby agrees to do the following:

a) Notify Business Associate, in writing, of any PHI that Covered Entity seeks to make available to an individual pursuant to HIPAA and the time, manner and form in which Business Associate shall provide such access.

b) Notify Business Associate, in writing of any amendment(s) to the PHI in the possession of Business Associate that Business Associate shall make and inform Business Associate of the time, form and manner in which such amendment(s) shall be made.

4. Additional Use, Disclosure, and HIPAA Obligations

Additional requirements for the use and disclosure of PHI were imposed by the Health Information Tehcnology for Economic and clinical Health Act of 2009 ("HITECH Act"). The parties agree to implement these additional requirements and the obligations set forth and incorporated herein by Exhibit A, Business Associate HIPAA HITECH Obligations. To the extent the obligations of Business Associate or the permitted uses and disclosures set forth in Exhibit A conflict with those set forth in the body of this Agreement, the requirements and obligations set forth in Exhibit A take precedence and are the obligation of the parties under this Agreement.

5. Term and Termination

5.1 *Term.* This Agreement shall become effective on the date set forth above and shall continue in effect until all obligations of the parties have been met, unless terminated as provided in this Section 4. In addition, certain provisions and requirements of this Agreement shall survive its expiration or other termination in accordance with this Agreement.

5.2 *Termination by Covered Entity.* As provided under HIPAA, Covered Entity may immediately terminate this Agreement and any related agreements if Covered Entity makes the determination that Business Associate has breached a material term of this Agreement. Alternatively, Covered Entity may choose to: (i) provide Business Associate with 10 days written notice of the existence of an alleged material breach; and (ii) afford Business Associate an opportunity to cure said alleged material breach upon mutually agreeable terms. Nonetheless, in the event that mutually agreeable terms cannot be achieved within 15 days, Business Associate must cure said breach to the satisfaction of Covered Entity within 15 days. Failure to cure in the manner set forth in this paragraph is grounds for the immediate termination of this Agreement.

5.3 *Termination by Business Associate.* If Business Associate makes the determination that a material condition of performance has changed under the Services Agreement or this Agreement, or that Covered Entity has breached a material term of this Agreement, Business Associate may provide (30) days notice of its intention to terminate this Agreement. Business Associate agrees, however, to cooperate with Covered Entity to find a mutually satisfactory resolution to the matter prior to terminating and further agrees that, notwithstanding this provision, it shall not terminate this Agreement so long as the Services Agreement is in effect.

5.4 *Automatic Termination.* This Agreement will automatically terminate without any further action of the Parties upon the termination or expiration of the Services Agreement between the parties.

5.5 *Effect of Termination.* Upon the event of termination pursuant to this Section 4, Business Associate agrees to return or destroy all PHI pursuant to HIPAA, if it is feasible to do so. Prior to doing so, Business Associate further agrees to recover any PHI in the possession of its subcontractors or agents.

If it is not feasible for Business Associate to return or destroy said PHI, Business Associate will notify Covered Entity in writing. Said notification shall include: (i) identification of PHI that is not destroyable or returnable; (ii)a statement that Business Associate has determined that it is not feasible to return or destroy the PHI in its possession, and (iii) the specific reasons for such determination. Business Associate further agrees to extend any and all protections, limitations and restrictions contained in this Agreement to the PHI retained by Business Associate and to use and/or disclose any of the PHI retained after termination of this Agreement only upon express written authorization by Covered Entity.

If it is not feasible for Business Associate to obtain, from a subcontractor or agent any PHI in the possession of the subcontractor or agent, Business Associate must provide a written explanation to Covered Entity and require the subcontractors and agents to agree to extend any and all protections, limitations and restrictions contained in this Agreement to the PHI retained by the subcontractor and/or agent and to . use and/or disclosure of any PHI retained after the termination of this Agreement only upon express written authorization by Covered Entity.

6. **Confidentiality.** As used in this Agreement, the term "Confidential Information" shall mean any and all information of either party in any media, tangible or intangible, that is not generally known or readily ascertainable, including but not limited to: (i) any and all technical information, know-how, formulae, processes, inventions, and product or service protocols; (ii) any and all business information, such as accounting, financial, sales, and marketing information; (iii) any and all employee and client information. Notwithstanding the above, Confidential Information shall not include information that (a) was generally known or available to the public at the time of disclosure, or which may later become generally know or available to the public, except where such knowledge or availability is the result of an unauthorized disclosure by either party; (b) has been rightfully received by either party from a third party without confidential limitations; (c) has been independently developed by either party or any agents having no access to the Confidential Information of the other party; (d) was available to either party prior to disclosure by the

other party, as evidenced by the receiving or third party's files and records in existence prior to such disclosure. Both parties shall take all steps reasonably necessary to maintain the other party's Confidential Information in confidence and shall not use, publish, disclose or otherwise make available, directly or indirectly, such Confidential Information to any third party without the prior written consent of the other party. Each party's obligations with respect to the other party's Confidential Information also extends to any third party's proprietary or Confidential Information disclosed in the course of providing services hereunder. Each party acknowledges and agrees that the other party would be irreparably harmed if any Confidential Information were to be disclosed to third parties in violation of this Agreement, or if any use were to be made of the Confidential Information other than that specified in this Agreement, and further agrees that the other party shall have the right to seek and obtain injunctive relief upon any violation or threatened violation of the terms of this Agreement, in addition to all other rights and remedies available to the other party at law or in equity. Notwithstanding any other provisions, only information expressly identified as "Confidential Information" in writing is subject to the provisions of this paragraph, except that any PHI is Confidential Information.

7. **Insurance.**

7.1 EBC shall be fully responsible for providing Workers' Compensation or other applicable insurance coverage for itself and its employees and the Employer shall have no responsibility of liability for such insurance coverage.

7.2 EBC shall provide to the Employer a copy of the policy or a certification by the insurance carrier, showing EBC to have in effect during the term of this Agreement, a General Liability Insurance policy, which shall be the primary coverage for EBC activities under this Agreement. The coverage limits of such insurance shall not be less than those listed below.

7.3 EBC certificate(s) shall include all sub-contractors as additional insured's under its policies <u>or</u> EBC shall furnish to the Employer separate certificates and endorsements for each subcontractor. All coverage's for sub-contractors shall be subject to the minimum requirements identified above.

7.4. The insurance company issuing the policy required above shall have an AM Best financial rating of "A-" or better and be authorized by the State of Arizona Department of Insurance to transact business within the State. **The certificate and policy shall name the Employer as an additional insured and shall be primary and the Employer's insurance/self-insurance shall be non-contributory coverage. The Employer shall also be an additional insured to the full limits of the liability insurance purchased by EBC even if those limits are in excess of those required by this Agreement.**

7.5 The Employer reserves the right to terminate this Agreement if EBC fails to maintain such insurance coverage.

7.6 EBC must provide certification of insurance compliance within ten (10) calendar days after notification of award. Certification must include: name and address of insurance company; policy number; liability coverage amounts; a statement the policy will not be canceled or failed to be renewed without thirty (30) days written notice to the Employer. Certification to be submitted to: Materials Management, 5850 West Glendale Avenue, Suite 317, Glendale, Arizona 85301.

<u>Type of Insurance (Minimum)</u>	<u>Limits of Liability</u>
Workers' Compensation	Statutory
Employer's Liability	
Each Accident	$100,000
Disease-Each Employee	$100,000
Disease-Policy Limit	$500,000

Commercial General Liability shall cover liability arising from bodily injury, property damage, products-completed operations, personal and advertising injury, independent contractors, and broad form contractual coverage.

Each Occurrence	$1,000,000
Personal and Advertising	$1,000,000
General Aggregate	$2,000,000
Products-Completed Operations	$1,000,000

Automobile Liability – Including bodily injury and property damage for any owned, hired and non-owned vehicles used in the performance of the services

Combined Single Limit (CSL)	$1,000,000

Professional Liability (Errors and Omissions) coverage shall apply to liability for a professional error, act or omission arising out of the scope of services as defined. EBC warrants that any retroactive date under a claims-made policy shall precede the effective date of this Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Agreement is completed. The policy shall contain a waiver of subrogation in favor of the City of Glendale.

Per Claim	$1,000,000
Policy Aggregate	$2,000,000

8. **Workers Compensation.**

8.1 Workers' Compensation Law (Title 23, Chapter 6, Arizona Revised Statutes) as amended, and all rules and regulations of the Industrial Commission of Arizona made in pursuance thereof. EBC shall secure payment of compensation to employees by insuring the payment of such compensation with the State Compensation Fund or any insurance company authorized by the Insurance Department of Arizona to transact business in the State of Arizona.

8.2 EBC further agrees that he shall require any and all sub-contractor performing work under the agreement to comply with said Workers' Compensation Law. It is expressly understood and agreed that all persons employed directly or indirectly by the EBC, or any of his sub-contractor(s), shall be considered the employees of EBC or his sub-contractor(s), and not the employees of the Employer of Glendale.

9. **Indemnification.** Business Associate shall indemnify, defend, save and hold harmless the Covered Entity and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") 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 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 Business Associate or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of Business Associate or any of its owners, officers, directors, agents, employees or subcontractors to conform to any Federal, State or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Business Associate from and against any and all claims. It is agreed that Business Associate will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Business Associate agrees to waive all rights of subrogation against the Covered Entity, its officers, officials, agents, and employees for losses arising from the work performed by the Business Associate or any of its owners, officers, directors, agents, employees or subcontractors for the Covered Entity.

10. Miscellaneous.

10.1 *Business Associate Definition.* For purposes of this Agreement, the term "Business Associate" shall mean the named Business Associate herein, including any and all officers, directors, employees, subsidiaries, contractors, subcontractors, and agents. However, in the event that Business Associate is otherwise a covered entity under the Privacy Regulation, that entity may appropriately designate a Health Care Component of the entity, pursuant to HIPAA, as Business Associate for purposes of this Agreement.

10.2 *Amendments and Waiver.* This Agreement may not be modified, nor shall any provision hereof be waived or amended, except in writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events. Any amendment may be subject to City Council approval. Electronic signature blocks do not constitute execution.

10.3 *Notices.*

A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:

a) The Notice is in writing; and

b) Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested); and

c) Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:

(1) Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service on or before 5:00 p.m.; or

(2) As of the next business day after receipt, if received after 5:00 p.m.

d) The burden of proof of the place and time of delivery is upon the Party giving the Notice; and

e) Digitalized signatures and copies of signatures will have the same effect as original signaturesAll notices shall be in writing and sent by registered mail, overnight mail, courier or transmitted by facsimile (if confirmed by such mailing) to the addresses indicated on the signature page of this Agreement or such other addresses as either party may indicate by at least ten (10) days prior written notice.

10.4 *Definitions.* Capitalized terms used, but not otherwise defined, in this Appendix shall have the same meanings as those terms in the Health Insurance Portability and Accountability Act of 1996 and the privacy and security regulations there under, as amended from time to time (collectively, "HIPAA").

11. Immigration Law Compliance.

11.1 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.

11.2 Any breach of warranty under subsection 9.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.

11.3 City retains the legal right to inspect the papers of any Contractor or subcontractor employee who performs work under this Agreement to ensure that the Contractor or any subcontractor is compliant with the warranty under subsection 9.1 above.

11.4 City may conduct random inspections, and upon request of City, Contractor shall provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under subsection 9.1 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 section.

11.5 Contractor agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Contractor 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 this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.

11.6 Contractor'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.

11.7 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.

12. Foreign Prohibitions. Contractor 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 statutes, in the countries of Sudan or Iran.

13. Representatives.

a) Contractor. Contractor's representative for Notice delivery is:

Educators Benefit Consultants, LLC
c/o Paige McNeal
3125 Airport parkway, NE
Cambridge, MN 55008

b) City. City's representative for Notice delivery is:

City of Glendale
c/o Jim Brown
Acting Executive Director of Human Resources and Risk Management
5850 West Glendale Avenue
Glendale, Arizona 85301

With required copy to:

City Manager
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

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

c) Concurrent Notices.

(1) All notices to City's representative must be given concurrently to City Manager and City Attorney.

(2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.

(3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.

d. Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

14. Entire Agreement; Survival; Counterparts; Signatures.

14.1 *Integration.* This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.

b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.

c. The solicitation, any addendums and the response submitted by the Contractor are incorporated into this Agreement as if attached hereto. Any Contractor response modifies the original solicitation as stated. Inconsistencies between the solicitation, any addendums and the response or any excerpts attached as Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

14.2 *Interpretation.*

a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.

b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.

c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.

14.3 *Survival.* Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

14.4 *Remedies.* All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

14.5 *Severability.* If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be deemed reformed to conform to applicable law.

14.6 *Counterparts.* This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument..

15. Dispute Resolution. Each claim, controversy and dispute (each a "Dispute") between Contractor and City will be resolved in accordance with Exhibit B. The final determination will be made by the City.

16. Exhibits. The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A HIPAA HITECH Obligations

Exhibit B Dispute Resolution

The parties enter into this Agreement as of the effective date shown above.

City of Glendale,
an Arizona municipal corporation

_____

By:
Its:

ATTEST:

_____

City Clerk (SEAL)

APPROVED AS TO FORM:

_____

City Attorney

Educators Benefit consultants, LLC,
an insurance company registered with the Arizona Department of Insurance

_____

By:
Its:

EXHIBIT A

HIPAA HITECH Obligations

A. Capitalized terms used, but not otherwise defined, in this Appendix shall have the same meanings as those terms in the Health Insurance Portability and Accountability Act of 1996 and the privacy and security regulations there under, as amended from time to time (collectively, "HIPAA").

B. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the employer's benefit plans (Plan(s)) covered under this Agreement to comply with requirements of HIPAA. Educators Benefit Consultants (the Business Associate) and employer (the Covered Entity) agree that any requirements relating to business associates contained in regulations issued pursuant to the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act) shall be automatically, without further action, be incorporated into this Addendum. The parties recognize and agree that they are obligated by law to meet the applicable provisions of the HITECH Act.

C. *Obligations*

1. EBC agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of PHI that it receives, maintains, or transmits on behalf of Plans. It shall maintain reasonable and appropriate policies and procedures to effect this.
2. EBC agrees to report to the Covered Entity within thirty (30) business days of the discovery of any use or disclosure of PHI not provided for by the Agreement and of any Security Incidents. "Discovery" shall mean for these purposes at least one employee of EBC, other than the person responsible for the breach, having knowledge.
3. EBC agrees to ensure that any agent, including a subcontractor, to whom it provides or receives PHI, on behalf of a Plan, agrees to the same restrictions and conditions that apply through this Addendum to EBC with respect to such information.
4. EBC agrees to provide access at the request of a Covered Entity or individual in the Plan, to PHI in a designated Record Set to Covered Entity, or the individual, in order to meet the requirements under 45 CFR 164.524.
5. EBC agrees to make any amendment(s) to PHI in a Designated Record Set that Covered Entity or individual in the Plan directs or agrees to pursuant to 45 CFR 164.526, at the request of Covered Entity or an individual in the Planas appropriate.
6. EBC agrees to make internal practices, books and records relating to the use and disclosure of PHI received on behalf of the Plan, available to the Covered Entity, or the Secretary of the U.S. Department of Health and Human Services (HHS), for purposes of HHS determining the Plan's compliance with HIPAA.
7. EBC agrees to document such disclosures of PHI and information related to such disclosures as would be required for a Plan to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.
8. EBC agrees to provide, Covered Entity or an individual in the Plan information collected in accordance with paragraph 7 above, to permit Covered Entity to respond to a request by an individual for an account of disclosures of PHI in accordance with 45 CFR 164.528.

D. *Permitted Uses and Disclosures*

1. EBC may use or disclose PHI on behalf of, or to provide services to, Covered Entity as specified in this Agreement, if such use or disclosure of PHI would not violate HIPAA.
2. EBC may use PHI:
   - For the proper management and administration of the Plan or to carry out the legal responsibilities of the Plan; and
   - To provide data aggregation services to a Covered Entity as permitted by 45 CFR 164.504 (e)(2)(i)(B).

EXHIBIT B

DISPUTE RESOLUTION

1. Disputes.

1.1 Commitment. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.

1.2 Application. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.

1.3 Initiation. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.

1.4 Informal Resolution. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.

a. The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;

b. The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and

c. The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

2. Arbitration.

2.1 Rules. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the parties may agree, in writing, that the Dispute will be decided by binding arbitration in accordance with Commercial Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.

a. The parties will exercise best efforts to select an arbitrator within 5 business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.

b. The arbitrator selected must be an attorney with at least 10 years experience, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.

2.2 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten (10) days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.

2.3 Hearing. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.

2.4 Award. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.

2.5 Final Decision. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.

2.6 Costs. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party shall pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.

3. Services to Continue Pending Dispute. Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of required services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Contractor in accordance with this Agreement.

4. Exceptions.

4.1 Third Party Claims. City and Contractor are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third-party who is not obligated by contract to arbitrate disputes with City and Contractor.

4.2 Liens. City or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.

4.3 Governmental Actions. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.

CITY COUNCIL REPORT

Meeting Date: **2/12/2013**
Meeting Type: **Voting**
Title: **COUNCIL SELECTION OF VICE MAYOR**
Staff Contact: **Mayor and Council**

Purpose and Recommended Action

In accordance with the Charter and pursuant to City Council Guidelines, Council will designate among its members a Vice Mayor.

The Mayor will accept a motion or motions, call for a second, and conduct a vote of the Council that shall, by virtue of assent of a majority, designate one of its members as Vice Mayor.

Background Summary

The Glendale City Charter provides for the composition of the Council. The Charter, Article II, Section 7, Vice Mayor, states:

The Council shall designate one (1) of its members as Vice Mayor, who shall serve in such capacity at the pleasure of the Council. The Vice Mayor shall perform the duties of the Mayor during the Mayor's absence or disability.

Mayor and Council adopted the City Council Guidelines at the May 26, 2009 Council meeting and amended the Guidelines on January 8, 2013. The Guidelines regarding the appointment of a Vice Mayor, Section 8, states:

The Vice Mayor is selected by a majority vote of the Council. At the first workshop of June each year the Council will consider the appointment of a Vice Mayor for the following fiscal year. At that meeting nominations for Vice-Mayor will be discussed by the Council. If nominations are indicated by Councilmembers at the workshop, a formal nomination and selection process will be placed on the agenda for the next regular meeting following the workshop.

If the Vice Mayor vacates the position for any reason, the selection for replacement will proceed in a timely fashion following the process above and the selected Councilmember will serve for the remainder of the one-year term.

Previous Related Council Action

At the February 5, 2013 Workshop, nominations for Vice Mayor were discussed by Council.