City of Glendale
Council Meeting Agenda

June 25, 2013 – 7:00 p.m.

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. 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 and Workshop Schedule

Council meetings to take official action are held two times each month. These meetings are held on the second and fourth Tuesday of each month at 7:00 p.m. Council workshops are generally held two times each month. Workshops provide Council with an opportunity to hear a presentation by staff on topics that may come before Council for official action. These meetings are held on the first and third Tuesday of each month at 1:30 p.m. The City Council does not take official action during workshop sessions. All meetings are held in the Council Chambers, Glendale Municipal Office Complex, 5850 W. Glendale Avenue.

Executive Session Schedule

Council may convene in "Executive Session" to receive legal advice and discuss land acquisitions, personnel issues, and appointments to boards and commissions. Executive Sessions will be held in Room B3 of the Council Chambers. As provided by state statute, this session is closed to the public.

Regular City Council meetings are telecast live. 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.

Meeting Agendas

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***

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

Council Meeting - 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. Public hearings are also held on certain agenda items. If you wish to speak on a particular item listed on the agenda, please fill out a gold Public Hearing Speakers Card. Your name will be called when the Public Hearing on the item has been opened or Citizen Comments portion of the agenda is reached. **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.

Workshop Meeting - There is no Citizen Comments portion on the workshop agenda.

Regular Workshop meetings are telecast live. Repeat broadcasts are telecast the first and third week of the month – Wednesday at 3:00 p.m., Thursday at 1:00 p.m., Friday at 8:30 a.m., Saturday at 2:00 p.m., Sunday at 9:00 a.m. and Monday at 2:00 p.m. on Glendale Channel 11.

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 the City Council Office at (623)930-2249

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

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

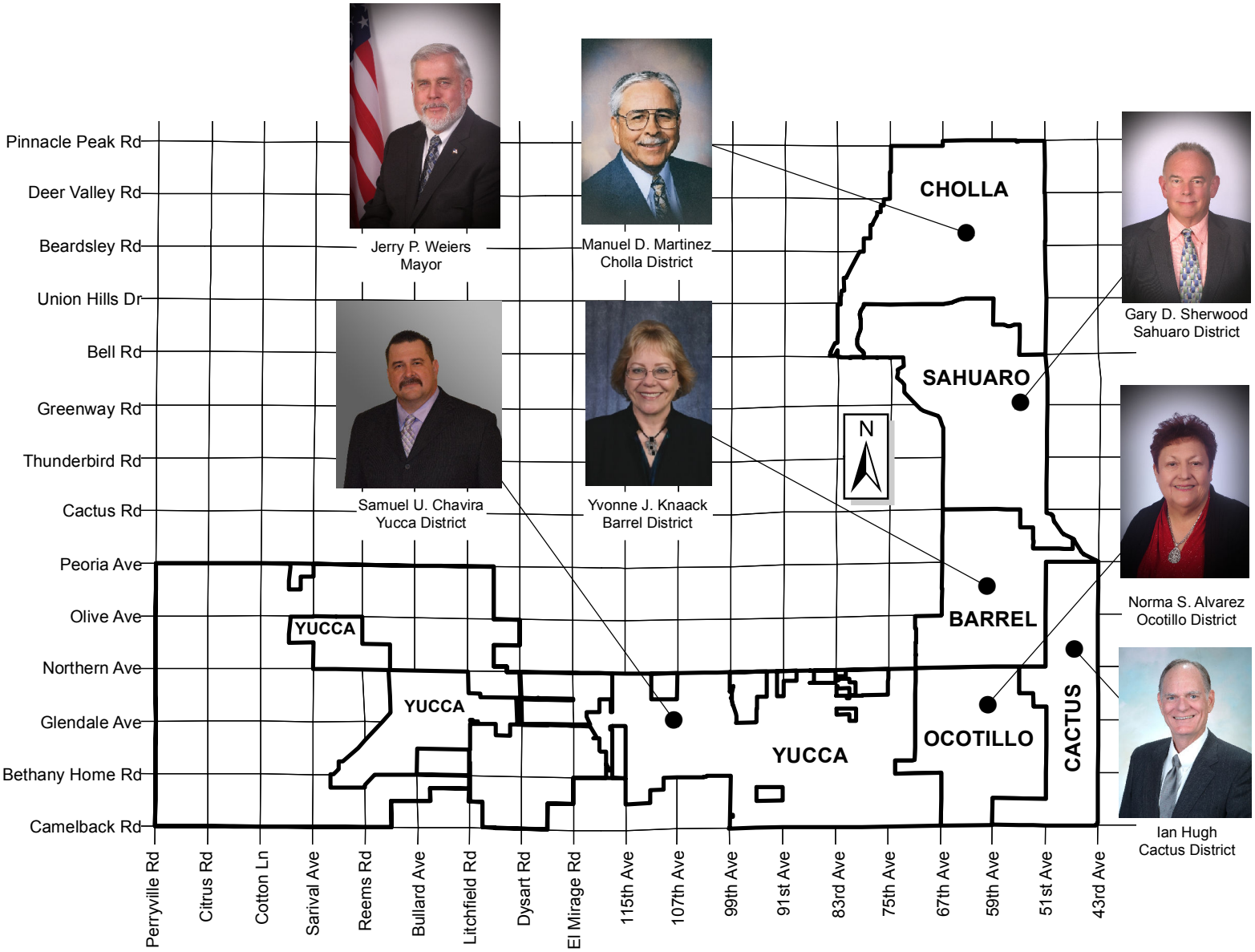
GLENDALE

MAYOR JERRY P. WEIERS
Vice Mayor Yvonne J. Knaack – Barrel District

Appointed City Staff

Richard Bowers – Acting City Manager
Nicholas DiPiazza – Acting 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
June 25, 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 June 11, 2013 and June 14, 2013

BOARDS, COMMISSIONS AND OTHER BODIES

BOARDS, COMMISSIONS AND OTHER BODIES
PRESENTED BY: Councilmember Manuel Martinez

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.

1. LIQUOR LICENSE NO. 5-7785, DESERT MIRAGE GOLF COURSE
PRESENTED BY: Susan Matousek, Revenue Administrator

2. LIQUOR LICENSE NO. 5-9355, BUKKANA'S BAR & GRILL
PRESENTED BY: Susan Matousek, Revenue Administrator

3. LIQUOR LICENSE NO. 5-10419, MIMI'S CAFE
PRESENTED BY: Susan Matousek, Revenue Administrator

4. LIQUOR LICENSE NO. 5-10471, SPROUTS FARMERS MARKET #27
PRESENTED BY: Susan Matousek, Revenue Administrator

5. SERVICE AGREEMENT WITH MOTOROLA, INCORPORATED FOR COMMUNICATIONS SYSTEMS SERVICE

PRESENTED BY: Debora Black, Police Chief

6. AGREEMENT WITH HABITAT FOR HUMANITY CENTRAL ARIZONA TO UTILIZE NEIGHBORHOOD STABILIZATION PROGRAM 3 FUNDS

PRESENTED BY: Gilbert Lopez, Revitalization Administrator

7. AUTHORIZATION FOR COOPERATIVE PURCHASE OF GASOLINE AND DIESEL FUEL FROM SUPREME OIL COMPANY

PRESENTED BY: Christina Betz, Acting Deputy Director, Public Works

8. AUTHORIZATION TO PREPAY GENERAL OBLIGATION BONDS

PRESENTED BY: Diane Goke, Chief Financial Officer, Financial Services

CONSENT RESOLUTIONS

9. LICENSE AGREEMENT WITH NEWPATH NETWORKS, LLC FOR PLACEMENT OF UNDERGROUND FIBER-BASED COMMUNICATIONS NETWORK WITHIN PUBLIC RIGHTS-OF-WAY

PRESENTED BY: William Passmore, P.E., Principal Engineer
RESOLUTION: 4693

10. ACCEPTANCE OF A GRANT FROM THE MARICOPA ASSOCIATION OF GOVERNMENTS AND APPROVAL OF THE COOPERATIVE PURCHASE OF AN AIRPORT STREET SWEEPER

PRESENTED BY: Cathy Colbath, Interim Executive Director, Transportation Services
RESOLUTION: 4694

11. CHANGE ORDER NO. 7 TO INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX FOR FIXED ROUTE BUS SERVICE

PRESENTED BY: Cathy Colbath, Interim Executive Director, Transportation Services
RESOLUTION: 4695

12. INTERGOVERNMENTAL AGREEMENT WITH THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY FOR TRANSIT SERVICES

PRESENTED BY: Cathy Colbath, Interim Executive Director, Transportation Services
RESOLUTION: 4696

13. INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY FOR REGIONAL EMERGENCY MANAGEMENT AND DISASTER SERVICES

PRESENTED BY: Mark Burdick, Fire Chief
RESOLUTION: 4697

14. INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY FOR ANIMAL CONTROL SERVICES

PRESENTED BY: Christina Betz, Acting Deputy Director, Public Works
RESOLUTION: 4698

15. INTERGOVERNMENTAL AGREEMENTS WITH PEORIA AND TOLLESON SCHOOL DISTRICTS FOR SCHOOL RESOURCE OFFICERS

PRESENTED BY: Debora Black, Police Chief
RESOLUTION: 4699

16. INTERGOVERNMENTAL AGREEMENT WITH PEORIA UNIFIED SCHOOL DISTRICT NO. 11 FOR FACILITY USE AT RAYMOND S. KELLIS HIGH SCHOOL

PRESENTED BY: Erik Strunk, Executive Director, Parks, Recreation & Library Services
RESOLUTION: 4700

17. AMENDMENT NO. 9 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: 4701

BIDS AND CONTRACTS

18. FLEXIBLE SPENDING ACCOUNTS CONTRACT WITH ASIFLEX FOR FISCAL YEAR 2013-14

PRESENTED BY: Marcie Bravo-Ortuno, HR Administrator, Human Resources & Risk Management

19. AWARD OF CONTRACT 13-23 TO SP PLUS GAMEDAY FOR SHUTTLE OPERATIONS FOR STADIUM EVENTS

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

20. AGREEMENT WITH CORPORATE JOB BANK FOR TEMPORARY STAFFING OF CUSTODIAL SERVICES AND RATIFICATION OF EXPENDITURES

PRESENTED BY: Christina Betz, Acting Deputy Director, Public Works

21. AGREEMENT WITH CLIFTONLARSONALLEN LLP FOR EXTERNAL AUDIT SERVICES

PRESENTED BY: Diane Goke, Chief Financial Officer, Financial Services

22. AGREEMENT WITH JNA CONSULTING GROUP, LLC FOR FINANCIAL ADVISORY SERVICES

PRESENTED BY: Diane Goke, Chief Financial Officer, Financial Services

PUBLIC HEARING – ORDINANCES

23. REZONING APPLICATION ZON12-03 (ORDINANCE): LUKE LAND INDUSTRIAL PARK – 6010 NORTH LITCHFIELD ROAD (PUBLIC HEARING REQUIRED)
PRESENTED BY: Jon M. Froke, AICP, Planning Director
ORDINANCE: 2848

ORDINANCES

24. CITY AUDITOR ORDINANCE
PRESENTED BY: Candace MacLeod, City Auditor
ORDINANCE: 2849

25. WATER SERVICES ADVISORY COMMISSION
PRESENTED BY: Craig A. Johnson, P.E., Executive Director, Water Services
ORDINANCE: 2850

26. AUTHORIZATION FOR LEASE FINANCING
PRESENTED BY: Diane Goke, Chief Financial Officer, Financial Services
ORDINANCE: 2851

RESOLUTIONS

27. SANITATION ROLL-OFF SERVICE RATE ADJUSTMENT
PRESENTED BY: Stuart Kent, Executive Director, Public Works
RESOLUTION: 4702

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,

Richard A. Bowers
Acting City Manager

MINUTES OF THE
GLENDALE CITY COUNCIL MEETING
Council Chambers
5850 West Glendale Avenue
June 11, 2013
7:00 p.m.

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

Also present were Richard Bowers, Acting City Manager; Horatio Skeete, Assistant City Manager; Nick DiPiazza, Acting City Attorney; and Pamela Hanna, City Clerk.

Mayor Weiers called for the Pledge of Allegiance and a moment of silence was observed.

Compliance with Article VII, Section 6(c) of the Glendale Charter

A statement was filed by the City Clerk that the 7 resolutions and 1 ordinance 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 May, 28th, 2013 City Council Meeting

It was moved by Councilmember Sherwood, and seconded by Councilmember Martinez, to dispense with the reading of the minutes of the May 28, 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.

PROCLAMATIONS AND AWARDS

PROCLAIM JULY 2013 AS PARKS AND RECREATION MONTH IN GLENDALE
PRESENTED BY: Office of the Mayor
ACCEPTED BY: Mike Buettner, Parks and Recreation Advisory Commission Vice-Chairman

This is a request for City Council to proclaim the month of July 2013 as Parks and Recreation Month in Glendale and present the proclamation to the Parks and Recreation Advisory Commission Chairman, Robert Portillo.

As Chairman Robert Portillo was unable to attend, Vice-Chairman Mike Buettner was present to accept it. City Parks and Recreation staff members Christine Fredrickson, Mike Gregory and Lori Bye were also present to accept the proclamation.

CONSENT AGENDA

Richard Bowers, Acting City Manager read consent agenda items 1 through 7.

1. LIQUOR LICENSE NO. 5-10260, VINNIE & JOEY'S PLACE
   PRESENTED BY: Susan Matousek, Revenue Administrator

This is a request for City Council to approve a person-to-person transferable series 6 (Bar - All Liquor) license for Vinnie & Joey's Place located at 9250 North 43rd Avenue, Suites 17 and 18. The Arizona Department of Liquor Licenses and Control application (No. 06070234) was submitted by Theresa June Morse.

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

2. AUTHORIZATION FOR COOPERATIVE PURCHASES OF CHEMICALS AND SERVICES
   PRESENTED BY: Craig Johnson, P.E., Executive Director, Water Services

This is a request for City Council to authorize the expenditure of funds for chemicals and services obtained under cooperative purchasing agreements for purchases over $50,000.

3. PURCHASE OF MOBILE DATA COMPUTERS FROM PANASONIC SYSTEM COMMUNICATIONS COMPANY OF NORTH AMERICA
   PRESENTED BY: Rick St. John, Assistant Police Chief

This is a request for City Council to authorize the expenditure in an amount not to exceed $1,300,000 to purchase 270 tablet computers to be utilized as Mobile Data Computers (MDCs) in police vehicles and all necessary mounting hardware, antennas, printers, cabling, and installation services from Panasonic System Communications Company of North America.

4. ORACLE DATABASE SOFTWARE MAINTENANCE AND SUPPORT RENEWAL
   PRESENTED BY: Diana Bundschuh, Deputy Chief Information Technology Officer, Technology & Innovation

This is a request for City Council to approve the expenditure of funds for the city's Oracle database annual software maintenance and support renewal from the State of Arizona contract with SHI International Corp. in an amount not to exceed $99,428.03.

5. ORACLE PEOPLESOFT SOFTWARE MAINTENANCE AND SUPPORT RENEWAL
   PRESENTED BY: Diana Bundschuh, Deputy Chief Information Technology Officer, Technology & Innovation

This is a request for City Council to approve the expenditure of funds for the city's Oracle PeopleSoft software maintenance and support renewal from the State of Arizona contract with SHI International Corp. in an amount not to exceed $388,643.77.

6. FISCAL YEAR 2013-14 PROPERTY, LIABILITY, AND WORKERS' COMPENSATION INSURANCE RENEWALS
   PRESENTED BY: Dianne Shoemake, Risk Manager, Human Resources & Risk Management

This is a request for City Council to authorize staff to purchase property, liability, and workers' compensation insurance coverage for the FY 2013-14, in an amount not to exceed $1,241,203.

7. FISCAL YEAR 2013-14 PERFORMING ARTS PARTNERSHIP PROGRAM
   PRESENTED BY: Erik Strunk, Executive Director, Parks, Recreation & Library Services

This is a request for City Council to approve the expenditures from the Municipal Arts Fund recommended by the Glendale Arts Commission for the Fiscal Year (FY) 2013-14 Performing Arts Partnership Program.

It was moved by Vice Mayor Knaack and seconded by Councilmember Martinez, to approve the recommended actions on Consent Agenda Item Nos. 1 through 7, and to forward Liquor License Application No. 06070234 for Vinnie & Joey's Place to the State of Arizona Department of Liquor Licenses and Control, with the recommendation for approval. The motion carried unanimously.

CONSENT RESOLUTIONS

Pamela Hanna, City Clerk read consent agenda items 8 through 14.

Vice Mayor Knaack requested Item No. 13 be heard separately.
Councilmember Martinez requested Item No. 14 be heard separately.
Vice Mayor Knaack said there was a request from Mr. Ken Jones to speak on Item No. 8

8. FISCAL YEAR 2013-14 COUNCIL KEY PRIORITIES
   PRESENTED BY: Richard A. Bowers, Acting City Manager
   RESOLUTION: 4685

This is a request for City Council to adopt a resolution approving the Fiscal Year (FY) 2013-14 Council Key Priorities of the Glendale City Council developed as a result of direction from Mayor and Council.

RESOLUTION NO. 4685 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE,

MARICOPA COUNTY, ARIZONA, ADOPTING THE KEY PRIORITIES OF THE GLENDALE CITY COUNCIL.

Mr. Ken Jones congratulated Mayor Weiers and Mr. Bidwell, owner of the Cardinals, for negotiating a deal to have the Cardinals Spring Training Camp in Glendale.

9. NATIONAL INTERGOVERNMENTAL PURCHASING ALLIANCE
PRESENTED BY: Sherry M. Schurhammer, Executive Director, Financial Services
RESOLUTION 4686

This is a request for City Council to waive reading beyond the title and adopt a resolution authorizing the cooperative use of the National Intergovernmental Purchasing Alliance for the purpose of making cooperative purchases under their Master Intergovernmental Cooperative Agreement.

RESOLUTION NO. 4686 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE CITY'S PARTICIPATION IN THE NATIONAL INTER-GOVERNMENT PURCHASING ALLIANCE (NATIONAL-IPA) FOR THE PURPOSE OF MAKING COOPERATIVE PURCHASES.

10. LICENSE AGREEMENT WITH CLK DEVELOPMENTS AZ L.P.
PRESENTED BY: Gregory Rodzenko, P.E., City Engineer
RESOLUTION: 4687

This is a request for City Council to adopt a resolution authorizing the City Manager to execute a license agreement. Staff is requesting Council waive reading beyond the title and adopt a resolution authorizing the City Manager to execute a license agreement between the City of Glendale and CLK Developments AZ L.P. for use of city right-of-way.

RESOLUTION NO. 4687 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF A LICENSE AGREEMENT WITH CLK DEVELOPMENTS AZ L.P. FOR PERMISSION TO USE CITY REAL PROPERTY LOCATED ALONG 67TH AVENUE, NORTH OF NORTHERN AVENUE IN GLENDALE, ARIZONA.

11. INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF WICKENBURG FOR RECYCLABLE PROCESSING SERVICES
PRESENTED BY: Christina Betz, Acting Deputy Director, Public Works
RESOLUTION: 4688

This is a request for City Council to waive reading beyond the title and adopt a resolution authorizing the City Manager to enter into an intergovernmental agreement (IGA) with the Town of Wickenburg for recyclable material processing services.

RESOLUTION NO. 4688 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING 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 TOWN OF WICKENBURG FOR RECYCLABLE PROCESSING SERVICES.

12. INTERGOVERNMENTAL AGREEMENT WITH ARIZONA DEPARTMENT OF ECONOMIC SECURITY FOR VENDING MACHINE OPERATIONS AT FOOTHILLS RECREATION AND AQUATICS CENTER
    PRESENTED BY: Erik Strunk, Executive Director, Parks, Recreation & Library Services
    RESOLUTION: 4689

This is a request for City Council to authorize the extension of an intergovernmental agreement (IGA) with the Arizona Department of Economic Security for vending machine operations at the Foothills Recreation and Aquatics Center (FRAC).

RESOLUTION NO. 4689 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN AMENDMENT NUMBER 1 TO THE INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF ECONOMIC SECURITY FOR VENDING MACHINE OPERATIONS AT THE FOOTHILLS RECREATION AND AQUATICS CENTER IN GLENDALE, ARIZONA.

It was moved by Councilmember Sherwood and seconded by Vice Mayor Knaack, to approve the recommended actions on Consent Agenda Item Nos. 8 through 12, including the approval and adoption of Resolution No. 4685 New Series, Resolution No. 4686 New Series, Resolution No. 4687 New Series, Resolution No. 4688 New Series, Resolution No. 4688 New Series, and Resolution No. 4689 New Series. The motion carried unanimously.

13. RESOLUTION OF SUPPORT FOR A GRANT REQUEST BY THE AGUILA YOUTH LEADERSHIP INSTITUTE
    PRESENTED BY: Erik Strunk, Executive Director, Parks, Recreation & Library Services
    RESOLUTION: 4690

This is a request for City Council to waive reading beyond title and adopt a resolution of support for a grant request in the amount of $112,100 by the AGUILA Youth Leadership Institute from the Tohono O'odham Nation for a new college preparatory initiative in Glendale.

RESOLUTION NO. 4690 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE SUBMITTAL OF AN APPLICATION FOR AN INDIAN GAMING REVENUE SHARING GRANT TO TOHONO O'ODHAM NATION ON BEHALF OF THE AGUILA YOUTH LEADERSHIP INSTITUTE IN THE AMOUNT OF $112,100.

Councilmember Martinez asked Mr. Strunk when the request for funding came in by the AGUILA Youth Leadership Institute and whether the City Council was notified. He asked if it was a written or phone request, and if the Council got any communication on this item. Mr. Strunk said the AGUILA request came first about 4 weeks ago and then the Heart for the City request about 2 weeks ago. He said there was no notification of Council of this request. Mr. Strunk said this request is reviewed by staff to see if they meet the City's Proposition 202 resolution of support/funding requirements. They both did and were processed for Council action.

Councilmember Martinez asked if this was funded, it would be available to all youth in the city. Mr. Strunk said the AGUILA request would be open to the city. The second request would be limited to those citizens who live in the 85301, 85302 and 85303 zip code districts.

Councilmember Martinez asked how much staff time was involved in this process. Mr. Strunk said it was about 3 staff hours.

Councilmember Martinez asked why this program was limited to just the three zip codes. Mr. Strunk surmised those were income-eligible areas from a federal CDBG standpoint. He said Heart for the City is an organization that focused their efforts in income-challenged areas. Mr. Martinez said he thought any programs offered to the youth of the city should be offered to all youth.

Councilmember Chavira asked Rosemary Ibarra-Hernandez, CEO and founder of AGUILA Youth Leadership Institute, a Phoenix resident, how long her program had been in existence. Ms. Ibarra-Hernandez said the program has been running for nine years and 76 seniors participated in her program all across the state. She said these seniors collectively received over $10 million in scholarship money. There was further discussion about specific students and the program itself.

Councilmember Martinez asked Ms. Ibarra-Hernandez if funding was requested from other tribes. She said they have not yet.

It was moved by Councilmember Sherwood and seconded by Councilmember Chavira, to approve the recommended action on Consent Agenda Item No. 13 including the approval and adoption of Resolution No. 4690 New Series. Councilmembers voting "aye": Alvarez, Chavira, Hugh, Knaack, Martinez, Sherwood, and Weiers. Members voting "nay": Martinez. The motion carried.

14. RESOLUTION OF SUPPORT FOR A GRANT REQUEST BY HEART FOR THE CITY
PRESENTED BY: Erik Strunk, Executive Director, Parks, Recreation & Library Services
RESOLUTION: 4691

This is a request for City Council to waive reading beyond title and adopt a resolution of support for a grant request in the amount of $100,000 by Heart for the City from the Tohono O'odham Nation for a childhood obesity prevention program in Glendale.

RESOLUTION NO. 4691 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE SUBMITTAL OF AN APPLICATION FOR AN INDIAN GAMING REVENUE SHARING GRANT TO TOHONO O'ODHAM NATION ON BEHALF OF HEART FOR THE CITY, IN THE AMOUNT OF $100,000.

Vice Mayor Knaack said the city is not getting money from the Tohono O'Odham tribe. Mr. Strunk said that under state law, although the City is required to take receipt of the funds, it is the policy of the city to disburse 100 percent of the funds to the recipient organization. – the city does not keep any of the funds.

Vice Mayor Knaack said she would recuse herself from voting on Item as she current sits on the Board of Directors for Heart for the City.

Mayor Weiers asked for clarification on what the council's role in this approval process was. Mr. Strunk said these entities want to focus their efforts in Glendale and are seeking the city's support to do that. Mayor Weiers said they were not showing an endorsement of the donor, but an endorsement of the charity asking for the donation. Mr. Strunk said that is correct - in this case they were focusing on the benefit to the community.

Councilmember Alvarez commented and said this is the same thing as donations From the Heart. She said in the past, the money went through the County, not the city. Mayor Weiers said they are not supporting the donor to the charity; they are supporting the charity receiving the money. Mr. Strunk said that was correct.

It was moved by Councilmember Sherwood and seconded by Councilmember Chavira, to approve the recommended actions on Consent Agenda Item No 14, including the approval and adoption of Resolution No. 4691 New Series. The motion carried. Councilmembers voting "aye": Alvarez, Chavira, Hugh, Sherwood, and Weiers. Members voting "nay": Martinez. Abstain: Knaack. The motion carried.

BIDS AND CONTRACTS

15. AGREEMENT WITH HABITAT FOR HUMANITY CENTRAL ARIZONA
PRESENTED BY: Gilbert Lopez, Revitalization Administrator

This is a request for City Council to authorize the City Manager to enter into an agreement for Neighborhood Stabilization Program (NSP) funds for the Acquisition, Rehabilitation, and Resale of Foreclosed Homes (Agreement) with Habitat for Humanity Central Arizona (Habitat).

Mr. Lopez said Habitat has spent over $2 million purchasing and improving many homes in the city. Staff recommends the City Council authorize the City Manager to enter into a new agreement with Habitat in an amount not to exceed $4,554,556.

It was moved by Vice Mayor Knaack, and seconded by Councilmember Chavira, to approve and to authorize the City Manager to enter into an agreement for Neighborhood Stabilization Program (NSP) funds for the Acquisition, Rehabilitation, and Resale of Foreclosed Homes (Agreement) with Habitat for Humanity Central Arizona (Habitat). The motion carried unanimously.

16. AGREEMENT FOR CONSTRUCTION SERVICES WITH SKYLINE BUILDERS & RESTORATION, INC.
PRESENTED BY: Dianne Shoemake, Risk Manager, Human Resources & Risk Management

This is a request for City Council to approve a new contract for construction services for third-party property damage claims for FY 2013-14 not to exceed $75,000, using the State Purchasing Cooperative Agreement.

It was moved by Councilmember Martinez, and seconded by Councilmember Chavira, to approve a new contract for construction services for third-party property damage claims for FY 2013-14 not to exceed $75,000, using the State Purchasing Cooperative Agreement. The motion carried unanimously.

17. EMPLOYEE ASSISTANCE PROGRAM CONTRACT WITH EAP PREFERRED FOR FISCAL YEAR 2013-14
PRESENTED BY: Marcie Bravo-Ortuno, HR Administrator, Human Resources & Risk Management

This is a request for City Council to approve a new contract for services for the Employee Assistance Program (EAP) in an amount not to exceed $25,260. This provider will be replacing the existing EAP provider, APS Healthcare. This program will provide services for City of Glendale Active employees and COBRA participants for the Fiscal Year 2013-14.

It was moved by Councilmember Alvarez, and seconded by Councilmember Hugh, to approve a new contract for services for the Employee Assistance Program (EAP) in an amount not to exceed $25,260. The motion carried unanimously.

18. AGREEMENT WITH ARIZONA PUBLIC SERVICE TO UNDERGROUND OVERHEAD UTILITY LINES IN A PEDESTRIAN ALLEYWAY
PRESENTED BY: Cathy Colbath, Interim Executive Director, Transportation Services

This is a request for City Council to authorize the City Manager to enter into an agreement with Arizona Public Service (APS) to underground overhead utility lines in a pedestrian alleyway located in downtown Glendale.

Ms. Colbath said this project includes paving and landscaping to help create a better pedestrian environment. She said this project also includes undergrounding of overhead utilities. She said the cost to underground the overhead lines is $237,017.

It was moved by Councilmember Hugh, and seconded by Councilmember Chavira, to authorize the City Manager to enter into an agreement with Arizona Public Service (APS) to underground overhead utility lines in a pedestrian alleyway located in downtown Glendale. The motion carried unanimously.

19. AWARD OF CONTRACT 13-21 TO HEINFELD, MEECH & CO., P.C. FOR THE GLENDALE ONBOARD TRANSPORTATION PROGRAM PERFORMANCE AUDIT
PRESENTED BY: Cathy Colbath, Interim Executive Director, Transportation Services

This is a request for City Council to authorize the City Manager to enter into an agreement with Heinfeld, Meech & Co., P.C. for a performance audit of the Glendale Onboard (GO) Transportation Program in an amount not to exceed $211,723; and authorize the City Manager, at his discretion, to extend the agreement for an additional two years.

Ms. Colbath said the funding for this program was approved by voters in 2001 and a part of that requires an independent audit to be conducted every three years. She said Heinfeld, Meech was selected from the three proposals received. It is anticipated the audit will take approximately eight months to complete. The funds are programmed in the FY14 Transportation account.

It was moved by Councilmember Chavira, and seconded by Councilmember Hugh, to approve and to authorize the City Manager to enter into an agreement with Heinfeld, Meech & Co., P.C. for a performance audit of the Glendale Onboard (GO) Transportation Program in an amount not to exceed $211,723; and authorize the City Manager, at his discretion, to extend the agreement for an additional two years. The motion carried unanimously.

20. AWARD OF PROPOSAL FOR LANDSCAPE SERVICES WITH ARTISTIC LAND MANAGEMENT, INC.
PRESENTED BY: Craig Johnson, P.E., Executive Director, Water Services

This is a request for City Council to award proposal RFP 13-09 and authorize the City Manager to enter into an agreement with Artistic Land Management, Inc. for landscaping services at Water Services ($80,000) and Public Works Department ($45,000) sites in an annual amount not to exceed $125,000. The proposal includes an option to extend the agreement, at the City Manager's discretion, for an additional four years, in one-year increments.

Mr. Johnson said this agreement will provide landscape services at five water services plant sites and two public works department sites. Four proposals were received and Artistic Land Management received the highest score in this bid.

It was moved by Councilmember Sherwood, and seconded by Vice Mayor Knaack, to award proposal RFP 13-09 and authorize the City Manager to enter into an agreement with Artistic Land Management, Inc. for landscaping services at Water Services ($80,000) and Public Works Department ($45,000) sites in an annual amount not to exceed $125,000. The proposal includes an option to extend the agreement, at the City Manager's discretion, for an additional four years, in one-year increments. The motion carried unanimously.

ORDINANCES

21. FISCAL YEAR 2012-13 BUDGET AMENDMENTS
PRESENTED BY: Sherry M. Schurhammer, Executive Director, Financial Services
ORDINANCE: 2846

This is a request for City Council to consider and approve Fiscal Year (FY) 2012-13 budget amendments. The City of Glendale's total FY 2012-13 budget appropriation across all funds is unchanged. The FY 2012-13 budget amendments shown in Exhibit A are associated with the movement of appropriation authority between departments and/or funds.

Staff is requesting that Council waive reading beyond the title and adopt an ordinance approving the FY 2012-13 budget amendments.

Kenneth Sturgis, Yucca District, said he was pleased to hear that the total budget appropriations across all funds remained unchanged, which means the arena management fee remains at $6.5 million. He said four bids were received for management of the arena, the public should at least know the names of the bidders. He discussed the previous bidders for the hockey team and various amounts to be paid by the new owner of the hockey team. He asked how much the citizens of Glendale are getting in return for their investment.

ORDINANCE NO. 2846 NEW SERIES, WAS READ BY NUMBER AND TITLE ONLY, IT BEING, AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AMENDMENTS TO THE ADOPTED FISCAL YEAR 2012-2013 BUDGET BY TRANSFERRING APPROPRIATION AUTHORIZATION BETWEEN BUDGET ITEMS; AND AUTHORIZING CASH TRANSFERS FROM THE GENERAL FUND.

It was moved by Vice Mayor Knaack, and seconded by Councilmember Martinez, to approve Ordinance No. 2846 New Series. Motion carried on a roll call vote, with the following Councilmembers voting "aye": Chavira, Hugh, Knaack, Martinez, Sherwood, and Weiers. Members voting "nay": Alvarez. The motion carried.

REQUEST FOR FUTURE WORKSHOP AND EXECUTIVE SESSION

It was moved by Vice Mayor Knaack, and seconded by Councilmember Martinez, to hold a Special City Council Voting Meeting at 9:00 am in the Council Chambers on Friday, June, 14, 2013; it was further moved to hold a City Council Workshop at 1:30 p.m. in the Council Chambers on Tuesday, June, 18, 2013, to be followed by an Executive Session pursuant to A.R.S. 38-431.03. Lastly, it was moved to hold a Special City Council Voting Meeting at 9:00 a.m. in the Council Chambers on Friday, June, 28, 2013. The motion carried unanimously.

CITIZEN COMMENTS

Mr. Ken Jones, Ocotillo District, said what the council does with the two big issues facing it, will define who they are. He spoke about the award of the arena management contract and the council using sound judgment in making these decisions. He also asked when the council was going to be more transparent. He said the public's patience is wearing thin about the hockey team, arena management and lack of transparency issues.

Mr. Bill Demski, Sahuaro District, spoke about the taxes he pays. He also spoke about the decisions made by city employees when he worked for the city. He also discussed the salaries and pension benefits provided to city employees. He also talked about the open meeting law and the various meetings held in secret. He said he filed a complaint with the Attorney General about violation of the open meeting law.

Mr. Arthur Thruston, Cactus District, congratulated the Councilmembers and interim city manager in their new positions. He said Mr. Bowers has done a wonderful job. He next spoke about the appearance of evil and the closed door meetings that have been held recently. He said the recent hockey-related closed door meetings should have been open to the public. He mentioned the previous bidders for the hockey team. He asked that Vice Mayor Knaack and Councilmember Martinez recuse themselves from any votes on the hockey agreement.

COUNCIL COMMENTS AND SUGGESTIONS

Councilmember Martinez thanked city staff for doing a good job every single day.

Councilmember Hugh commented on the Watermelon Festival. He also mentioned the car show coming up.

Mayor Weiers commented on limiting executive sessions as much as possible. He said there were some executive sessions that were posted, but did not occur. He said those were posted as a convenience in case they were needed. He felt strongly about not having executive sessions if they didn't have to. He said most of the time topics discussed are personnel issues and are not the secret meetings the public believes are occurring. He also mentioned the cruising in downtown Glendale event coming up. The first event was such a success and costs the city nothing. He asked everyone to watch their children around water.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:06 p.m.

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Pamela Hanna - City Clerk

MINUTES OF THE
GLENDALE CITY COUNCIL SPECIAL MEETING
Council Chambers
5850 West Glendale Avenue
June 14, 2013
9:00 a.m.

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

Also present were Richard Bowers, Acting City Manager; Horatio Skeete, Assistant City Manager; Russ Romney, Deputy City Attorney; and Pamela Hanna, City Clerk.

Mayor Weiers called for the Pledge of Allegiance and a moment of silence was observed.

Compliance with Article VII, Section 6(c) of the Glendale Charter

A statement was filed by the City Clerk that the 1 resolution and 1 ordinance 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.

ORDINANCE

1. INTER TECHNOLOGIES, INC. LEASE AGREEMENT FOR 5752 WEST GLENN DRIVE
   PRESENTED BY: Jessi Pederson, Economic Development Specialist, Economic Development
   ORDINANCE: 2847

Staff is requesting the City Council waive reading beyond the title and adopt an ordinance authorizing the City Manager to approve a lease agreement with Inter Technologies, Inc. for approximately 1,616 square feet of storage space in the city-owned Bead Room located at 5752 West Glenn Drive.

Ms. Pederson said Inter Technologies is the parent company of Jive Mind, the recording studio which is currently located in the city-owned Bead Museum building. Since opening their doors, they have offered more than 100 events with over 175,000 attendees. Jive Mind needs additional storage space for their growing company. Staff recommends leasing the Bead Room space located adjacent to Jive Mind's current facility. The lease is for six months, with an option to

extend the lease for three additional terms in accordance with the lease agreement. The lease amount of $2,400 will be paid over the initial six month term. This will serve as a revenue generating opportunity for the Civic Center.

ORDINANCE NO. 2847 NEW SERIES, WAS READ BY NUMBER AND TITLE ONLY, IT BEING AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE MAYOR AND/OR CITY MANAGER AND CITY CLERK TO EXECUTE A LEASE AGREEMENT WITH INTER TECHNOLOGIES, INC. FOR A PORTION OF THE BUILDING LOCATED AT 5752 WEST GLENN DRIVE, GLENDALE, ARIZONA; AND ORDERING THAT THE LEASE AGREEMENT BE RECORDED.

It was moved by Vice Mayor Knaack, and seconded by Councilmember Martinez, to approve Ordinance No. 2847 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.

PUBLIC HEARING

2. FISCAL YEAR 2013-14 PROPERTY TAX LEVY AND TRUTH IN TAXATION NOTICE (PUBLIC HEARING REQUIRED)
   PRESENTED BY: Sherry M. Schurhammer, Executive Director, Financial Services

This is a request for City Council to conduct a public hearing on the proposed Fiscal Year (FY) 2013-14 property tax levy and by a roll call vote, approve a motion to levy the proposed property taxes that will be assessed by ordinance on June 28, 2013.

The primary property tax rate will increase from $0.2252 per $100 of assessed valuation for FY 2012-13 to $0.4974 per $100 of assessed valuation for FY 2013-14. The secondary property tax rate will increase from $1.6753 per $100 of assessed valuation for FY 2012-13 to $1.7915 per $100 of assessed valuation for FY 2013-14. The total property tax rate will increase from $1.9005 to $2.2889. Adoption of the FY 2013-14 property tax levy is scheduled for the June 28, 2013, City Council meeting.

Ms. Schurhammer said this increase is needed due to the decline in revenue from the city's property tax rate. She said the city is in compliance with the state's truth in taxation law which applies only to the primary levy.

Mayor Weiers opened the public hearing on Agenda Item No. 2.

George Dunn, a Glendale resident said he opposed doubling the property tax rate. He said the council should find a different way to solve their debt issues. He said these higher property taxes will burden the citizens. He said he loves the city and has lived and worked here for many years.

Mayor Weiers closed the public hearing.

Councilmember Martinez said from 1995 to 2001 there were some reductions in property tax those were the times that property values were going up and council reduced the rates. Then from 2002 to 2007 property tax pretty much stayed the same and since then there has been very little change. If you go back to 1994 and 1995, the rate for 2014 is .31 cents more. During that time period the average home valuation has gone down from $ 221,830 to $142,500 and the average property tax was $376.59 and now is $326.17. The property tax in Glendale has gone down 8 times and unchanged 9 times and only increased 2 times in this period. He hoped the rate would be decreased at some point in the future when revenues start getting better

Vice Mayor Knaack said her comments were similar to Councilmember Martinez. She said they did lower the tax rate when property valuations were very high. Now that property values are lower, they need to raise the property taxes for a period of time to level off what our revenues would be She was sure in the future if the valuation increases that council would lower the property tax. She agrees with the current increase.

Mayor Weiers commented on his struggle to figure out how the city is going to pay its bills. He said in the past several years, the council has tried to keep taxes as low as possible and they got behind. This has put the city in a situation where the city is struggling to keep officers and fire fighters, the city is losing employees and they have been unable to give employees a raise in over five years. He said public safety is his number one priority and he sees this as an opportunity to keep the public safe by keeping firefighters and police officers. He added if you dial 911 you want someone to respond quickly.

It was moved by Councilmember Sherwood, and seconded by Councilmember Martinez, to approve Fiscal Year 2013-14 property tax levy. Motion carried on a roll call vote, with the following Councilmembers voting "aye": Chavira, Hugh, Knaack, Martinez, Sherwood, and Weiers. Members voting "nay": Alvarez.

PUBLIC HEARING – RESOLUTION

3. FISCAL YEAR 2013-14 FINAL BUDGET ADOPTION (RESOLUTION)(PUBLIC HEARING REQUIRED)
   PRESENTED BY: Sherry M. Schurhammer, Executive Director, Financial Services
   RESOLUTION: 4692

This is a request for City Council to review the Fiscal Year (FY) 2013-14 final budget, conduct a public hearing on the final budget and convene a special meeting to adopt a resolution formally approving the final operating, capital, debt service, and contingency appropriation budget.

Ms. Schurhammer said this budget provides a multi-year path to improved financial stability. On the operating side, the FY14 budget provides for a gradual rebuilding of the general fund balance, continued evaluation of department operations and continued reductions in expenditures, and additional funds for employer's contribution for medical insurance and employee retirement rates. There will be no rate increases for residents and continuation of the current operating hours for the city's libraries and swim programs at the city's pools.

RESOLUTION NO. 4692 NEW SERIES WAS READ BY NUMBER AND TITLE ONLY, IT BEING A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, ADOPTING THE ESTIMATES OF THE AMOUNTS REQUIRED FOR THE PUBLIC EXPENSE FOR THE CITY OF GLENDALE FOR THE FISCAL YEAR 2013-14; ADOPTING A FINAL BUDGET; ADOPTING CITY COUNCIL'S FINANCIAL POLICIES; AND SETTING FORTH THE REVENUE AND THE AMOUNT TO BE RAISED BY DIRECT PROPERTY TAXATION FOR THE VARIOUS PURPOSES.

Mayor Weiers opened the public hearing on Agenda Item No. 3. As there were no comments, Mayor Weiers closed the public hearing.

Mayor Weiers called to enter into a Special Budget Meeting to adopt Fiscal Year 2013-14 Final Budget.

It was moved by Councilmember Martinez, and seconded by Vice Mayor Knaack, to approve Resolution No. 4692 New Series. Motion carried on a roll call vote, with the following Councilmembers voting "aye": Chavira, Hugh, Knaack, Martinez, and Weiers. Members voting "nay": Councilmember Sherwood and Alvarez.

Mayor Weiers adjourned the Special Budget Meeting and Reconvened the Regular Council Meeting.

CITIZEN COMMENTS

There were no citizen comments.

COUNCIL COMMENTS AND SUGGESTIONS

Councilmember Alvarez commented that the council needed to look at the priorities and put more attention on services that help the taxpayers. She said upper management is top heavy with salaries and they need to look at the employees' wages.

Councilmember Martinez commended staff for the great work they do. He said executive staff salaries were competitive with other cities. He added if you want the best people, you have to pay the market rate.

Councilmember Chavira said the services provided were most important. He spoke about increasing morale and working as a team. He said the city is moving in a forward direction.

Vice Mayor Knaack said things were wonderful when she first joined the council. She said times have changed, but the city is still being run extremely well. Employees are dedicated and work with much less. She said things are going to start getting better. She thanked the staff for their hard work and dedication.

Mayor Weiers spoke about the second auto show car cruise. There will be over 500 cars. He said there is no cost to the taxpayers for this event, but it brings in a lot of revenue for the local businesses in downtown.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:30 a.m.

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Pamela Hanna - City Clerk

CITY COUNCIL REPORT

Meeting Date: **6/25/2013**
Meeting Type: **Voting**
Title: **BOARDS, COMMISSIONS & OTHER BODIES**
Staff Contact: **Kristen Krey, Council Services Administrator**

Purpose and Recommended Action

This is a request for City Council to approve the recommended appointments to the following boards, commissions and other bodies that have a vacancy or expired term and for the Mayor to administer the Oath of Office to those appointees in attendance.

Arts Commission

Jessica Koory	Ocotillo	Reappointment	08/23/2013	08/23/2015
JoAnn Lee	Cholla	Reappointment	08/24/2013	08/24/2015
Carol Ladd – Chair	Cactus	Reappointment	08/23/2013	08/23/2014
JoAnn Lee – Vice Chair	Cholla	Reappointment	08/23/2013	08/23/2014

Board of Adjustment

Jeff Blake – Chair	Mayoral	Reappointment	06/30/2013	06/30/2014
Barbara Garland – Vice Chair	Ocotillo	Appointment	06/30/2013	06/30/2014

Citizens Bicycle Advisory Committee

David Coble – Chair	Cholla	Reappointment	07/17/2013	07/17/2014

Citizens Transportation Oversight Commission

Jeff McAffee	Cactus	Appointment	07/25/2013	07/25/2015

Citizens Advisory Commission on Neighborhoods

Ken Wixon	Cactus	Appointment	06/30/2013	06/30/2015
Manuel Cruz	Yucca	Reappointment	06/30/2013	06/30/2015
Alfred Dixon	Mayoral	Reappointment	06/30/2013	06/30/2015
John Geurs	Ocotillo	Reappointment	06/30/2013	06/30/2015
Rebecca Ontiveros	Ocotillo	Reappointment	06/30/2013	06/30/2015
John Geurs – Chair	Ocotillo	Appointment	06/30/2013	06/30/2014
Davita Solter – Vice Chair	Sahuaro	Appointment	06/30/2013	06/30/2014

Commission on Persons with Disabilities

Mark "Ryan" Mander	Sahuaro	Appointment	06/25/2013	02/27/2015

Community Development Advisory Committee

Arthur Swander Jr.–Neighborhood Rep.	Ocotillo	Reappointment	07/01/2013	07/01/2015

CITY COUNCIL REPORT

Library Advisory Board

Teresa Collett	Sahuaro	Appointment	06/28/2013	06/28/2015
Susan Sommer – Vice Chair	Cactus	Appointment	06/25/2013	09/26/2014

Parks and Recreation Advisory Commission

John Krystek	Sahuaro	Reappointment	06/28/2013	06/28/2015

Planning Commission

Ernest Molina	Ocotillo	Appointment	06/25/2013	03/25/2015

Risk Management/Worker's Compensation Trust Fund Board

Dianne Shoemake	Ex-Officio	Reappointment	07/24/2013	07/24/2016
Julie Stiak	Cactus	Reappointment	07/24/2013	07/24/2016
John Stern – Chair	Cholla	Reappointment	07/24/2013	07/24/2014

CITY COUNCIL REPORT

Meeting Date: **6/25/2013**
Meeting Type: **Voting**
Title: **LIQUOR LICENSE NO. 5-7785, DESERT MIRAGE GOLF COURSE**
Staff Contact: **Susan Matousek, Revenue Administrator**

Purpose and Recommended Action

This is a request for City Council to approve a person-to-person transferable series 7 (Bar - Beer and Wine) license for Desert Mirage Golf Course located at 8710 West Maryland Avenue. The Arizona Department of Liquor Licenses and Control application (No. 07070503) was submitted by Roy Eleazar Fernandez.

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

Background Summary

The location of the establishment is in the Yucca District. The property is zoned SUD (Special Use District). The population density within a one-mile radius is 9,286. Desert Mirage Golf Course is currently operating with an interim permit, therefore, the approval of this license will not increase the number of liquor licenses in the area. The current number of liquor licenses within a one-mile radius is as listed below.

Series	Type	Quantity
06	Bar - All Liquor	6
07	Bar - Beer and Wine	1
09	Liquor Store - All Liquor	1
10	Liquor Store - Beer and Wine	1
12	Restaurant	6
	Total	**15**

The City of Glendale Community and Economic Development, Police, and Fire Departments have reviewed the application and determined that it meets all technical requirements.

Community Benefit/Public Involvement

No public protests were received during the 20-day posting period.

CITY COUNCIL REPORT

Attachments

Staff Report

Map

Police Calls for Service Report

STAFF REPORT

Meeting Date:	**6/25/2013**
To:	**Richard A. Bowers, Acting City Manager**
From:	**Susan Matousek, Revenue Administrator**
Title:	**LIQUOR LICENSE NO. 5-7785, DESERT MIRAGE GOLF COURSE**

General Information

Request: Person-to-Person Transferable

License: Series 7 (Bar - Beer and Wine)

Location: 8710 West Maryland Avenue

District: Yucca

Zoned: SUD (Special Use District)

Applicant: Roy Eleazar Fernandez

Owner: Ready Golf, Inc.

Background

1. The population density is 9,286 persons within a one-mile radius.

2. The business is over 300 feet from any church or school.

3. Desert Mirage Golf Course is currently operating with an interim permit, therefore, the approval of this license will not increase the number of liquor licenses in the area.

Citizen Participation to Date

No protests were received during the 20-day posting period, May 7 through May 27, 2013.

Review/Analysis

In accordance with A.R.S. § 4-201(G), the applicant bears the burden of showing City Council that public convenience requires that the best interest of the community will be substantially served by the issuance of a license. Council, when considering this person-to-person transferable series 7 license, may take into consideration the applicant's capability, qualifications, and reliability.

The City of Glendale Community and Economic Development, Police, and Fire Departments have

reviewed the application and determined that it meets all technical requirements.

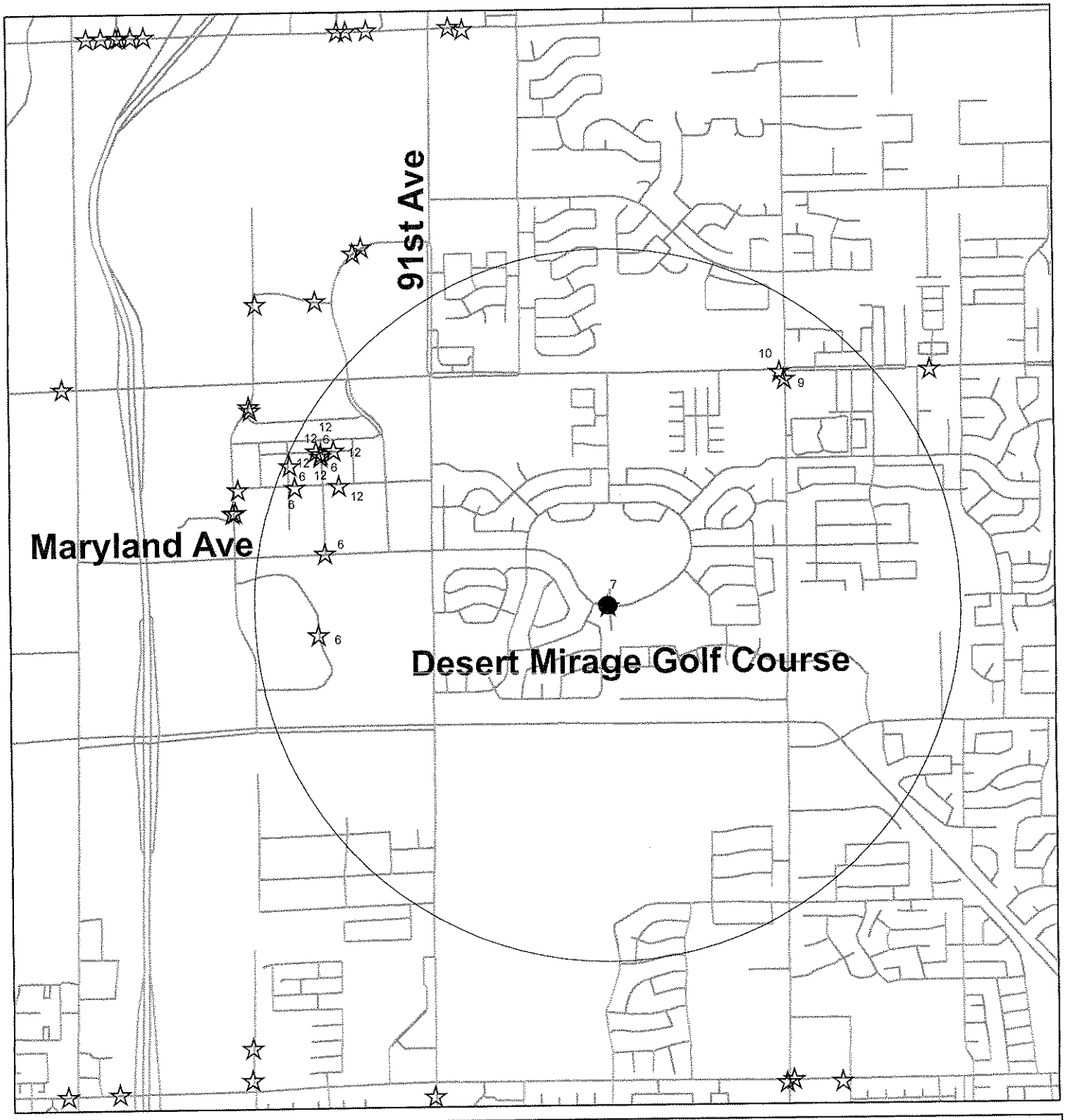
COMMUNITY AND ECONOMIC DEVELOPMENT: Approved the application with no comments.

POLICE DEPARTMENT: Recommended no cause for denial.

FIRE DEPARTMENT: Approved the application with no comments.

Staff Recommendation

It is staff's recommendation to forward this application to the Arizona Department of Liquor Licenses and Control with a recommendation of approval.



BUSINESS NAME: Desert Mirage Golf Course

LOCATION: 8710 W. Maryland Avenue

ZONING: SUD

APPLICANT: Roy Eleazar Fernandez

APPLICATION NO: 5-7785

SALES TAX AND LICENSE DIVISION
CITY OF GLENDALE, AZ

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13-51

GLENDALE POLICE DEPARTMENT

Liquor Application Worksheet

Date: **05-15-13**

License Type: **Series 7 Beer and Wine Bar (Beer and Wine Only)**

Definition: Allows for the sale of beer and wine only, on-premise consumption and packaged goods to go are allowed. Delivery service is allowed.

Application Type: **Person-to-Person Transfer**

Definition: The application process for conveying the ownership of a license from one person to another and moving the license from one premises to another, all within the same county.

Business Name: **Desert Mirage Golf Course**

Business Address: **8710 W. Maryland Ave**

Applicant/s Information

Name: **Fernandez, Roy Eleazar**
Name: **Guinn, Jimmy Ray**
Name: **Guinn, Cuta Crina**
Name: **Guinn, Jimmy Donald**

Background investigation of applicant/s completed.

Calls for Service History:	Call history for location beginning: 5/15/2008	Other Suites	New ownership call history beginning: 4/30/2013
Liquor Related			
Vice Related			
Drug Related			
Fights / Assaults			
Robberies			
Burglary / Theft	13		
911 calls			
Trespassing	1		
Accidents			
Fraud / Forgery			
Threats			
Criminal damage			
Other non-criminal*	8		
Other criminal			
Total calls for service	22	N/A	0

* Other non-criminal includes calls such as suspicious persons, juveniles disturbing and other information only reports that required Police response or phone call.

GLENDALE POLICE DEPARTMENT

Liquor Application Worksheet

Date: **05-15-13**

License Type: **Series 7 Beer and Wine Bar (Beer and Wine Only)**

Definition: Allows for the sale of beer and wine only, on-premise consumption and packaged goods to go are allowed. Delivery service is allowed.

Application Type: **Person-to-Person Transfer**

Definition: The application process for conveying the ownership of a license from one person to another and moving the license from one premises to another, all within the same county.

Business Name: **Desert Mirage Golf Course**

Business Address: **8710 W. Maryland Ave**

Applicant/s

Name: **Fernandez, Julie Ann B.**
Name:
Name:
Name:
Name:
Name:
Name:

Continuation of applicants.

GLENDALE POLICE DEPARTMENT

Liquor Application Worksheet

Applicant Background Synopsis:

None of the listed applicant(s) have any known felony convictions within the past five years or any other known criminal history that would lead to police department recommendation for denial.

Current License Holder:

James Alwier Bellows (Agent)
Bellows Golf Holdings LLC (Owner)

There are no known concerns with the current license holder.

Location History:

No significant Calls for Service history at this location.

*The State Liquor Board does not consider Calls for Service information involving the previous license holder during their decision making process on "Person-to-Person" license transfers.

Special Concerns:

None found

Background investigation complete:

None of the listed applicant(s) have any known felony convictions within the past five years or any other known criminal history that would lead to police department recommendation for denial.

		Date
Investigating Officer – M. Ervin	M. ERVIN	5-15-13
CID Lieutenant or Commander		
Deputy City Attorney		
Chief of Police or designee		5-15-13

CITY COUNCIL REPORT

Meeting Date: **6/25/2013**
Meeting Type: **Voting**
Title: **LIQUOR LICENSE NO. 5-9355, BUKKANA'S BAR & GRILL**
Staff Contact: **Susan Matousek, Revenue Administrator**

Purpose and Recommended Action

This is a request for City Council to approve a new, non-transferable series 12 (Restaurant) license for Bukkana's Bar & Grill located at 6522 North 59th Avenue. The Arizona Department of Liquor Licenses and Control application (No. 12079483) was submitted by Elisa Serrano.

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

Background Summary

The location of the establishment is in the Ocotillo District. The property is zoned C-2 (General Commercial). The population density within a one-mile radius is 18,953. Bukkana's Bar & Grill is currently operating with an interim permit, therefore, the approval of this license will not increase the number of liquor licenses in the area. The current number of liquor licenses within a one-mile radius is as listed below.

Series	Type	Quantity
04	Wholesaler	1
06	Bar - All Liquor	6
07	Bar - Beer and Wine	1
09	Liquor Store - All Liquor	4
10	Liquor Store - Beer and Wine	14
12	Restaurant	13
14	Private Club	2
	Total	**41**

The City of Glendale Community and Economic Development, Police, and Fire Departments have reviewed the application and determined that it meets all technical requirements.

Community Benefit/Public Involvement

No public protests were received during the 20-day posting period.

CITY COUNCIL REPORT

Attachments

Staff Report

Map

Police Calls for Service Report

STAFF REPORT

Meeting Date:	**6/25/2013**
To:	**Richard A. Bowers, Acting City Manager**
From:	**Susan Matousek, Revenue Administrator**
Title:	**LIQUOR LICENSE NO. 5-9355, BUKKANA'S BAR & GRILL**

General Information

Request: New, Non-Transferable

License: Series 12 (Restaurant)

Location: 6522 North 59th Avenue

District: Ocotillo

Zoned: C-2 (General Commercial)

Applicant: Elisa Serrano

Owner: Bukkana's, LLC

Background

1. At the April 9, 2013 Voting Meeting, Council made a denial recommendation for the Bukkana's Bar & Grill liquor license application based on the Police Department's recommendation as a result of the background investigation for this application. During their investigation the Police Department requested financial documents from the owner regarding the purchase of the property and business. The owner failed to provide the documents.

   Shortly after Council's recommendation of denial, the applicant withdrew their application at the State.

   On April 17th a new application was filed at the State. Based on this new application and after the applicant met with the Police Department staff it was determined that all technical requirements have been satisfied therefore the Police Department has no cause to deny this application.

2. The 60-day deadline for processing this license application was June 16, 2013. A letter requesting an extension was sent to the Arizona Department of Liquor Licenses and Control on May 7, 2013.

3. The population density is 18,953 persons within a one-mile radius.

4. The 300 feet from any church or school rule does not apply to this series license.

5. Bukkana's Bar & Grill is currently operating with an interim permit, therefore, the approval of this license will not increase the number of liquor licenses in the area.

Citizen Participation to Date

No protests were received during the 20-day posting period, April 23 through May 13, 2013.

Review/Analysis

In accordance with A.R.S. § 4-201(G), the applicant bears the burden of showing City Council that public convenience requires that the best interest of the community will be substantially served by the issuance of a license. Council, when considering this new, non-transferable series 12 license, may take into consideration the applicant's capability, qualifications, and reliability.

The City of Glendale Community and Economic Development, Police, and Fire Departments have reviewed the application and determined that it meets all technical requirements.

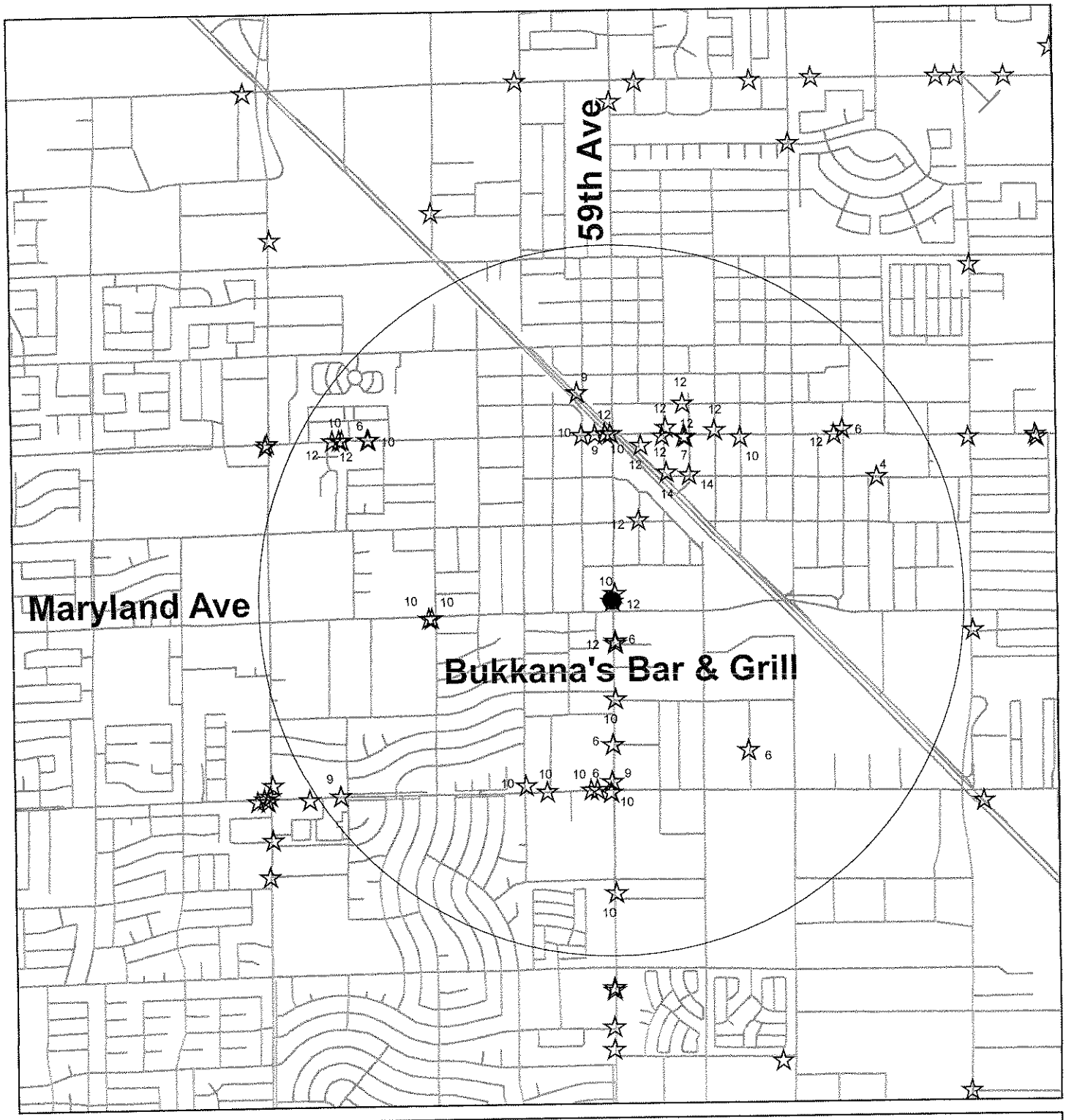
COMMUNITY AND ECONOMIC DEVELOPMENT: Approved the application with no comments.

POLICE DEPARTMENT: Recommended no cause for denial.

FIRE DEPARTMENT: Approved the application with no comments.

Staff Recommendation

It is staff's recommendation to forward this application to the Arizona Department of Liquor Licenses and Control with a recommendation of approval.



BUSINESS NAME: Bukkana's Bar & Grill

LOCATION: 6522 N. 59th Avenue

ZONING: C-2

APPLICANT: Elisa Serrano

APPLICATION NO: 5-9355

SALES TAX AND LICENSE DIVISION
CITY OF GLENDALE, AZ

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13-54

GLENDALE POLICE DEPARTMENT

Liquor Application Worksheet

Date: **06-12-13**

License Type: **Series 12 Restaurant**

Definition: Allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

Application Type: **New License**

Definition: New License

Business Name: **Bukkana's Bar & Grill**

Business Address: **6522 N. 59th Ave**

Applicant/s Information

Name: **Serrano de Vazquez, Elisa**
Name: **Garcia Lozolla, Natividad**
Name:
Name:

Background investigation of applicant/s completed.

Calls for Service History:	Call history for location beginning: 6/12/2008	Other Suites	New ownership call history beginning: 1/31/2013
Liquor Related			
Vice Related			
Drug Related			
Fights / Assaults	2		
Robberies			
Burglary / Theft	2		
911 calls			
Trespassing			
Accidents			
Fraud / Forgery			
Threats			
Criminal damage	2		
Other non-criminal*	2		
Total calls for service	8	N/A	0

* Other non-criminal includes calls such as suspicious persons, juveniles disturbing and other information only reports that required Police response or phone call.

GLENDALE POLICE DEPARTMENT

Liquor Application Worksheet

Applicant Background Synopsis:

None of the listed applicant(s) have any known felony convictions within the past five years or any other known criminal history that would lead to police department recommendation for denial.

Current License Holder:

Angelo Iozzo (Agent)
A A Iozzo Inc. (Owner)

There are no known concerns with the current license holder.

Location History:

No significant Calls for Service history at this location.

Special Concerns:

None found

Background investigation complete:

Police Department recommendation has No Cause for Denial.

		Date
Investigating Officer – M. Ervin	M. ERVIN	6-12-13
CID Lieutenant or Commander		
Deputy City Attorney		
Chief of Police or designee	R. S. Dow	6-12-13

CITY COUNCIL REPORT

Meeting Date: **6/25/2013**
Meeting Type: **Voting**
Title: **LIQUOR LICENSE NO. 5-10419, MIMI'S CAFE**
Staff Contact: **Susan Matousek, Revenue Administrator**

Purpose and Recommended Action

This is a request for City Council to approve a new, non-transferable series 12 (Restaurant) license for Mimi's Cafe located at 7450 West Bell Road. The Arizona Department of Liquor Licenses and Control application (No. 12079514) was submitted by Andrea Dahlman Lewkowitz.

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

Background Summary

The location of the establishment is in the Sahuaro District. The property is zoned PAD (Planned Area Development). The population density within a one-mile radius is 9,229. Mimi's Cafe is currently operating with an interim permit, therefore, the approval of this license will not increase the number of liquor licenses in the area. The current number of liquor licenses within a one-mile radius is as listed below.

Series	Type	Quantity
03	Domestic Micro - Brewery	2
06	Bar - All Liquor	3
09	Liquor Store - All Liquor	4
10	Liquor Store - Beer and Wine	8
12	Restaurant	29
	Total	**46**

The City of Glendale Community and Economic Development, Police, and Fire Departments have reviewed the application and determined that it meets all technical requirements.

Community Benefit/Public Involvement

No public protests were received during the 20-day posting period.

CITY COUNCIL REPORT

Attachments

Staff Report

Map

Police Calls for Service Report

STAFF REPORT

Meeting Date:	**6/25/2013**
To:	**Richard A. Bowers, Acting City Manager**
From:	**Susan Matousek, Revenue Administrator**
Title:	**LIQUOR LICENSE NO. 5-10419, MIMI'S CAFE**

General Information

Request: New, Non-Transferable

License: Series 12 (Restaurant)

Location: 7450 West Bell Road

District: Sahuaro

Zoned: PAD (Planned Area Development)

Applicant: Andrea Dahlman Lewkowitz

Owner: SWH Mimi's Café, LLC

Background

1. The population density is 9,229 persons within a one-mile radius.

2. The 300 feet from any church or school rule does not apply to this series license.

3. Mimi's Cafe is currently operating with an interim permit, therefore, the approval of this license will not increase the number of liquor licenses in the area.

Citizen Participation to Date

No protests were received during the 20-day posting period, May 16 through June 6, 2013.

Review/Analysis

In accordance with A.R.S. § 4-201(G), the applicant bears the burden of showing City Council that public convenience requires that the best interest of the community will be substantially served by the issuance of a license. Council, when considering this new, non-transferable series 12 license, may take into consideration the applicant's capability, qualifications, and reliability.

The City of Glendale Community and Economic Development, Police, and Fire Departments have reviewed the application and determined that it meets all technical requirements.

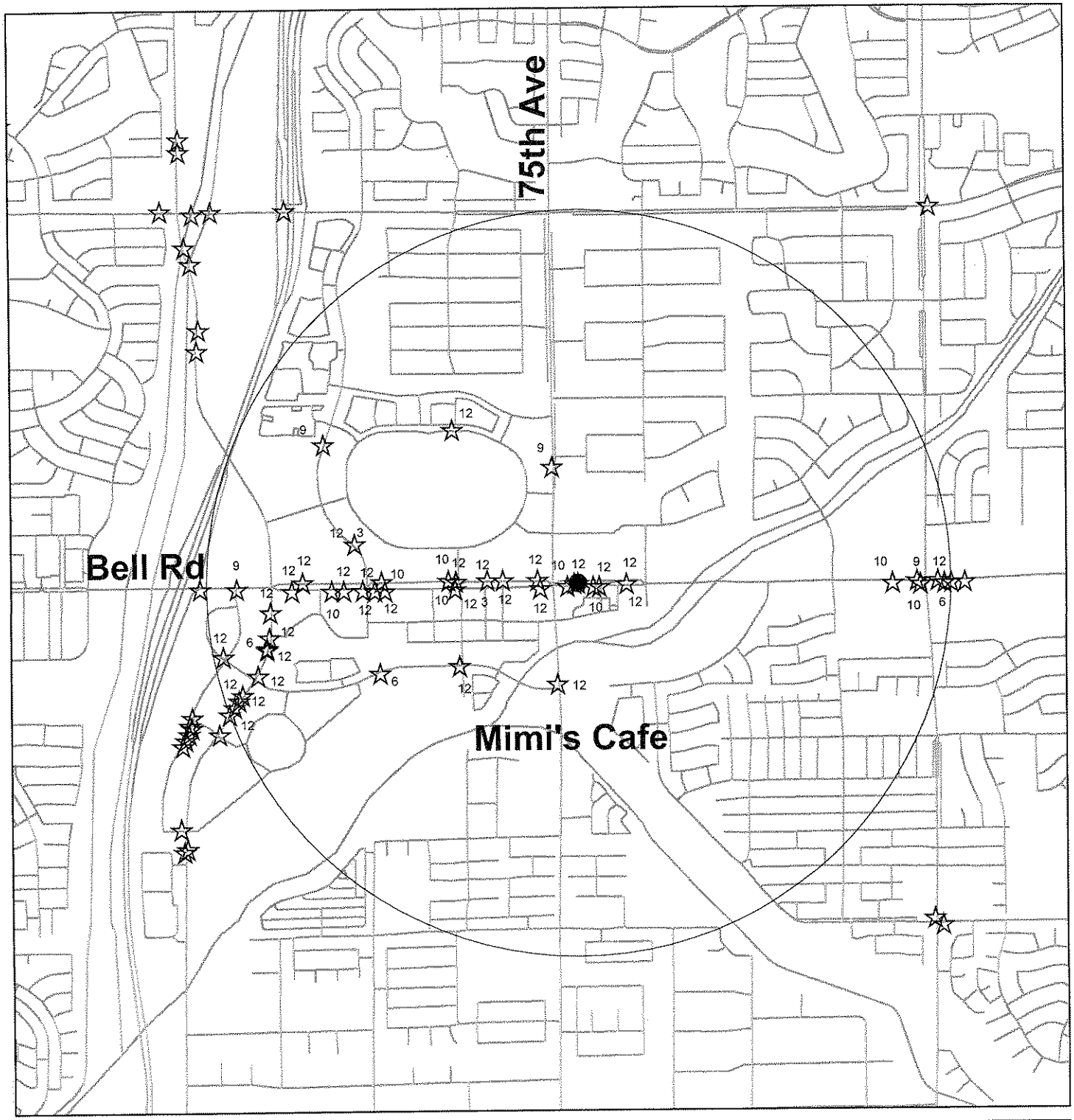
COMMUNITY AND ECONOMIC DEVELOPMENT: Approved the application with no comments.

POLICE DEPARTMENT: Recommended no cause for denial.

FIRE DEPARTMENT: Approved the application with no comments.

Staff Recommendation

It is staff's recommendation to forward this application to the Arizona Department of Liquor Licenses and Control with a recommendation of approval.



BUSINESS NAME: Mimi's Cafe

LOCATION: 7450 W. Bell Road

ZONING: PAD

APPLICANT: Andrea Lewkowitz

APPLICATION NO: 5-10419

SALES TAX AND LICENSE DIVISION
CITY OF GLENDALE, AZ

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13-58

GLENDALE POLICE DEPARTMENT

Liquor Application Worksheet

Date: **05-17-13**

License Type: **Series 12 Restaurant**

Definition: Allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

Application Type: **New License**

Definition: New license

Business Name: **Mimi's Cafe**

Business Address: **7450 W. Bell Rd.**

Applicant/s Information

Name: **Lewkowitz, Andrea (Agent)**
Name: **Costner, Philip Laird**
Name: **Martin Jr., Harry Jules**
Name: **Bergeron, Claude**

Background investigation of applicant/s completed.

Calls for Service History:	Call history for location beginning: 5/17/2008	Other Suites	New ownership call history beginning: 5/13/2013
Liquor Related			
Vice Related			
Drug Related			
Fights / Assaults			
Robberies			
Burglary / Theft	10		
911 calls			
Trespassing			
Accidents			
Fraud / Forgery			
Threats			
Criminal damage			
Other non-criminal*	8		
Other criminal			
Total calls for service	**18**	**N/A**	**0**

* Other non-criminal includes calls such as suspicious persons, juveniles disturbing and other information only reports that required Police response or phone call.

GLENDALE POLICE DEPARTMENT

Liquor Application Worksheet

Date: **05-17-13**

License Type: **Series 12 Restaurant**

Definition: Allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

Application Type: **New License**

Definition: New license

Business Name: **Mimi's Cafe**

Business Address: **7450 W. Bell Rd.**

Applicant/s

Name: **Clock, Michael Thomas**
Name: **Blake, Joanna Lynne**
Name: **Schroeder, Steven Robert**
Name: **Le Duff, Louis Marie Stanislas**
Name:
Name:
Name:

Continuation of applicants.

GLENDALE POLICE DEPARTMENT

Liquor Application Worksheet

Applicant Background Synopsis:

None of the listed applicant(s) have any known felony convictions within the past five years or any other known criminal history that would lead to police department recommendation for denial.

Current License Holder:

Andrea Lewkowitz(Agent)
Mimi's Café Inc(Owner)

There are no known concerns with the current license holder.

Location History:

No significant Calls for Service history at this location.

Special Concerns:

None found

Background investigation complete:

Police Department recommendation has No Cause for Denial.

		Date
Investigating Officer – M. Ervin	M. ERVIN	5-17-13
CID Lieutenant or Commander		
Deputy City Attorney		
Chief of Police or designee		5-20-13

CITY COUNCIL REPORT

Meeting Date: **6/25/2013**
Meeting Type: **Voting**
Title: **LIQUOR LICENSE NO. 5-10471, SPROUTS FARMERS MARKET #27**
Staff Contact: **Susan Matousek, Revenue Administrator**

Purpose and Recommended Action

This is a request for City Council to approve a new, non-transferable series 10 (Liquor Store - Beer and Wine) license with sampling privileges for Sprouts Famers Market #27 located at 6760 West Deer Valley Road. The Arizona Department of Liquor Licenses and Control application (No. 10076400 S) 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.

Background Summary

The location of the establishment is in the Cholla District. The property is zoned PAD (Planned Area Development). The population density within a one-mile radius is 12,267. This series 10 is a new license with sampling privileges, therefore, the approval of this license will increase the number of liquor licenses in the area by one. The current number of liquor licenses within a one-mile radius is as listed below.

Series	Type	Quantity
06	Bar - All Liquor	1
07	Bar - Beer and Wine	2
09	Liquor Store - All Liquor	1
10	Liquor Store - Beer and Wine	3
12	Restaurant	1
	Total	**8**

City of Glendale Community and Economic Development, Police, and Fire Departments have reviewed the application and determined that it meets all technical requirements.

Community Benefit/Public Involvement

No public protests were received during the 20-day posting period.

CITY COUNCIL REPORT

Attachments

Staff Report

Map

Police Calls for Service Report

STAFF REPORT

Meeting Date:	**6/25/2013**
To:	**Richard A. Bowers, Acting City Manager**
From:	**Susan Matousek, Revenue Administrator**
Title:	**LIQUOR LICENSE NO. 5-10471, SPROUTS FARMERS MARKET #27**

General Information

Request: New, Non-Transferable

License: Series 10 (Liquor Store - Beer and Wine) with sampling privileges

Location: 6760 West Deer Valley Road

District: Cholla

Zoned: PAD (Planned Area Development)

Applicant: Randy D. Nations

Owner: SF Markets, LLC

Background

1. This Series 10 (Liquor Store – Beer and Wine) license with sampling privileges is subject to the following rules that are regulated by the Arizona Department of Liquor Licenses and Control:
    A. Any open product shall be kept locked by the licensee when the sampling area is not staffed.
    B. The licensee is otherwise subject to all other provisions of this title. The licensee is liable for any violation of this title committed in connection with the sampling.
    C. The licensed retailer shall make sales of sampled products from the licensed retail premises.
    D. The licensee shall not charge any customer for the sampling of any products.
    E. The sampling shall be conducted under the supervision of an employee of a sponsoring distiller, vintner, brewer, wholesaler or retail licensee.
    F. Accurate records of sampling products dispensed shall be retained by the licensee.
    G. Sampling shall be limited to three ounces of beer or cooler-type products, one ounce of wine and one ounce of distilled spirits per person, per brand, per day.
    H. The sampling shall be conducted only on the licensed premises.

2. The population density is 12,267 persons within a one-mile radius.

3. The business is over 300 feet from any church or school.

4. This series 10 is a new license with sampling privileges, therefore, the approval of this license will increase the number of liquor licenses in the area by one.

Citizen Participation to Date

No protests were received during the 20-day posting period, May 21 through June 10, 2013.

Review/Analysis

In accordance with A.R.S. § 4-201(G), the applicant bears the burden of showing City Council that public convenience requires that the best interest of the community will be substantially served by the issuance of a license. Council, when considering this new, non-transferable series 10 license, with sampling privileges, may take into consideration the location, as well as the applicant's capability, qualifications, and reliability.

The City of Glendale Community and Economic Development, Police, and Fire Departments have reviewed the application and determined that it meets all technical requirements.

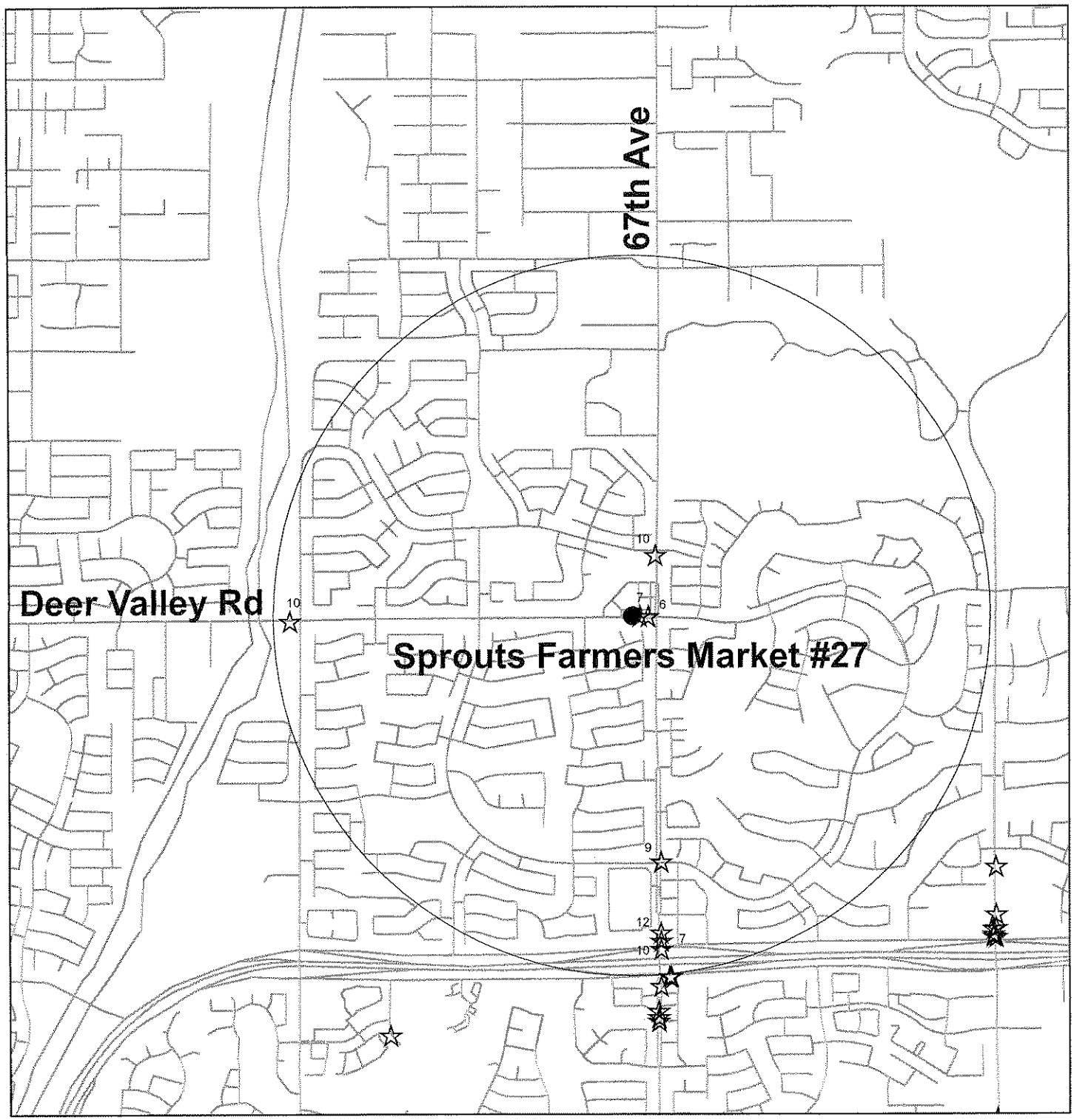
COMMUNITY AND ECONOMIC DEVELOPMENT: Approved the application with no comments.

POLICE DEPARTMENT: Recommended no cause for denial.

FIRE DEPARTMENT: Approved the application with no comments.

Staff Recommendation

It is staff's recommendation to forward this application to the Arizona Department of Liquor Licenses and Control with a recommendation of approval.



BUSINESS NAME: Sprouts Farmers Market #27

LOCATION: 6760 W. Deer Valley Road

ZONING: PAD

APPLICANT: Randy D Nations

APPLICATION NO: 5-10471

SALES TAX AND LICENSE DIVISION
CITY OF GLENDALE, AZ

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13-60

GLENDALE POLICE DEPARTMENT

Liquor Application Worksheet

Date: **08-08-12**

License Type: **Series 10 Beer and Wine Store (Beer and Wine only)**

Definition: Allows a retail store to sell beer and wine (no other spirituous liquors), only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises.

Application Type: **New License**

Definition: New license

Business Name: **Sprouts Farmers Market #27**

Business Address: **6760 W. Deer Valley Rd.**

Applicant/s

Name: **Nations, Randy D. (Agent)**
Name: **Jhawar, Andrew Sandeep**
Name: **Sanders, James Douglas**
Name: **Easler, Kevin Rice**

Background investigation of applicant/s completed.

Calls for Service History:	Call history for location beginning: 5/28/2008	Other Suites	New ownership call history beginning:
Liquor Related			
Vice Related			
Drug Related	1		
Fights / Assaults	1		
Robberies			
Burglary / Theft	11		
911 calls	1		
Trespassing	11		
Accidents	1		
Fraud / Forgery	1		
Threats			
Criminal damage	4		
Other non-criminal*	8		
Other criminal	1		
Total calls for service	40	N/A	N/A

* Other non-criminal includes calls such as suspicious persons, juveniles disturbing and other information only reports that required Police response or phone call.

GLENDALE POLICE DEPARTMENT

Liquor Application Worksheet

Date: **08-08-12**

License Type: **Series 10 Beer and Wine Store (Beer and Wine only)**

Definition: Allows a retail store to sell beer and wine (no other spirituous liquors), only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises.

Application Type: **New License**

Definition: New license

Business Name: **Sprouts Farmers Market #27**

Business Address: **6760 W. Deer Valley Rd.**

Applicant/s

Name: **Boney, Stanley Anslum**
Name: **Golleher, George Gregory**
Name: **Black, Leon David**
Name: **Rowan, Marc Jeffrey**
Name: **Harris, Joshua Jordan**
Name:
Name:

Continuation of applicants.

GLENDALE POLICE DEPARTMENT

Liquor Application Worksheet

Applicant Background Synopsis:

None of the listed applicant(s) have any known felony convictions within the past five years or any other known criminal history that would lead to police department recommendation for denial.

Current License Holder:

None

Location History:

No significant Calls for Service history at this location.

Special Concerns:

None found

Background investigation complete:

Police Department recommendation has No Cause for Denial.

		Date
Investigating Officer – M. Ervin	M. ERVIN	5-28-13
CID Lieutenant or Commander		
Deputy City Attorney		
Chief of Police or designee	Debra Blake	5-29-13

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GLENDALE POLICE DEPARTMENT

Liquor Application Worksheet

Date: **05-28-13**

License Type: **Series 10 - Sampling Privileges**

Definition: Allows a Beer and Wine store retailer to provide samples of beer and wine to customers, only under the supervision of an employee of a sponsoring distiller, vintner, brewer, wholesaler or retail licensee, to be consumed on the premises.

Application Type: **Sampling Privileges**

Definition: Add "Sampling Privileges" to an existing Series 10 - Beer and Wine Store license.

Business Name: **Sprouts Farmers Market #27**

Business Address: **6760 W. Deer Valley Rd.**

Applicant/s Information

Name: **Nations, Randy D. (Agent)**

Name:

Name:

Name:

Background investigation of applicant/s completed.

Calls for Service History:	Call history for location beginning: 5/28/2008	Other Suites	New ownership call history beginning:
Liquor Related			
Vice Related			
Drug Related	1		
Fights / Assaults	1		
Robberies			
Burglary / Theft	11		
911 calls	1		
Trespassing	11		
Accidents	1		
Fraud / Forgery	1		
Threats			
Criminal damage	4		
Other non-criminal*	8		
Other criminal	1		
Total calls for service	**40**	**N/A**	**N/A**

* Other non-criminal includes calls such as suspicious persons, juveniles disturbing and other information only reports that required Police response or phone call.

GLENDALE POLICE DEPARTMENT

Liquor Application Worksheet

Applicant Background Synopsis:

None of the listed applicant(s) have any known felony convictions within the past five years or any other known criminal history that would lead to police department recommendation for denial.

Current License Holder:

None

Location History:

No significant Calls for Service history at this location.

Special Concerns:

None found

Background investigation complete:

Police Department recommendation has No Cause for Denial.

		Date
Investigating Officer – M. Ervin	M. ERVIN	5-28-13
CID Lieutenant or Commander		
Deputy City Attorney		
Chief of Police or designee	Debra Black	5-29-13

CITY COUNCIL REPORT

Meeting Date: **6/25/2013**
Meeting Type: **Voting**
Title: **SERVICE AGREEMENT WITH MOTOROLA, INCORPORATED FOR COMMUNICATIONS SYSTEMS SERVICE**
Staff Contact: **Debora Black, Police Chief**

Purpose and Recommended Action

This is a request for City Council to authorize the City Manager to enter into a one-year service agreement with Motorola, Incorporated for $110,016.13 for communication systems service.

Background Summary

This agreement provides service to the mobile data computers (MDCs) in police cars, as well as service for 11 consoles in the 911 communications center and one console for Field Operations. MDCs allow officers to communicate with dispatchers and other officers from their vehicles using a computer. MDCs also allow officers to run criminal history and obtain other information on suspects. The communication consoles allow dispatchers to receive and route emergency calls and communicate with the officers over a voice and data network. This is a special procurement, which has been approved by Materials Management

Previous Related Council Action

On January 22, 2013, Council approved a service agreement with Motorola, Incorporated for FY 2012-13.

Budget and Financial Impacts

Cost	Fund-Department-Account
$107,544.10	**State RICO, Account No. 1860-32030-518200**
$2,472.03	**Curb, Account No. 2480-17830-522200**

Capital Expense? Yes ☐ No ☒

Budgeted? Yes ☒ No ☐

CITY COUNCIL REPORT

Requesting Budget or Appropriation Transfer? Yes ☐ No ☒

If yes, where will the transfer be taken from?

Attachments

Staff Report

Agreement

STAFF REPORT

To:	**Richard A. Bowers, Acting City Manager**
From:	**Debora Black, Police Chief**
Item Title:	**SERVICE AGREEMENT WITH MOTOROLA, INCORPORATED FOR COMMUNICATIONS SYSTEMS SERVICE**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

This report contains information on a proposed one-year service agreement with Motorola, Incorporated for $110,016.13 for communication systems service. The purpose of this report is to request the City Manager forward this item to the City Council for their consideration and approval.

BACKGROUND

The City of Glendale and Motorola, Incorporated have maintained service agreements on the city's communication systems for several years. This service agreement supports the dependability of the Police Department's existing communication systems, ensuring constant communication between police officers and the communications center, as well as immediate dispatch of emergency calls.

This agreement provides service to the mobile data computers (MDCs) in police cars, as well as service for 11 consoles in the 911 communications center and one console for Field Operations. MDCs allow officers to communicate with dispatchers and other officers from their vehicles using a computer. MDCs also allow officers to run criminal history and obtain other information on suspects. The communication consoles allow dispatchers to receive and route emergency calls and communicate with the officers over a voice and data network. This is a special procurement, which has been approved by Materials Management. It is a special procurement because Motorola is the exclusive vendor for the requested service. The City of Glendale has worked exclusively with Motorola for many years maintaining the equipment as specified and the firm is in good standing with the City.

ANALYSIS

Until the new Computer Aided Dispatch and Records Management System (CAD/RMS) is operational, the tablet computers recently approved by Council to be purchased must run on the existing software, which is covered under this service agreement. Once the new CAD/RMS system is operational, that portion of the service agreement can be canceled; however, the majority of this agreement will still be necessary for service to the 911 consoles.

This agreement is critical because it ensures Motorola, Incorporated will continue to provide uninterrupted service and support to the communication equipment and software. This is a one-year agreement.
I will be recommending that City Council approve a one-year service agreement with Motorola, Incorporated for $110,016.13 for Mobile Data Computer software service and communication console service.

FISCAL IMPACTS

The Police Department's portion of the service agreement is $107,544.10; funding is available in the Police Department's RICO account. Field Operation's portion of the service agreement is $2,472.03; funding is available in Field Operation's operating budget.

Service Terms and Conditions

Motorola Solutions Inc.("Motorola") and the customer named in this Agreement ("Customer") hereby agree as follows:

Section 1. APPLICABILITY
These Service Terms and Conditions apply to service contracts whereby Motorola will provide to Customer either (1) maintenance, support, or other services under a Motorola Service Agreement, or (2) installation services under a Motorola Installation Agreement.

Section 2. DEFINITIONS AND INTERPRETATION
2.1. "Agreement" means these Service Terms and Conditions; the cover page for the Service Agreement or the Installation Agreement, as applicable; and any other attachments, all of which are incorporated herein by this reference. In interpreting this Agreement and resolving any ambiguities, these Service Terms and Conditions take precedence over any cover page, and the cover page takes precedence over any attachments, unless the cover page or attachment states otherwise.

2.2. "Equipment" means the equipment that is specified in the attachments or is subsequently added to this Agreement.

2.3. "Services" means those installation, maintenance, support, training, and other services described in this Agreement.

Section 3. ACCEPTANCE
Customer accepts these Service Terms and Conditions and agrees to pay the prices set forth in the Agreement. This Agreement becomes binding only when accepted in writing by Motorola. The term of this Agreement begins on the "Start Date" indicated in this Agreement.

Section 4. SCOPE OF SERVICES
4.1. Motorola will provide the Services described in this Agreement or in a more detailed statement of work or other document attached to this Agreement. At Customer's request, Motorola may also provide additional services at Motorola's then-applicable rates for the services.

4.2. If Motorola is providing Services for Equipment, Motorola parts or parts of equal quality will be used; the Equipment will be serviced at levels set forth in the manufacturer's product manuals; and routine service procedures that are prescribed by Motorola will be followed.

4.3. If Customer purchases from Motorola additional equipment that becomes part of the same system as the initial Equipment, the additional equipment may be added to this Agreement and will be billed at the applicable rates after the warranty for that additional equipment expires.

4.4. All Equipment must be in good working order on the Start Date or when additional equipment is added to the Agreement. Upon reasonable request by Motorola, Customer will provide a complete serial and model number list of the Equipment. Customer must promptly notify Motorola in writing when any Equipment is lost, damaged, stolen or taken out of service. Customer's obligation to pay Service fees for this Equipment will terminate at the end of the month in which Motorola receives the written notice.

4.5. Customer must specifically identify any Equipment that is labeled intrinsically safe for use in hazardous environments.

4.6. If Equipment cannot, in Motorola's reasonable opinion, be properly or economically serviced for any reason, Motorola may modify the scope of Services related to that Equipment; remove that Equipment from the Agreement; or increase the price to Service that Equipment.

4.7. Customer must promptly notify Motorola of any Equipment failure. Motorola will respond to Customer's notification in a manner consistent with the level of Service purchased as indicated in this Agreement.

Section 5. EXCLUDED SERVICES
5.1. Service excludes the repair or replacement of Equipment that has become defective or damaged from use in other than the normal, customary, intended, and authorized manner; use not in compliance with applicable industry standards; excessive wear and tear; or accident, liquids, power surges, neglect, acts of God or other force majeure events.
5.2. Unless specifically included in this Agreement, Service excludes items that are consumed in the normal operation of the Equipment, such as batteries or magnetic tapes.; upgrading or reprogramming Equipment; accessories, belt clips, battery chargers, custom or special products, modified units, or software; and repair or maintenance of any transmission line, antenna, microwave equipment, tower or tower lighting, duplexer, combiner, or multicoupler. Motorola has no

obligations for any transmission medium, such as telephone lines, computer networks, the internet or the worldwide web, or for Equipment malfunction caused by the transmission medium.

Section 6. TIME AND PLACE OF SERVICE
Service will be provided at the location specified in this Agreement. When Motorola performs service at Customer's location, Customer will provide Motorola, at no charge,a non-hazardous work environment with adequate shelter, heat, light, and power and with full and free access to the Equipment. Waivers of liability from Motorola or its subcontractors will not be imposed as a site access requirement. Customer will provide all information pertaining to the hardware and software elements of any system with which the Equipment is interfacing so that Motorola may perform its Services. Unless otherwise stated in this Agreement, the hours of Service will be 8:30 a.m. to 4:30 p.m., local time, excluding weekends and holidays. Unless otherwise stated in this Agreement,the price for the Services exclude any charges or expenses associated with helicopter or other unusual access requirements; if these charges or expenses are reasonably incurred by Motorola in rendering the Services,Customer agrees to reimburse Motorola for those charges and expenses.

Section 7. CUSTOMER CONTACT
Customer will provide Motorola with designated points of contact (list of names and phone numbers) that will be available twenty-four (24) hours per day, seven (7) days per week, and an escalation procedure to enable Customer's personnel to maintain contact, as needed, with Motorola.

Section 8. PAYMENT
Unless alternative payment terms are stated in this Agreement, Motorola will invoice Customer in advance for each payment period. All other charges will be billed monthly, and Customer must pay each invoice in U.S. dollars within twenty (20) days of the invoice date. Customer will reimburse Motorola for all property taxes, sales and use taxes, excise taxes, and other taxes or assessments that are levied as a result of Services rendered under this Agreement (except income, profit, and franchise taxes of Motorola) by any governmental entity.

Section 9. WARRANTY
Motorola warrants that its Services under this Agreement will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are completed. In the event of a breach of this warranty, Customer's sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Section 10. DEFAULT/TERMINATION
10.1. If either party defaults in the performance of this Agreement, the other party will give to the non-performing party a written and detailed notice of the default. The non-performing party will have thirty (30) days thereafter to provide a written plan to cure the default that is acceptable to the other party and begin implementing the cure plan immediately after plan approval. If the non-performing party fails to provide or implement the cure plan, then the injured party, in addition to any other rights available to it under law, may immediately terminate this Agreement effective upon giving a written notice of termination to the defaulting party.

10.2. Any termination of this Agreement will not relieve either party of obligations previously incurred pursuant to this Agreement, including payments which may be due and owing at the time of termination. All sums owed by Customer to Motorola will become due and payable immediately upon termination of this Agreement. Upon the effective date of termination, Motorola will have no further obligation to provide Services.

Section 11. LIMITATION OF LIABILITY
Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Service provided under this Agreement. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT. No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account.This limitation of liability will survive the expiration or termination of this Agreement and applies notwithstanding any contrary provision.

Section 12. EXCLUSIVE TERMS AND CONDITIONS

12.1. This Agreement supersedes all prior and concurrent agreements and understandings between the parties, whether written or oral, related to the Services, and there are no agreements or representations concerning the subject matter of this Agreement except for those expressed herein. The Agreement may not be amended or modified except by a written agreement signed by authorized representatives of both parties.
12.2. Customer agrees to reference this Agreement on any purchase order issued in furtherance of this Agreement, however, an omission of the reference to this Agreement will not affect its applicability. In no event will either party be bound by any terms contained in a Customer purchase order, acknowledgement, or other writings unless: the purchase order, acknowledgement, or other writing specifically refers to this Agreement; clearly indicate the intention of both parties to override and modify this Agreement; and the purchase order,acknowledgement, or other writing is signed by authorized representatives of both parties.

Section 13. PROPRIETARY INFORMATION; CONFIDENTIALITY; INTELLECTUAL PROPERTY RIGHTS
13.1. Any information or data in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer under this Agreement will remain Motorola's property, will be deemed proprietary, will be kept confidential, and will be promptly returned at Motorola's request. Customer may not disclose, without Motorola's written permission or as required by law, any confidential information or data to any person, or use confidential information or data for any purpose other than performing its obligations under this Agreement. The obligations set forth in this Section survive the expiration or termination of this Agreement.

13.2. Unless otherwise agreed in writing, no commercial or technical information disclosed in any manner or at any time by Customer to Motorola will be deemed secret or confidential. Motorola will have no obligation to provide Customer with access to its confidential and proprietary information, including cost and pricing data.

13.3. This Agreement does not grant directly or by implication, estoppel, or otherwise, any ownership right or license under any Motorola patent, copyright, trade secret, or other intellectual property including any intellectual property created as a result of or related to the Equipment sold or Services performed under this Agreement.

Section 14. FCC LICENSES AND OTHER AUTHORIZATIONS
Customer is solely responsible for obtaining licenses or other authorizations required by the Federal Communications Commission or any other federal, state, or local government agency and for complying with all rules and regulations required by governmental agencies. Neither Motorola nor any of its employees is an agent or representative of Customer in any governmental matters

Section 15. COVENANT NOT TO EMPLOY
During the term of this Agreement and continuing for a period of two (2) years thereafter, Customer will not hire, engage on contract, solicit the employment of, or recommend employment to any third party of any employee of Motorola or its subcontractors without the prior written authorization of Motorola. This provision applies only to those employees of Motorola or its subcontractors who are responsible for rendering services under this Agreement. If this provision is found to be overly broad under applicable law, it will be modified as necessary to conform to applicable law

Section 16. MATERIALS, TOOLS AND EQUIPMENT
All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of this Agreement will be and remain the sole property of Motorola. Customer will safeguard all such property while it is in Customer's custody or control, be liable for any loss or damage to this property, and return it to Motorola upon request. This property will be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction.

Section 17. GENERAL TERMS
17.1. If any court renders any portion of this Agreement unenforceable, the remaining terms will continue in full force and effect.

17.2. This Agreement and the rights and duties of the parties will be interpreted in accordance with the laws of the State in which the Services are performed

17.3. Failure to exercise any right will not operate as a waiver of that right, power, or privilege.

17.4. Neither party is liable for delays or lack of performance resulting from any causes that are beyond that party's reasonable control, such as strikes, material shortages, or acts of God.

17.5. Motorola may subcontract any of the work,but subcontracting will not relieve Motorola of its duties under this Agreement.

17.6. Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"),whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event

17.7. E-VERIFY

Both Parties acknowledge that imigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Adminstration or any successor program) as they both employ one or more employees in this state. Both Parties represent that they have registered with and participated with E-Verify. If either Party later determines that the other non-compliant Party has not complied with E-Verify, it will notify the non-compliant Party by certified mail of the determination and of the right to appeal the determination.

17.8 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 duration of the term of this Agreement will not have, "scrutinized" business operations, as defined in the preceding statutory sections, in the contries of Sudan or Iran.

17.9. If Motorola provides Services after the termination or expiration of this Agreement, the terms and conditions in effect at the time of the termination or expiration will apply to those Services and Customer agrees to pay for those services on a time and materials basis at Motorola's then effective hourly rates.

Revised January 7th, 2013

CITY COUNCIL REPORT

Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**AGREEMENT WITH HABITAT FOR HUMANITY CENTRAL ARIZONA TO UTILIZE NEIGHBORHOOD STABILIZATION PROGRAM 3 FUNDS**
Staff Contact:	**Gilbert Lopez, Revitalization Administrator**

Purpose and Recommended Action

This is a request for City Council to authorize the City Manager to enter into an agreement using Neighborhood Stabilization Program 3 (NSP 3) funds for the Acquisition, Rehabilitation, and Resale of Foreclosed Homes (Agreement) with Habitat for Humanity Central Arizona (Habitat) in an amount not to exceed $2,500,000.

Background Summary

In 2010, NSP 3 was rolled out, created by the Dodd-Frank Wall Street Reform and Consumer Protection Act, and Glendale was allocated $3.7 million in NSP 3 funding. The Neighborhood Stabilization Program (NSP) was originally designed to address housing foreclosure issues in our communities, first introduced in 2008 through the Housing and Economic Recovery Act of 2008 (HERA). In 2009, a competitive version of NSP was rolled out through the American Recovery and Reinvestment Act (ARRA), known as NSP 2, which allowed non-profits to directly apply for funding.

Through a formal Request for Proposal process, Habitat was awarded $1,296,540 to help Glendale mitigate the impact of foreclosures. This contract accounts for the program income generated by the sale of homes, making additional funds available to continue to acquire, rehabilitate and resell foreclosed homes within Glendale. To date, under NSP 3, Habitat has purchased over five houses and is in the process of rehabilitating them and putting the houses up for sale.

Previous Related Council Action

On January 8, 2013, Council approved the expansion of the target areas to match those of the original NSP program, which include eligible properties within the 85301, 85302, and 85303 zip codes.

On February 22, 2011, the City Council took formal action and adopted the Neighborhood Stabilization Program 3 Substantial Amendment to the City of Glendale's Fiscal Year (FY) 2010-2014 Consolidated Plan and the Community Development Block Grant (CDBG) Annual Action Plan for FY 2010-2011.

CITY COUNCIL REPORT

Community Benefit/Public Involvement

The acquisition, revitalization and resale of foreclosed single family houses will help stabilize neighborhoods and improve the quality of life for the existing neighbors. These units will be completely rehabilitated and incorporated with energy-efficient and green building features, which maintains affordability.

Budget and Financial Impacts

Cost	Fund-Department-Account
$2,500,000	**1311-30900-518200, Professional and Contractual**

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:	**Richard A. Bowers, Acting City Manager**
From:	**Gilbert Lopez, Revitalization Administrator**
Item Title:	**AGREEMENT WITH HABITAT FOR HUMANITY CENTRAL ARIZONA TO UTILIZE NEIGHBORHOOD STABILIZATION PROGRAM 3 FUNDS**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

The purpose of this report is to request the City Manager forward this Habitat for Humanity Central Arizona (Habitat) contract to the City Council for their consideration and approval. This will allow Habitat to continue to utilize Neighborhood Stabilization Program 3 (NSP 3) funds to acquire, rehabilitate, and resell, foreclosed properties in Glendale.

BACKGROUND

In 2010, a third version of NSP (NSP 3) was rolled out, created by the Dodd-Frank Wall Street Reform and Consumer Protection Act, and Glendale was allocated $3.7 million in NSP 3 funding. The Neighborhood Stabilization Program (NSP) was originally designed to address housing foreclosure issues in our communities, first introduced in 2008 through the Housing and Economic Recovery Act of 2008 (HERA). In 2009, a competitive version of NSP was rolled out through the American Recovery and Reinvestment Act (ARRA), known as NSP 2, which allowed non-profits to directly apply for funding.

NSP 3, the latest version, closely replicates the original NSP program, with some specific neighborhood targeting requirements to ensure community impact. The grant application process included the selection of very specific areas to purchase foreclosed residential properties, to rehabilitate and resell to qualifying families and individuals. The selection was based on the number of foreclosures, community involvement, and the provision of other city services.

Through a formal Request for Proposal process, Habitat was awarded $1,296,540 to help Glendale mitigate the impact of foreclosures. Since the contract was signed, the market has changed and the availability of foreclosed houses within the existing target areas has decreased dramatically. In order to continue to mitigate foreclosures and have the greatest impact, Council approved the expansion of the target areas to match those of the original NSP target areas, which include properties within the 85301, 85302, and 85303 zip codes.

ANALYSIS

- The proposed action will allow Habitat to continue to acquire, rehabilitate, and resell abandoned and foreclosed residential homes by entering into a new NSP 3 contract.

- At the February 21, 2013 CDAC meeting, the committee members voted unanimously to support the action to expand the target areas to match those of the original NSP program. CDAC conducted a public hearing soliciting public comment, and none was received.

- Not taking action to expand the acquisition target areas would result in the city's partner not being able to purchase enough foreclosed properties to address the impact of foreclosures in the hardest hit neighborhoods.

- NSP 3 has an expenditure deadline that calls for funding recapture, or grant repayment if not met, so it is very important that Council take action, allowing the city's non-profit partner, Habitat, to expend enough NSP 3 funds to meet the statutory March 16, 2014 deadline.

- There is no impact on city departments, staff, or service levels.

FISCAL IMPACTS

NSP 3 funding is a federally funded, one-time allocation, provided through U.S. Department of Housing and Urban Development, (HUD). If approved, the new contract will allow the city to continue its efforts to address the effects of foreclosures in Glendale neighborhoods. Because this is a federally funded program, there will be no fiscal impact to the city.

AGREEMENT FOR

NSP 3 ACQUISITION, REHABILITATION AND RESALE OF FORECLOSED HOMES

City of Glendale Solicitation No. 12-05

This Agreement for NSP 3 Acquisition, Rehabiliation, and Resale of Forelcosed Homes ("Agreement") is effective and entered into between CITY OF GLENDALE, an Arizona municipal corporation ("City"), and Habitat for Humanity Central Arizona, an Arizona non-profit 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. 12-05, NSP 3 Acquisition, Rehabililtation and Resale of Foreclosed Homes (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 $2,500,000, 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 $1,000,000, 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:

Lisa Weide
c/o Habitat for Humanity Central Arizona
9133 NW Grand Avenue, Suite 1
Peoria, Arizona 85345

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 Charyn Eirich-Palmisano
5850 West Glendale Avenue, Suite 107
Glendale, Arizona 85301
623-930-3670

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 year initial period. The City may, at its option and with the approval of the Contractor, extend the term of this Agreement an additional four years, 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. 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 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: Richard A. Bowers
Its: Acting City Manager

ATTEST:

_____

City Clerk (SEAL)

APPROVED AS TO FORM:

_____

Acting City Attorney

Habitat for Humanity Central Arizona,
an Arizona nonprofit corporation

_____

By: Rodger Schwierjohn
Its: President

(Revised 11/7/11)

EXHIBIT A
NSP 3 ACQUISITION, REHABILITATION AND RESALE OF FORECLOSED HOMES

PROJECT

1. Neighborhood Stabilization Program 3 ("NSP 3") funds will be used to purchase and renovate foreclosed single-family homes in the zip codes of 85301, 85302 and 85303 of the City of Glendale ("City"). Once the renovation is complete, Habitat for Humanity Central Arizona ("Contractor") will resell each single-family home to an income qualified first time home buyer.

2. Contractor will acquire and rehabilitate up to twelve (12) single-family, vacant, foreclosed homes within the City's NSP3 targeted areas. The homes will then be re-sold at or below the total cost of acquisition and rehabilitation, to income qualified residents at or below 120% AMI. Six (6) of the homes will utilize the traditional contractor financing model of 0% percent mortgages for the qualified homeowners. Mortgage payments are placed in a "Fund for Humanity" and used to purchase land and build/rehabilitate more homes.

3. Contractor has confirmed with the City, that the Davis Bacon Act of 1931 ("Davis Bacon") requirements will not be triggered, if the scattered sites purchased are more than 2,000 feet in distance from each other. Davis Bacon can be triggered, if more than seven (7) sites are located within 2,000 feet of each other.

4. Contractor will manage all aspects of home building including land purchase, infrastructure development, fund raising, partner family selection and support, house construction and mortgage servicing in conjunction with City staff. Of the potential twelve (12) houses to be acquired, six (6) of the homes will be rehabilitated by the City, and sold by the Contractor. All net proceeds from these sales will be returned to the City.

5. During the acquisition phase, the Contractor's Director of Land Development, Tana Nichols, will consult with local realtors to identify vacant, foreclosed properties in the City's targeted district. Ms. Nichols will work with the City to obtain the required environmental assessments and clearances. Contractor will utilize Environmental Consulting Services, Inc. to complete the asbestos and lead based paint inspections.

6. Maribel Saucedo is the Contractor's Director of Family Services and is a U.S. Department of Housing and Urban Development ("HUD")-certified housing and credit counselor with eight (8) years of experience in the affordable housing market. Contractor's Family Services Department will be conducting outreach to schools, neighborhoods, community groups, churches, housing shelters, etc., to advertise our mission and the family orientation sessions. The marketing materials are available in both English and Spanish. Contractor has bi-lingual staff available to serve the Spanish-speaking population.

7. Families will receive the HUD-required eight (8) hours of certified pre- and post-homeowner counseling in the areas of budgeting, credit, delinquency and foreclosure prevention, refinance, anti-predatory lending counseling and financial literacy training to strengthen money management and financial planning skills. These services are provided by HUD-approved counselors in partnership with Neighborhood Housing Services of Phoenix, Inc.

8. Contractor will seek to acquire vacant, foreclosed properties at a minimum of 1% less than market or appraised value. In the current environment, Consultant will conduct all the background research on the properties prior to submitting the offer. Consultant will attempt to make an offer to purchase qualified properties within two to three days of the listing of a new property.

9. Contractor will partner with the Sustainable Home Ownership Coalition and/or a real estate broker already known to the Contractor. Contractor will utilize brokers that have demonstrated that they have strong relationships with mortgage lenders. Contractor will complete all of its due diligence including

utilities, boundary surveys, environmental clearances, asbestos and lead paint inspections and testing within approximately twenty-one (21) days.

10. During the construction rehabilitation phase, it may be necessary to sub-contract a portion of the activities. In the event sub-contractors are needed, Contractor will solicit them according to the rules and regulations of the City and the Federal Procurement Standards, including but not limited to ensuring that the sub-contractor carry appropriate licenses and insurance, is not listed on the Excluded Party Listing System, and is willing to comply with Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u and the implementing regulation 24CFR Part 135 (Section 3) and vicinity hiring requirements for NSP 3.

11. Contractor will be cognizant of utilizing tools for cost savings on labor. Contractor will utilize one highly trained site supervisor to engage a host of volunteers who are all donating their time to rehabilitate the homes. It is anticipated that contractor volunteers will donate 864 hours of time on each of the twelve (12) homes rehabilitated. That is a labor savings of $10,749 per home. For the Project, it means 10,368 hours of volunteer labor, or One Hundred Seventy Thousand Dollars and 00/100 ($170,000) of in-kind labor. Contractor will leverage the funds saved to be able to incorporate as many energy efficient and green building features into the homes as possible and still have the home be affordable.

12. Contractor will create an individual scope of work, budget and schedule of activities for each rehabilitation. Rehabilitation of a home typically takes six weeks. The condition of the properties will determine the extent of the rehabilitation required. A restrictive covenant will be placed on the property to ensure that it remains an affordable home for low, moderate and middle income households ("LMMI") for a prescribed period of time. The restrictive covenant shall be in effect for an affordability period based on the level of disposition assistance as set forth in the table below. The covenant and restrictions shall run with the land and be binding on future owners of the property for the affordability period. The property shall at all times be occupied as the principal residence of the owner and shall not be rented or leased. If the property is initially sold to a LMMI buyer, the property must be resold only to another LMMI buyer. The restrictive covenant shall run with the land; however, the restrictions shall terminate in the event of foreclosure, transfer in lieu of foreclosure, or assignment of an FHA insured mortgage to HUD.

LONG TERM AFFORDABILITY TABLE	
Amount of Disposition Assistance	Years of Restriction
$0.00 to $15,000	5 years
$15,000.01 to $40,000	10 years
More than $40,000	15 years

13. In addition to Section 3 requirements, NSP 3, unlike under previous NSP programs, has a requirement for vicinity hiring. The purpose of vicinity hiring is to ensure that employment and other economic opportunities generated by HUD financial assistance shall, to the greatest extent feasible, and consistent with existing federal, state and local laws and regulations, be directed to low and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low and very low-income persons residing or located within the NSP 3 Target Area of zip codes 85301, 85302, and 85303. Activities may include, but are not limited to, some or all of the following activities:

    13.1 Advertise the availability of jobs through notices in prominent locations within the NSP 3.

    13.2 Target Area and surrounding areas. In addition, advertise in the local electronic or print media in languages spoken by NSP 3 Target Area residents.

    13.3 Distribute information door-to-door to residents and any businesses in the NSP 3 Target Area.

13.4 Contact public housing developments within the NSP 3 Target Area to provide information about hiring to public housing residents.

13.5 Provide contact information via telephone, e-mail or social media for residents and businesses within the NSP 3 Target Area to make inquiries or have questions answered.

13.6 Maintain a log of NSP 3 Target Area applicants who apply for jobs whether they are hired or not. If they are not hired, provide the reason(s) why they were not hired.

13.7 Contact labor organizations or representatives in or near the NSP 3 Target Area and inform their members of employment opportunities.

13.8 Create monthly reports to be delivered to the City that detail contractor's efforts in hiring low-income individuals and businesses from the NSP 3 Target Areas.

13.9 Notify Section 3 businesses of potential contract opportunities.

14. Copies shall be maintained of all employment applications, including, but not limited to, applications of public housing residents, Section 8 certificate or voucher holders, and other Section 3 residents.

15. A monthly report will be required to provide to the City summarizing NSP 3 activities. The report should provide a status of each NSP 3 project, the use of funds, and a report of client information. The monthly reports shall include, but not be limited to, the following information:

15.1 Project Name;

15.2 Activity;

15.3 Location of the acquired home(s), including parcel identification number and address;

15.4 Purchase amount for each home;

15.5 Appraised amount for each home;

15.6 Discount amount for each home;

15.7 Funds budgeted and expended for each home;

15.8 Development schedule at each home;

15.9 Source and Use statement of non-NSP 3 funds;

15.10 Number of LMMI persons or households benefiting from theNSP3 activity; and

15.11 Section 3 and Vicinity Hiring Data.

16. Contractor agrees to enforce the occupancy requirements as outlined in this document and additional federal and state requirements as applicable. Contractor is required to manage and maintain occupancy requirements during the affordability period as shown in the Long Term Affordability Table. The recipient and owner will agree that should occupancy requirements not be met, corrective actions will be enforced. Occupancy requirements will be enforced by a recorded covenant running with the property. A yearly report shall be submitted to the City documenting the occupancy status, date of verification, and action taken as necessary to maintain occupancy during the affordability period.

EXHIBIT B

NSP 3 ACQUISITION, REHABILITATION AND RESALE OF FORECLOSED HOMES

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

Contractor will be reimbursed for properly invoiced services and upon approval of the City.

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 $2,500,000.

DETAILED PROJECT COMPENSATION

See Attached

EXHIBIT B
NSP 3 ACQUISITION, REHABILITATION AND RESALE OF FORECLOSED HOMES

COMPENSATION

1. The City of Glendale ("City") agrees to pay Habitat for Humanity Central Arizona ("Contractor") on a reimbursement basis, in an amount not to exceed Two Million Five Hundred Thousand and 00/100 Dollars ($2,500,000) for the performance of all services to be provided under this Agreement.

2. Contractor will submit an invoice to the City upon the purchase of a Neighborhood Stabilization Program 3 ("NSP 3")-assisted property for acquisition and related closing costs as reflected on U.S. Department of Housing and Urban Development ("HUD") HUD-1 Settlement Statement.

3. The City shall also pay Contractor for indirect costs up to 10% of the direct cost for administrative services provided for each unit in a NSP 3-assisted project. Administrative services shall include, but not be limited to, property acquisition, housing rehabilitation, and resale activities. These resale activities include, but are not limited to, conducting individual site project management, making on-site visits, handling dispute resolutions and lien matters, obtaining and maintaining NSP3 program documentation as required under this Agreement.

4. Notwithstanding the above, Contractor's indirect compensation above shall not exceed the fee set forth herein.

5. Contractor will invoice the City as defined below:

   5.1 Contractor will submit to the City for approval an original Request for Payment Form accompanied by proper documentation. For purposes of this section, copies of invoices, receipts, or other evidence of indebtedness and releases and/or waivers of subcontractors and material persons shall be considered proper documentation.

   5.2 If Contractor awards a contract to a subcontractor, Contractor shall submit a copy of the subcontractor's invoice stating the services which were rendered and the date upon which the services were rendered. Upon receiving properly formatted invoices, reports and other materials, the project manager will audit such invoices and reports to determine whether the services invoiced have been completed and that the invoiced services are proper for payment. Upon determination by the City that the services invoiced have been received or completed and are proper, payment will be processed. In the event that any of Contractor subcontractors have not been paid for their work on the project or waivers of lien have not been obtained from the subcontractors, the City reserves the right to pay subcontractors from funds awarded through this Agreement.

PROJECT COST AND BUDGET				
Itemized Costs	**NSP 3**	**Contractor**	**In Kind**	**Total Costs**
Acquisition costs, including, the cost of property, appraisal, title and recording, real estate attorney, inspections, and other closing costs	$1,576,540	$0	$0	$1,576,540
Rehabilitation costs including contractor's costs for site work/landscaping, building permits/inspections, tap fees, and other costs such as hard cost contingency	$887,560	$151,624	$0	$1,039,184
Indirect costs and direct personal salary costs	$0	$68,000	$188,988	$256,988

Other owner costs and holding costs, including hiring a real estate attorney, accounting fees, property maintenance/security, property insurance/builders risk, pest control, HOA fees, utilities, property taxes, and other costs associated with maintenance and ownership	$35,900	$0	$0	$25,900
Marketing/community outreach, and education and counseling	$0	$0	0	$0
Total	**$2,500,000**	**$219,624**	**$188,988**	**$2,898,612**

EXHIBIT C

NSP 3 ACQUISITION, REHABILITATION AND RESALE OF FORECLOSED HOMES

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:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**AUTHORIZATION FOR COOPERATIVE PURCHASE OF GASOLINE AND DIESEL FUEL FROM SUPREME OIL COMPANY**
Staff Contact:	**Christina Betz, Acting Deputy Director, Public Works**

Purpose and Recommended Action

This is a request for Council to authorize the expenditure of funds with Supreme Oil, on an as required basis, for the purchase of gasoline and diesel fuel for the city fleet in an amount not to exceed $3,750,000 annually, per the terms and conditions of the cooperative purchasing agreement.

Background Summary

The Equipment Management division of Public Works procures approximately $3.7 million annually in gasoline and diesel fuel for use by the city fleet. The fleet includes vehicles and equipment used by city departments to deliver essential services to the community. The service areas that routinely consume the most fuel on any given day include Police and Fire, Sanitation, Transportation, and Water Services. Last fiscal year, the city fleet drove over 7.4 million miles and used over 1.1 million gallons of fuel.

The vendor, Supreme Oil Company, was awarded this bid through a competitive bid process by the City of Mesa Invitation for Bid #2013057 on May 20, 2013. Beginning and ending date of the initial terms is July 1, 2013 through June 30, 2016, with two one-year renewal periods, in accordance with the terms of the City of Mesa's contract. The terms and conditions of the City of Mesa contract extend the use of the contract by the Strategic Alliance for Volume Expenditures (SAVE) cooperative members with the approval of the contractor. The City of Glendale has received this approval from Supreme Oil Company to utilize the City of Mesa contract. Additionally, the city's Materials Management Office and City Attorney's Office have reviewed and approve the action to cooperatively purchase fuel in accordance with the terms of the City of Mesa contract.

Community Benefit/Public Involvement

The expedient delivery of fuel and the ability to maintain proper inventory levels at city fuel pump locations are critical for the uninterrupted delivery of city services to the community, such as police and fire emergency response, water and wastewater operations, and sanitation collection.

CITY COUNCIL REPORT

Budget and Financial Impacts

Cost	Fund-Department-Account
$3,750,000	**1040-13520-523200, Fuel Services**

Capital Expense? Yes ☐ No ☒

Budgeted? Yes ☒ No ☐

Requesting Budget or Appropriation Transfer? Yes ☐ No ☒

Attachments

Staff Report

STAFF REPORT

To:	**Richard A. Bowers, Acting City Manager**
From:	**Christina Betz, Acting Deputy Director, Public Works**
Item Title:	**AUTHORIZATION FOR COOPERATIVE PURCHASE OF GASOLINE AND DIESEL FUEL FROM SUPREME OIL COMPANY**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

This report contains information regarding the required purchase of gasoline and diesel fuel for the city fleet using a cooperative purchase agreement. The purpose of this report is to request the City Manager forward this item to the City Council for their consideration and approval.

BACKGROUND

The Equipment Management division of Public Works procures approximately $3.7 million annually in gasoline and diesel fuel for use by the city fleet. The fleet includes vehicles and equipment used by city departments to deliver essential services to the community. The service areas that routinely consume the most fuel on any given day include Police and Fire, Sanitation, Transportation, and Water Services. Last fiscal year, the city fleet drove over 7.4 million miles and used over 1.1 million gallons of fuel.

The vendor, Supreme Oil Company, was awarded this bid through a competitive bid process by the City of Mesa Invitation for Bid #2013057 on May 20, 2013. Beginning and ending date of the initial terms is July 1, 2013 through June 30, 2016, with two one-year renewal periods, in accordance with the terms of the City of Mesa's contract. The terms and conditions of the City of Mesa contract extend the use of the contract by the Strategic Alliance for Volume Expenditures (SAVE) cooperative members with the approval of the contractor. The City of Glendale has received this approval from Supreme Oil Company to utilize the City of Mesa contract. Additionally, the city's Materials Management Office and City Attorney's Office have reviewed and approve the action to cooperatively purchase fuel in accordance with the terms of the City of Mesa contract.

This is a request for Council to authorize the expenditure of funds with Supreme Oil Company for the purchase of gasoline and diesel fuel, on an as required basis, for the city fleet per the terms and conditions of the cooperative purchasing agreement with SAVE in which Glendale is also a member.

STAFF REPORT

ANALYSIS

In previous years, gasoline and diesel fuel were purchased utilizing daily quotes by numerous fuel suppliers. By utilizing contract pricing with Supreme Oil Company, the city is provided with consistent inventory levels of fuel, with a delivery time of 24 hours after placement of fuel order. Furthermore, in the event of a fuel shortage that impacts the valley, Supreme Oil Company will deliver to those customers with a contract first, then to daily customers as supply levels diminish.

FISCAL IMPACTS

The total requested purchase with Supreme Oil Company for gasoline and diesel fuel is for an amount not to exceed $3,750,000 annually. Funds for the purchase of gasoline and diesel fuel are available in the Equipment Management FY 2013-14 operating budget. Fuel usage is tracked and city departments are charged back on a monthly basis. Any fuel purchases that are anticipated to exceed this annual budget amount, due to fuel price increases or other circumstances, will be brought forward for further Council action to increase the spending limit.

CITY COUNCIL REPORT

Meeting Date: **6/25/2013**
Meeting Type: **Voting**
Title: **AUTHORIZATION TO PREPAY GENERAL OBLIGATION BONDS**
Staff Contact: **Diane Goke, Chief Financial Officer, Financial Services**

Purpose and Recommended Action

This is a request for City Council to authorize the prepayment of approximately $5.6 million in General Obligation bonds to be paid from the Water and Sewer Fund.

Background Summary

The bonds that are recommended for prepayment are part of the 2003 General Obligation bond issuance in the amount of $66.4 million. Typically, General Obligation bond debt service is paid out of the proceeds from secondary property tax. However, the Water and Sewer Fund has paid the debt service on $13.9 million of the 2003 issuance.

Community Benefit/Public Involvement

The city continually works with financial advisors to determine what is in the best interest of the city. In reviewing the outstanding debt, it was determined the city could save $650,000 by prepaying these obligations, as well as $1.25 million per year for the next five years in debt service payments.

Budget and Financial Impacts

Cost	Fund-Department-Account
$5,600,000	**2380-89950-561200, Water and Sewer principal**

Capital Expense? Yes ☐ No☒

Budgeted? Yes ☒ No ☐

Requesting Budget or Appropriation Transfer? Yes ☒ No ☐

If yes, where will the transfer be taken from? Fund balance

CITY COUNCIL REPORT

Attachments

Staff Report

STAFF REPORT

To:	**Richard A. Bowers, Acting City Manager**
From:	**Diane Goke, Chief Financial Officer, Financial Services**
Item Title:	**AUTHORIZATION TO PREPAY GENERAL OBLIGATION BONDS**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

The purpose of this report is to request the Water and Sewer Fund to prepay approximately $5.6 million in General Obligation bonds.

BACKGROUND

The bonds that are recommended for prepayment are part of the 2003 General Obligation bond issuance in the amount of $66.4 million. Typically, General Obligation bond debt service is paid out of the proceeds from secondary property tax. However, the Water and Sewer Fund has paid the debt service on $13.9 million of the 2003 issuance.

ANALYSIS

The city continually works with financial advisors to determine what is in the best interest of the city. In reviewing the outstanding debt, it was determined the city could save $650,000 by prepaying these obligations, as well as $1.25 million per year for the next five years in debt service payments.

FISCAL IMPACTS

The Water and Sewer Fund will use approximately $5.6 million of their fund balance to prepay the bonds.

CITY COUNCIL REPORT

Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**LICENSE AGREEMENT WITH NEWPATH NETWORKS, LLC FOR PLACEMENT OF UNDERGROUND FIBER-BASED COMMUNICATIONS NETWORK WITHIN PUBLIC RIGHTS-OF-WAY**
Staff Contact:	**William Passmore, P.E., Principal Engineer**

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 execute a license agreement between the City of Glendale and NewPath Networks, LLC (NewPath).

Background Summary

NewPath contacted the city to request permission to expand its existing network in the valley into Glendale. This license agreement is for a five year term, with no more than four consecutive five year renewals. It is anticipated that the installation will begin late 2013 with the majority of the work completed within 18 months. The first installation will be along 95th Avenue from Maryland Avenue to Bethany Home Road.

Community Benefit/Public Involvement

NewPath's infrastructure investment in the West Valley allows them to meet their current and future clients' connection needs and the growing demand for fiber optic telecommunications service including cable, telephone and internet.

Budget and Financial Impacts

The revenue generated from plan review, permit and inspection fees associated with the project during the first 18 months of this license is projected at $5,000. Additionally, NewPath shall pay to the city the Privilege Tax of 6.1% of its gross revenue per year per City Code 21.1-470. All revenue shall be deposited into the General Fund.

Attachments

Staff Report

Agreement

Resolution

STAFF REPORT

To:	**Richard A. Bowers, Acting City Manager**
From:	**William Passmore, P.E., Principal Engineer**
Item Title:	**LICENSE AGREEMENT WITH NEWPATH NETWORKS, LLC FOR PLACEMENT OF UNDERGROUND FIBER-BASED COMMUNICATIONS NETWORK WITHIN PUBLIC RIGHTS-OF-WAY**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

The purpose of this report is to request the City Manager forward this item for City Council consideration and approval. This item consists of the documents necessary to execute a license agreement between the City of Glendale and NewPath Networks, LLC (NewPath), for the placement of an underground fiber-based communications network within public rights-of-way. Staff plans to request Council adopt a resolution authorizing the City Manager to execute said license agreement.

BACKGROUND

NewPath contacted the city to request permission to expand its existing network in the valley into Glendale. NewPath's infrastructure investment in the West Valley allows them to meet their current and future clients' connection needs and the growing demand for fiber optic telecommunications service including cable, telephone and internet. It is anticipated that the installation will begin late 2013 with the majority of the work completed within 18 months.

The first installation will be along 95th Avenue from Maryland Avenue to Bethany Home Road. The trench will be two feet wide and 2,640 feet long.

ANALYSIS

- There will be no impact to any city departments, staff, or service levels.
- There are no costs incurred as a result of this action.
- This license agreement is for a five year term, with no more than four consecutive five year renewals.

FISCAL IMPACTS

The revenue generated from plan review, permit and inspection fees associated with the project during the first 18 months of this license is projected at $5,000. Additionally, NewPath shall pay to

the city the Privilege Tax of 6.1% of its gross revenue per year per City Code 21.1-470. All revenue shall be deposited into the General Fund.

RESOLUTION NO. 4693 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO EXECUTE A FIBER LICENSE AGREEMENT FOR DISTRIBUTED ANTENNA SYSTEM NETWORK WITH NEWPATH NETWORKS, LLC IN GLENDALE, ARIZONA.

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

SECTION 1. That the City Manager or his designee is hereby authorized to execute and deliver a Fiber License Agreement for a Distributed Antenna System Network , with NewPath Networks, LLC, a New Jersey limited liability company in Glendale, Arizona. Said license agreement is on file with the City Clerk.

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:

_____
Acting City Attorney

REVIEWED BY:

_____
Acting City Manager

l_row_newpath

FIBER LICENSE AGREEMENT C_____
FOR NewPath Networks, LLC
IN CITY RIGHT-OF-WAY

This License Agreement for NewPath Networks, LLC in City Right-of-Way ("Agreement") is executed to be effective the _____ day of _____, 2013 ("Effective Date"), between the City of Glendale, an Arizona municipal corporation ("City"), and NewPath Networks, LLC, a New Jersey limited liability company, authorized to do business in Arizona ("Licensee").

WHEREAS, the City is the owner of certain right-of-way located in the ("Licensed Area"), as more particularly described in Exhibit A attached hereto; and

WHEREAS, Licensee desires to install, maintain and operate a Distributed Antenna System ("DAS") in the City's right-of-way. The equipment includes, but is not limited to remote communications nodes, antennas, radio amplifiers, radio frequency and optical signal converters, power suppliers and meters, monitoring devices, fiberoptic and other cabling, connectors and equipment necessary to serve Licensee's DAS Facilities as shown in Exhibit A.

WHEREAS, the City is willing to grant to the Licensee a license to use the Licensed Area for the operation of the Distributed Antenna System Network under the terms of this Agreement, subject to the approval of the Glendale City Council in connection with the public hearing requirements of A.R.S. § 9-551 *et seq.*, and all as implemented by the City's Project Manager, whose approvals shall not be unreasonably withheld.

THEREFORE, in consideration of the following mutual covenants, terms and conditions, it is hereby agreed as follows:

1. LICENSED AREA.

   A. The Licensed Area includes and is limited to the following areas depicted in Exhibit A:

      i) The area on which the DAS Facilities are located, or an alternative area in the right-of-way as approved by the City.

      ii) Reasonable access to the DAS Facilities through the public right-of-way.

2. CITY'S REPRESENTATIONS AND WARRANTIES.

   A. The City represents and warrants to the Licensee that: i) the City, and its duly authorized signatory, have full right, power and authority to execute this Agreement on behalf of the City; and ii) the City has good and unencumbered title to the

Licensed Area free and clear of any liens or mortgages, except those disclosed to the Licensee that will not interfere with Licensee's right to use the Licensed Area; and iii) the City's execution and performance of this Agreement will not violate any laws, ordinances, covenants, mortgages, licenses or other agreements binding on the City.

B. The Licensee has studied and inspected the Licensed Area and accepts the same "AS IS" without any express or implied warranties of any kind, other than those warranties contained in subsection (A) immediately above, including any warranties or representations by the City as to its condition or fitness for any particular use. The Licensee has inspected the Licensed Area and obtained information and professional advice as the Licensee has determined to be necessary related to this Agreement.

3. GRANT OF LICENSE; TERM.

A. Nothing in this Agreement will be construed as granting the Licensee the authority to use any property that is owned by any person or entity other than the City.

B. The initial term of this Agreement shall be for a period of five (5) years (the "Initial Term"), commencing on the Effective Date and ending on the fifth anniversary thereof, unless sooner terminated as stated herein. This Agreement may be renewed for no more than four successive five-year year Renewal Terms unless City notifies Licensee, in writing of City's intent to not renew this Agreement at least thirty (30) days prior to the expiration of the Initial Term or any Renewal Term due to: a violation of any term of this Agreement not cured within thirty (30) days notice; any subsequent violation of the same term since the original Effective Date of this Agreement; for any of the reasons listed under Section 16; or for any operations or incidents the City's Project Manager considers to be a danger to public health or safety.

C. If Licensee continues to occupy the Licensed Area after the expiration or termination of this Agreement, holding over will not be considered to operate as a renewal or extension of this Agreement, but shall be a month-to-month license and the Licensee must pay the City fees in an amount that is double the amount of normal license fee that would otherwise be due under Section 4.

D. Notwithstanding any provision in this Agreement to the contrary or any negotiation, correspondence, course of performance or dealing, or any other statements or acts by or between the parties, Licensee's rights in the Licensed Area are limited to the rights created by this Agreement. Under this Agreement, a revocable license is created only and solely in the Licensed Area. The City and the Licensee do not by this instrument intend to create a lease, easement or other real property interest. The Licensee has no real property interest in the Licensed Area. Licensee's rights are subject to all covenants, restrictions, easements, agreements, reservations and

encumbrances upon, and all other conditions of title to, the Licensed Area. Licensee's rights under this Agreement are further subject to all present and future building restrictions, regulations, zoning laws, ordinances, resolutions and orders of any local, state or federal agency, now or later having jurisdiction over the Licensed Area or the Licensee's use of the Licensed Area.

4. LICENSE FEES; COSTS; TAXES.

A. Licensee shall pay, without notice and free from all claims, deductions and setoffs against the City, a percentage of its Gross Revenues, as defined herein ("the Fiber License Fee or Fee"). For purposes of this License, "Gross Revenue" shall mean any and all compensation received by the Licensee from, through, or on account of the operation of its DAS Facilities within City, as well as any revenues received from leasing of any portion of the Licensee's system located within the City, plus all appropriate taxes (see Section 23 below) beginning on the Effective Date, and each subsequent year of the term of this Agreement, up to and including the expiration or earlier termination thereof. It is understood by the Parties that the percentage of Gross Revenue will be determined in accordance with applicable sections of A.R.S.r. § 9-582, and will not exceed the rate of the transaction privilege tax which the Licensor is authorized by law to collect. It is further understood, that the amount of the transaction privilege tax may change from time to time, and the Licensor will notify Licensee of any such change, and future payments will reflect said change. The Parties agree that such fee is not prohibited by A.R.S. § 9-582

B. The Fiber License Fee will increase by three (3) percent annually on the anniversary of the Effective Date, if such increase does not violate A.R.S. § 9-582.

C. All fees are due on the first day of the anniversary date month of the Effective Date of this Agreement. Licensee shall pay all fees due for the current year in advance on the first business day of each anniversary month. If the Effective Date is not on the first day of a month, the Licensee's fees will be prorated accordingly.

D. If the Licensee fails to pay any fee in full within ten (10) business days of the due date, the Licensee is responsible for interest on the unpaid principal balance at the rate of 18% per annum from the due date until payment is made in full.

E. Upon submission of plans in connection with the approval of this Agreement Licensee shall pay the City a dry utility permit fee in accordance with the City's Community Development Fee Schedule.

F. Licensee shall pay the City actual costs for inspections, materials testing and other costs incurred by the City related to the construction, repair, alteration or relocation of the DAS Facilities. All costs shall be paid in full within thirty (30) days of invoice.

5. UTILITIES.

Licensee is responsible for obtaining and paying for all utilities necessary to operate the DAS Equipment.

6. USE RESTRICTIONS.

A. Subject to the interference provisions set forth below, Licensee shall at all times use reasonable efforts to minimize any impact that its use of the Licensed Area will have on other uses of the Licensed Area.

B. Licensee shall not remove, damage or alter in any way any improvements or personal property of the City upon the Licensed Area without the City's prior written approval. Licensee shall repair any damage or alteration to the City's property caused by Licensee's use of the Licensed Area to the same condition that existed before the damage or alteration, reasonable wear and tear excepted.

C. Whenever the Licensee performs construction activities within the Licensed Area, the Licensee shall obtain all necessary construction permits and promptly, upon completion of construction, restore the remaining Licensed Area to the condition existing before construction to the satisfaction of the City's Project Manager. If the Licensee fails to restore the Licensed Area as required, the City may take all reasonable actions necessary to restore the Licensed Area, and the Licensee, within twenty (20) days of demand and receipt of an invoice, together with reasonable supporting documentation, will pay all of the City's reasonable costs of restoration.

D. Licensee shall use the Licensed Area solely for constructing, installing, operating, maintaining, repairing, modifying and removing the DAS Facilities. The DAS Facilities are limited to the equipment and facilities listed in Section 1 above and other items as may be approved by the City, in its sole discretion, in writing.

E. Licensee shall have a non-exclusive right for ingress and egress, seven (7) days a week, twenty-four (24) hours a day, for the construction, installation, operation, maintenance, modification and removal of the DAS Facilities. In no event shall the City's use of the Licensed Area be unreasonably interrupted by the Licensee's work. Prior to entering upon the Licensed Area, the Licensee shall give the Project Manager or designee at least forty-eight (48) hours advance notice in the manner provided in Section 21 of this Agreement or, in the event of emergency repairs, any prior notice as is practical.

F. Licensee shall at all times have on call and at the City's access an active, qualified and experienced representative to supervise the DAS Facilities, who is authorized to act for the Licensee in matters pertaining to all emergencies and the day-to-day operation of the DAS Facilities. The Licensee shall provide the Project Manager or

designee with the names, addresses and 24-hour telephone numbers of designated persons in writing.

G. In the vicinity of any above-ground facilities Licensee may have in the Licensed Area, Licensee shall keep the Licensed Area maintained, orderly and clean at all times.

H. Licensee acknowledges that: i) the Licensee's use of the Licensed Area is subject and subordinate to, and shall not adversely affect, the City's use of the Licensed Area; and ii) the City reserves the right to further develop, maintain, repair or improve the Licensed Area.

I. Licensee shall not install any signs in the Licensed Area other than required safety or warning signs or other signs necessary for the use of the Licensed Area as requested or approved by the City. Licensee bears all costs pertaining to the erection, installation, maintenance and removal of all of its signs.

7. HAZARDOUS WASTE.

The Licensee shall not produce, dispose, transport, treat, use or store any hazardous waste or toxic substance upon or about the Licensed Area in violation of the Arizona Hazardous Waste Management Act, A.R.S. § 49-901 *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*, or any other federal, state or local law pertaining to hazardous waste or toxic substances. Licensee shall not use the Licensed Area in a manner inconsistent with any regulations, permits or approvals issued by any state agency. The Licensee shall defend, indemnify and hold the City harmless against any loss or liability incurred by reason of any hazardous waste or toxic substance release on or affecting the Licensed Area to the extent caused by the Licensee, and shall immediately notify the City of any hazardous waste or toxic substance release at any time discovered or existing upon the Licensed Area. Licensee shall promptly and without request provide the City with copies of all written communications between the Licensee and any governmental agency concerning environmental inquiries, reports or problems in the Licensed Area.

8. LICENSEE'S IMPROVEMENTS; GENERAL REQUIREMENTS.

A. The following provisions govern all improvements, repairs, installation and other construction, removal, demolition or similar work of any description by the Licensee related to the DAS Facilities or the Licensed Area (collectively referred to as the "Licensee's Improvements"):

i) In no event, including termination of this Agreement for any reason, is the City obligated to compensate the Licensee in any manner for any of Licensee's Improvements or other work provided by the Licensee during or related to this Agreement. The Licensee shall timely pay for all labor, materials and work

and all professional and other services related to Licensee's Improvements and defend, indemnify and hold harmless the City against the same.

ii) All work performed by Licensee must be in a workmanlike manner, and be diligently pursued to completion and in conformance with all building codes and similar requirements. Licensee's Improvements shall be commensurate with high quality industry standards as approved by the City, which approval shall not be unreasonably withheld, conditioned or delayed.

iii) Licensee acknowledges that as of the Effective Date of this Agreement, the City has not approved or promised to approve any plans for the Licensee's Improvements, except for those improvements already in place or to the extent expressly stated in this Agreement.

iv) Licensee shall make no structural or grading alterations, or similar structural modifications or additions or other significant construction work to the Licensed Area without having first received the written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed. Review shall include all improvements, equipment, fixtures, paint and other construction work of any description as described in all plans delivered by the Licensee to the City. All such plans and construction are subject to inspection and final approval by the City as to materials, design, function and appearance.

v) Licensee shall keep as-built records of the Licensee's Improvements and furnish copies of records to the City, at no cost to the City, upon completion of improvements and any changes to the same. Licensee shall participate as a member of the Blue Stake Center under A.R.S. § 40-360.21, *et seq*., regarding underground facilities, and submit proof of participation to the Property Manager upon request.

vi) All changes to utility facilities shall be limited to the Licensed Area and shall be undertaken by the Licensee only with the written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed.

vii) All of the Licensee's Improvements shall be designed so as to present uniformity of design, function, appearance and quality throughout and consistency with other improvements located in the Licensed Area.

viii) Licensee shall properly mark and sign all excavations and maintain barriers and traffic control in accordance with applicable laws, regulations and best management practices.

B. The following procedure governs the Licensee's submission to the City of all plans for the Licensed Area and the Licensee's Improvements, including any proposed changes by the Licensee of previously approved plans:

i) Licensee shall coordinate with the City as necessary on significant design issues prior to submission of plans.

ii) Upon execution of this Agreement, the City and the Licensee shall each designate a project manager to coordinate the parties' participation in designing and constructing Licensee's Improvements. Each project manager shall devote time and efforts to the project as may be necessary for timely, good faith and convenient coordination among all persons involved with the project and compliance with this Agreement. The City's project manager will not be exclusively assigned to this Agreement or the Licensee's Improvements.

iii) No plans are considered finally submitted until the Licensee delivers to the City a formal certification by an engineer licensed in Arizona, acceptable to the project manager, to the effect that all of the Licensee's Improvements are properly designed to be safe and functional as designed and as required by this Agreement. The certification shall be accompanied by and refer to any backup information and analysis as the project manager may reasonably require.

iv) No plans are considered approved until stamped "APPROVED" and dated by the City's Project Manager.

v) Licensee acknowledges that the Project Manager's authority with respect to the Licensed Area is limited to the administration of the requirements of this Agreement. Licensee is responsible to secure all zoning approvals, design revisions or other governmental approvals and to satisfy all governmental requirements pertaining to the project and may not rely on the City or Project Manager to initiate or suggest any particular process or course of action.

vi) The City's issuance of building permits shall not be considered valid unless the plans have been approved as stated in subsection (iv) above. The City's Project Manager shall be reasonably available to coordinate and assist the Licensee in working through issues that may arise in connection with such plan approvals and requirements.

vii) The Licensee shall, in the submittal of all plans, allow adequate time for all communications and plan revisions necessary to obtain approvals and shall schedule its performances and revise its plans as necessary to timely obtain all approvals and make payment of all applicable fees.

viii) Any delay in City's review of or marking Licensee's plans with changes necessary to approve the plans, or approve the revised plans in accordance with the City's normal plan-review procedures, will not be considered approval of the plans but may operate to extend Licensee's construction deadlines. The City agrees to use reasonable efforts to review, mark or approve Licensee's plans in a prompt and timely manner and in conformance with established policies and procedures.

ix) The Licensee shall provide the City with two (2) complete sets of detailed plans and specifications of the work as completed.

x) The parties shall use reasonable efforts to resolve any design and construction issues to their mutual satisfaction but, in the event of an impasse for any reason, final decision authority regarding all design and construction issues shall rest with the City in its discretion,.

xi) Before any construction begins on the Licensed Area, the Licensee shall provide the City with performance bonds, and if considered necessary by the City, payment bonds, in amounts equal to the full amount of the written construction contract pursuant to which such construction is to be done. The payment bond shall be solely for the protection of claimants supplying labor or materials for the required construction work and the performance bond shall be solely for the protection of the City, conditioned upon the faithful performance of the required construction work. Bonds shall be executed by a surety company duly authorized to do business in Arizona, and acceptable to the City and shall be kept in place for the duration of the work.

9. LICENSEE'S INITIAL CONSTRUCTION.

No later than eighteen (18) months after the Effective Date, the Licensee shall install the DAS Facilties in the Licensed Area in accordance with all of the specifications contained in the attached Exhibit A. Equipment already in place from previous authorization will also be reflected in Exhibit A.

10. MAINTENANCE.

A. The Licensee has, at its own cost, all responsibilities for improvements to and maintenance of the DAS Facilities in the Licensed Area during the term of this Agreement.

B. Licensee, at its expense, shall use reasonable efforts to minimize the visual and operational impacts of the equipment as required by any City Ordinance, permit, or other permission necessary for the installation or use of the Licensed Area.

11. CO-LOCATION.

A. Subject to subsection (B) below, the Licensee shall at all times use reasonable efforts to cooperate with the City or any third parties with regard to the possible co-location of additional equipment, facilities or structures in and around the Licensed Area ("Co-location"). If a Co-location is feasible, the City may, in its sole discretion, negotiate a Co-location license agreement with any third party on terms as the City considers appropriate, not inconsistent with the rights and obligations of the parties under this Agreement. Licensee's consent in connection with the final determination of Co-location of a third party is not required. Any fees or charges paid by an additional Co-locator belong solely to the City.

B. Prior to permitting the installation of a Co-location by any third party in or around the Licensed Area which may interfere with the Licensee's operations, the City shall give the Licensee thirty (30) days notice of the proposed Co-location so that the Licensee can determine if the Co-location will interfere with the DAS Facilities. If the Licensee determines that interference is likely, the Licensee shall, within the notice period, give the City a detailed written explanation of the anticipated interference, including supporting documentation as may be reasonably necessary for the City to evaluate the Licensee's position. The City and the Licensee shall promptly use reasonable efforts to resolve any interference problems before the City permits a Co-location to the third party. If a subsequent licensee is permitted to operate near the Licensed Area, and the subsequent licensee's operations materially interfere with Licensee's DAS Facilities, then the City shall direct the subsequent licensee to remedy the interference within seventy-two (72) hours. If the interference is not resolved within this period, then the City will direct the subsequent licensee to cease its operation until the interference is resolved. These same procedures apply to any interference caused by Licensee with respect to any Co-location existing and as configured prior to the installation of Licensee's DAS Facilities.

12. ASSIGNMENT.

A. Licensee may assign this Agreement, upon thirty (30) days' written notice to the City, to any person or entity controlling, controlled by or under common ownership with the Licensee or Licensee's parent company, or to any person or entity that, acquires the Licensee's business and assumes all obligations of the Licensee under this Agreement. Other assignments require City approval. For assignments requiring City approval, the City may, as a condition of approval, postpone the effective date of the assignment and require that any potential transferee submit reasonable evidence of its financial ability to fully perform under the terms of this Agreement to the City at least thirty (30) days prior to any transfer of the Licensee's interest, in no event will the City unreasonably withhold, condition, or delay its approval to a proposed assignment.

B. The Licensee may, upon notice to the City, mortgage or grant a security interest in this Agreement and the DAS Facilities, and may assign this Agreement and the DAS Facilities to any mortgagees, deed of trust beneficiaries or holders of security interests, including their successors or assigns ("Mortgagees"), so long as the Mortgagees agree to be bound by the terms of this Agreement. If so, the City shall execute consent to leasehold or other financing as may be reasonably required by Mortgagees. In no event will Licensee grant or attempt to grant a security interest in any of the real property underlying the Licensed Area.

C. Subject to subsections (A) and (B) above, Licensee shall not assign or sublease any of its interest under this Agreement, nor permit any other person to occupy the Licensed Area.

13. PERFORMANCE BOND.

In addition to any other bond required by this Agreement, the Licensee shall, no later than thirty (30) days after the Effective Date, provide the City with a performance bond in the amount of $10,000.00. The performance bond shall be conditioned upon the Licensee's faithful performance of all of its obligations under this Agreement. The bond shall be executed by a surety company duly authorized to do business in the State of Arizona and acceptable to the City's Project Manager.

14. REGULATORY AGENCIES, SERVICES, FINANCIALS AND BANKRUPTCY.

A. The Licensee shall provide to the City:

i) All relevant petitions, applications, communications and reports submitted by the Licensee to the Arizona Corporation Commission, inclusive of any requirements under A.R.S. § 40-441 *et seq.*, or other state or federal authority having jurisdiction that directly relates to Licensee's operations in the Licensed Area;

ii) Licensing documentation concerning all services of whatever nature being offered or provided by the Licensee over facilities in the Licensed Area. Copies of responses from regulatory agencies to the Licensee shall be available to the City upon request. To the extent permitted by Arizona's Public Records Law, A.R.S. § 39-121 *et seq.*, the City will treat all documentation and information obtained pursuant to this Section 14 as proprietary and confidential.

B. The Licensee shall provide the City, upon request, copies of any petition, application, communications or other documents related to any filing by the Licensee of bankruptcy, receivership or trusteeship.

15. DEFAULT; TERMINATION BY CITY.

A. The City may terminate this Agreement for any of the following reasons upon thirty (30) days' written notice to Licensee:

i) Failure of Licensee to perform any obligation under this Agreement, after Licensee fails to cure default within the notice and cure period. However, if cure cannot reasonably be implemented within the notice period, Licensee must commence and diligently pursue to cure within ninety (90) days of the City's notice.

ii) The taking or possession, for a period of ten (10) days or more, of substantially all of Licensee's personal property in the Licensed Area by or pursuant to lawful authority of any legislative act, resolution, rule, order or decree or any act, resolution, rule, order or decree of any court or governmental board, agency, officer, receiver, trustee or liquidator.

iii) The filing of any lien against the Licensed Area due to any act or omission of the Licensee that is not discharged or fully bonded within thirty (30) days of receipt of actual notice by the Licensee.

B. The City may place the Licensee in default of this Agreement by giving the Licensee fifteen (15) days written notice of the Licensee's failure to timely pay the rent required under this Agreement or any other charges required to be paid by the Licensee pursuant to this Agreement. If Licensee does not cure the default within the notice period the City may terminate this Agreement or exercise any other remedy allowed by law or equity.

C. If the Licensee, through any fault of its own, at any time fails to maintain all insurance coverage required by this Agreement, the City may, upon written notice to the Licensee, immediately terminate this Agreement or secure the required insurance at Licensee's expense.

D. Failure by a party to take any authorized action upon default by the other party does not constitute a waiver of the default nor of any subsequent default by the other party. City's acceptance of the License fee or any other fees or charges for any period after a default by the Licensee is not considered a waiver or estoppel of the City's right to terminate this Agreement for any subsequent failure by the Licensee to comply with its obligations.

E. Upon the termination of this Agreement for any reason, all rights of the Licensee terminate, including all rights of the Licensee's creditors, trustees and assigns and all others similarly situated as to the Licensed Area.

16. TERMINATION.

A. This Agreement may be terminated for any of the following reasons:

i) By either party upon issuance of an injunction by a court of competent jurisdiction in any way preventing or restraining the Licensee's use of any portion of the Licensed Area and remaining in force for a period of thirty (30) consecutive days.

ii) By either party upon the inability of the Licensee to use any substantial portion of the Licensed Area for a period of thirty (30) consecutive days due to the enactment or enforcement of any law or regulation or because of fire, earthquake or similar casualty, or Acts of God or the public enemy.

iii) By either party upon ninety (90) days' written notice, if the Licensee is unable to obtain or maintain any license, permit or governmental approval necessary for the construction, installation or operation of the DAS Facilities or the Licensee's business.

iv) By Licensee, for any reason with sixty (60) days' written notice to the City.

B. In order to exercise the termination provisions above the party exercising termination must not itself be in default under the terms of this Agreement beyond any applicable grace or cure period and, if not otherwise stated above, provide reasonable written notice to the other party.

17. INDEMNIFICATION.

The Licensee shall defend, indemnify and hold harmless the City and its elected or appointed officials, agents, boards, commissions and employees (hereinafter referred to collectively as the "City" in this Section) from all loss, damages or claims of whatever nature, including attorney's fees, expert witness fees and costs of litigation, that arise out of any act or omission of the Licensee or its agents, employees and invitees (hereinafter referred to collectively as "Licensee" in this Section) in connection with the Licensee's operations in the Licensed Area and that result directly or indirectly in the injury to or death of any person or the damage to or loss of any property, or that arise out of the failure of Licensee to comply with any provision of this Agreement. The City shall in all instances, except for loss, damages or claims resulting from the negligence or willful acts of the City, be indemnified by Licensee against all losses, damages or claims. The City shall give the Licensee prompt notice of any claim made or suit instituted that may subject the Licensee to liability under this Section, and Licensee shall have the right to compromise and defend the same to the extent of its own interest. The City shall have the right, but not the 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 Licensee of any obligations under this Agreement. Licensee's obligations under this Section

survive any termination of this Agreement or the Licensee's activities in the Licensed Area.

18. INSURANCE.

A. The Licensee shall procure and at all times maintain the following types and amounts of insurance for its operations in the Licensed Area:

i) Commercial general liability and property damage insurance in the minimum amount of $2,000,000 combined single limit, $5,000,000 aggregate.

ii) Any other insurance, as the City's Project Manager may determine, to be necessary for the Licensee's operations and is commercially reasonable.

B. Insurance shall:

i) Be from a company rated at least A- by AM Best;

ii) Name the City as an additional insured on the insurance policy and maintain coverage through the term of the Agreement;

iii) Require 20 days' written notice to the City prior to cancellation;

iv) Include contractual liability coverage for the obligation of indemnity assumed in this Agreement, subject to standard policy provisions and exclusions; and

v) Be primary and non-contributory with respect to all other available sources, as relates to Licensee's negligence.

C. Licensee shall provide appropriate certificates of insurance to the City for all insurance policies required by this Section. Absence of City request for proof of initial or renewal coverage does not waive any insurance requirements under this paragraph.

19. DAMAGE OR DESTRUCTION.

The City has no obligation to reimburse the Licensee for the loss of or damage to fixtures, equipment or other personal property of the Licensee, except for loss or damage caused by the negligence or fault of the City or its officers, employees or agents. The Licensee may insure such fixtures, equipment or other personal property for its own protection if it so desires.

20. SURRENDER OF POSSESSION.

Upon the expiration or termination of this Agreement, the Licensee's right to occupy the Licensed Area and exercise the privileges and rights granted under this Agreement shall cease, and it shall surrender and leave the Licensed Area in good condition, normal wear and tear excepted. Unless otherwise provided, all trade fixtures, equipment, and other personal property installed or placed by the Licensee on the Licensed Area shall remain the property of the Licensee, and the Licensee may, at any time during the term of this Agreement, and for an additional period of ninety (90) days after its expiration, remove the same from the Licensed Area so long as Licensee is not in default of any of its obligations, and repairs at its sole cost, any damage caused by the removal. Any property not removed by the Licensee within the 90-day period becomes a part of the Licensed Area, and ownership vests in the City, or the City may, at the Licensee's expense, have the property removed. Licensee's indemnity under this Agreement applies to any post termination removal operations.

21. NOTICE.

A. Except as otherwise provided, all notices required or permitted to be given under this Agreement may be personally delivered or mailed by certified mail, return receipt requested, postage prepaid, to the following addresses:

TO THE CITY:	City of Glendale 5850 West Glendale Avenue Glendale, AZ 85301 Attention: Project Manager
WITH A COPY TO:	City of Glendale 5850 West Glendale Avenue Glendale, AZ 85301 Attention: City Attorney
TO THE LICENSEE:	NewPath Networks, LLC c/o Crown Castle USA Inc. 2000 Corporate Drive Canonsburg, PA 15317-8564 Attn: E. Blake Hawk General Counsel, Legal Dept.
WITH A COPY TO:	NewPath Networks, LLC 695 River Oaks Parkway San Joes, CA 95134 Attn: Contracts Management

Emergency Contact Phone Numbers:
1-800-788-7011 (24 hour emergency line)
1-408-468-5552

B. Any notice given by certified mail is considered to be received on the date delivered or refusal to accept. Either party may designate in writing a different address for notice purposes pursuant to this Section.

C. Under Section 6(E) of this Agreement, all notices of Licensee's intent to enter the Licensed Area shall be provided to the Project Manager, or designee at telephone numbers to be provided to Licensee by separate correspondence upon execution of this Agreement.

22. SEVERABILITY.

If any provision of this Agreement is declared invalid by a court of competent jurisdiction the remaining terms remain effective so long as the elimination of any invalid provision does not materially prejudice either party with regard to its respective rights and obligations. In the event of material prejudice the adversely affected party may terminate this Agreement.

23. TAXES AND LICENSES.

A. The Licensee shall pay any leasehold tax, possessory-interest tax, sales tax, personal property tax, transaction privilege tax, use tax or other exaction assessed or assessable as a direct result of its occupancy of the Licensed Area under authority of this Agreement, including any tax assessable on the City. If laws or judicial decisions result in the imposition of a real property tax on the interest of the City as a direct result of Licensee's occupancy of the Licensed Area, the tax shall also be paid by the Licensee on a proportional basis for the period this Agreement is in effect.

B. The Licensee shall, at its own cost, obtain and maintain in full force and effect during the term of this Agreement all licenses and permits required for all activities authorized by this Agreement.

24. GOVERNING LAW.

This Agreement is governed by the laws of the State of Arizona. If any claim or litigation between the City and the Licensee arises under this Agreement, the successful party is entitled to recover its reasonable attorneys' fees, expert witness fees and other costs incurred in connection with the claim or litigation.

25. RULES AND REGULATIONS.

The Licensee shall at all times comply with all federal, state and local laws, ordinances, rules and regulations which are applicable to its operations and the Licensed Area, including all laws, ordinances, rules and regulations adopted after the Effective Date.

The Licensee shall display to the City, upon request, any permits, licenses or other reasonable evidence of compliance with the law.

26. RIGHT OF ENTRY RESERVED.

A. The City may, at any time, enter upon the Licensed Area for any lawful purpose, so long as the action does not unreasonably interfere with the Licensee's use or occupancy of the Licensed Area. The City shall have access to the DAS Facilities only in emergencies.

B. Without limiting the generality of the foregoing, the City and any furnisher of utilities and other services shall have the right, at their own cost, to maintain existing and future utility, mechanical, electrical and other systems and to enter upon the Licensed Area at any time to make repairs, replacements or alterations that may, in the opinion of the City, be necessary or advisable and from time to time to construct or install over, in or under the Licensed Area systems or parts and in connection with maintenance, use the Licensed Area for access to other parts in and around the Licensed Area. Exercise of rights of access to repair, to make alterations or commence new construction will not unreasonably interfere with the use and occupancy of the Licensed Area by the Licensee.

C. Exercise of any of the foregoing rights by the City or others pursuant to the City's rights does not constitute an eviction of the Licensee, nor are grounds for any abatement of fees or any claim for damages.

27. RELOCATION.

A. The City shall not bear any cost of relocation of existing facilities, irrespective of the function served, where the City facilities or other facilities occupying the Licensed Area or right-of-way in close proximity to the Licensed Area, are already located and the conflict between the Licensee's potential DAS Facilities and existing facilities can only be resolved expeditiously, as determined by the City, by the movement of the existing City or other permitted facilities.

B. The City shall not bear any cost of relocation of Licensee's DAS Facilities, where in the City's discretion, relocation is reasonable and necessary in connection with City right-of-way repairs, improvements or other capital projects affecting the Licensed Area. City shall provide Licensee no less than ninety (90) days advance notice of a requirement to relocate. If the City becomes aware of a potential delay involving the Licensee's relocation, the City shall notify the Licensee within thirty (30) days of becoming aware of the potential delay. The Licensee may object in writing to the determination of relocation to the City's Project Manager within ten (10) days of receipt of the notice to relocate. The Project Manager shall consider the objection and respond in writing to Licensee within thirty (30) days of receipt of the objection. The Project Manager's determination is final.

C. If Licensee's relocation effort delays construction of a public project causing the City to be liable for delay or other damages, the Licensee shall reimburse the City for those damages attributable to the delay created by the Licensee. If Licensee disputes the amount of damages attributable to the Licensee, the matter shall be referred to the Dispute Resolution Board as defined below. The Dispute Resolution Board shall consist of one member selected by the City, one member selected by the Licensee, and a third member agreed upon by both parties. The member agreed upon by both parties shall be chairperson of the Dispute Resolution Board. Expenses for the Dispute Resolution Board shall be shared equally by the City and the Licensee. The Board will hear the dispute promptly, and render an opinion as soon as possible, but in no case later than sixty (60) days after notification by the City of Licensee's allocated share of damages suffered by the City. All decisions of the Dispute Resolution Board are non-binding on the City or the Licensee; however the findings of the Dispute Resolution Board shall be admissible in any legal action. The City and the Licensee shall accept or reject findings of the Dispute Resolution Board within thirty (30) days after receipt of the findings. If damages are assessed by the Dispute Resolution Board, and accepted by the City and the Licensee, the Licensee shall pay the City within thirty (30) days. If the Licensee fails to pay the damages in full within thirty (30) days the Licensee is responsible for interest on the unpaid balance at the rate of 18% per annum from that date until payment is made in full. Nothing herein prevents a mutual agreement between the City and the Licensee to use alternative dispute resolution for disputes related to other Agreement provisions.

28. CONFLICTS OF INTEREST.

This Agreement may be cancelled for conflicts of interest as described under A.R.S. § 38-511.

29. PROHIBITIONS.

Licensee, and on behalf of any subcontractor, certifies, to the extent applicable under A.R.S. §§ 35-391 *et. seq* and 35-393 *et. seq*, that neither has "scrutinized" business operations, as defined in the preceding sections, in the countries of Sudan or Iran.

30. MISCELLANEOUS.

This Agreement constitutes the entire agreement between the parties concerning the subject matter stated and supersedes all prior negotiations, understandings and agreements between the parties concerning those matters. This Agreement shall be interpreted, applied and enforced according to the fair meaning of its terms and not be construed strictly in favor of or against either party, regardless of which party may have drafted any of its provisions. No provision of this Agreement may be waived or modified except by a writing signed by the party against whom the waiver or modification is sought to be enforced. Electronic signature blocks do not constitute a signature for purposes of

this Agreement. This Agreement may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument. The terms of this Agreement are binding upon and inure to the benefit of the parties' successors and assigns.

EXECUTED to be effective as of the date shown above.

CITY OF GLENDALE, an Arizona municipal corporation

_____
Richard Bowers, Acting City Manager

ATTEST:

_____
Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

_____
Nick DiPiazza, Acting City Attorney

NewPath Networks, LLC

By:_____

Its:_____

Date:_____

STATE OF _____)
)ss
County of _____)

The foregoing document was acknowledged before me this ____ day of _____, 2013, by _____, in his or her capacity as _____ of NewPath Networks, LLC.

_____
Notary Public

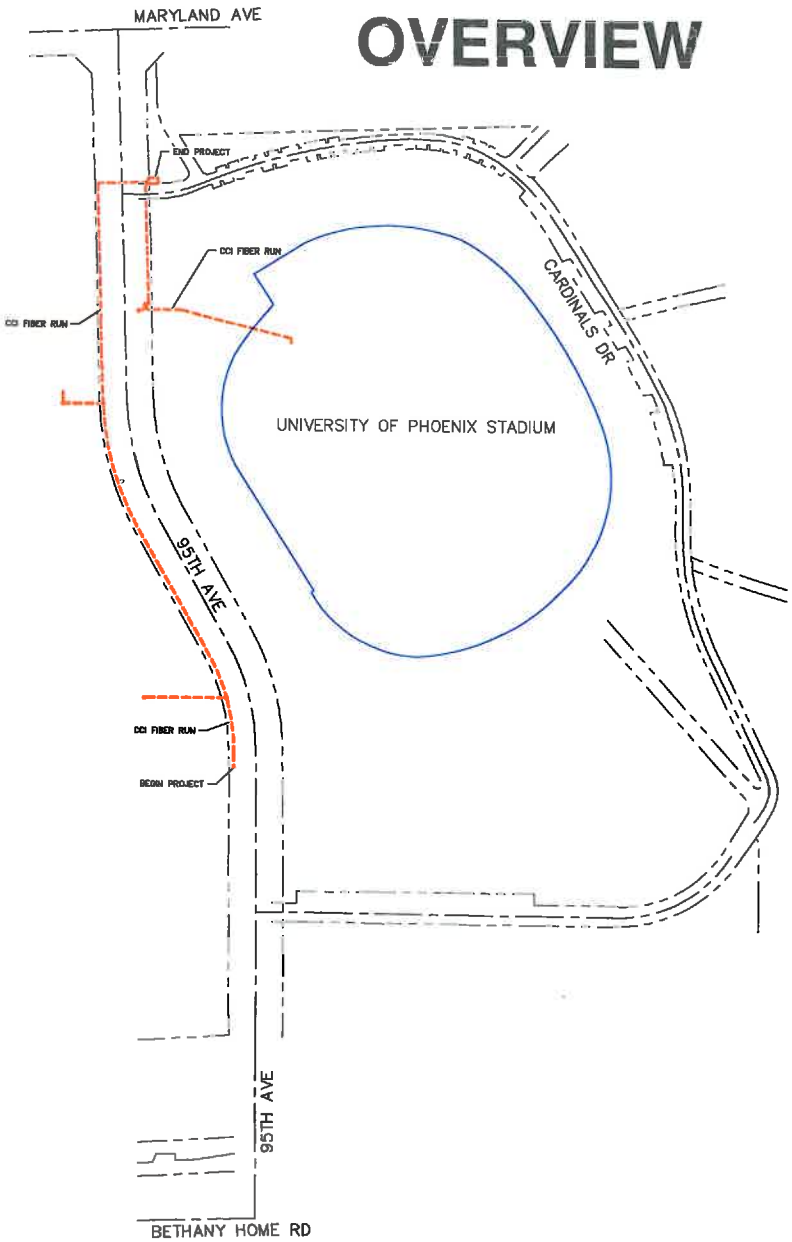
My Commission Expires:

_____

EXHIBIT A

(see attached)

OVERVIEW



REV	DATE	DESCRIPTION	DRAWN	CHECKED	APPROVED

CALL BEFORE YOU DIG
Avoid utility interruptions verify that 811 calls.
CALL 811
OR
1-602-263-1100
OR
1-800-STAKE IT
(OUTSIDE MARICOPA COUNTY)

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EXCEPT AS MAY BE OTHERWISE PROVIDED THIS DRAWING SHALL REMAIN THE PROPERTY OF
CROWN CASTLE
AND SHALL NOT BE REPRODUCED, COPIED, OR USED FOR ANY PURPOSE WITHOUT SPECIFIC WRITTEN PERMISSION.

DRAWN BY: M. MARCH
CHECKED BY: J. BARRON
APPROVED BY:
PLAN PREPARED BY:
TEAM FISHEL
299 E. WARNER RD.
CHANDLER, ARIZONA 85225

JOB: 20130522
LOOP:
SEGMENT:
SITE ADDRESS: CARDINALS STADIUM
TITLE: FIBER INSTALL
CONTRACT NO:
DRAWING NO:
DATE DRAWN: 06/04/2013
SCALE: N.T.S.
PLOT DATE:
SHEET: 1
SHEET: 1 OF: 1

CITY COUNCIL REPORT

Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**ACCEPTANCE OF A GRANT FROM THE MARICOPA ASSOCIATION OF GOVERNMENTS AND APPROVAL OF THE COOPERATIVE PURCHASE OF AN AIRPORT STREET SWEEPER**
Staff Contact:	**Cathy Colbath, Interim Executive Director, Transportation Services**

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 accept a federal Congestion Mitigation and Air Quality Improvement (CMAQ) grant from the Maricopa Association of Governments (MAG) in an amount not to exceed $220,672; and to authorize the purchase of a PM-10 certified street sweeper for Glendale Municipal Airport from Balar Equipment Corporation through a cooperative purchasing agreement with the Houston-Galveston Area Council (H-GAC).

Background Summary

In September 2012, Airport staff submitted an application to MAG for federal CMAQ funding for a PM-10 certified street sweeper for use at the airport and nearby collector streets. On December 5, 2012, MAG approved the city's funding request in an amount not to exceed $220,672.

The previous Airport sweeper was purchased in 1999, and exhausted its useful life approximately two years ago. Since then, the Airport has been using a sweeper that became available through the Equipment Management Division of Field Operations. That sweeper has not fully met the Airport's needs and has been expensive to maintain.

After submitting the application for CMAQ funding, Airport and Equipment Management staff analyzed sweeper specifications and selected the Schwarze Industries A7 Tornado sweeper to best meet the Airport's needs. This model is available to purchase through an H-GAC cooperative purchasing agreement. In 2003, the Glendale City Council authorized cooperative purchasing through this organization, and Glendale's Materials Management Division has reviewed and approved this purchase.

Community Benefit/Public Involvement

The acceptance of this grant will allow the city to purchase a new, more efficient sweeper for the Airport. The new sweeper will include a factory warranty, which eliminates the maintenance costs expended over the past few years. In addition to keeping the runways, taxiways, tarmac and

nearby collector streets clean, the use of a PM-10 certified street sweeper contributes to improved air quality in Maricopa County.

Budget and Financial Impacts

Cost	Fund-Department-Account
$11,664	**2210-65078-551400, Airport Matching Funds**
$192,962	**2120-79522-551400, Airport Sweeper**

The cost of the street sweeper will not exceed the total grant offer of $220,672. The price currently quoted by Balar Equipment Corporation totals $204,626. This reimbursable grant will fund 94.3 percent of the purchase price, and the city will be responsible for a 5.7 percent match. Based on the current quote, the grant will pay $192,962 toward the purchase, and the city will pay $11,664.

The reimbursement will be deposited into the Airport Sweeper Revenue Account (2120-79522-412400).

Capital Expense? Yes ☒ No ☐

Budgeted? Yes ☐ No ☒

Requesting Budget or Appropriation Transfer? Yes ☒ No ☐

If yes, where will the transfer be taken from? Airport Matching Funds Account (2210-65078-550800)

Attachments

Staff Report

Resolution

Grant Document

Agreement

STAFF REPORT

To:	**Richard A. Bowers, Acting City Manager**
From:	**Cathy Colbath, Interim Executive Director, Transportation Services**
Item Title:	**ACCEPTANCE OF A GRANT FROM THE MARICOPA ASSOCIATION OF GOVERNMENTS AND APPROVAL OF THE COOPERATIVE PURCHASE OF AN AIRPORT STREET SWEEPER**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

This report provides information to support a request for City Council to adopt a resolution authorizing the City Manager to accept a federal Congestion Mitigation and Air Quality Improvement (CMAQ) grant from the Maricopa Association of Governments (MAG) in an amount not to exceed $220,672; and to authorize the purchase of a PM-10 certified street sweeper for Glendale Municipal Airport from Balar Equipment Corporation through a cooperative purchasing agreement with the Houston-Galveston Area Council (H-GAC).

BACKGROUND

In September 2012, Airport staff submitted an application to MAG for federal CMAQ funding for a PM-10 certified street sweeper for use at the airport and nearby collector streets. On December 5, 2012, MAG approved the city's application request as part of their FY 2012-13 CMAQ sweeper funding grant.

Airport staff is required to maintain the Airport in a safe and efficient manner. All types of aircraft are susceptible to foreign object damage, and it is the responsibility of Airport staff to mitigate conditions of loose rocks, sand, dirt and other debris that can damage aircraft jet engines or propellers. The sweeper at the Airport is used to remove debris on the airside pavements and surrounding landside streets and parking lots.

In addition to keeping the runways, taxiways and tarmac clean, the use of an Airport street sweeper contributes to improved air quality in Maricopa County. The PM-10 certified sweepers are capable of collecting and holding particulate matter sized less than 10 micrometers.

In 1999, a new sweeper was purchased and used until 2011. At that time, due to repeated breakdowns and the escalating costs to keep it operational, the Airport traded the sweeper for a larger sweeper that the Equipment Management Division had available. That unit also proved expensive to maintain, and Airport staff began exploring alternatives to obtain a new sweeper.

ANALYSIS

In cooperation with the Equipment Management Division of Field Operations, Airport staff determined the Schwarze Industries A7 Tornado sweeper would best meet the needs of the Airport. This sweeper will increase the efficiency of Airport maintenance, contribute to air quality and reduce operating costs.

The Schwarze Industries A7 Tornado sweeper is available to purchase through an H-GAC cooperative purchasing agreement. In 2003, the Glendale City Council authorized cooperative purchasing through this organization, and Glendale's Materials Management Division has reviewed and approved this purchase.

FISCAL IMPACTS

The cost of the street sweeper will not exceed the total grant offer of $220,672. The price currently quoted by Balar Equipment Corporation totals $204,626. This reimbursable grant will fund 94.3 percent of the purchase price, and the city will be responsible for a 5.7 percent match. Based on the current quote, the grant will pay $192,962 toward the purchase, and the city will pay $11,664.

Funding is available in the FY 2013-14 capital improvement plan in the Airport Sweeper Account (2120-79522-551400) and the city match is available in the Airport Matching Funds Account (2210-65078-551400).

The reimbursement will be deposited into the Airport Sweeper Revenue Account (2120-79522-412400).

RESOLUTION NO. 4694 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE PURCHASE OF A PM-10 CERTIFIED STREET SWEEPER ON BEHALF OF THE CITY OF GLENDALE AIRPORT; AND AUTHORIZING ACCEPTANCE OF A REIMBURSABLE GRANT FROM THE MARICOPA ASSOCIATION OF GOVERNMENTS (MAG) IN AN AMOUNT UP TO $220,672 FOR THE PURCHASE OF THE PM-10 CERTIFIED STREET SWEEPER.

WHEREAS, the City of Glendale previously submitted an application for grant funding from the Maricopa Association of Governments (MAG) for the following project in the City of Glendale:

PM-10 Certified Street Sweeper Project for FY 2013 Congestion Mitigation and Air Quality Improvement (CMAQ) on behalf of the City of Glendale Airport. The grant request is for $220,672.

WHEREAS, MAG has indicated that grant funds are available upon a reimbursable basis after the purchase of the PM-10 Certified Street Sweeper.

WHEREAS, the PM-10 Certified Street Sweeper is available to be purchased pursuant to a cooperative solicitation through the Houston-Galveston Area Council ("H-GAC").

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

SECTION 1. That the City Manager or designee is hereby authorized to purchase and to execute and submit all documents necessary for the acquisition of a PM-10 Certified Sweeper in an amount not to exceed $220,672 through the H-GAC cooperative purchasing program.

SECTION 2. That the submittal of the grant application to MAG is hereby endorsed by the City of Glendale and if funds are awarded, the grant is hereby accepted on behalf of the City of Glendale.

SECTION 3. That the City of Glendale will comply with the ADOT Federal Property Management Standards relating to the procurement of a sweeper under any grant funds.

SECTION 4. That the City of Glendale has matching funds if the grant is awarded by MAG.

SECTION 5. That the City Manager or his designee is appointed as agent of the City of Glendale to conduct all negotiations, execute and submit all documents including but not limited to applications, agreements, amendments, billing statements, and so on which may be necessary for the completion of the aforementioned street sweeper project.

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:

_____
Acting City Attorney

REVIEWED BY:

_____
Acting City Manager

iga_airport_mag sweeper

MARICOPA ASSOCIATION of GOVERNMENTS

302 North 1st Avenue, Suite 300 ▲ Phoenix, Arizona 85003
Phone (602) 254-6300 ▲ FAX (602) 254-6490
E-mail: mag@azmag.gov ▲ Web site: www.azmag.gov

December 13, 2012

RECEIVED
DEC 14 2012
BY:

Mr. Horatio Skeete, Interim Manager
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

Dear ~~Mr. Skeete:~~ Horatio

On December 5, 2012, the MAG Regional Council approved the prioritized list of proposed PM-10 certified street sweeper projects for FY 2013 Congestion Mitigation and Air Quality Improvement (CMAQ) funding (Attachment One). We are pleased to inform you that a PM-10 certified street sweeper project requested by the City of Glendale has been authorized for FY 2013 CMAQ funding in the amount of $220,672. In the project proposal, the City of Glendale agreed to provide a 5.7 percent cash match. **We are requesting that the sweeper be purchased by December 24, 2013. In addition, for street sweepers purchased with federal CMAQ funding, it is important that the member agencies comply with the ADOT Federal Property Management Standards, which includes obtaining ADOT approval prior to disposal.**

Details concerning street sweeper requirements are listed below.

1. Eligibility - Eligible street sweepers are defined as those which have been certified by the South Coast Air Quality Management District (SCAQMD) as meeting the SCAQMD Rule 1186 certification standards. The most recent list of Certified Street Sweepers Under SCAQMD Rule 1186 is dated August 30, 2012 (see Attachment Two). It is assumed that, at a minimum, the CMAQ-funded street sweeper will be used in accordance with the lane miles and sweeping cycle submitted with the project application.

2. Procurement - Local procurement of the street sweeper must conform to applicable federal and state procurement regulations for the purchase of the certified street sweeper. Also, the Federal Highway Administration has advised MAG that entities should proceed with procurement of PM-10 certified street sweepers after CMAQ funding has been authorized by the MAG Regional Council.

   In accordance with the ADOT Federal Property Management Standards, if the project involves replacing an older street sweeper, no purchase order should be placed for replacement equipment without affirmative approval from ADOT. To begin the process, the jurisdiction is required to provide a complete description of the street sweeper to be traded or sold and of the street sweeper to be purchased, a copy of the vendor quote which specifies price, trade-in amount, net cost, and the reason for the request to MAG in writing. MAG will send the request to ADOT, and MAG will in turn forward the ADOT response back to the jurisdiction.

3. Annual Inventory - According to the ADOT policy, MAG is responsible for conducting and submitting an annual inventory of the certified street sweepers owned by the jurisdictions to ADOT by October 31. For the annual inventory, MAG will contact the jurisdictions to obtain information on each street sweeper. It is important to note that the inventory will require additional financial information such as accumulated depreciation and net book value.

4. Reimbursement - MAG will distribute the CMAQ funding on a reimbursement basis. Again, we are requesting that the sweeper be purchased by **December 24, 2013**. Additional costs for equipment beyond the specifications necessary for compliance with Rule 1186-certification are not eligible for reimbursement. Examples of additional street sweeper equipment not eligible for reimbursement are provided in Attachment Three. To initiate reimbursement, please submit a copy of the vendor invoice to the attention of Dean Giles at MAG. Following the submission of a detailed pricing summary and invoice to MAG, the City of Glendale will be reimbursed for an amount not to exceed $220,672. Please provide the name of the contact person and the mailing address to send the reimbursement.

   Please provide documentation that includes a description of the street sweeper, the vehicle identification number, name of title holder, the cost of the vehicle (copy of invoice, bill of sale, etc.), the location where the sweeper is housed when it is not in use. The name of the contact person for the sweeper and telephone number is also requested.

5. Disposition -The ADOT Federal Property Management Standards (Attachment Four) requires that each jurisdiction obtain ADOT approval prior to disposal of a CMAQ-funded street sweeper. Each jurisdiction is to request disposal of a street sweeper in writing to MAG. MAG will send the request to ADOT, and MAG will in turn forward the ADOT response back to the jurisdiction. The ADOT policy covers various categories of disposition (e.g. trade-in, auction, or sale), with requirements unique to each category.

   For disposal of an older CMAQ-funded street sweeper through any means, the federal awarding agency is entitled to a share of the proceeds. According to the ADOT Federal Property Management Standards for disposition through a trade-in or sale, an amount of the proceeds entitled to the federal awarding agency will be calculated and applied toward the cost of the new street sweeper and an amount based on the percentage of the jurisdiction's participation in the original sweeper may be used to offset the amount of local cash match required.

If you have any questions or require additional information regarding the ADOT policy, please contact Dean Giles at (602) 254-6300 or dgiles@azmag.gov.

Sincerely,

Dennis Smith
Executive Director

cc: Walter Fix, Airport Manager, Glendale
Brent Stoddard, Intergovernmental Programs Director, Glendale

Prioritized List of Proposed PM-10 Certified Street Sweeper Projects for FY 2013 CMAQ Funding Approved by MAG Regional Council on December 5, 2012

$1,246,973 in CMAQ Funding is Available for Sweeper Projects

										Supplemental Information			
						The requested certified street sweeper will:				Have local resources been committed for additional staff or equipment to support the sweeper project?			
Agency	Federal Cost	Local Cost	Total Cost *	Daily Emission Reduction (Kilograms/ day)	Cost-Effectiveness (CMAQ dollar cost per annual metric ton reduced)	Replace non-certified sweeper	Expand	Increase Frequency	Replace older certified sweeper	Yes	No	Please indicate in what geographical area(s) the requested certified street sweeper will operate	Number of certified street sweepers owned and operated by your agency. ++
Phoenix #2 +	$194,318	$11,746	$206,064	427	$178				✔	✔		111th Ave. to 1st Ave., West Bethany Home Rd. to West Pecos Rd.	34
Phoenix #1 +	$194,318	$11,746	$206,064	419	$181				✔	✔		111th Ave. to 1st Ave., West Bethany Home Rd. to West Pecos Rd.	34
Gilbert +	$218,220	$13,191	$231,411	273	$312				✔	✔		Baseline Rd. south to Elliot Rd., and Power Rd. west to Arizona Ave.	11
Tempe +	$203,976	$12,329	$216,305	150	$532				✔		✔	Ray Rd. to Continental Dr.; Evergreen Dr. to Priest Dr.	6
Maricopa County +	$215,469	$13,024	$228,493	62	$1,346				✔		✔	Various locations on county owned and maintained roads	7
Glendale	$220,672	$13,339	$234,011	1	$107,999		✔	✔	✔		✔	Southeast of Glendale Ave. and Glen Harbor Blvd.	7
Total	$1,246,973												

* Total cost for the CMAQ eligible portion of the project, excludes ineligible equipment.
\+ Proposed sweeper projects for Phoenix #2, Phoenix #1, Gilbert, Tempe, and Maricopa County indicate sweeping within four miles of a PM-10 monitor.
++ The total number of certified street sweepers owned and operated by the agency, regardless of funding source.

HGAC
Cooperative Purchasing Program

INTERSTATE INTERLOCAL CONTRACT FOR COOPERATIVE PURCHASING

ILC No.: 03-1390
Permanent Number assigned by H-GAC

THIS INTERLOCAL CONTRACT ("Contract"), made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the "Act"), by and between the Houston-Galveston Area Council, hereinafter referred to as "H-GAC," having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027, and City of Glendale, Arizona, a local government, a state agency, or a non-profit corporation created and operated to provide one or more governmental functions and services, hereinafter referred to as "End User," having its principal place of business at 5850 W Glendale Avenue, Glendale AZ 85301

WITNESSETH

WHEREAS, H-GAC is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code; and

WHEREAS, pursuant to the Act, H-GAC is authorized to contract with eligible entities to perform governmental functions and services, including the purchase of goods and services; and

WHEREAS, in reliance on such authority, H-GAC has instituted a cooperative purchasing program under which it contracts with eligible entities under the Act; and

WHEREAS, End User has represented that it is an eligible entity under the Act, and desires to contract with H-GAC on the terms set forth below;

NOW, THEREFORE, H-GAC and the End User do hereby agree as follows:

ARTICLE 1: LEGAL AUTHORITY

The End User represents and warrants to H-GAC that **(1)** it is eligible to contract with H-GAC under the Act because it is one of the following: a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas or any other state, or a combination of two or more of those entities, a state agency (an agency of the State of Texas as defined in Section 771.002 of the Texas Government Code, or a similar agency of another state), or a non-profit corporation created and operated to provide one or more governmental functions and services, and **(2)** it possesses adequate legal authority to enter into this Contract.

ARTICLE 2: APPLICABLE LAWS

H-GAC and the End User agree to conduct all activities under this Contract in accordance with all applicable rules, regulations, ordinances and laws in effect or promulgated during the term of this Contract.

ARTICLE 3: WHOLE AGREEMENT

This Contract and any attachments, as provided herein, constitute the complete contract between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

ARTICLE 4: PERFORMANCE PERIOD

The period of this Contract shall be for the balance of the fiscal year of the End User, which began July 1, 2003 and ends June 30, 2004. This Contract shall thereafter automatically be renewed annually for each succeeding fiscal year, provided that such renewal shall not have the effect of extending the period in which the End User may make any payment due an H-GAC contractor beyond the fiscal year in which such obligation was incurred under this Contract.

ARTICLE 5: SCOPE OF SERVICES

The End User appoints H-GAC its true and lawful purchasing agent for the purchase of certain products and services through the H-GAC Cooperative Purchasing Program. End User will access the Program through *HGACBuy.com* and by submission of any duly executed purchase order, in the form prescribed by H-GAC to a contractor having a valid contract with H-GAC. All purchases hereunder shall be in accordance with **(1)** Texas statutes and procedures governing competitive bids and competitive proposals, **(2)** in accordance with specifications and contract terms established by H-GAC, and **(3)** at published prices and administrative fees listed on H-GAC's web site. Ownership (title) to products purchased through H-GAC shall transfer directly from the contractor to the End User.

(over)

ARTICLE 6: PAYMENTS

H-GAC will confirm each order and issue notice to contractor to proceed. Upon delivery of goods or services purchased, and presentation of a properly documented invoice, the End User shall promptly, and in any case within ten (10) days, pay H-GAC's contractor the full amount of the invoice plus the assessed H-GAC administrative fee. In no event shall H-GAC have any financial liability to the End User for any goods or services End User procures from an H-GAC contractor.

ARTICLE 7: CHANGES AND AMENDMENTS

This Contract may be amended only by a written amendment executed by both parties, except that any alternations, additions, or deletions to the terms of this Contract which are required by changes in Federal and State law or regulations are automatically incorporated into this Contract without written amendment hereto and shall become effective on the date designated by such law or regulation.

H-GAC reserves the right to make changes in the scope of products and services offered through the H-GAC Cooperative Purchasing Program to be performed hereunder.

ARTICLE 8: TERMINATION PROCEDURES

H-GAC or the End User may cancel this Contract at any time upon thirty (30) days written notice by certified mail to the other party to this Contract. The obligations of the End User, including its obligation to pay H-GAC's contractor for all costs incurred under this Contract prior to such notice shall survive such cancellation, as well as any other obligation incurred under this Contract, until performed or discharged by the End User.

ARTICLE 9: SEVERABILITY

All parties agree that should any provision of this Contract be determined to be invalid or unenforceable, such determination shall not affect any other term of this Contract, which shall continue in full force and effect.

ARTICLE 10: FORCE MAJEURE

To the extent that either party to this Contract shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed; provided, however, force majeure shall not excuse an obligation solely to pay funds. Determination of force majeure shall rest solely with H-GAC.

ARTICLE 11: VENUE

Venue and jurisdiction of any suit or cause of action arising under, or in connection with, this Contract between H-GAC and the End User shall lie exclusively in Harris County, Texas. Disputes between procuring party and Vendor are to be resolved in accord with the law and venue rules of the State of purchase.

THIS INSTRUMENT HAS BEEN EXECUTED IN TWO ORIGINALS BY THE PARTIES HERETO AS FOLLOWS:

City of Glendale, Arizona
5850 W Glendale, Avenue, Glendale, Arizona 85301

Approved as to Form

By: _____
Signature of chief elected or appointed official

Richard H. Flaven, City Attorney 10/30/03
Typed Name & Title of Signatory Date

Ed Beasley
City Manager

Houston-Galveston Area Council
3555 Timmons Lane, Suite 120, Houston, TX 77027

By: _____
Executive Director

Date: 11-25-03

Attest: _____
Manager

Date: Aug 12, 2003

NOTE: Facsimile copies of this document shall not be acceptable as ORIGINALS. Interstate v1 rev. 12/02; 2K

ATTEST:

Rosemary Rodriguez
Deputy City Clerk

RESOLUTION NO. 3712 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT ENTITLED, "INTERSTATE INTERLOCAL CONTRACT FOR COOPERATIVE PURCHASING" WITH THE HOUSTON-GALVESTON AREA COUNCIL FOR THE PURCHASE OF A FIRE LADDER TRUCK.

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 Interstate Interlocal Contract for Cooperative Purchasing between the Houston-Galveston Area Council and the City of Glendale be entered into, which contract is 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 contract 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 28th day of October, 2003.

Tom Eggleston
VICE MAYOR

ATTEST:

City Clerk (SEAL)

APPROVED AS TO FORM:

City Attorney

REVIEWED BY:

Pam Kavanagh for
City Manager

CITY COUNCIL REPORT

Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**CHANGE ORDER NO. 7 TO INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX FOR FIXED ROUTE BUS SERVICE**
Staff Contact:	**Cathy Colbath, Interim Executive Director, Transportation Services**

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 Contract Change Order Number 7 to the intergovernmental agreement (IGA) with the City of Phoenix for the continued operation of fixed route bus service in the City of Glendale.

Background Summary

Fixed route bus service in Glendale is provided through agreements with the City of Phoenix and the Regional Public Transportation Authority (RPTA) at an estimated cost of $6,273,356 for FY 2013-14. The RPTA provides regional funds in the amount of $2,910,241, on behalf of Glendale, toward the cost of service. The remaining $3,363,115 will be provided by the Glendale Onboard (GO) Transportation Program.

Previous Related Council Action

On June 26, 2012, Council approved an annual IGA with the City of Phoenix for fixed route services.

Community Benefit/Public Involvement

Transportation services and programs provide a benefit to Glendale residents and visitors. This action provides citizens with continued bus service on Union Hills Drive, Bell and Thunderbird Roads, Olive and Northern Avenues, Bethany Home Road, and along 51st and 59th Avenues.

Budget and Financial Impacts

Funds for Contract Change Order Number 7 are available in the FY 2013-14 GO Transportation Program operating budget. The cost is an estimate provided by the City of Phoenix.

CITY COUNCIL REPORT

Cost	Fund-Department-Account
$3,363,115	**1660-16540-518200, Fixed Route**

Capital Expense? Yes ☐ No ☒

Budgeted? Yes ☒ No ☐

Requesting Budget or Appropriation Transfer? Yes ☐ No ☒

Attachments

Staff Report

Resolution

Amendment to Agreement

STAFF REPORT

To:	**Richard A. Bowers, Acting City Manager**
From:	**Cathy Colbath, Interim Executive Director, Transportation Services**
Item Title:	**CHANGE ORDER NO. 7 TO INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX FOR FIXED ROUTE BUS SERVICE**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

This report provides information to support a request for City Council to adopt a resolution authorizing the City Manager to enter into Contract Change Order Number 7 to an intergovernmental agreement (IGA) with the City of Phoenix for the continued operation of fixed route bus service in the City of Glendale.

BACKGROUND

Fixed route bus service in Glendale is provided through agreements with the City of Phoenix and the Regional Public Transportation Authority (RPTA) at an estimated cost of $6,273,356 for FY 2013-14. The RPTA provides regional funds in the amount of $2,910,241, on behalf of Glendale, toward the cost of service. The remaining $3,363,115 will be provided by the Glendale Onboard (GO) Transportation Program.

Fixed route bus service has been provided in Glendale through an IGA with the City of Phoenix for over 30 years. This change order to the IGA will provide continuation of fixed route bus service in Glendale.

ANALYSIS

This action provides citizens with continued bus service on Union Hills Drive, Bell and Thunderbird Roads, Olive and Northern Avenues, Bethany Home Road, and along 51st and 59th Avenues.

FISCAL IMPACTS

Funds for Contract Change Order Number 7 are available in the FY 2013-14 GO Transportation Program operating budget in the Fixed Route Account (1660-16540-518200). The cost is an estimate provided by the City of Phoenix.

RESOLUTION NO. 4695 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF CONTRACT CHANGE ORDER NO. 7 TO THE INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX FOR THE OPERATION OF FIXED ROUTE BUS SERVICES IN THE CITY OF GLENDALE.

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 Contract Change Order No. 7 to the Intergovernmental Agreement (Contract No. 127377) with the City of Phoenix for the operation of fixed route bus services be entered into, which Contract Change Order is 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 Contract Change Order No. 7 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:

_____
Acting City Attorney

REVIEWED BY:

_____
Acting City Manager

iga_transit_c_o_7

CITY OF PHOENIX
PUBLIC TRANSIT DEPARTMENT

CONTRACT CHANGE ORDER

Change Order No. **7**

Contract No:	Issued To: (Name of Contractor or Consultant)	Date
127377	**City of Glendale**	**4/17/2013**

Project Description: Fixed Route Agreement

YOU ARE HEREBY requested to make the following changes to the contract, or to do the work described below which is not included in the contract. (Give brief description of work, estimate of quantities, fees or prices to be paid, etc.)

This change order is for the contract year July 1, 2013 through June 30, 2014 and amends the contract estimates for miles of service, rates per mile, payment due dates and annual costs.

The City of Phoenix will provide weekday and Saturday and Sunday/holiday fixed route service on routes 51, 59, 60, 67, 80, 90,106, 138, 170 and 186.

		Annual Miles	Gross Cost
Estimated cost per mile (Veolia)	$7.3671	377,162	$2,778,603
Estimated cost per mile (First Transit)	$6.1127	277,435	$1,695,873
Estimated annual fixed route miles for 2013-14		654,597	$4,474,476
Estimated fare box revenue			($1,111,361)
Estimated net cost to Glendale for 2013-14			$3,363,115

The projected payments consisted of one (1) payment of $280,255 and eleven (11) equal installments of $280,260. All payments shall be made as follows:

Payment No. 1 is due on or before July 31, 2013.
Payment No. 2 is due on or before August 31, 2013.
Payment No. 3 is due on or before September 30, 2013.
Payment No. 4 is due on or before October 31, 2013.
Payment No. 5 is due on or before November 30, 2013.
Payment No. 6 is due on or before December 31, 2013.
Payment No. 7 is due on or before January 31, 2014.
Payment No. 8 is due on or before February 28, 2014.
Payment No. 9 is due on or before March 31, 2014.
Payment No. 10 is due on or before April 30, 2014.
Payment No. 11 is due on or before May 31, 2014.
Payment No. 12 is due on or before June 30, 2014.

All other terms and conditions remain the same

1. Amount of this Change Order FY2013-14 ($3,363,115)	2. Amt. Of Prior Change Orders ($11,745,144)	3. Orig. Contract Amt. ($4,948,044)	4. Adj. Contract Amt. (1, 2 & 3) ($20,056,303)		

ACCEPTANCE	ENDORSEMENTS	
We, the undersigned, have given careful consideration to the change proposed, and hereby agree; if this proposal is approved that we will provide all equipment, furnish all materials, except as may otherwise be noted above, and perform all services necessary for the work specified, and will accept as full payment therefore the fees or prices shown above. FIRM: **City of Glendale** SIGNATURE:_____ TITLE: _____ DATE: _____ DATE SENT BY CITY OF PHOENIX:	REQUESTED BY: Markus Coleman, Project Manager	DATE
	RECOMMENDED BY: Jesus Sapien, Deputy Public Transit Director	DATE
	PTD FISCAL SECTION REVIEW: Dianna Evans, Department Budget Supervisor	DATE
	CHECKED AS TO AVAILABILITY OF FUNDS BY: N/A Budget and Research Department	DATE
✓ REVENUE ___ EXPENDITURE	APPROVED FOR THE CITY MANAGER BY: Neal Young – Senior Executive Assistant to the City Manager / Ted Mariscal------	DATE

CITY OF GLENDALE
PURCHASE OF TRANSIT SERVICE
CONTRACT ESTIMATE
FY 2013-14

Route	Provider	Miles Per Day	Service Days	Annual Miles	Rate Per Mile	Annual Cost	Estimated Revenue	Net Cost
51	First	328.8	250	82,199.3	$ 6.1127	$ 502,458	$ (94,570)	$ 407,888
59	First	124.9	250	32,657.5	6.1127	199,625	(52,043)	147,582
60	Veolia	377.4	250	94,347.5	7.3671	695,070	(189,241)	505,829
67	First	303.6	250	75,907.5	6.1127	463,999	(111,470)	352,529
80	Veolia	145.9	250	36,464.8	7.3671	268,640	(81,747)	186,893
90	Veolia	205.9	250	51,480.0	7.3671	379,260	(123,753)	255,507
138	Veolia	73.8	250	18,438.8	7.3671	135,841	(53,860)	81,981
170	Veolia	252.0	250	63,007.0	7.3671	464,181	(89,195)	374,986
186	Veolia	162.9	250	40,726.0	7.3671	300,034	(52,795)	247,238
Total Weekday		**1,975.2**		**495,228.3**		**$3,409,108**	**$ (848,675)**	**$ 2,560,433**
51	First	167.4	52	8,704.4	$ 6.1127	$ 53,207	$ (10,014)	$ 43,193
59	First	379.8	52	19,750.0	6.1127	120,726	(31,473)	89,252
60	Veolia	179.7	52	9,345.2	7.3671	68,847	(18,744)	50,103
67	First	206.5	52	10,735.8	6.1127	65,624	(15,766)	49,859
80	Veolia	65.4	52	3,400.0	7.3671	25,048	(7,622)	17,426
90	Veolia	96.5	52	5,019.3	7.3671	36,978	(12,066)	24,912
138	Veolia	33.5	52	1,743.3	7.3671	12,843	(5,092)	7,751
170	Veolia	109.0	52	5,669.8	7.3671	41,770	(8,026)	33,744
186	Veolia	148.0	52	7,694.7	7.3671	56,688	(9,975)	46,713
Total Saturday		**1,385.8**		**72,062.4**		**$ 481,732**	**$ (118,780)**	**$ 362,952**
51	First	167.4	63	10,545.7	$ 6.1127	$ 64,463	$ (12,133)	$ 52,330
59	First	379.8	63	23,927.9	6.1127	146,264	(38,131)	108,133
60	Veolia	179.7	63	11,322.0	7.3671	83,411	(22,710)	60,701
67	First	206.5	63	13,006.8	6.1127	79,506	(19,101)	60,406
80	Veolia	65.4	63	4,119.3	7.3671	30,347	(9,235)	21,112
90	Veolia	96.5	63	6,081.1	7.3671	44,800	(14,618)	30,182
138	Veolia	33.5	63	2,112.1	7.3671	15,560	(6,169)	9,391
170	Veolia	109.0	63	6,869.1	7.3671	50,606	(9,724)	40,882
186	Veolia	148.0	63	9,322.4				56,594

					7.3671	68,679	(12,085)	
Total Sun/Holiday		**1,385.8**		**87,306.4**		**$ 583,636**	**$ (143,906)**	**$ 439,730**
Total		**4,746.9**		**654,597.1**		**$4,474,476**	**$(1,111,361)**	**$ 3,363,115**

Route 59 - 644.9 weekday miles are funded by the RPTA.
Route 67 - 369.4 weekday miles are funded by the RPTA.
Route 67 - 103.3 Saturday, Sun/Hol. miles are funded by the RPTA.
Route 106 funded in its entirety by the RPTA

Provider	Miles	Amount
First Transit	277,435	1,695,873
VTS	377,162	,778,603
Totals:	654,597	4,474,476

Amount Due	Due Date
$ 280,255	July 31, 2013
280,260	Aug 31, 2013
280,260	Sept 30, 2013
280,260	Oct 31, 2013
280,260	Nov 30, 2013
280,260	Dec 31, 2013
280,260	Jan 31, 2014
280,260	Feb 28, 2014
280,260	Mar 31, 2014
280,260	April 30, 2014
280,260	May 31, 2014
280,260	June 30, 2014
Total: $3,363,115	

CITY COUNCIL REPORT

Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**INTERGOVERNMENTAL AGREEMENT WITH THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY FOR TRANSIT SERVICES**
Staff Contact:	**Cathy Colbath, Interim Executive Director, Transportation Services**

Purpose and Recommended Action

This is a request for City Council to adopt a resolution authorizing the City Manager to enter into an annual intergovernmental agreement (IGA) with the Regional Public Transportation Authority (RPTA) for the continued operation of fixed route and express bus service in the City of Glendale, and the reimbursement of transit services for Americans with Disabilities Act (ADA) eligible riders.

Background Summary

Fixed route bus service in Glendale is provided through agreements with the City of Phoenix and the RPTA at an estimated cost of $6,273,356 for FY 2013-14. The RPTA will provide regional funds in the amount of $2,910,241, on behalf of Glendale, toward the cost of service, with the remaining $3,363,115 provided by the Glendale Onboard (GO) Transportation Program. This includes $116,902 in funding for the continued operation of two express routes between Glendale and downtown Phoenix, as well as the Grand Avenue Limited route.

Additionally, this agreement provides reimbursement of FY 2013-14 ADA transit costs up to $620,410 with funds provided through Proposition 400. Glendale provides ADA transit service within three-quarters of a mile of fixed route service, as required by ADA legislation.

Previous Related Council Action

On June 26, 2012, Council approved an annual IGA with the RPTA for transit services in Glendale.

Community Benefit/Public Involvement

Transportation services and programs provide a benefit to Glendale residents and visitors. This action provides citizens with continued bus service on Glendale and Peoria avenues, 59th and 67th avenues, the two express routes in Glendale, as well as on Grand Avenue. Fixed route and express service was provided to more than 2.3 million riders in Glendale last year. Additionally, Glendale will provide approximately 20,000 ADA rides this year.

Budget and Financial Impacts

In FY 2013-14, regional transit funds will provide an estimated $2,793,339 toward the cost of fixed route service, $116,902 toward the cost of express service, and up to $620,410 for the reimbursement of ADA transit expenses. Reimbursement funds will be deposited into the RPTA Revenue Account, 1660-16530-419250.

Capital Expense? Yes ☐ No ☒

Budgeted? Yes ☒ No ☐

Requesting Budget or Appropriation Transfer? Yes ☐ No ☒

Attachments

Staff Report

Resolution

Agreement

STAFF REPORT

To:	**Richard A. Bowers, Acting City Manager**
From:	**Cathy Colbath, Interim Executive Director, Transportation Services**
Item Title:	**INTERGOVERNMENTAL AGREEMENT WITH THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY FOR TRANSIT SERVICES**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

This report provides information to support a request for City Council to adopt a resolution authorizing the City Manager to enter into an intergovernmental agreement (IGA) with the Regional Public Transportation Authority (RPTA) for the continued operation of fixed route and express bus service in the City of Glendale, and reimbursement of transit services for Americans with Disabilities Act (ADA) eligible riders.

BACKGROUND

This agreement secures the RPTA portion of funding for fixed route, express routes and ADA transit service in Glendale.

Fixed route bus service in Glendale is provided through agreements with the City of Phoenix and the RPTA at an estimated cost of $6,273,356 for FY 2013-14. The RPTA will provide regional funds in the amount of $2,910,241, on behalf of Glendale, toward the cost of service, with the remaining $3,363,115 provided by the Glendale Onboard (GO) Transportation Program.

Included in RPTA's portion is funding for the continued operation of two express routes between Glendale and downtown Phoenix, as well as the Grand Avenue Limited route. Funding for these routes is estimated at $116,902.

Additionally, this agreement provides reimbursement of FY 2013-14 ADA transit costs up to $620,410 with funds provided through Proposition 400. Glendale provides ADA transit service within three-quarters of a mile of fixed route service, as required by ADA legislation.

ANALYSIS

This action provides the city with funding for bus service on Glendale and Peoria Avenues, the two express routes in Glendale and the Grand Avenue Limited route, as well as partial funding for routes on 59th and 67th avenues. Fixed route and express service was provided to more than 2,300,000 riders in Glendale last year. Additionally, Glendale will provide approximately 20,000 ADA rides this year.

FISCAL IMPACTS

In FY 2013-14, regional transit funds will provide an estimated $2,793,339 toward the cost of fixed route service, $116,902 toward the cost of express service, and up to $620,410 for the reimbursement of ADA transit expenses. Reimbursement funds will be deposited into the RPTA Revenue Account, 1660-16530-419250.

RESOLUTION NO. 4696 NEW SERIES

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 REGIONAL PUBLIC TRANSPORTATION AUTHORITY (RPTA) FOR THE PROVISION OF PUBLIC TRANSPORTATION SERVICES.

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 Intergovernmental Agreement (Contract No. 133-75-2014) between the City of Glendale and the Regional Public Transportation Authority 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 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:

_____
Acting City Attorney

REVIEWED BY:

_____
Acting City Manager

iga_rpta

TRANSIT SERVICES AGREEMENT

BETWEEN THE CITY OF GLENDALE ("Member")

AND

THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY

Contract # 133-75-2014

THIS TRANSIT SERVICES AGREEMENT ("Agreement") is made and entered into this 1st day of July, 2013, by and between the City of Glendale, an Arizona municipal corporation (hereinafter referred to as "Member") and the Regional Public Transportation Authority, a political subdivision of the state of Arizona (hereinafter referred to as "RPTA"). Member and RPTA are collectively referred to as the "Parties."

RECITALS

WHEREAS, Member has Charter Authority to provide transit services and Charter and statutory authority to enter into Agreements with other entities within Maricopa County to provide transit services (A.R.S. § 11-951, *et seq.*);

WHEREAS, RPTA is a political subdivision of the state of Arizona, established for the purpose of planning and providing public transportation services (A.R.S. § 48-5121; A.R.S. § 48-5101, *et seq.*);

WHEREAS, as a political subdivision of the State of Arizona RPTA "may contract and enter into stipulations of any nature to do all acts necessary and convenient for the full exercise of" its powers granted under A.R.S. § 48-5101, *et seq.*, including entering into intergovernmental agreements with other governmental entities (A.R.S. § 11-951, *et seq.*);

WHEREAS, RPTA is willing to provide, and Member is willing to purchase or receive transportation services as detailed in this Agreement; and

WHEREAS, transit activities are one of those types of activities authorized pursuant to the aforementioned statutory and other authority.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and considerations below, the Parties agree as follows:

SECTION 1. DEFINITIONS

The following capitalized terms shall have the following meaning when used in this Agreement, unless a different meaning is clearly intended:

"RPTA" means the Regional Public Transportation Authority, a political subdivision of the State of Arizona.

"Member" means the City of Glendale, a member of the Regional Public Transportation Authority (RPTA) with voting powers.

"Effective Date" means the date on which rights granted hereunder become operative, as specified in Section 6.

"Force Majeure" means any event which: (i) causes either party to be unable to perform under this agreement; and (ii) is outside the reasonable control of the party unable to perform and could not be avoided by such party through the exercise of due care. Force Majeure events include, without limitation: terrorists, earthquakes, fires, floods, tornadoes, wars, labor strikes or similar accidents, disputes or similar events.

SECTION 2. SCOPE OF AGREEMENT

During the term of this agreement RPTA shall provide the following services:

Regionally Funded Fixed Route Bus Service (Schedule A) means a public system for the transport of passengers by bus that are funded by RPTA Public Transportation Funds (PTF).

Americans with Disabilities Act (ADA) Public Transportation Funds (PTF) (Schedule E)

The RPTA shall transfer to the Member funds allocated by the Board of the RPTA, and specified in Schedule E, for the purposes of reimbursing Member for the cost to provide Paratransit services to ADA-certified individuals. The Member shall submit a PTF Reimbursement Request Form, Attachment A, certifying that the costs have been incurred and are eligible for reimbursement.

SECTION 3. RPTA'S OBLIGATIONS:

3.1 With respect to the services provided hereunder, RPTA, shall:

a. Negotiate and coordinate the implementation of operating agreements;

b. Provide Fixed-Route Bus, Dial-a-Ride Paratransit Services or other transit services, administrative services, equipment, personnel and management services directly, or through contractors, as provided in this Agreement. The RPTA shall ensure that the contractor(s) are duly qualified, licensed,

trained, and have adequate equipment to perform services under this Agreement;

c. Provide marketing and merchandising of services;

d. Draft and secure approval for annual operating budgets;

e. Plan for, prepare changes, and amend service specifications;

f. Determine, set, and amend as necessary the fare structure for services provided by the RPTA or under contract;

g. Provide professional staff as necessary to plan for, develop, contract for, monitor, and adjust service;

h. Credit Member up to the pre-determined amount of Americans Disabilities Act (ADA) Public Transportation Funds (PTF) for the transport of ADA certified riders;

i. Provide a complaint resolution process;

j. Recommend service specifications in consultation with the Member;

k. Provide monthly reports on ridership, revenue collected, and applicable performance standards;

3.2 The RPTA and the Member may conduct service and financial audits, as required, of any Services provided hereunder.

Fixed route bus reports shall collect the following monthly performance statistics for the Member:

Boardings by Member and Other Members;

Wheelchair Boardings by Member and Other Members;

Vehicle Revenue Miles by Member and Other Members;

Vehicle Revenue Hours by Member and Other Members;

Operating Days by Member;

Average number of passengers by revenue mile of service;

Operating Costs;

Passenger Revenue by Jurisdiction;

Percent On-time Performance;

Service Interruptions;

Vehicle Breakdowns;

Wheelchair lift/ramp Breakdowns;

Accidents;

Vehicle Accidents;

Passenger Accidents;

Passenger Security Incidents;

Crimes reported; and

Vehicles Operated per day.

3.3 RPTA shall notify Member of authenticated operations incidents as soon as practicable.

SECTION 4. CITY'S OBLIGATIONS

4.1 With respect to the services provided, Member shall:

a. If Member desires services in addition to the Services originally approved in the schedules hereto, Member shall provide funding adequate to finance such services over and above funding provided by the RPTA and Member.

b. Provide for local complaint resolution with citizens of the Member;

c. With respect to services provided, the Member shall provide traffic control and transit priority measures such as turning movements, on Member streets on regular routes;

d. The Member may purchase and install bus stop signs and associated amenities;

e. The Member shall provide advice to the RPTA and to any operator providing service required by this Agreement in the preparation and amendment of service plans;

4.2 Member shall participate in the Valley Metro Program(s) defined in Section 2 of this Agreement.

4.3 Transit Life Cycle Program: Member shall comply with all applicable laws, ordinances, regulations and codes of the federal, state, and local governments. In performing hereunder, Member shall adhere to RPTA's Transit Life Cycle Program and its approved policies, as they may be amended from time to time, (collectively referred to as the "TLCP").

SECTION 5. TERM OF AGREEMENT

This Agreement shall be operative for an indefinite term to be amended on an annual basis as service needs and as Public Transportation Fund (PTF) reimbursements are agreed. The Parties do not intend that the term of this Agreement shall exceed any limitation imposed by law, including, without limitation, the laws of the State of Arizona, and agree to comply with any applicable requirements of such laws in connection with any renewal of the term of this Agreement.

SECTION 6. EFFECTIVE DATE

This Agreement shall take effect only after it has been approved by Member's Council, approved by the RPTA Board of Directors, executed by the duly authorized officials of each of the Parties, approved by the Parties' respective counsel and may be filed with the Member's Clerk. The Effective Date of this Agreement is the date first set forth above.

SECTION 7. GENERAL CONDITIONS

7.1 Records and Audit. All books, accounts, reports, files and other records relating to this Agreement under the custody or control of RPTA or its contractors shall be subject, at all reasonable times, to inspection and audit by Member, FTA, and the City of Phoenix, for five (5) years after completion of this Agreement. Such records shall be produced at RPTA offices as and when requested by Member.

7.2 Covenant Against Contingent Fees. Both Parties warrant that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of Congress, no member of the Member's Council or the RPTA Board of Directors, and no officer, agent, or employee of the City or RPTA has any interest, financially or otherwise, in this Agreement.

7.3 Alteration in Character of Work. Minor alterations in the character of work shall be authorized in writing by Member and acknowledged by RPTA by letter.

7.4 Termination (and/or Changes in Service). Member and RPTA hereby agree to full performance of the covenants and obligations contained herein, except that each reserves the right, at its option and sole discretion, to terminate or abandon the service provided for in this Agreement, or any portion thereof.

Termination of this Agreement may be at any time and for any reason, with or without cause, upon providing ninety (90) calendar days prior written notice. Termination shall be effected by delivery of a Notice of Termination specifying the extent to which performance of work under the Agreement is terminated, and the date upon which such termination becomes effective.

Upon termination, RPTA shall calculate actual expenses incurred up to and including the date of termination and (if termination was at the election of Member) any penalty or costs whatsoever (including, but not limited to, any costs of such termination as a result of Section 49 U.S.C. 1609 [formerly Section 13(c) of the Federal Transit Act of 1964, as amended] together with any penalty or costs imposed by other funding sources and any related labor costs (the total of which is hereinafter referred to as "termination costs"). If Member has paid RPTA sums in excess of the termination costs, RPTA shall refund the excess; if Member has paid RPTA an amount less than the termination costs, then Member shall pay to RPTA an amount equal to the difference between the termination costs and the amount that Member already has paid under this Agreement. Upon termination of this Agreement, all property used in connection with this

Agreement will be promptly returned to the Party holding title thereto, not considering any state or federal funding. Final payment shall be made within sixty (60) calendar days after the termination of service.

SECTION 8. ADDITIONAL WORK

This Section is intentionally left blank.

SECTION 9. AGREEMENT NON-ASSIGNABLE

RPTA may not assign or otherwise transfer any of its rights or obligations hereunder to a third Party without the express prior written consent of Member, which may be granted or withheld by Member in its sole and absolute discretion. Any assignment or transfer without such prior written consent shall be void.

SECTION 10. INDEMNIFICATION

Except for claims arising solely and exclusively from the negligent or willful acts or omissions of Member, its officers, officials, agents or employees (hereinafter referred to as "Indemnitee"), RPTA shall indemnify, defend, save and hold the Indemnitee harmless from and against any and all claims, actions, liabilities, damages, losses, expenses and costs (including court costs, attorneys' fees and costs of claim processing, primary loss investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), loss or damage to tangible property and economic or financial loss of any character or any nature: (1) arising under this Agreement, or (2) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of RPTA or any of its owners, officers, directors, agents, contractor or employees, including employees from the Member assigned to work full time for RPTA.

It is the specific intent of the Parties to this contract that the Indemnitee shall, in all instances except for loss or damage resulting from the sole and exclusive negligence of the Indemnitee, be indemnified against all liability, loss or damage of any nature whatever for or on account of any injuries to or the death of any person or damages to or the destruction of property belonging to any person, or for economic or financial losses arising out of or in any way connected with the performance of this Agreement.

It is agreed that RPTA will be responsible for primary loss investigation, defense and judgment costs.

SECTION 11. INSURANCE

RPTA will maintain in force the insurance program approved the by RPTA Board of Directors and included in RPTA's fiscal year budgets.

SECTION 12. DEFAULT

Either Party shall be deemed in default under this Agreement upon the failure of such Party to observe or perform any material covenant, condition or agreement on its part to be

observed or performed hereunder, and the continuance of such failure for a period of thirty (30) days after written notice by the other Party, as required herein. Such notice shall specify the failure and request it be remedied, unless the Party giving notice agrees in writing to an extension of the time period prior to its expiration. However, if the failure stated in the notice cannot be corrected within the applicable period, it will not give rise to a default hereunder if corrective action is instituted within the applicable period and diligently pursued until the failure is corrected. In the event of a default hereunder, the non-defaulting Party may have a breach of contract claim and remedy against the other in addition to any remedy provided or permitted by law; provided, however, that no remedy that would have the affect of amending any provisions of this Agreement shall become effective without the formal amendment of this Agreement.

SECTION 13. ISSUE RESOLUTION

Any dispute arising out of the interpretation of any provision of this Agreement, any policy matter or the determination of an issue of fact, which dispute is not resolved at staff level, shall be referred to RPTA's Chief Executive Officer and a representative designated by Member. If, after good faith negotiations aimed at reaching an amicable solution, a dispute cannot be resolved, the dispute shall be presented to the RPTA Board of Directors for resolution. If not resolved at this level, the dispute may be brought before a court of competent jurisdiction in Maricopa County, Arizona.

SECTION 14. NOTICE

Any notice, consent or other communication ("Notice") required or permitted under this Agreement shall be in writing and either delivered in person, sent by email as PDF or a facsimile transmission, deposited in the United States mail, postage paid, registered or certified mail, return receipt requested, or deposited with any commercial air courier or express service addresses as follows:

<u>If intended for RPTA</u>:

Regional Public Transportation Authority
Attention: General Counsel
101 N. 1st Avenue, Suite 1300
Phoenix, AZ 85003

<u>If intended for Member</u>:

Glendale, Arizona
Office of the Mayor
5850 West Glendale Avenue
Glendale, Arizona 85301

<u>and to</u>:

Member's Public Transit Department
6210 W. Myrtle, Building S
Glendale, Arizona 85301

Notice shall be deemed received at the time it is personally served or, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service, if mailed, ten (10) days after the notice is deposited in the United States mail as provided. Any time period stated in a Notice shall be computed from the time the Notice is deemed received. Either Party may change its mailing address, FAX number or the person to receive notice by notifying the other Party as provided in this Section.

Notice sent by facsimile transmission shall also be sent by regular mail to the recipient at the above address. The requirement for duplicate notice is not intended to change the effective date of the Notice sent by facsimile transmission.

SECTION 15. AMENDMENT

This Agreement may be modified or amended only by a written document executed by both RPTA and Member, approved as to form by the Member Attorney, and may be filed with the member's Clerk. Such document shall expressly state that it is intended by the Parties to amend specifically identified terms and conditions of this Agreement.

SECTION 16. INTEGRATION

This Agreement represents the entire agreement of the parties with respect to the subject matter hereof, and all agreements entered into prior hereto with respect to the subject matter hereof are revoked and superseded by this Agreement, and no representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements. This Agreement may not be changed, modified or rescinded except in writing, signed by all parties, and any attempt at oral modification of this Agreement shall be void and of no effect.

SECTION 17. APPLICABLE LAW AND LITIGATION

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Arizona. Any and all litigation between the Parties arising from this Agreement shall be litigated solely in the appropriate state court located in Maricopa County, Arizona.

SECTION 18. NON-WAIVER

No covenant or condition of this Agreement may be waived by any Party, unless done so in writing. Forbearance or indulgence by any Party in any regard whatsoever shall not constitute a waiver of the covenants or conditions to be performed by the other.

SECTION 19. SEVERABILITY

Any provision of this Agreement that is prohibited or unenforceable under the laws of the State of Arizona shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions.

SECTION 20. BENEFIT AND BINDING EFFECT

The terms and provisions of this Agreement shall inure to the benefit of and are binding on RPTA and Member and their respective successors and permitted assigns.

SECTION 21. SURVIVAL

The indemnifications and limitations on liability provided in this Agreement shall have full force and effect notwithstanding any other provisions of this Agreement and shall survive any termination or expiration thereof.

SECTION 22. FURTHER ASSURANCES

The Parties shall execute such other documents and take such other actions as may be reasonably necessary or proper to achieve the intent and purposes of the Agreement.

SECTION 23. CONFLICTS OF INTEREST

All Parties acknowledge that this Agreement is subject to cancellation under A.R.S. Section 38-511.

SECTION 24. RELATED AGREEMENTS

This Agreement, together with the exhibits, instruments and other documents required to be executed and delivered in connection herewith is intended to be read in conjunction with any and all prior agreements and understandings of the Parties with regard to the subject matter.

SECTION 25. CONSTRUCTION AND INTERPRETATION OF AGREEMENT

This Agreement, and each of its provisions, exhibits, terms and conditions, has been reached through negotiations between the Parties. Accordingly, each of the Parties expressly acknowledges and agrees that this Agreement shall not be deemed to have been authored, prepared or drafted by any particular Party, and that the rule of construction that resolves ambiguities against the drafting party shall not be employed in the interpretation of this Agreement.

SECTION 26. THIRD-PARTY BENEFICIARIES

This Agreement is intended to benefit the corporate and municipal interests of RPTA and Member alone, and no other person shall claim any implied right, benefit or interest in such services. The Parties do not intend to create rights in or remedies to any third party as a beneficiary of this Agreement or of any duty, covenant, obligation or undertaking established under this Agreement.

SECTION 27. POLICE POWER

The Parties acknowledge the right vested in Member pursuant to general law to exercise its police power for the protection of the health, safety and welfare of its constituents and their properties. Nothing in this Agreement shall be construed as precluding Member from exercising such powers in connection with the subject matter.

SECTION 28. REQUIREMENTS AND PROHIBITIONS

28.1 Compliance with the Immigration Reform and Control Act of 1986 (IRCA) and with A.R.S. § 23-211 – § 23-214.

RPTA understands and acknowledges the applicability of IRCA and of A.R.S. § 23-211 through § 23-214. RPTA shall comply with IRCA and with A.R.S. § 23-211 through § 23-214 in performing its objective under this Agreement. To ensure that RPTA and its subcontractors complying with the provisions of this Section, Member shall have the right to inspect the personnel and related records and papers of RPTA and of its subcontractors pertaining to individuals performing work under this Agreement.

Further, Member is prohibited by A.R.S. § 41-4401 from awarding an Agreement to any contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). For this reason, RPTA shall ensure that both it and each of its subcontractors are in compliance with the requirements of A.R.S. § 23-214(A). In addition, both RPTA and each of RPTA's subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214(A).

A breach of any of the provisions of this Section shall be deemed a material breach of this Agreement and is subject to penalties up to and including termination of the Agreement.

28.2 Sudan and Iran. Under A.R.S. §§ 35-391.06 and 35-393.06, RPTA certifies that it does not have a scrutinized business operation, as defined in A.R.S. §§ 35-391 and 35-393, in either Sudan or Iran.

SECTION 29. COMPLIANCE WITH THE E-VERIFY PROGRAM

29.1 Warrant of Compliance. Under the provisions of A.R.S. §41-4401, both Parties warrant to the other that each Party will comply with all Federal Immigration laws and regulations that relate to their employees and that each now complies with the E-Verify Program under A.R.S. §23-214(A).

29.2 Breach of Warranty. A breach of this warranty will be considered a material breach of this Agreement and may subject the breaching party to penalties up to and including termination of this Agreement.

29.3 Right to Inspect. Both Parties retain the legal right to inspect the papers of any employee who works on this Contract or subcontract to ensure compliance with the warranty given above.

29.4 Random Verification. Either Party may conduct a random verification of the employment records of the other to ensure compliance with this warranty.

29.5 Federal Employment Verification Provisions – No Material Breach. A Party will not be considered in material breach of this Agreement if it establishes that it has complied with the employment verification provisions prescribed by 8 USCA §1324(a) and (b) of the Federal

Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A).

29.6 Inclusion of Article in Other Contracts. The provisions of this Article must be included in any contract either Party enters into with any and all of its contractors or subcontractors who provide services under this Agreement.

SECTION 30. CIVIL RIGHTS

The parties agree that as a condition of this Agreement they will each comply with all applicable civil rights laws and regulations, in accordance with applicable Federal directives, except to the extent that the Federal government determines otherwise in writing. These include, but are not limited to, those provisions of Section 12 of that certain United States of America Department of Transportation Federal Transit Administration Master Agreement, dated October 1, 2009, as may be amended from time to time, which provisions are incorporated by reference.

SECTION 31. INCORPORATION OF EXHIBITS

For each year during the term of this Agreement and in coordination with RPTA's adopted fiscal year budget process, Schedules hereto shall be revised and incorporated into this Agreement and made a part hereof as though fully set forth herein.

Schedule "A"	Regionally Funded Fixed Route Bus Service (RPTA Funded)
Schedule "B"	Intentionally left blank
Schedule "C"	Intentionally left blank
Schedule "D"	Intentionally left blank
Schedule "E"	Americans with Disabilities Act (ADA) Public Transportation Fund (PTF)
Schedule "F"	Intentionally left blank
Schedule "G"	Intentionally left blank

[*Signatures on following pages.*]

IN WITNESS WHEREOF, the Parties have each executed this Agreement as of the date first set forth above.

REGIONAL PUBLIC TRANSPORTATION AUTHORITY (RPTA)
Stephen R. Banta, Chief Executive Officer

By: _____

APPROVED AS TO FORM:

By: _____
Michael J. Ladino
General Counsel

CITY OF GLENDALE
Jerry Weiers, Mayor

By: _____

ATTEST:

By: _____
Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

By: _____
Nicholas DiPiazza, Acting City Attorney

SCHEDULE "A"

REGIONALLY FUNDED FIXED ROUTE BUS SERVICE

Sources of Project Operating Budget

I. Regionally Funded Fixed Route Bus Service **2,910,241** (including express)

The above line represents the value of transit service paid for by the RPTA to the benefit of the City of Glendale
The calculation to derive this figure is daily revenue miles of service x number of service days x cost per revenue mile of service.

RPTA Funded Service in the City of Glendale

Fixed Route Estimate

FY 2014

Route	Garage	City	Funding	Service	Level	Days	Total Miles	Gross Cost	FY 14 Fares	PM	Net Cost
573	VTI	Glendale	RPTA	Local	W	250	14,353	125,756	(44,195)	(22,236)	59,325
575	VTI	Glendale	RPTA	Local	W	250	8,543	74,853	(36,132)	(13,235)	25,486
GAL	First	Glendale	RPTA	Local	W	250	5,550	33,079	(988)		32,091
59	First	Glendale	RPTA	Local	W	250	161,225	961,023	(320,488)		640,535
67	First	Glendale	RPTA	Local	W	250	92,350	550,476	(147,095)		403,381
70	Veolia	Glendale	RPTA	Local	W	250	196,369	1,438,688	(273,802)		1,164,886
106	Veolia	Glendale	RPTA	Local	W	250	45,297	331,866	(97,993)		233,873
67	FIrst	Glendale	RPTA	Local	S	52	5,372	32,019	(8,556)		23,463
70	Veolia	Glendale	RPTA	Local	S	52	18,889	138,387	(26,337)		112,050
106	Veolia	Glendale	RPTA	Local	S	52	4,633	33,945	(10,023)		23,922
67	First	Glendale	RPTA	Local	H	63	6,508	38,792	(10,366)		28,426
70	Veolia	Glendale	RPTA	Local	H	63	22,884	167,661	(31,908)		135,753
106	Veolia	Glendale	RPTA	Local	H	63	5,239	38,384	(11,334)		27,050
						Subtotals	587,212	3,964,930	(1,019,217)	(35,471)	2,910,241

SCHEDULE "A" – CONTINUED, (if needed)

REGIONALLY FUNDED FIXED ROUTE BUS SERVICE SPECIFICATIONS

Fixed Route Service Specifications: A detailed description of CITY and Regionally Funded Transit Services covered by the agreement, including:

- a street by street description of routes;
- times of operations;
- route name and number;
- frequency;
- days of operation;
- first and last trip times;
- connections with other routes;
- timing points;
- boarding and alighting policies;
- estimates of revenue hours and miles weekly; and
- hours.

The following routes are funded in whole by the RPTA pursuant to this Agreement.

Routes:

59

67

70

106

573

575

Grand Ltd

SCHEDULE "B" – INTENTIONALLY LEFT BLANK

SCHEDULE "C" – INTENTIONALLY LEFT BLANK

SCHEDULE "D" – INTENTIONALLY LEFT BLANK

SCHEDULE "E"
AMERICANS WITH DISABILITIES ACT (ACT)
PUBLIC TRANSPORTATION FUNDS (PTF) AVAILABILITY

For the period July 1, 2013 to June 30, 2014 the maximum amount of Public Transportation Funds (PTF) available for the City of Glendale is **$620,410.00.** The PTF will pay actual costs for ADA trips and other requests for Paratransit service made by ADA certified Riders up to the maximum amount. A final reconciliation at fiscal year-end will be performed and adjustments, if necessary, will be made using actual ADA eligible costs.

Total reimbursements to the City will not exceed the net amount that factors in estimated and actual costs associated with operating RPTA's In-Person Eligibility Determination Facility and ADA Certification office.

Any remaining ADA PTF funds not used up to the maximum reimbursements may be requested by City for other ADA certified rider eligible expenses, and certified by the City's chief financial officer or designee. RPTA will reimburse City within thirty (30) business days based upon availability of funds. City may request that reimbursements be made electronically. Wire transfers must be pre-arranged through the RPTA Finance Department.

Maximum amount: **$620,410.00**

SCHEDULE "F" – INTENTIONALLY LEFT BLANK

SCHEDULE "G" – INTENTIONALLY LEFT BLANK

ATTACHMENT "A" – PTF EXPENSE REIMBURSMENT REQUEST

Regional Public Transportation Authority

PTF Expenditure Reimbursement Request

The information provided will be used by the Regional Public Transportation Authority (RPTA) to monitor designated lead agency cash flow to ensure compliance with ARS 48-5103. No further monies may be paid out under this program unless this report is completed and filed as required.

RECIPIENT ORGANIZATION NAME AND ADDRESS	PROJECT AGREEMENT NUMBER	REQUEST NO.
	REPORTING PERIOD (Dates) FROM:	TO:

	TOTAL	PTF SHARE
TOTAL ELIGIBLE COSTS	$ -	$ -
TOTAL PREVIOUS PAYMENTS	$ -	$ -
CURRENT PAYMENT REQUESTED	$ -	$ -
REMAINING FUNDING	$ -	$ -

REQUIRED SIGNATURE

This document must be signed by the recipient's Chief Financial Officer or their designated representative.

CERTIFICATION

I certify the financial expenditures submitted for reimbursement with this report, including supporting documentation, are eligible and allowable expenditures consistent with the project goals and requirements, have not been previously requested, and that payment is due. I also certify that all matching requirements have been met and sufficient documentation exists in our files and are available upon request or in the event of an audit.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	DATE REQUEST SUBMITTED
TYPED OR PRINTED NAME AND TITLE	TELEPHONE

Instructions

1. Keep a copy of everything submitted.
2. All project records, including financial records, must be maintained for 3 years beyond project completion.

For RPTA use only	
Date request received:	Life cycle compliance review (signature/date)
Approved for funds availability	10 Date of funds transfer

CITY COUNCIL REPORT

Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY FOR REGIONAL EMERGENCY MANAGEMENT AND DISASTER SERVICES**
Staff Contact:	**Mark Burdick, Fire Chief**

Purpose and Recommended Action

This is a request for City Council to waive reading beyond the title and adopt a resolution authorizing the Mayor to enter into an intergovernmental agreement (IGA) with Maricopa County for regional emergency management and disaster services.

Background Summary

For the last ten years, the cities and towns of Maricopa County have worked through an IGA with the Maricopa County Department of Emergency Management (MCDEM) for regional emergency planning and disaster services. This agreement assists the city, through a cost shared basis with Maricopa County, in meeting the requirements of Arizona Revised Statutes (A.R.S.) § 26-308(B).

The current agreement expires on June 30, 2013. The new IGA covers a five year period, beginning July 1, 2013 and continuing through June 30, 2018.

Previous Related Council Action

On June 24, 2003, City Council approved an IGA between the City of Glendale and MCDEM, to provide disaster and emergency management services.

Community Benefit

Through this agreement, the county provides many services and resources that will not only complement the current city program, but will also benefit the employees and citizens of the City of Glendale. The following list identifies some of those benefits:

- Advise and assist the city with the disaster and emergency management training of city employees
- Assist the city in the conduct of exercises designed to test disaster response capability
- Advise and assist the city with emergency planning, training, and exercises for schools and health care facilities
- Access to the comprehensive regional emergency management system used to track and manage disaster events and to coordinate with the county, state, and other jurisdictions

- Advise and assist the city with public awareness and education including materials, presentations, and staff
- Provision of a County Liaison during local emergency declarations
- Assistance in obtaining Federal or State funding available to the city for emergency management and disaster purposes
- Coordination assistance to the city in the event of a disaster
- Assistance with damage assessment after a disaster

Budget and Financial Impacts

Cost	Fund-Department-Account
$14,732.78	**1000–12438–513200, Fire-Emergency Management**

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:	**Richard A. Bowers, Acting City Manager**
From:	**Mark Burdick, Fire Chief**
Item Title:	**INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY FOR REGIONAL EMERGENCY MANAGEMENT AND DISASTER SERVICES**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

This report contains information on the proposed Intergovernmental Agreement (IGA) between Maricopa County and the City of Glendale for regional emergency management and disaster services. The purpose of this report is to request the City Manager forward this item to Council for their consideration and approval.

BACKGROUND

For the last ten years, the cities and towns of Maricopa County have worked through an IGA with the Maricopa County Department of Emergency Management (MCDEM) for regional emergency planning and services. The current agreement expires on June 30, 2013. The new IGA covers a five year period, beginning July 1, 2013 and continuing through June 30, 2018.

This agreement assists the city, through a cost shared basis with Maricopa County, in meeting the requirements of Arizona Revised Statutes (A.R.S.). A.R.S. § 26-308(B) requires an incorporated city establish and provide for emergency management within its jurisdiction in accordance with state emergency plans and programs.

ANALYSIS

This IGA is an essential component to Glendale's comprehensive emergency management system. Participation in the regional emergency management system greatly assists in the coordination of plans and processes that improve interoperability and serves as a force multiplier increasing the effectiveness of the entire system. This becomes increasingly important as staff and budget reductions impact the ability to improve the city's emergency management program.

The benefits provided by this agreement complement the current city program and increase capacity by effectively integrating into the regional emergency management system.

Through the agreement, the county provides the following services and resources:

- Advise and assist in the development, review, and distribution of the jurisdictional Emergency Operations Plan
- Participation in the development, review, publication, and distribution of a regional Multi-Hazard Mitigation Plan (required for eligibility of Post-Disaster Mitigation Grants)
- Participation in the development, review, publication, and distribution of a regional Community Wildfire Protection Plan
- Advise and assist the city with the disaster and emergency management training of city employees
- Assist the city in the conduct of exercises designed to test disaster response capability
- Advise and assist the city with emergency planning, training, and exercises for schools and health care facilities
- Advise and assist the city in complying with the provisions of Title 26, Chapter 2, Arizona Revised Statutes, and other State policies and procedures related to emergency management
- Advise and assist the city with public awareness and education including materials, presentations, and staff
- Provide and maintain a coordinated countywide emergency management program for extraordinary operational systems not provided for in normal government operations (public warning systems, communication system, comprehensive regional emergency management and planning)
- Access to the comprehensive regional emergency management tool, WebEOC (used to track and manage disaster events and to coordinate with the county, state, and other jurisdictions)
- Access to the county interactive resource database of government and other resources available for use during disasters
- Provision of a County Liaison during local emergency declarations
- Assistance in obtaining Federal or State funding available to the city for emergency management and disaster purposes
- Ongoing liaison with MCDEM to provide current and accurate information as it relates to emergency preparedness, mitigation, response, and recovery
- Advise and assist the city in the timely preparation of reports and other papers required by the state or federal governments
- Coordination assistance to the city in the event of a disaster
- Assistance with damage assessment after a disaster
- Provide the County Emergency Operations Center (EOC) as a backup EOC as required
- Access to 24-hour duty officer for immediate assistance as needed

FISCAL IMPACTS

If approved, the IGA will be in place for five years and the annual cost is based on a per capita cost share basis. The annual assessment is determined by dividing Glendale's population by the total County population to determine a percentage. This percentage is multiplied by the shared portion of the County Emergency Management local budget to determine a base cost. In addition to the base cost, the city pays a fixed amount of the actual annual maintenance cost of the comprehensive emergency management tool (WebEOC). The fixed amount is determined by dividing the total cost equally among all cities and participating agencies.

The County provides an itemized annual assessment to the city no later than March 1 of the preceding fiscal year. The assessment provides the detail of the annual fee calculations. The FY 2013-14 expense of $14,732.78 is budgeted in Fire Department's Fire-Emergency Management account, 1000–12438–513200.

RESOLUTION NO. 4697 NEW SERIES

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 COUNTY OF MARICOPA FOR REGIONAL EMERGENCY OPERATIONS MANAGEMENT AND DISASTER SERVICES.

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 an intergovernmental agreement with Maricopa County for Regional Emergency Operations Management and Disaster Services 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 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:

_____
Acting City Attorney

REVIEWED BY:

_____
Acting City Manager

iga_county_disaster services

INTERGOVERNMENTAL AGREEMENT FOR
REGIONAL EMERGENCY OPERATIONS MANAGEMENT AND DISASTER SERVICES
BETWEEN MARICOPA COUNTY, ARIZONA
AND THE
CITY OF GLENDALE

This Regional Disaster and Emergency Management Services Agreement ("Agreement") goes into effect on the 1st day of July 2013 (the "Effective Date"), by and between Maricopa County, a political subdivision of the State of Arizona ("County"), and the City of Glendale, a public agency of the State of Arizona ("Public Agency").

STATUTORY AUTHORIZATION

County and Public Agency are empowered by A.R.S. §§11-951 et seq. and A.R.S. §26-308(B) to enter into this Agreement.

BACKGROUND

WHEREAS, there is an existing possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from natural, technological, national security or other causes; and,

WHEREAS, the parties mutually desire that preparation shall be adequate to provide for the common defense against disaster; and,

WHEREAS, the parties mutually desire to assure the coordinated preparation and execution of emergency management programs and plans for the preservation of life and property when disasters occur in accordance with the guidance set forth in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121-5207; Post Katrina Emergency Management Reform Act of 2006, Public Law 109-295; applicable Federal Emergency Management Guides and Directives; and applicable State of Arizona Emergency Plans:

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is hereby agreed by and between County and Public Agency as follows:

DEFINITIONS

1. For purposes of this Agreement, the term "public agency" shall have the same definition as that contained in A.R.S. §11-951.

2. "Participating Public Agencies" means those public agencies which have active agreements for Disaster and Emergency Management Services with County.

3. "Total Budget" means the Maricopa County Department of Emergency Management's General Fund and Grant Fund expenditure budgets as adopted by the Maricopa County Board of Supervisors, plus baseline internal/central service charges, for the Preceding Fiscal Year. Budgeted fund balance expenditures, annual maintenance cost for the comprehensive emergency management tool and capital items are not included in the "Total Budgeted" calculation.

4. "Local Budget" means the Total Budget less any contributions or reimbursements to that budget from the federal government.

5. "Preceding Fiscal Year" means the year immediately preceding the fiscal year for which a participating public agency's annual assessment is being determined. Annual Assessments are based on the preceding year's Local Budget. For example, a public agency's annual assessment for FY2013 is based on the Maricopa County Department of Emergency Management's Local Budget for FY2012.

6. "Capital Items" means fixed assets such as furniture, computers, etc., which shall remain the property of the County. Capital items will physically remain with County, which shall bear the risk of damage thereto or loss thereof.

7. "Population" means the most recent U.S. census figure for each Participating Public Agency. This figure is normally calculated every 10 years, but if a supplementary census is conducted out of the 10 year cycle, the supplementary census numbers will be used, provided that all participating public agencies are included in the supplementary census.

TERMS OF AGREEMENT

1. **County Obligations**

County shall:

a. Prepare and maintain a county Emergency Operations Plan or Plans ("EOP") with due consideration of hazards that affect all areas in the County.

b. Advise and assist Public Agency in the development, review, publication, and distribution of an EOP developed by Public Agency.

c. Advise and assist Public Agency in the development, review, publication, and distribution of a Multi-Hazard Mitigation Plan.

d. Advise and assist Public Agency in development, review, publication, and distribution of a Community Wildfire Protection Plan.

e. Advise and assist Public Agency with the disaster and emergency management training of such employees as Public Agency shall designate.

f. Provide and maintain a coordinated countywide emergency management program for extraordinary operational systems not provided for in normal governmental operations, including: Warning Systems, Communications System, comprehensive emergency management and planning, and an Emergency Operations Center.

g. Provide and maintain, and issue access to a comprehensive emergency management software tool to expedite the emergency operations center processes.

h. Develop and maintain a countywide comprehensive electronic interactive resource database of government owned and other resources available for use in the event of a disaster.

i. Provide assistance in obtaining Federal or State funds available to Public Agency for emergency management and disaster purposes.

j. Advise and assist Public Agency in the timely preparation of reports and other papers required by the state or federal governments.

k. Offer coordination assistance to Public Agency in the event of a disaster affecting Public Agency.

l. Provide that the county EOC may act as a backup EOC for partner cities.

m. Assist Public Agency in conducting exercises scheduled by Public Agency to test its disaster response capability.

n. Advise and assist Public Agency with emergency planning, training and exercises for schools and health care facilities.

o. Advise and assist Public Agency in complying with the provisions of Title 26, Chapter 2, Arizona Revised Statutes, and State policies and procedures.

p. Advise and assist Public Agency with public awareness and education including but not limited to:

(1) providing disaster response pamphlets/handouts to Public Agency emergency management personnel for later distribution to the public.

(2) delivering disaster response pamphlets/handouts to libraries, community centers, and senior centers located in Public Agency.

(3) giving oral presentations on disaster and emergency-related subjects to schools, civic groups and similar organizations.

(4) setting up and staffing information booths at fairs, safety days and similar events.

q. Notify Public Agency of its annual assessment for each upcoming fiscal year no later than March 1 of the Preceding Fiscal Year.

r. Assist Public Agency with other disaster and emergency management programs as may be agreed upon.

2. **Public Agency Obligations**

Public Agency shall:

a. Develop, publish and distribute an EOP which is complementary to and compatible with County's EOP.

b. Develop and conduct such emergency management training programs and exercises as it deems necessary.

c. Provide that Public Agency's EOC may act as a back up to the County if they need an alternate location.

d. Collect and provide disaster and emergency management information when so required by the state or federal government.

e. During each fiscal year (July 1 to June 30) of the term of this Agreement, pay to County an annual assessment to be determined as follows:

(1) County will pay 50% of the Local Budget plus that portion of the Local Budget allocated to Capital Items.

(2) The remainder of the Local Budget will be paid by the participating public agencies.

(3) Public Agency's annual assessment shall be determined by dividing Public Agency's Population by the Total Population of the participating public agencies and then multiplying the quotient by that portion of the Local Budget allocated to the participating public agencies in the preceding paragraph.

(4) Public Agencies will pay a fixed amount based on the actual annual maintenance cost of comprehensive emergency management tool. The total annual maintenance will be divided by all Participating Public Agencies equally.

3. This Agreement supersedes any and all agreements, either written or oral, between the parties with respect to the subject matter contained herein and contains all the covenants and agreements between the parties with respect to the rendering of disaster and emergency management services. Except as otherwise provided any effective modification must be in writing signed by both parties.

4. The parties acknowledge that this Agreement is subject to cancellation pursuant to A.R.S. §38-511.

5. In the event of any controversy which may arise out of this Agreement, the parties agree that the matter shall be arbitrated as provided in A.R.S. §12-1518(A). The method of arbitration and the selection of arbitrators shall be decided by the mutual agreement of the parties at such time as arbitration services are needed. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

6. The term of this Agreement shall commence on the Effective Date and continue until June 30, 2018, unless sooner terminated as provided herein. The Agreement may be terminated by either party giving written notice of such intention to the other party not less than ninety (90) days prior to June 30 of the year during which the notice is given, which shall be the effective date of the termination.

7. To the extent provisions of A.R.S. §41-4401 are applicable, all Parties warrant to each Party that they will comply with all Federal Immigration laws and regulations that relate to their employees and that each now complies with the E-Verify Program under A.R.S. §23-214(A).

a. A breach of this warranty will be considered a material breach of this Agreement and may subject the breaching party to penalties up to and including termination of this Agreement.

b. All of the Parties retain the legal right to inspect the papers of any employee who works pursuant to this Agreement or any related subcontract to ensure compliance with the warranty given above.

c. Any Party may conduct a random verification of the employment records of any other Party to ensure compliance with this warranty.

d. A Party will not be considered in material breach of this Agreement if it establishes that it has complied with the employment verification provisions prescribed by 8 USCA §1324(a) and (b) of

the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A).

e. The provisions of this Article must be included in any contract either Party enters into with any and all of its contractors or subcontractors who provide services under this Agreement.

8. Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, each Party certifies that it does not have a scrutinized business operation, as defined in A.R.S. §§ 35-391 and 35-393, in either Sudan or Iran.

9. To the extent permitted by law, each Party does hereby covenant and agree to indemnify, defend, and hold harmless the other Party, their elected officials, appointees, officers, employees, contractees, and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature relating to this Agreement which, are the result of any act or omission of the Party, its officers, employees, contractees, agents, and anyone acting under its direction or control, whether intentional or negligent, in connection with or incident to this Agreement. Failure of a Party to comply with the terms of this Agreement shall not provide the basis of any third party action against any of the Parties.

10. Pursuant to A.R.S. §23-1022(D), for the purposes of worker's compensation coverage, all employees of each Party covered by this Agreement shall be deemed to be an employee of all Parties. The parent agency shall be solely liable for payment of worker's compensation benefits.

11. Any notices required or permitted to be given hereunder by either party to the other may be given by personal delivery in writing or by registered or certified mail, postage prepaid, with return receipt requested. Notices shall be addressed to the parties at the addresses appearing below, but each party may change such party's address by written notice given in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of three (3) days mailing. Notices shall be addressed as follows:

To County to the attention of:
Director
Maricopa County Department of
Emergency Management
5630 East McDowell Rd
Phoenix, AZ 85008

To Public Agency to the attention of:
Emergency Manager
City of Glendale Division of
Emergency Management
5850 West Glendale Ave
Glendale, AZ 85301

City Attorney
City of Glendale
5850 W. Glendale Ave
Glendale, AZ 85301

12. If any provision of this Agreement is held by a court of competent jurisdiction or applicable state or federal law and their implementing regulations to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect.

13. Any individual executing this Agreement on behalf of a Party represents and warrants to the other Party that they are duly authorized to execute this Agreement on behalf of such Party, and that upon their signature this Agreement shall be binding upon the Parties.

Dated this ___ day of _____, 20__

_____
Jerry Weiers
Mayor

Dated this ___ day of _____, 20___

_____
For County:
Andrew Kunasek
Chairman, Board of Supervisors

The undersigned attorneys for the respective parties each hereby certify that they have reviewed this Agreement and find that it is in proper form, and within the power and authority granted to their respective clients under the laws of the State of Arizona.

_____
Acting City Attorney

_____
David Benton
Deputy County Attorney

ATTEST _____
Pam Hanna
City Clerk

_____
Fran McCarroll
Clerk of the Board

CITY COUNCIL REPORT

Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY FOR ANIMAL CONTROL SERVICES**
Staff Contact:	**Christina Betz, Acting Deputy Director, Public Works**

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 an intergovernmental agreement (IGA) with Maricopa County for provisions of animal control services to the City of Glendale.

Background Summary

The city has contracted with Maricopa County for over 40 years for animal control services. The animal control services presently provided by Maricopa County include the picking up of vicious, sick or injured animals at large and on public property, ensuring vaccination and licensing of dogs or cats, enforcement of the city leash laws, and support of the city's rabies/animal control ordinance. Maricopa County maintains the necessary facilities, equipment and trained personnel for the maintenance and control of unclaimed or stray animals.

The city's current IGA with the County expires June 30, 2013. The proposed IGA is for a five year period, running from July 1, 2013 through June 30, 2018. Utilization of this service through an IGA with Maricopa County maximizes existing regional infrastructure and preserves valuable city resources.

Previous Related Council Action

On June 22, 2010, Council adopted a resolution authorizing the City Manager to enter into an IGA with Maricopa County for animal control services.

Community Benefit/Public Involvement

The County provides over 7,000 service activities to the city annually, ranging from responding to concerns with stray dogs, picking up a confined animal or assisting public safety officials.

CITY COUNCIL REPORT

Budget and Financial Impacts

Cost	Fund-Department-Account
$314,432	**1000-13410-518200, Field Operations Admin.**

Capital Expense? Yes ☐ No ☒

Budgeted? Yes ☒ No ☐

Requesting Budget or Appropriation Transfer? Yes ☐ No ☒

Attachments

Staff Report

Resolution

Agreement

STAFF REPORT

To:	**Richard A. Bowers, Acting City Manager**
From:	**Christina Betz, Acting Deputy Director, Public Works**
Item Title:	**INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY FOR ANIMAL CONTROL SERVICES**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

This report provides information to support a request for City Council to adopt a resolution authorizing the City Manager to enter into an intergovernmental agreement (IGA) with Maricopa County for provisions of animal control services to the City of Glendale.

BACKGROUND

The city has contracted with Maricopa County for over 40 years for animal control services, and the County provides over 7,000 service activities to the city annually. The animal control services presently provided by Maricopa County include the picking up of vicious, sick or injured animals at large and on public property, ensuring vaccination and licensing of dogs or cats, enforcement of the city leash laws, and support of the city's rabies/animal control ordinance. Maricopa County maintains the necessary facilities, equipment and trained personnel for the maintenance and control of unclaimed or stray animals.

The city's current IGA with the County expires June 30, 2013. The proposed IGA is for a five year period, running from July 1, 2013 through June 30, 2018. Utilization of this service through an IGA with Maricopa County maximizes existing regional infrastructure and preserves valuable city resources.

ANALYSIS

- Staff is recommending the entering into of the IGA with Maricopa County for animal control services.
- On June 22, 2010, Council adopted a resolution authorizing the entering into of an IGA with Maricopa County for animal control services.
- There will be no impact on city departments, staff or service levels as a result of this action.

FISCAL IMPACTS

The proposed service fee of $314,432 is available in the fiscal year (FY) 2013-14 Field Operations Department operating budget and no other additional operating costs are associated with this agreement. For each subsequent FY during the term of this agreement, the County will notify the city by April 1 of any service fee adjustments. Any fee adjustment that does not exceed the preceding FY base fee by 5% shall be deemed accepted by the city and the agreement shall be automatically renewed for one additional year without any further action by the parties. Any fee adjustment that exceeds 5% of the preceding FY base shall be executed as an Amendment to the Agreement.

RESOLUTION NO. 4698 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY FOR ANIMAL CONTROL SERVICES FOR FISCAL YEARS 2014-2018.

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 an intergovernmental agreement with Maricopa County for animal control services for fiscal years 2014-2018 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 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:

_____
Acting City Attorney

REVIEWED BY:

_____
Acting City Manager

iga_mc_animal control

INTERGOVERNMENTAL AGREEMENT

FISCAL YEARS 2014-2018

AGREEMENT FOR ANIMAL CONTROL SERVICES

BETWEEN

Maricopa County

And

The City of Glendale

AGREEMENT FOR ANIMAL CONTROL SERVICES

This intergovernmental agreement, hereinafter called Agreement, is entered into by and between Maricopa County, administered through Animal Care and Control (hereinafter called COUNTY), and the City of Glendale (hereinafter called CITY) and hereinafter collectively referred to as the "Parties".

The COUNTY maintains facilities, equipment, and trained personnel for the maintenance, control, and impoundment and/or destruction of unclaimed or vicious dogs and cats, including vaccination and licensing of dogs, and rabies control; and administration of animal ordinance offender diversion program.

The Parties are authorized to enter into this Agreement by A.R.S. § 11-201(A)(3), 11-952, 11-1005(A)(3).

This Agreement contains all the terms and conditions agreed to by the Parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. Nothing in this Agreement shall be construed as a consent to any suit or waiver of any defense in a suit brought against the State of Arizona, the COUNTY, or the CITY in any State or Federal Court.

GENERAL PROVISIONS

1. Term:

Upon its execution by both Parties, this Agreement is effective from July 1, 2013 through June 30, 2018.

2. Amendment:

This Agreement supersedes all previous Agreements between the Parties concerning animal control services. Nothing in this Agreement may be modified or waived except by written amendment, duly executed by both Parties.

3. Termination:

Either party may, with or without cause, terminate this Agreement by giving the other Party one hundred eighty (180) calendar days' written notice of such termination. Upon termination of this Agreement, all property used in performing services under this Agreement shall be returned promptly to the Party owning or having the right to possess the same.

4. Insurance:

The Parties agree to secure and maintain sufficient insurance coverage for any and all risks that may arise out of the terms, obligations, operations, and actions as set forth in this Agreement, including but not limited to public entity insurance. The acquisition of insurance or the maintenance and operation of a self-insurance program may fulfill the insurance requirement.

5. Record Keeping and Audits:

The Parties agree to maintain and furnish to each other such records and documents pertaining to the services provided pursuant to this Agreement as may be required by this Agreement and any applicable Federal and State laws, rules and regulations. Each Party, prior to conducting an audit, must give sixty (60) calendar days' notice to the other Party.

6. Default:

In the event of non-payment by CITY, this Contract shall be terminated and COUNTY obligations hereunder shall immediately cease.

7. COUNTY Reporting Obligations:

COUNTY shall provide CITY with quarterly routine statistical and/or management reports normally prepared by Maricopa County Animal Care & Control (hereafter referred to as the Department) concerning the services provided pursuant to this Agreement.

8. Amendments to Ordinances:

CITY may amend or repeal its ordinances related to companion animals. In the event of such amendment of repeal, if practicable, the CITY shall give COUNTY one hundred eighty (180) days written notice prior to implementing any changes to its ordinances related to companion animals. If the CITY cannot provide the COUNTY with one hundred eighty (180) days written notice prior to implementing any changes to its ordinances related to companion animals, the CITY will give the COUNTY such notice as is practicable. In the event the COUNTY objects to such amendment(s) or repeal, COUNTY may request additional compensation for enforcement of the amended ordinance or may terminate this Agreement.

9. Conflict of Interest:

Pursuant to the provisions of A.R.S. § 38-511, either Party may cancel the Agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of that Party is, at any time while the Agreement or any extension thereof is in effect, an employee of any other Party to the Agreement in any capacity to any other Party to the Agreement with respect to the subject matter of the Agreement.

10. Indemnification:

To the extent permitted by law, the COUNTY and the Department does hereby covenant and agree to indemnify, defend and hold harmless the CITY, its officers, elected officials, employees, contractors and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature relating to this Agreement which are the result of any act or omission of the COUNTY and the Department, its officers, employees, contractors, agents and anyone acting under its direction or control, whether intentional or negligent, in connection with or incident to this Agreement.

To the extent permitted by law, the CITY does hereby covenant and agree to indemnify, defend and hold harmless the COUNTY its officers, employees, contractors and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature relating to this Agreement which are the result of any act or omission of the CITY, its officers, employees, contractors, agents and anyone acting under its direction or control, whether intentional or negligent, in connection with or incident to this Agreement.

11. Services:

The COUNTY agrees to provide the field enforcement services described in Appendix B.

12. Payment for Services:

The CITY agrees to pay the COUNTY for services performed under this Agreement in accordance with Appendix A of this Agreement. The annual amounts due for each fiscal year shall be paid quarterly on August 1st, November 1st, February 1st, and May 1st.

13. Pricing:

Fees for services provided under this Agreement will be those currently approved by the Maricopa COUNTY Board of Supervisors, and identified on Appendix A, "Compensation Schedule." For the Fiscal year beginning July 1, 2013 and each subsequent fiscal year during the term of this Agreement, the COUNTY will notify the CITY by April 1 of the fee Compensation Schedule for services requested and provided under this Agreement for the following fiscal year. Fees for services shall be prepared in accordance with a formula developed by the Department and the COUNTY Office of Management and Budget, in accordance with Board of Supervisors Budgeting for Results Guidelines, which require full recovery of the COUNTY's direct and indirect costs. Any fee compensation Schedule change that exceeds five percent (5%) of the preceding fiscal year base fee shall be executed as an Amendment to this Agreement. Any fee adjustment that does not exceed the preceding fiscal year base fee by five percent (5%) shall be deemed accepted by the City and this agreement shall be automatically renewed for one (1) additional year without any further action by the parties. Any decision not to renew or amend this Agreement is subject to the Termination provisions of this Agreement.

14. Force Majeure:

Neither Party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures or power failures.

15. General Provision

A. The COUNTY and CITY each warrant that they are in compliance with the provisions in A.R.S. §41-4401 (e-verify).

B. Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, all Parties hereby warrant, and represent that they do not have, and its subcontractors do not have, and during the term hereof will not have a scrutinized business operation in either Sudan or Iran.

C. Notices. Whenever written notice is required or permitted to be given by any party to the other, such notice shall have been deemed to have been sufficiently given if personally delivered or deposited in the United States Mail in a properly stamped envelope, certified or registered mail, return-receipt-requested, addressed to:

To Animal Care and Control:

Maricopa County Animal Care & Control
Rodrigo A. Silva
Assistant County Manager
2500 S. 27th Ave
Phoenix, Arizona 85009

To City of Glendale:	City of Glendale Stuart Kent Public Works Executive Director 6210 W. Myrtle Avenue, Suite 111 Glendale, Arizona 85301 Email: SKent@glendaleaz.com
With a Copy to:	City of Glendale Nick DiPiazza Acting City Attorney 5850 W. Glendale Avenue, Suite 450 Glendale, Arizona 85301 Email: NDipiazza@glendaleaz.com

D. This Agreement shall not be assigned, in whole or in part, without the prior written consent of the parties, and any purported assignment in contravention of this provision shall be null and void.

E. This Agreement shall be construed in accordance with the law of the State of Arizona.

F. Each Party shall comply with all applicable laws, ordinances, Executive Orders, rules, regulations, standards, and codes of the Federal and State whether or not specifically referenced herein.

G. The person signing this Agreement warrant that he/she has full authority to execute and shall bind the Parties he/she represents.

[The remainder of the page is intentionally blank.]

IN WITNESS WHEREOF, the Parties enter into this Agreement:

MARICOPA COUNTY
BOARD OF SUPERVISORS

By:

_____
Chairman

Attest:

_____
Clerk of the Board

City of Glendale

By:

_____
Mayor

Attest:

_____
City Clerk

This Agreement has been reviewed pursuant to A.R.S. § 11-952 et. seq. by the undersigned attorney, who has determined that it is in proper form and is within the power and authority granted under the laws of the State of Arizona.

By:_____
Deputy COUNTY Attorney

By: _____
Acting City Attorney

APPENDIX A

COMPENSATION SCHEDULE Field Enforcement

1. COUNTY Service Level: Basic

2. Minimum Staffing: Adequate to respond to approximately 90% of Service Area

3. Service Cost

Fiscal Year 2013-2014	$314,432
Fiscal Year 2014-2015	An amount to be determined pursuant to Section 13 of this Agreement.
Fiscal Year 2015-2016	An amount to be determined pursuant to Section 13 of this Agreement.
Fiscal year 2016-2017	An amount to be determined pursuant to Section 13 of this Agreement.
Fiscal year 2017-2018	An amount to be determined pursuant to Section 13 of this Agreement

APPENDIX B

SERVICES

1. **Response Time.** The County shall arrive at the scene of an animal control incident in accordance with the schedule listed below:

Schedule	1 – 7:00 a.m. to 10:00 p.m.	
Priority 1 -	Police/fire/school bite animal at large	1 hour
Priority 2 -	Aggressive stray at large	2 hours
Priority 3 -	Impound stray dogs Quarantine and investigate dog, and bat bites to human victims	5 hours
Priority 4 -	Enforce license/leash law	6 hours

Priorities 3 and 4, received after the public call center closes (5p.m.), the response time will carry over until the next normally scheduled work shift.
(Review detail summary sheet Appendix B)

Schedule 2 – 10:00 p.m. to 7: 00 a.m.

Emergency Response Third Shift 3 hours
Imminent danger stray bite dog at large in process of attacking people.

2. **Ordinance.** Within the CITY, the COUNTY shall be responsible for and enforce rabies/animal control in accordance with the following sections of the CITY Rabies/Animal Control Ordinance: ARTICLE I. PART II, Chapter 6 – Animals.

Sec. 6-1. - Definitions.

Sec. 6-3. - Powers and duties of enforcement agent.

Sec. 6-4. - Dog licenses and tags.

Sec. 6-6. - Dogs not permitted at large; wearing licenses.

Sec. 6-8. - Handling of biting animals;responsibility for reporting animal bites. (a) (d) (f)

Sec. 6-10. - Unlawful interference with county enforcement agent.

3. **Hours of Operation.** The COUNTY shall operate a call center from 8 a.m. to 5 p.m. seven days a week, excluding observed COUNTY Holidays: Thanksgiving and Christmas. COUNTY shall provide Schedule 1 dispatch coverage from 7:00 a.m. until 10:00 p.m. seven days a week, excluding observed COUNTY Holidays. The COUNTY may close one day a year for all-hands training set on Columbus Day. The COUNTY shall provide Schedule 2, Priority 1 response services from 10:00 p.m. until 7:00 a.m. seven days a week, The COUNTY shall provide Schedule 2, Priority 1 response services from 12:00 a.m. until 11:59 p.m. on all observed COUNTY Holidays and the all-hands training day.

APPENDIX B (cont'd)

Service Level Response Time Matrix			
Service Level Schedule 1 & 2	**Hours**	**Phone**	**Priority**
Schedule 1 Normal Operating Hours Public	8a.m. to 5:p.m.	602-506-7387 Call Center	1 to 4 and O
Schedule 1 Limited Service	5p.m. to 10p.m.	602-506-7387 Recording	1 to 4 and O
Schedule 2 Emergency Public Safety Limited Service	5p.m. to 10p.m.	602-506-1309 Dispatch Direct (non-public line)	1 to 3
Schedule 2 Third Shift Emergency Public Safety Imminent Danger	10p.m. to 7a.m.	602-506-1309 Dispatch Direct (non-public line)	Emergency

APPENDIX B (cont'd)

Clarification of Related Animal Activity Task		
Function	**Responsible Party or Agency**	**Department**
Barking Dog	Disturbance of peace	Glendale Police Department
Dead Animal	Public road way private contract	City of Glendale Public Works
Animal Cruelty Neglect	Police jurisdiction	Glendale Police Department
Sick Injured Animals strays	Contract Stray Maricopa County	MC Animal Care & Control
Abandoned Animals on private property	Land Lord/property owner/dog owner	Glendale Police Department
Misc Police Activities	(Police Task) Dog owner arrested dog abandoned. Dogs on private property confined on private property. Auto accident abandoned dog in car. Dog left in hot car. Police investigation of crime scene and owned dogs on property. Welfare check person dog owner died. Mental illness dog owner admitted. Owned dogs confined to property in dog fight. Dogs abandoned in hotel or motel. Stand- by support search warrant.	Glendale Police Department
Wildlife	State jurisdiction	Arizona Game & Fish
Feral Cat	No Ordinance	Private referral
Livestock	State Jurisdiction	Arizona Livestock
Bees	No ordinance	Fire Department or Private Organization
Dogs at large Municipal Park or Golf Course	Parks and Recreation & Maricopa County Animal Care & Control	Park Ranger, police or Maricopa County Animal Control
Exotic Dangerous Animals	No Ordinance	Glendale Police

APPENDIX B (cont'd)

Service Contract Priority List						
Priority 1 1 hour or less	Priority 2 2 hours	Priority 3 5 hours	Priority 4 6 hours	Priority O - Other 24 hours or by appointment and contract approval		
Officer needs assistance: police/fire/animal control officer.	Aggressive animal at large imminent safety hazard.	Agency assist other than police	Leash law violator	Vicious animal petition	Community requested neighborhoo d sweeps.	License canvassing.
Animal bite running at large imminent safety hazard.	Animal in trap imminent health danger to animal	Dog in auto traffic public safety concern police not responding	Stray dog complaint at large. Area check.	Rabies license Check.	Kennel permits inspections.	Administrative and jurisdiction reports.
Animal at large on school grounds. (school in session)	Sick or injured stray imminent health danger to animal	Confined stray dog at business or private home.		Animal bite investigation s follow up second sequence.	Live animal trap delivery or pickup.	Court Appearance or delivery
		Animal bite investigation follow up to open case		Bite Quarantine health check follow-up.	Release from Home Quarantine.	Neighborhood community events
		Dog confined on school grounds. No threat.		Rabies vaccination license compliance check	Chemical capture of stray dog	
		Animal complaint in progress: constituent will location of dog.				

CITY COUNCIL REPORT

Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**INTERGOVERNMENTAL AGREEMENTS WITH PEORIA AND TOLLESON SCHOOL DISTRICTS FOR SCHOOL RESOURCE OFFICERS**
Staff Contact:	**Debora Black, Police Chief**

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 intergovernmental agreements (IGAs) with Peoria Unified School District and Tolleson Union High School District to assign Glendale Police Officers to select campuses as School Resource Officers (SROs).

Background Summary

If the IGAs are approved, at the school districts' request the SROs will be located at Cactus High School, Copper Canyon High School, and Ironwood High School for the FY 2013-14. The assigned SROs participate in educational programs, which aid students in dealing successfully with peer pressure, child abuse, gangs, drug awareness, and other related issues. The SROs work on campus while school is in session. During the summer break SROs will complete duties assigned by the Police Department.

Previous Related Council Action

SROs were assigned to local schools and IGAs were approved from 1992-2010.

Community Benefit/Public Involvement

This partnership allows the Police Department to continue educational efforts in local schools while increasing police visibility and the presence in the community.

Budget and Financial Impacts

Cost	Fund-Department-Account
$58,646.25	**1700-12310-521000, Public Safety Sales Tax 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

Resolution

Agreement

Agreement

STAFF REPORT

To:	**Richard A. Bowers, Acting City Manager**
From:	**Debora Black, Police Chief**
Item Title:	**INTERGOVERNMENTAL AGREEMENTS WITH PEORIA AND TOLLESON SCHOOL DISTRICTS FOR SCHOOL RESOURCE OFFICERS**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

This report contains information on proposed intergovernmental agreements (IGAs) with Peoria Unified School District and Tolleson Union High School District to assign Glendale Police Officers to select campuses as School Resource Officers (SROs). The purpose of this report is to request the City Manager forward this item to the City Council for their consideration and approval.

BACKGROUND

SROs were assigned to schools in the Glendale area from 1992-2010. This program was primarily funded through grants received by the school districts and was found to be very effective for both the schools and the Police Department. Due to the lack of grant funding for the past several years, the program was canceled. Fortunately, a couple of the local school districts have identified funding for next school year, so the program will begin once again.

If the IGAs are approved, at the school districts' request the SROs will be located at Cactus High School, Copper Canyon High School, and Ironwood High School for the FY 2013-14. The assigned SROs participate in educational programs, which aid students in dealing successfully with peer pressure, child abuse, gangs, drug awareness, and other related issues. The SROs work on campus while school is in session. During the summer break SROs will complete duties assigned by the Police Department.

ANALYSIS

This partnership allows the Police Department to continue educational efforts in local schools while increasing police visibility and the presence in the community. It is important that this item be considered at this meeting because the first day of school is August 5, 2013, which is prior to the next Council meeting.

I will be recommending that City Council adopt a Resolution authorizing the entering into IGAs with Peoria and Tolleson School Districts to assign Glendale Police Officers to the campuses as SROs.

FISCAL IMPACTS

Both the Peoria and Tolleson School Districts have funding, which will pay for 75 percent of the officers' salaries and benefits for the entire calendar year. The remaining 25 percent of each officer's salary and benefits will be paid for by the Police Department. Funding is available in the Public Safety Sales Tax fund.

RESOLUTION NO. 4699 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF TWO INTERGOVERNMENTAL AGREEMENTS FOR SCHOOL RESOURCE OFFICERS TO AID IN REDUCING CRIME THROUGH EDUCATION, POSITIVE INTERACTION AND ENFORCEMENT WITH THE FOLLOWING DISTRICTS: (1) PEORIA UNIFIED SCHOOL DISTRICT FOR THE ASSIGNMENT OF ONE POLICE OFFICER AT CACTUS HIGH SCHOOL AND ONE AT IRONWOOD HIGH SCHOOL; AND (2) THE TOLLESON UNION HIGH SCHOOL DISTRICT FOR THE ASSIGNMENT OF ONE POLICE OFFICER AT COPPER CANYON HIGH SCHOOL.

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 an intergovernmental agreement with the Peoria Unified School District for the assignment of one police officer at Cactus High School and the assignment of one police officer at Ironwood High School to aid in reducing crime on each school campus through education, positive interaction and enforcement be entered into, which agreement is on file in the office of the City Clerk of the City of Glendale.

SECTION 2. That it is deemed in the best interest of the City of Glendale and the citizens thereof that an intergovernmental agreement with the Tolleson Union High School District for the assignment of one police officer at Copper Canyon High School to aid in reducing crime on the school campus through education, positive interaction and enforcement be entered into, which agreement is 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 are hereby directed and authorized to execute and deliver all documents necessary 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:

_____
Acting City Attorney

REVIEWED BY:

_____
Acting City Manager

iga_pd_SRO_peoria_tolleson

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF GLENDALE
AND
PEORIA UNIFIED SCHOOL DISTRICT
FOR
SERVICES OF SCHOOL RESOURCE OFFICERS

This Agreement ("Agreement") is entered into this ____ day of _____ 2013, by and between the City of Glendale, a municipal corporation, ("City") and the Peoria Unified School District, ("District") for Cactus High School and Ironwood High School ("Schools"), political subdivisions of the State of Arizona. (City, District and Schools are referred to herein individually as a "Party and collectively as the "Parties").

WITNESSETH

1. Purpose of Agreement. The purpose of this Agreement is for the City to assign one police officer to each of the Schools from August 7, 2013 to May 22, 2014. The program is a cooperative effort between the City and the District. The police officers will work with and aid the School's administration and student population in reducing crime on the School's campus. Activities include education, positive police/student interaction, and enforcement of criminal laws.

2. Term. The term of the Agreement shall be from August 7, 2013 until the end of the School year, May 22, 2014. During the days the Schools are not in session, the police officers shall perform his/her regular police duties at a station as determined by the Chief of Police or his/her designee.

3. Termination. Either Party upon 30 days prior written notice may terminate the Agreement without cause.

4. Relationship of Parties. City shall have the status of an independent contractor for the purpose of this Agreement. The police officer assigned to the School, shall be considered an employee of the City and shall be subject to its control and supervision; however, the principal (or his/her designee) of the School will provide an evaluation of the assigned police officer to the Chief of Police or his/her designee. The police officer assigned to the School will be subject to the current procedures in effect for police officers of the Glendale Police Department ("GPD"), including attendance at all mandated training and testing to maintain state police officers certification. This Agreement is not intended to, and will not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, or formal business association or organization of any kind between Parties, and the rights and obligations of the Parties shall be only those expressly set forth in this Agreement. The Parties agree that no person supplied by the District to accomplish the goal of this Agreement is a City employee and no rights under City civil service, retirement, or personnel rules accrue to such person.

5. Cost. District agrees to pay the City $58,646.25 for the 2013-14 school year for each of the police officer's benefits/salary. The District will not be responsible for overtime (unless the District requests it) or other expenses relating to or resulting from police related activities, such as criminal investigations and response to gang fights, assaults, and arsons. Each Party will maintain a budget for expenditures under this Agreement. Payment from the District is due upon receipt of an itemized statement.

6. Police Officers Responsibilities. The police officers duties and responsibilities while at their assigned School shall be as follows:

   6.1 Serve as a liaison between the School and GPD.
   6.2 Solicit and promote crime prevention and police/community relations in School and/or to other groups that have a potential impact on juvenile crime.
   6.3 Consult with students, parents, teachers, and School officials regarding problems and issues. Be knowledgeable of referral agencies in order to provide information to the requesting parties.
   6.4 Work with other unit members, School personnel, and provide supervision in a positive, cooperative and productive manner.
   6.5 Enforce all applicable laws in a fair and consistent manner.
   6.6 Perform authorized tasks or assignments as instructed by their GPD supervisor.
   6.7 Educate the students and School personnel by providing relevant and informative educational programs.
   6.8 Will be flexible in his/her work schedule to attend major events as deemed appropriate by School administration.
   6.9 Maintain a high visible presence on and around campus.

7. Time and Place of Performance. The police officer will be available for duty at his/her assigned School each day that the School is in session during the regular School year. The police officer's activities will be restricted to the designated School grounds except for:

   7.1 Follow-up home visits when needed as a result of School related student problems.
   7.2 Incentive programs approved by the Parties.
   7.3 In response to off campus, but School related criminal activity.
   7.4 In response to emergency police activities.
   7.5 Mandatory GPD meetings.
   7.6 Mandatory GPD programs to maintain continuing proficiency standards to maintain police officers certification.
   7.7 Any scheduled court hearings, trials or grand jury that requires the police officer's appearance.

8. District Responsibilities.

   8.1 The District will provide each police officer an office and such equipment, as is necessary, at their assigned School. The equipment shall include a telephone and filing space capable of being secured.
   8.2 The Schools agree to act reasonably and in good faith to assist the police officer in the performance of his/her duties and responsibilities.

9. Cancellation. The City and the District acknowledge that this Agreement is subject to cancellation by either Party pursuant to the provisions of A.R.S. § 38-511.

10. Program Continuation Subject to Appropriation. The provisions of this Agreement shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment by the District. The District shall be the sole judge and authority in determining the availability of funds under this Agreement. The District shall keep the City fully informed as to the availability of funds for its program. The obligation of the District to make any payment pursuant to this Agreement is a current expense of the District, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the District. If the Board of the District fails to appropriate money sufficient to pay the reimbursements as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the City and the District shall relieved of any subsequent obligation under this Agreement.

11. Entire Agreement. This Agreement comprises the entire agreement of the Parties and supersedes any and all other agreements or understandings, oral and written, whether previous to the execution hereof or contemporaneous herewith. Any amendments or modifications to this Agreement shall be made only in writing and signed by the Parties to this Agreement.

12. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

13. Worker's Compensation. An employee of either Party shall be deemed to be an "employee" of both public agencies while performing pursuant to this Agreement solely for purposes of A.R.S. § 23-1022 and the Arizona Workers' Compensation laws. The primary employer shall be solely liable for any workers' compensation benefits, which may accrue. Each Party shall post a notice pursuant to the provisions of A.R.S. § 23-1022.

14. FERPA Compliance. Both Parties will ensure that the dissemination and disposition of educational records complies at all times with the Family Educational Rights and Privacy Act of 1974 and any subsequent amendments thereto.

15. Non-Discrimination. Both Parties agree to comply with all applicable provisions of state and federal laws and regulations, including the Americans with Disabilities Act and Executive Order 99-4, which is incorporated herein by reference, mandating non-discrimination and requiring that all persons, regardless of race, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunity.

16. Property Disposition. The Parties do not anticipate having to dispose of any property upon partial or complete termination of this Agreement. However, to the extent that such disposition is necessary, property shall be returned to its original owner.

17. E-Verify. Both Parties acknowledge that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. Both Parties warrant that they have registered with and participate with E-Verify. If either Party later determines that the other non-compliant Party has not complied with E-Verify, it will notify the non-compliant Party by certified mail of the determination and of the right to appeal the determination.

18. Foreign Prohibitions. Both Parties certify under A.R.S. §§ 35-391 *et seq.*, and 35-393 *et seq.*, that they do 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.

19. Notice. All notices relating to this Agreement shall be deemed given when mailed, by certified or registered mail, or overnight courier, to the other Party at the address set forth below or such other address as may be given in writing from time to time:

If to CITY:	Glendale Police Department Attn: Chief Debora Black 6835 North 57th Drive Glendale, Arizona 85301
With a copy to:	Glendale City Attorney 5850 West Glendale Avenue Glendale, Arizona 85301
If to DISTRICT:	Peoria Unified School District Attn: Michael Finn 6330 West Thunderbird Road Glendale, Arizona 85306

IN WITNESS HEREOF, the Parties, through their respective undersigned authorized officers, have duly executed this Agreement as of the day and year first written above.

CITY OF GLENDALE, an Arizona municipal corporation

_____
Richard A. Bowers, Acting City Manager

ATTEST:

_____
Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

_____
Nicholas DiPiazza, Acting City Attorney

By: _____
Peoria Unified High School District

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF GLENDALE
AND
TOLLESON UNION HIGH SCHOOL DISTRICT No. 214
FOR
SERVICES OF SCHOOL RESOURCE OFFICERS

This Intergovernmental Agreement ("Agreement") is entered into this ____ day of _____ 2013, by and between the City of Glendale, a municipal corporation, ("City") and the Tolleson Union High School District No. 214, a political subdivision of the State of Arizona ("District"). (City and District are referred to herein individually as a "Party and collectively as the "Parties").

WITNESSETH

1. Purpose of Agreement. The purpose of this Agreement is for the City to assign one police officer at Copper Canyon High School ("School") from August 5, 2013 to May 23, 2014. The program is a cooperative effort between the City and the District. The police officer will work with and aid the School's administration and student population in reducing crime on the School's campus. Activities include education, positive police/student interaction, and enforcement of criminal laws.

2. Term. The term of the Agreement shall be from August 5, 2013 until the end of the school year, May 23, 2014. During the days the School is not in session, the police officer shall perform his/her regular police duties at a station as determined by the Chief of Police or his/her designee.

3. Termination. Either Party upon 30 days prior written notice may terminate the Agreement without cause.

4. Relationship of Parties. City shall have the status of an independent contractor for the purpose of this Agreement. The police officer assigned to the School, shall be considered an employee of the City and shall be subject to its control and supervision; however, the principal (or his/her designee) of the School will provide an evaluation of the assigned police officer to the Chief of Police or his/her designee. The police officer assigned to the School will be subject to the current procedures in effect for police officers of the Glendale Police Department ("GPD"), including attendance at all mandated training and testing to maintain state police officers certification. This Agreement is not intended to, and will not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, or formal business association or organization of any kind between Parties, and the rights and obligations of the Parties shall be only those expressly set forth in this Agreement. The Parties agree that no person supplied by the District to accomplish the goal of this Agreement is a City employee and no rights under City civil service, retirement, or personnel rules accrue to such person.

5. Cost. District agrees to pay the City $58,646.25 for the 2013-14 school year for the police officer's benefits/salary. The District will not be responsible for overtime (unless the District requests it) or other expenses relating to or resulting from police related activities, such as criminal investigations and response to gang fights, assaults, and arsons. Each Party will maintain a budget for expenditures under this Agreement. Payment from the District is due upon receipt of an itemized statement detailing services rendered.

6. Police Officers Responsibilities. The police officer's duties and responsibilities while at the assigned School shall be as follows:

   6.1 Serve as a liaison between the School and GPD.
   6.2 Solicit and promote crime prevention and police/community relations in School and/or to other groups that have a potential impact on juvenile crime.
   6.3 Consult with students, parents, teachers, and School officials regarding problems and issues. Be knowledgeable of referral agencies in order to provide information to the requesting parties.
   6.4 Work with other unit members, School personnel, and provide supervision in a positive, cooperative and productive manner.
   6.5 Enforce all applicable laws in a fair and consistent manner.
   6.6 Perform an authorized tasks or assignments as instructed by the GPD supervisor.
   6.7 Educate the students and School personnel by providing relevant and informative educational programs.
   6.8 Be flexible in his/her work schedule to attend major events as deemed appropriate by School administration.
   6.9 Maintain high visible presence on and around campus.

7. Time and Place of Performance. The police officer will be available for duty at the assigned School each day that the School is in session during the regular School year. The police officer's activities will be restricted to the designated School sites' grounds except for:

   7.1 Follow-up home visits when needed as a result of School related student problems.
   7.2 Incentive programs approved by the Parties.
   7.3 In response to off campus, but School related criminal activity.
   7.4 In response to emergency police activities.
   7.5 Mandatory GPD meetings.
   7.6 Mandatory GPD programs to maintain continuing proficiency standards to maintain police officers certification.
   7.7 Any scheduled court hearings, trials or grand jury that requires the police officer's appearance.

8. District Responsibilities.

   8.1 The District will provide the police officer an office and such equipment, as is necessary, at the assigned School. The equipment shall include a telephone and filing space capable of being secured.
   8.2 The School agrees to act reasonably and in good faith to assist the police officer in the performance of his/her duties and responsibilities.

9. Cancellation. The City and the District acknowledge that this Agreement is subject to cancellation by either Party pursuant to the provisions of A.R.S. § 38-511.

10. Program Continuation Subject to Appropriation. The provisions of this Agreement shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment by the District. The District shall be the sole judge and authority in determining the availability of funds under this Agreement. The District shall keep the City fully informed as to the availability of funds for its program. The obligation of the District to make any payment pursuant to this Agreement is a current expense of the District, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the District. If the Board of the District fails to appropriate money sufficient to pay the reimbursements as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the City and the District shall relieved of any subsequent obligation under this Agreement.

11. Entire Agreement. This Agreement comprises the entire agreement of the Parties and supersedes any and all other agreements or understandings, oral and written, whether previous to the execution hereof or contemporaneous herewith. Any amendments or modifications to this Agreement shall be made only in writing and signed by the Parties to this Agreement.

12. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

13. Worker's Compensation. An employee of either Party shall be deemed to be an "employee" of both public agencies while performing pursuant to this Agreement solely for purposes of A.R.S. § 23-1022 and the Arizona Workers' Compensation laws. The primary employer shall be solely liable for any workers' compensation benefits, which may accrue. Each Party shall post a notice pursuant to the provisions of A.R.S. § 23-1022.

14. FERPA Compliance. Both Parties will ensure that the dissemination and disposition of educational records complies at all times with the Family Educational Rights and Privacy Act of 1974 and any subsequent amendments thereto.

15. Non-Discrimination. Both Parties agree to comply with all applicable provisions of state and federal laws and regulations, including the Americans with Disabilities Act and Executive Order 99-4, which is incorporated herein by reference, mandating non-discrimination and requiring that all persons, regardless of race, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunity.

16. Property Disposition. The Parties do not anticipate having to dispose of any property upon partial or complete termination of this Agreement. However, to the extent that such disposition is necessary, property shall be returned to its original owner.

17. E-Verify. Both Parties acknowledge that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. Both Parties warrant that they have registered with and participate with E-Verify. If either Party later determines that the other non-compliant Party has not complied with E-Verify, it will notify the non-compliant Party by certified mail of the determination and of the right to appeal the determination.

18. Foreign Prohibitions. Both Parties certify under A.R.S. §§ 35-391 *et seq.*, and 35-393 *et seq.*, that they do 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.

19. Notice. All notices relating to this Agreement shall be deemed given when mailed, by certified or registered mail, or overnight courier, to the other Party at the address set forth below or such other address as may be given in writing from time to time:

If to CITY:	Glendale Police Department Attn: Chief Debora Black 6835 North 57th Drive Glendale, Arizona 85301
With a copy to:	Glendale City Attorney 5850 West Glendale Avenue Glendale, Arizona 85301
If to DISTRICT:	Tolleson Union High School District Attn: John Speer 9801 West Van Buren Street Tolleson, Arizona 85353

IN WITNESS HEREOF, the Parties, through their respective undersigned authorized officers, have duly executed this Agreement as of the day and year first written above.

CITY OF GLENDALE, an Arizona
municipal corporation

_____
Richard A. Bowers, Acting City Manager

ATTEST:

_____
Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

_____
Nicholas DiPiazza, Acting City Attorney

By: _____
Tolleson Union High School District No. 214

Approved as to Form and within the powers and
authority of the District:

_____
Legal Counsel for the District

CITY COUNCIL REPORT

Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**INTERGOVERNMENTAL AGREEMENT WITH PEORIA UNIFIED SCHOOL DISTRICT NO. 11 FOR FACILITY USE AT RAYMOND S. KELLIS HIGH SCHOOL**
Staff Contact:	**Erik Strunk, Executive Director, Parks, Recreation & Library Services**

Purpose and Recommended Action

This is a request for City Council to adopt a resolution authorizing the entering into of a five-year intergovernmental agreement (IGA) regarding the sports fields lighting system and overflow parking use by the city of the parking lot at Raymond S. Kellis High School (Kellis) for stadium events, with the Peoria Unified School District No. 11 (PUSD).

Background Summary

As part of the contractual agreement to partner with the Arizona Sports and Tourism Authority (AZSTA) to provide sufficient parking for events held at the University of Phoenix Stadium, the city entered into a series of agreements with the PUSD beginning in December 2005 to use the Kellis parking lot as an overflow site for non-school hours, when needed, during large activities at the stadium. The most current one-year IGA will expire on June 30, 2013 and it is necessary to enter into a new IGA to ensure the city meets its parking obligations to the AZSTA.

As a condition of its approval of a new IGA, the PUSD requested the city assign and pay 100% of the total cost of providing a Glendale Police Department School Resource Officer (SRO) for Kellis. The projected cost of this request will amount to $78,195.

Additional terms of the IGA allow the city to use the fields for its recreation activities when they are not being used for school activities or under maintenance work, while the city will allow the school use of certain recreation facilities (i.e. Rose Lane Pool for PUSD swim teams); and the school will be responsible for all routine maintenance of the sports fields, while the city will be responsible for the lighting, including bulb replacement.

Previous Related Council Action

The City of Glendale has had an IGA with PUSD since 2005 for the use of the Kellis parking lot for overflow parking for large stadium events. On June 12, 2012, the City of Glendale entered into the current IGA regarding sports fields lighting and facility use at Kellis. The term of the IGA was for one year.

CITY COUNCIL REPORT

Community Benefit/Public Involvement

A new five-year IGA will satisfy the city's obligation for off-site overflow parking for large stadium events. It will also provide reciprocal use of district and city facilities, including the lighted sports fields located at Kellis.

Budget and Financial Impacts

Cost	Fund-Department-Account
$78,195	**1700-12310-52100, Public Safety Sales Tax Fund**
$800	**1000-13450-518200, Facilities Management**

The total annual personnel costs of an SRO for Kellis will amount to approximately $78,195 and will be paid for out of the Police Department operating budget. Although this agreement will be in effect for a five-year period, actual funding of the dedicated SRO will be contingent upon annual budget review and approval by the Glendale City Council.

The cost to maintain the lights will amount to approximately $800 per year.

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:	**Richard A. Bowers, Acting City Manager**
From:	**Erik Strunk, Executive Director, Parks, Recreation and Library Services**
Item Title:	**INTERGOVERNMENTAL AGREEMENT WITH PEORIA UNIFIED SCHOOL DISTRICT NO. 11 FOR FACILITY USE AT RAYMOND S. KELLIS HIGH SCHOOL**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

The purpose of this report is to provide Council information regarding a five-year intergovernmental agreement (IGA) with Peoria Unified School District No. 11 (PUSD) for facility use at Raymond S. Kellis High School (Kellis).

BACKGROUND

As part of the contractual agreement to partner with the Arizona Sports and Tourism Authority (AZSTA) to provide sufficient parking for events held at the University of Phoenix Stadium, the city entered into an agreement with the PUSD in December 2005 to use the Kellis parking lot as an overflow parking lot for non-school hours, when needed, during "mega-event" activities at the stadium. As a part of the five-year IGA, the city also agreed to partner with the PUSD and funded the construction of sports field lighting at the high school. The initial term of this IGA was five years.

In June 2011, the PUSD entered into a new IGA with the city. Although the terms and conditions of the new IGA were the same as the previous five-year version, the PUSD indicated it would only entertain one-year agreements with the city. As a result, the most current one-year IGA will expire on June 30, 2013 and it is again necessary to renew it to ensure the city meets its parking obligations to the AZSTA.

ANALYSIS

The PUSD indicated that as a condition of its approval of a new IGA, the city assign and pay 100% of the total cost of providing a Glendale Police Department School Resource Officer (SRO) for Kellis. The projected cost of this request will amount to $78,195. The will be in addition to the following items that have also been agreed to with the PUSD:

- When not being used for school activities or under maintenance work, the city can use the fields for its recreation activities (in exchange, the city allows the school use of certain recreation facilities, specifically, Rose Lane Pool, for PUSD swim teams).

- The school is responsible for all routine maintenance of the sports fields, while the city is responsible for the lighting, including bulb replacement. This cost to maintain the lights costs the city approximately $800 per year.

- The city uses the student parking lot for its overflow parking for stadium events and must clean it no later than the following day after the event. The event management group hired by the AZSTA is responsible for all clean-up costs.

- The IGA and its terms will remain in effect for a total of five years.

In addition to the use of the Kellis parking lot for overflow parking, the city will continue to use the bus turnaround for the spectator shuttle loading and unloading operation, which is an asset. Without this, the city would either have to move it to the roadway and loose flow capacity on 91st Avenue and/or move into the Brown Lot, which would remove needed parking spaces that would have to be replaced in another location. Further, having the school parking available in close proximity to the Brown Lot allows the city to combine the shuttle operations and results in a savings for not having to operate two separate systems.

Staff recommends the city move forward with a new, five-year agreement for the use of the Kellis parking lot. In exchange, the city will assign one SRO at Kellis at no cost to the PUSD. Although this agreement will be in effect for a five-year period, actual funding of the dedicated SRO will be contingent upon annual budget review and approval by the Glendale City Council.

FISCAL IMPACTS

The total annual personnel costs of an SRO for Kellis will amount to approximately $78,195 and will be paid for out of the Police Department operating budget. The cost to maintain the lights will amount to approximately $800 per year.

Funding for this recommendation will be available in 1700-12310-521000 (Police Department) and in 1000-13450-518200 (Field Operations).

RESOLUTION NO. 4700 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT REGARDING SPORTS FIELDS LIGHTING SYSTEM AND FACILITY USE AT RAYMOND S. KELLIS HIGH SCHOOL WITH THE PEORIA UNIFIED SCHOOL DISTRICT NO. 11.

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 an Intergovernmental Agreement Regarding Sports Fields Lighting System and Facility Use at Raymond S. Kellis High School with the Peoria Unified School District No. 11 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 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:

_____
Acting City Attorney

REVIEWED BY:

_____
Acting City Manager

iga_pusd kellis

INTERGOVENMENTAL AGREEMENT REGARDING SPORTS FIELDS LIGHTING SYSTEM AND FACILITY USE AT RAYMOND S. KELLIS HIGH SCHOOL

THIS INTERGOVERNMENTAL AGREEMENT REGARDING SPORTS FIELDS LIGHTING SYSTEM AND FACILITY USE AT RAYMOND S. KELLIS HIGH SCHOOL is made and entered into this _____ day of _____, 2013 by and between the CITY OF GLENDALE, an Arizona municipal corporation, hereinafter referred to as "City," and the PEORIA UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION, DISTRICT #11, hereinafter referred to as "District." Both City and District may sometimes be referred to as "Party" or collectively as "Parties."

RECITALS

WHEREAS, under A.R.S. Section 11-951 *et seq.* , cities and schools may enter into an agreement for the construction, development, cooperative maintenance, operation and use of parks, swimming pools and other facilities on property used for public purposes if the governing bodies having charge and control of such properties give their consent and cooperation;

WHEREAS, the Parties desire to use and operate facilities that provide maximum public benefit;

WHEREAS, it is good policy to partner in the development and use of facilities that can be used for both school and community purposes;

WHEREAS, the City constructed on property owned by the District, known as Raymond S. Kellis High School ("School"), a lighting system for sports fields ("Lighted Sports Field") to be used jointly by the Parties;

WHEREAS, the Parties desire to allow the City, through its Parks and Recreation Department, priority use of the Lighted Sports Field when not being used for District or Arizona Interscholastic Association ("AIA") sanctioned games, events or maintenance;

WHEREAS, the District has recreation facilities such as tennis courts, gymnasiums, weight room, dance room, teaching kitchen, classrooms, stage and parking lots ("District

Facilities") that could be used for community health, education, sports, and enrichment opportunities provided through the City during non-school hours;

WHEREAS, the City has recreation facilities such as swimming pools, parks, and trails ("City Facilities") that could be used for physical education and school athletic opportunities provided through the District; and

WHEREAS, the District and the City shall annually develop a facility use calendar by January 15 of each year, to ensure adequate planning for and equitable use of the District Facilities and City Facilities, which planning shall include such non-use time scheduled during the year to accommodate appropriate maintenance of facilities and field turf.

NOW, THEREFORE, FOR AND IN CONSIDERATION of their mutual promises and covenants, the Parties agree as follows:

1. District and City installed a separate electrical meter for the Lighted Sports Field and each Party shall pay for the electricity during its use, and only during its use, of the Lighted Sports Field.

2. The District and City further allocate the duties, obligations, responsibilities, and rights related to the Lighted Sports Field as follows:

(a) District shall provide at its expense all routine maintenance and service for the Lighted Sports Fields, except as set forth in subsection b of this Section;

(b) City shall provide at its expense all routine maintenance and service for the lighting system, including bulb replacement;

(c) At its expense, and subject to District approval as to size and location, the City shall place the necessary signs on the campus of the School to locate and identify the Lighted Sports Field.

(d) During all times that the City is using the Lighted Sports Field, the City shall have the right to charge admission to the Lighted Sports Field and shall retain all such admission charges. Likewise, during the time the District is using the Lighted Sports Field, it shall have the right to charge admission and retain all resulting proceeds.

(e) At all times during the City's control and operation of the Lighted Sports Field and lighting system, the City shall have the right to use, without payment of any kind, the parking facilities located on the School campus directly west of the sports field, commonly called the student parking lot. The City shall sweep and clean said parking lot no later than the day following the activity.

(f) At its sole expense, the City will pay 100% of the cost of placing a School Resource Officer at Raymond S. Kellis High School for the duration of this agreement.

3. The District agrees to allow the City, through its Parks and Recreation Department, priority use of the District Facilities when the District Facilities are not being used for District or AIA-sanctioned games, activities, events or maintenance. During and after its use of the District Facilities, the City shall keep and leave the District Facilities in a neat and orderly condition. Should the District Facilities suffer any damages during the City use period, the City shall be responsible for making reasonable repairs in a timely manner.

4. The City agrees to allow the District priority use of certain recreation facilities ("City Facilities") when those facilities are not being used by the City for Parks and Recreation programs, events, or maintenance. This priority use includes use of the Rose Lane Aquatics Center for School swim team practices and meets. During and after its use of City Facilities, the District shall keep and leave the City Facilities in a neat and orderly condition. Should the City facilities suffer any damages during the District use period, the District shall be responsible for making reasonable repairs in a timely manner.

5. The District agrees to allow the School parking lots, bus turnaround off of 91st Ave, and sidewalks between the parking lots and the bus turnaround (all of which shall be deemed part of the District Facilities) to be used for overflow parking and shuttle operations for the University of Phoenix Stadium during Cardinal home football games, large sporting events, such as the Fiesta and Super Bowl, events sponsored by the Arizona Sports and Tourism Authority, and up to an additional 15 times per year for other large special events held at the

stadium. The 2013-2014 schedule for Cardinal and Fiesta Bowl games is attached as Exhibit A and incorporated herein. In connection with this Use, the following apply:

(a) No parking fees shall be charged by the School or the City during these events.

(b) The District must allow the City to place the necessary temporary signs on the School campus to locate and identify the parking lots and any light towers, vehicle, or pedestrian traffic control measures to safely and efficiently operate the parking and shuttle system.

(c) The District must make every effort to ensure the City's priority use of parking lots and shuttle areas for football games identified in Exhibit A. In the event a game is rescheduled to another date, the District agrees to allow the City use of the parking lots and shuttle areas on the rescheduled dates. .

(d) The City shall clean said parking lots no later than the day following each event. In all cases, the lot shall be cleaned before the next School use period. Should any damages be incurred during the City use period, the City shall be responsible for making responsible repairs in a timely manner.

6. The District is allowed use of the Brown Lot (the city-owned parking lot on the southeast corner of 91st Avenue and Orangewood Avenue, which shall be deemed to be part of the City Facilities) for school-related functions, such as safety demonstrations, a designated gathering point for Kellis High School in the event of emergency evacuation, and overflow parking for events, provided the Brown Lot is not needed for a City event. The District will use the City's current Special Event permitting process to request the use of the Brown Lot.

7. Any user fee or expenses charged to the City by the District or School, or by the City to the District, shall be kept to minimum when the purpose of the use is to serve District students or the surrounding community.

8. The Parties must monitor the jointly developed annual facilities use calendar to ensure that both Parties are receiving equitable benefits from this Agreement. The Parties agree that uses set forth herein for use of the Lighted Sports Field, parking and Rose Lane

Aquatics Center are equitable. If it is determined and agreed upon that one Party is receiving greater benefit, then market rate fees may be assessed to that party for use of the other party's facilities. Such fees may only be assessed in an amount agreed upon by the parties in a signed, written amendment to this IGA.

9. At all time that the City is operating the lighting system, using the Lighted Sports Field, or using the District Facilities, the City shall: (a) certify that it will be covered, through its Risk Management Trust Fund, under a program of self-insurance in an amount sufficient to fully protect itself and the District from hazard or liability; and (b) to the extent permitted under Arizona law, indemnify and hold the District harmless from any liability of any nature (including without limitation, liability for personal injury, death, and property damage) attributable to the City, its officers, elected officials, employees or agents, in connection with the operation of the lighting system, use of the Lighted Sports Field, or use of the District Facilities, and will fully represent and defend the Parties in any lawsuit arising out of these activities.

10. At all times that the District is operating the lighting system, or using the Lighted Sports Field, or using City Facilities, the District shall: (a) certify that it will be covered, through its Loss Trust Fund, under a program of self-insurance in an amount sufficient to fully protect itself and the City from hazard or liability; and (b) to the extent permitted under Arizona law, indemnify and hold the City harmless from any liability of any nature (including without limitation, liability for personal injury, death, and property damage) in connection with the operation of the lighting system, use of the Lighted Sports Field, or use of the City Facilities, and will fully represent and defend the Parties in any lawsuit arising out of these activities.

11. This Agreement may be modified, in writing, at any time by mutual agreement of the Parties.

12. Either the City or the District may terminate this Agreement upon 90 days written notice to the other Party.

13. Costs and budget shall be allocated between the City and the District as set forth above.

14. No separate legal entity shall be formed by this Agreement.

15. This Agreement shall not become effective until approved by the Glendale's City Council and by the District's Governing Board.

16. Subject to approval of the Glendale's City Council and the District's Governing Board, this Agreement shall become effective as of the date listed above, and shall remain in force and effect for a period of five years, subject to annual funding by the Glendale City Council.

IN WITNESS WHEREOF the Parties have duly executed this instrument the day and year first above written.

(Signatures on following pages)

DISTRICT:

PEORIA UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION, #11

_____

By:_____

Its:_____

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the Peoria Unified School District Board of Education granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
District's Legal Counsel:

By: _____ Date: _____

CITY:

CITY OF GLENDALE, an Arizona municipal corporation

_____

By:_____

Its:_____

ATTEST:

_____

Pam Hanna, City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of Glendale granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____

Nicholas C. DiPiazza
Acting City Attorney

Date: _____

Document to be recorded by City of Glendale

EXHIBIT A

2013 - 2014 ARIZONA CARDINALS AND FIESTA BOWL SCHEDULE

- Saturday, August 17, 2013 (1:30 PM) – Cardinals vs. Dallas Cowboys
- Saturday, August 24, 2013 (7:00 PM) – Cardinals vs. San Diego Chargers
- Saturday, September 7, 2013 – University of Arizona vs. UNLV
- Sunday, September 15, 2013 (1:05 PM) – Cardinals vs. Detroit Lions
- Sunday, October 6, 2013 (1:05 PM) – Cardinals vs. Carolina Panthers
- Thursday, October 17, 2013 (5:25 PM) – Cardinals vs. Seattle Seahawks
- Sunday, October 27, 2013 (1:25 PM) – Cardinals vs. Atlanta Falcons
- Sunday, November 10, 2013 (2:25 PM) – Cardinals vs. Houston Texans
- Sunday, November 24, 2013 (2:05 PM) – Cardinals vs. Indianapolis Colts
- Sunday, December 8, 2013 (2:25 PM) – Cardinals vs. St Louis Rams
- Sunday, December 29, 2013 (2:25 PM) – Cardinals vs. San Francisco 49ers
- Wednesday, January 1, 2014 (6:30 PM) – Tostitos Fiesta Bowl

CITY COUNCIL REPORT

Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**AMENDMENT NO. 9 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. 9 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 amendment No. 9 approves changes to contract Terms and Conditions and includes the acceptance of the annual funding ($1,073,980) for the contract period beginning July 1, 2013 through June 30, 2014 for the Case Management and Community Services. This amendment requires Council approval.

Previous Related Council Action

On February 12, 2013, City Council approved entering into Amendment No. 8 of the IGA between the city and DES for FY 2012-13 funding 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.

Attachments

Staff Report

Resolution

Amendment to Agreement

STAFF REPORT

To:	**Richard A. Bowers, Acting City Manager**
From:	**Rebecca H. Daniel, Community Action Program Administrator**
Item Title:	**AMENDMENT NO. 9 TO INTERGOVERNMENTAL AGREEMENT WITH ARIZONA DEPARTMENT OF ECONOMIC SECURITY FOR COMMUNITY ACTION PROGRAM FUNDING AND OPERATIONS**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

This report clarifies why the Community Action Program is in support of a proposed resolution authorizing the City Manager to enter into Amendment No. 9 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 amendment No. 9 approves changes to contract Terms and Conditions and includes the acceptance of the annual funding ($1,073,980) for the contract period beginning July 1, 2013 through June 30, 2014 for the Case Management and Community Services. This amendment requires Council approval.

ANALYSIS

There are two options associated with entering into Amendment No. 9 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. 9 which also provides DES contract funding allowing CAP to continue providing crisis assistance to Glendale families. The second option is not to accept the change of Amendment No. 9 which would cause the city to be out of compliance with the current DES contract. This would also reject the annual funding from the Department of Economic Security and not continue with the city's contract with DES for CAP services.

Staff recommends adopting a resolution authorizing the City Manager to enter into Amendment No. 9 to the IGA with DES for CAP program operations. All current CAP staff is in compliance with this requirement.

On February 12, 2013, City Council approved entering into Amendment No. 8 of the IGA between the city and DES for FY 2012-13 funding for CAP operations.

There are no impacts to staff associated with adopting Amendment No. 9.

FISCAL IMPACTS

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

RESOLUTION NO. 4701 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AMENDMENT NO. 9 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 Nine 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:

_____
Acting City Attorney

REVIEWED BY:

_____
Acting City Manager

iga_cap_ades 9

DEPARTMENT OF ECONOMIC SECURITY

Your Partner For A Stronger Arizona

Intergovernmental Agreement

CONTRACT AMENDMENT

1. CONTRACTOR *(Name and address)*	2. CONTRACT ID NUMBER
City of Glendale **5850 W. Glendale Ave.** **Glendale, Arizona 85301**	**DE111089001**
	3. AMENDMENT NUMBER **Nine (9)**

4. THE PARTIES AGREE TO THE FOLLOWING AMENDMENT

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

Funding for the contract period beginning July 1, 2013 through June 30, 2014:

The reimbursement ceiling for the service for Case Management is $890,428.

The reimbursement ceiling for the service for Community Services is $183,552.

The cumulative reimbursement ceiling for the contract period July 1, 2010 to June 30, 2015 is increased to $4,850,754.

Therefore, the Itemized Service Budgets for the service of Case Management (Attachment A) and Community Services (Attachment B) are revised and attached.

Replace

From Amendment # 6 Terms and Conditions, **Fingerprinting**, section **32.1.1**, replace the existing version with the following:
Personnel who are employed by the Contractor, whether paid or not, and who are required or allowed to provide services directly to juveniles or vulnerable adults shall submit a full set of fingerprints to the Department for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544 or shall apply for fingerprint clearance card within seven working days of employment.

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 **Rita Schmidt**	TYPED NAME
TITLE **Deputy Chief Procurement Administrator**	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:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**FLEXIBLE SPENDING ACCOUNTS CONTRACT WITH ASIFLEX FOR FISCAL YEAR 2013-14**
Staff Contact:	**Marcie Bravo-Ortuno, HR Administrator, Human Resources & Risk Management**

Purpose and Recommended Action

This is a request for City Council to approve renewing the contract for services for the Health Care and Dependent Care Flexible Spending Accounts (FSA) in an amount not to exceed $12,726. This provider is the current administrator of the Health Care and Dependent Care Flexible Spending Accounts. This program will provide services for City of Glendale Active employees and COBRA participants for the Fiscal Year 2013-14.

Background Summary

The current provider for the Flexible Spending Account plan is ASIFlex. The contract with ASIFlex expires June 30, 2013. ASIFlex has been the Flexible Spending Account administrator since July 1, 2008. The flexible spending account contract went out for renewal in the spring of 2013, due to the current contract with the existing administrator being up for renewal. The current contract was renewed annually over the last six years. With the assistance of the Materials Management Department, a Request for Proposal (RFP) review committee and Segal Benefits (an outside consultant), determined ASIFlex should remain as the administrator of the Dependent and Health Care Flexible Spending Accounts.

Community Benefit/Public Involvement

This item is offered to city employees as an optional benefit so they can continue to provide the best services possible to the citizens of Glendale.

Budget and Financial Impacts

Cost	Fund-Department-Account
$12,726	**518200-1000-11020, Benefit Trust Fund - HR**

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:	**Richard A. Bowers, Acting City Manager**
From:	**Marcie Bravo-Ortuno, HR Administrator, Human Resources & Risk Management**
Item Title:	**FLEXIBLE SPENDING ACCOUNTS CONTRACT WITH ASIFLEX FOR FISCAL YEAR 2013-14**
Requested Council Meeting Date:	**6/25/2013**
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 of a contract agreement between the City of Glendale and the current Flexible Spending Provider be renewed for fiscal year (FY) 2013-14.

BACKGROUND

The current provider for the Flexible Spending Account plan is ASIFlex. The contract with ASIFlex expires June 30, 2013. ASIFlex has been the Flexible Spending Account administrator since July 1, 2008. The Flexible Spending Contract went out for renewal in the spring of 2013, due to the current contract with the existing administrator being up for renewal. The current contract was renewed annually over the last six years. With the assistance of the Materials Management Department, a Request for Proposal (RFP) review committee and Segal Benefits (an outside consultant), it was determined that ASIFlex should remain as the administrator of the Dependent and Health Care Flexible Spending Accounts.

ANALYSIS

The city has offered the Flex Spending Accounts to its employees since July 1, 2008 through ASIFlex. The plan allows participants to contribute a portion of their salary on a pre-tax basis. The money is then deducted over the plan year. Once expenses are incurred and qualify for reimbursement, claims are submitted to the Flexible Spending Account provider. The program provides:

- A dedicated account services team that will meet with the benefits staff to discuss the success of the program and work through any potential problems;
- Live Customer Service, rather than having a participant routed through automated options;
- Debit Card for Health Care spending expenses;

- Email alerts which will provide ongoing communication to participants;
- Daily reimbursement, direct deposit and rapid processing of claims, claims are typically processed within one business day of receipt;
- Employer reporting, standard and ad-hoc reporting at no additional cost;
- On-line account capabilities;
- Mobile application to allow capturing documentation by using the phone's camera feature and submit documentation from the smart mobile device.

The city worked with an outside consultant, Segal Benefits, and Materials Management to launch the RFP. In total, there were 10 vendors that submitted a bid. Once the RFP closed, Segal Benefits then worked with Materials Management and an internal committee consisting of six employees representing Police, Fire, Human Resources and the City Court to review each of the bidders. Segal Benefits shortlisted the bidders, based on overall review of the documentation submitted, to the top two proposals which included: ASIFlex and P&A Group. The committee then reviewed the top two bidders and made the recommendation to award the contract to ASIFlex based on the following:

1. ASIFlex provides a full suite of printed employee communication materials, in addition to videos, an expense estimator and tax savings calculator and links to IRS forms and publications. In addition to the convenience of a mobile app.;
2. Health/Benefit Fair representation;
3. Average claim turnaround of one day;
4. Participant contributions processed and posted to accounts within two business days;
5. Plan document and Summary Plan Description creation as well as necessary amendments included in fee;
6. Will work with group to supply all necessary information for W2 preparation;
7. Unlimited webinar trainings available at no charge;
8. ASIFlex has proposed a 26% fee decrease and five year rate guarantee.

The Human Resources Department is recommending to City Council that the contract for services with ASIFlex be approved.

This service is available to both active employees and COBRA participants.

FISCAL IMPACTS

This plan is factored into the FY 2013-14 budget at a cost of $12,726 across all funds.

City of Glendale

Administrative Services Agreement

This Administrative Services Agreement (the Agreement) is made and entered into as of this ___ day of _____, 2013, by and between the City of Glendale (hereinafter Glendale) and Application Software, Inc. (hereinafter ASI).

Background

Check applicable boxes and attach Schedules

☐ **For Cafeteria Plan.** GLENDALE has requested ASI to provide administrative services for the following Benefit Programs offered under an Internal Revenue Code § 125 Cafeteria Plan established by GLENDALE:

☐ Health Flexible Spending Arrangement (Health FSA) (Schedule A)
☐ Dependent Care Assistance Program (DCAP) (Schedule B)

The Health FSA and DCAP will hereinafter be collectively referred to as the Program.

In consideration of the mutual promises and conditions contained in this Agreement, GLENDALE and ASI agree as follows:

Section 1
Effective Date and Term

Applies to All Services

1.1 Effective Date

The effective date of this Agreement is July 1, 2013 (Effective Date).

1.2 Term

The initial term of this contract shall be July 1, 2013 through June 30, 2014. GLENDALE shall have the right to extend the term of this agreement for four (4) additional years in one (1) year increments. ASI shall be notified in writing by GLENDALE of its intention to extend the contract period at least 30 calendar days prior to the expiration of the contract period. Price adjustments will only be reviewed during contract renewal. Either party shall have the right to terminate the contract at any time by providing 120 days written notice.

Section 2
Scope of Undertaking

Applies to All Services

2.1 Scope of Undertaking

GLENDALE has sole and final authority to control and manage the operation of the Program. ASI is and shall remain an independent contractor with respect to the services being performed hereunder and shall not for any purpose be deemed an employee of GLENDALE. ASI and GLENDALE shall not be deemed partners, engaged in a joint venture or governed by any legal relationship other than that of independent contractor.

ASI does not assume any responsibility for the general policy design of the Program, the adequacy of its funding, or any act or omission or breach of duty by GLENDALE. ASI shall not in any way be deemed an insurer, underwriter, or guarantor with respect to any benefits payable under the Program. ASI generally provides reimbursement services only and does not assume any financial risk or obligation with respect to claims for benefits payable by GLENDALE under the Program.

Except as otherwise expressly set forth herein, nothing herein shall be deemed to constitute ASI as a party to the Program or to confer upon ASI any authority or control respecting management of the Program, authority or responsibility in connection with administration of the Program, or responsibility for the terms or validity of the Program. Nothing in this Agreement shall be deemed to impose upon ASI any obligation to any employee of GLENDALE or any person who is participating in the Program (Participant).

2.2 Non-Discretionary Duties

Except as otherwise expressly set forth herein, the services to be performed by ASI under this Agreement shall be ministerial in nature and will generally be performed in accordance with the terms of the Benefit Programs established by the GLENDALE.

2.3 Limited Fiduciary Duties *(Applies to Health FSA only)*

Notwithstanding the foregoing, pursuant to Section 405(c)(1) of ERISA, GLENDALE delegates to ASI certain functions which might be deemed to be of a fiduciary nature, including authority to determine claims for benefits as set forth in Section 4, and to pay Program benefits by checks written (or other draft payment or debit) on a bank account established and maintained in the name of GLENDALE for the payment of Program benefits claims as set forth in Section 6, as further modified by Schedule A.

The parties agree that ASI is fiduciary of the Program only to the limited extent necessary to perform such limited fiduciary duties as expressly delegated under this Agreement. ASI shall not be deemed a fiduciary in connection with any other duty or responsibility in the administration of the Program.

Section 3
GLENDALE's Responsibilities

Applies to All Services

3.1 General Fiduciary Duties

Except as otherwise specifically delegated to ASI in this Agreement, GLENDALE has the sole authority and responsibility for the Program and its operation, including the authority and responsibility for administering, construing and interpreting the provisions of the Program and making all determinations thereunder. GLENDALE gives ASI the authority to act on behalf of GLENDALE in connection with the Program, but only as expressly stated in this Agreement or as mutually agreed in writing by GLENDALE and ASI. GLENDALE is considered the Plan Administrator and Named Fiduciary of the Program benefits which are subject to ERISA.

3.2 Funding

GLENDALE shall promptly fund an account maintained for the payment of Program benefits as described in Section 6.

3.3 Information to ASI

Upon request, GLENDALE agrees to provide ASI with information necessary for ASI's performance of duties and obligations under this Agreement, including information concerning the Program and the eligibility of individuals to participate in and receive Program benefits. ASI shall be entitled to rely, without investigation or inquiry, upon any written or oral information or communication of the GLENDALE or its agents. Such information shall be provided to ASI in the time and in the manner agreed to by GLENDALE and ASI. ASI shall have no responsibility with regard to benefits paid in error due to GLENDALE's failure to timely update such information.

GLENDALE also agrees to provide ASI with frequent updated reports summarizing eligibility data (Eligibility Reports). Eligibility Reports are not required to be made available more frequently than once a month. Unless otherwise agreed by GLENDALE and ASI, the Eligibility Reports should be provided to ASI by electronic medium. The Eligibility Reports shall specify the effective date for each Participant who is added to or terminated from participation in the Program.

GLENDALE shall be responsible for ensuring the accuracy of its Eligibility Reports, and bears the burden of proof in any dispute with ASI relating to the accuracy of any Eligibility Reports.

ASI incurs no liability to GLENDALE or any Participant as a consequence of an inaccurate Eligibility Report. Additionally, ASI is under no obligation to credit GLENDALE for any claims expenses or administrative fees incurred or paid to ASI as a consequence of GLENDALE failing to review Eligibility Reports for accuracy.

ASI shall assume that all such information is complete and accurate and is under no duty to question the completeness or accuracy of such information. Eligibility Reports are considered Protected Health Information (PHI) and, when transmitted by or maintained in electronic media shall be considered electronic PHI, and subject to the Privacy and Security Rules under HIPAA, and Section 5 of this Agreement.

3.4 Plan Documents

GLENDALE is responsible for the Program's compliance with all applicable federal and state laws and regulations and shall provide ASI with all relevant documents, including but not limited to, the Program documents and any Program amendments. GLENDALE will notify ASI of any changes to the Program at least 30 days before the effective date of such changes.

ASI may provide sample plan documents and forms for review by GLENDALE and GLENDALE's legal counsel, including plan document/summary plan description, election forms and other documents. ASI will customize such documentation only to the extent to incorporate GLENDALE's responses to certain plan design questions submitted by ASI. In addition, ASI will provide sample document changes to reflect revisions in applicable legislation or regulations. Although ASI has taken steps to ensure that its sample documents and forms are of high quality and generally comply with the applicable laws, it cannot be aware of all of the facts and circumstances that may apply to the GLENDALE or the Program.

GLENDALE acknowledges that ASI is not providing tax or legal advice and that GLENDALE should ask its legal counsel to review such documents for legal and tax compliance. GLENDALE bears sole responsibility for determining the legal and tax status of the Program. Further, ASI is not a law firm and has no authority to provide legal advice.

3.5 Liability for Claims

GLENDALE is responsible for payment of claims made pursuant to, and the benefits to be provided by, the Program. ASI does not insure or underwrite the liability of GLENDALE under the Program. Except for expenses specifically assumed by ASI in this Agreement, GLENDALE is responsible for all expenses incident to the Program.

3.6 Financial and Medical Records

In order to permit GLENDALE and/or ASI to perform their obligations under this Agreement, personal financial records or medical records may be requested. If required by law or regulation, the GLENDALE must either, in accordance with applicable state and federal law:

- Notify each Participant and provide each Participant an opportunity to opt out (if required); or
- Obtain from each Participant written authorization for release of the requested records.

3.7 HIPAA Privacy

GLENDALE shall provide ASI with the following documents, where required or applicable:

- Notice of Privacy Practices;
- Any subsequent changes to the Notice of Privacy Practices;
- Certification that GLENDALE amended the plan document as regulated by the Privacy Rule to permit disclosure of PHI to GLENDALE for plan administrative purposes;
- Certification that GLENDALE agrees to the conditions set forth in the plan amendment;
- Copies of any authorizations of Participants or beneficiaries to use or disclose PHI (and any later changes to or revocations of such authorizations);
- Notice of any restriction on the use or disclosure of PHI that GLENDALE agrees to under the Privacy Rule; and
- Notice of any requests that communications be sent to a Participant or beneficiary by an alternative means or at an alternative location that GLENDALE agrees to under the Privacy Rule.

GLENDALE shall not request ASI to use or disclose PHI in any manner that would not be permissible under the Privacy or Security Rules if done by GLENDALE, except that ASI may use or disclose PHI for purposes of Data Aggregation and the management and administrative activities of ASI, as provided in Section 5 of this Agreement.

Section 4
ASI's Responsibilities

Sections 4.1 through 4.3 Apply to All Services
Sections 4.4 to 4.13 Apply to All Services

4.1 Delegated Responsibilities

ASI's responsibilities shall be as expressly delegated to ASI in this Agreement (including the obligations listed in any Schedule to this Agreement) or any other written and signed Agreement between GLENDALE and ASI. ASI generally provides certain reimbursement and recordkeeping services, as described further below.

4.2 Service Delivery

ASI agrees to provide customer service personnel by telephone during ASI's normal business hours. ASI also agrees to provide electronic administrative services 24 hours per day, 7 days per week.

ASI will not be deemed in default of this Agreement, nor held responsible for any cessation, interruption or delay in the performance of its obligations hereunder due to causes beyond its reasonable control, including, but not limited to, natural disaster, acts of God, labor controversy, civil disturbance, disruption of the public markets, war or armed conflict, or the inability to obtain sufficient materials or services required in the conduct of its business, including Internet access, or any change in or the adoption of any law, judgment or decree.

4.3 Performance Guarantees

ASI has agreed to the performance guarantees set forth in the Schedules. The sole remedy for failure to meet the performance guarantees shall be the penalties set forth in the Schedules.

4.4 Benefits Payment

ASI agrees to, on behalf of GLENDALE, operate under the express terms of this Agreement and the Program. ASI makes the initial determination if persons covered by the Program (as described in the Eligibility Reports) are entitled to benefits under the Program and shall pay Program benefits in its usual and customary manner, to Participants as set forth in this Section 4.

GLENDALE agrees that:

- ASI has no responsibility or obligation with respect to Prior Reimbursement Requests and/or Prior Administration;
- GLENDALE will be responsible for processing Prior Reimbursement Requests (including any run-out claims submitted after the Effective Date) and maintaining legally required records of all Prior Reimbursement Requests and Prior Administration sufficient to comply with applicable legal (e.g., IRS substantiation) requirements; and
- GLENDALE shall indemnify and hold ASI harmless for any liability relating to Prior Reimbursement Requests and Prior Administration.

4.5 Reporting

ASI agrees to make available to GLENDALE each month via electronic medium (unless otherwise agreed by the parties) a master report showing the payment history and status of Participant claims and the amounts and transactions of Participant accounts during the preceding month.

For those Program benefits subject to HIPAA, GLENDALE must provide certification that the plan document requires the GLENDALE to comply with applicable Privacy and Security Rules under HIPAA before ASI will make available the reports provided for in this Section to the GLENDALE. ASI agrees to also make available to Participants each month via electronic medium a report showing their individual payment history and status of claims and the amounts and transactions in their individual accounts during the preceding month.

For those Program benefits subject to HIPAA, GLENDALE is responsible for ensuring that any beneficiary of the Participant who submits a claim agrees to the disclosure of PHI to the Participant, if required by the Privacy Rule.

4.6 Claims Appeals

ASI agrees to refer to GLENDALE or its designee, Plan Administrator, and/or Named Fiduciary for the following:

- The second and final level of appeal of an adverse benefit determination; and
- Any class of claims GLENDALE may specify, including:
  - Questions of eligibility or entitlement of the claimant for coverage under the Program;
  - Questions with respect to the amount due; or
  - Any other appeal.

4.7 Forfeited Funds

Any unclaimed benefit payments (e.g. uncashed benefit checks) are deemed forfeited.

- Upon approval of GLENDALE, ASI may use forfeited funds to offset reasonable administrative expenses. (*GLENDALE initial if applicable:* _____)

  or,

- Upon approval of GLENDALE, ASI shall tender any remaining forfeited funds (after payment of administrative expenses) to the state unclaimed property fund. (*GLENDALE initial if applicable:* _____)

4.8 Additional Documents

If GLENDALE requires, and GLENDALE and ASI mutually agree upon payment of applicable service charges, then ASI shall furnish GLENDALE:

- Sample documents for review by GLENDALE with its legal counsel, for creation of customized documentation for the Program to be approved and executed by GLENDALE, including board resolution, summary plan description, plan document and plan amendments; and
- Sample administrative forms needed for ASI to perform its duties under this Agreement.

4.9 Communication

ASI agrees to provide consulting services for and development of certain communication information.

4.10 Recordkeeping

ASI agrees to maintain for the duration of this Agreement the usual and customary books, records and documents ASI has prepared or received possession in the performance of its duties hereunder. These books, records, and documents, including electronic records, are the property of GLENDALE, and GLENDALE has the right of continuing access to them during normal business hours at ASI's offices with reasonable prior notice. If this Agreement terminates, ASI may deliver, or at GLENDALE's request, will deliver all such books, records, and documents to GLENDALE, subject to ASI's right to retain copies of any records it deems appropriate. GLENDALE shall be required to pay ASI reasonable charges for transportation or duplication of such records.

4.11 Standard of Care; Erroneous Payments

ASI shall use reasonable care and due diligence in the exercise of its powers and the performance of its duties under this Agreement. If ASI makes any payment under this Agreement to an ineligible person, or if more than the correct amount is paid, ASI shall make a diligent effort to recover any payment made to or on behalf of an ineligible person or any overpayment. However, ASI will not be liable for such payment, unless ASI would otherwise be liable under another provision of this Agreement.

ASI owes a duty of care only to the GLENDALE, which duty is one of reasonable care under the attendant circumstances. ASI is not liable for any mistake of judgment or for any action taken in good faith unless such mistake or action results in a breach of such duty of care.

4.12 Notices to GLENDALE

ASI shall provide to GLENDALE all notices (including any required opt-out notice) reflective of its privacy policies and practices as required by state and/or federal law (including the Gramm-Leach-Bliley Act).

Section 5
Compliance with Privacy and Security Rules Under HIPAA

Applies to All Services, except DCAP

5.1 Compliance with Privacy and Security Rules Under HIPAA

Contemporaneously with this Agreement, GLENDALE and ASI have entered into a Business Associate Agreement pursuant to HIPAA and the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act).

Section 6
Payment of Benefits and Funding Responsibility

Applies to Health FSA and DCAP

6.1 Payment of Benefits

GLENDALE shall maintain an account(s) at the bank of its choice, with sufficient funds for the total of the daily reimbursements. GLENDALE shall authorize ASI to debit, via Automated ClearingHouse, these accounts for the total of each day's reimbursements effective the same day as the reimbursements. Reimbursement checks and direct deposits debits will be issued from a general account maintained in the name of ASI at a bank of ASI's choice. GLENDALE shall enter into such agreements and provide instructions to its bank as are necessary to implement this Section. ASI has sole authority to provide whatever notifications, instructions, or directions are necessary to accomplish the disbursement of such Program funds to, or on behalf of, Participants in payment of approved claims.

6.2 Funding of Benefits

Funding for any payment on behalf of the Participants under the Program, including, but not limited to, all benefits to Participants in accordance with the Program, is the sole responsibility of GLENDALE, and GLENDALE agrees to accept liability for, and provide sufficient funds to satisfy, all payments to Participants under the Program, including claims for reimbursement for covered expenses, if such expenses are incurred and the claim is presented for payment during the terms of this Agreement.

6.3 Custodial Account (*GLENDALE initial if applicable:* _____)

GLENDALE further represents and agrees that:

- Neither it nor any of its employees, directors, representatives, fiduciaries, or employee benefits plans (or any entity performing services for GLENDALE or such plans) nor any of its predecessors, successors, or assigns have represented, or will represent to any Participant or beneficiary of the Program, that a separate account, fund, or trust is being held on behalf of the Program that may be used to provide or secure benefits under the plan; and

- GLENDALE shall advise the Participants and beneficiaries of the Program that the benefits under the Program shall at all times be paid out of the general assets of GLENDALE.

GLENDALE understands and agrees that any account maintained by ASI for the purpose of holding funds from the GLENDALE or covered individual to pay benefit claims and/or Program premiums will be a custodial account maintained by ASI on behalf of its employer clients, and that any amounts attributable to the GLENDALE will be accounted for separately in a notational

sub-account that is fully protected by the Federal Deposit Insurance Corporation and is subject to the GLENDALE's general creditors. ASI will have no rights with respect to such funds maintained in the GLENDALE's custodial account except as set forth herein and all funds in such account shall be used only as set forth herein.

Section 7
Indemnification

Applies to All Services

7.1 Indemnification by GLENDALE

Upon ASI's adherence to the standard of care set forth in Section 4, GLENDALE shall indemnify ASI and hold it harmless from and against all loss, liability, damage, expense, attorneys' fees or other obligations, resulting from, or arising out of, any act or omission of GLENDALE in connection with the performance of its duties hereunder. In addition, GLENDALE shall indemnify ASI and hold it harmless from and against any liability, expense, demand, or other obligation, resulting from, or out of any premium charge, tax or similar assessment (federal or state), for which the Program or GLENDALE is liable.

GLENDALE agrees to reimburse ASI for all attorney's fees and costs incurred by ASI as a result of any collection action taken by ASI to recover overdue service charges required to be paid in accordance with this Agreement or any Schedule hereto.

7.2 Indemnification by ASI

Upon GLENDALE's adherence to the standard of care set forth in Section 3, ASI shall indemnify GLENDALE and hold it harmless from and against all loss, liability, damage, expense, attorneys' fees or other obligations, resulting from, or arising out of, any act or omission of GLENDALE in connection with the performance of its duties hereunder.

Section 8
Service Charges

Applies to All Services

8.1 Service Charges

The amounts of the monthly services charges of ASI are described in the Schedules and are guaranteed through the end of the last year of the contract term. ASI may also change the monthly service charges as of the date any change is made in the Program.

8.2 Billing of Service Charges

All services charges of ASI, whether provided for in this or any other Section, shall be billed separately from statements for payment of claims so that proper accounting can be made by GLENDALE of the respective amounts paid for claims and for administrative expenses.

8.3 Payment of Service Charges

ASI will determine all service changes under this Section and bill GLENDALE monthly. Alternatively, if the parties agree, ASI may deduct payment for monthly service charges from the bank account maintained by GLENDALE as described in Section 6. GLENDALE shall make payment to ASI within 10 business days of receipt of notice of the amount due, or such amount will automatically be deducted from the bank account maintained by GLENDALE as described in Section 6.

Section 9
General Provisions

Applies to All Services

9.1 Severability; Headings

If any term of this Agreement is declared invalid by a court, the invalid term will not affect the validity of any other provision, provided that the basic purposes of this Agreement are achieved through the remaining valid provisions. The headings of sections and subsections contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

9.2 Compliance; Non-Waiver

Failure by GLENDALE or ASI to insist upon strict performance of any provision of this Agreement will not modify such provision, render it unenforceable, or waive any subsequent breach. No waiver or modification of any of the terms or provisions of this Agreement shall be valid unless in each instance the waiver or modification is accomplished pursuant to the amendment provisions of Section 9 below.

9.3 Assignment; Amendment

Neither GLENDALE nor ASI can assign this Agreement without the other party's written consent. This Agreement may be amended only by written agreement of duly authorized officers of GLENDALE and ASI.

9.4 Audits

Each party is authorized to perform audits of the records of payment to all Participants and other data specifically related to performance of the parties under this Agreement upon

reasonable prior written notice to the other. Audits shall be performed during normal working hours. Audits may be performed by an agent of either party provided such agent signs an acceptable confidentiality agreement and business associate agreement required by HIPAA and the HITECH Act. Each party agrees to provide reasonable assistance and information to the auditors. Each party also agrees to provide such additional information and reports as the other party shall reasonably request.

9.5 Non-Disclosure of Proprietary Information

- **General.** GLENDALE and ASI each acknowledge that in contemplation of entering into this Agreement (and as a result of the contractual relationship created hereby), each party has revealed and disclosed, and shall continue to reveal and disclose to the other, proprietary and/or confidential information of such party. GLENDALE and ASI agree that each party shall:

  - Keep such proprietary and/or confidential information of the other party in strict confidence;

  - Not disclose proprietary and/or confidential information of the other party to any third parties or to any of its employees not having a legitimate need to know such information; and

  - Not use proprietary and/or confidential information of the other party for any purpose not directly related to and necessary for the performance of its obligations under this Agreement (unless required to do so by a court of competent jurisdiction or a regulatory body having authority to require such disclosure).

- **Confidential Information Defined.** Information revealed or disclosed by a party for any purpose not directly related to and necessary for the performance of such party's obligations under this Agreement shall not be considered confidential information for purposes hereof:

  - If, when, and to the extent such information is or becomes generally available to the public without the fault or negligence of the party receiving or disclosing the information; or

  - If the unrestricted use of such information by the party receiving or disclosing the information has been expressly authorized in writing and in advance by an authorized representative of the other party.

  For purposes of this Section, confidential information is any information in written, human-readable, machine-readable, or electronically recorded form (and legended as confidential and/or proprietary or words of similar import) and information disclosed orally in connection with this Agreement and identified as confidential and/or proprietary (or words of similar import); and programs, policies, practices,

procedures, files, records, and correspondence concerning the parties' respective businesses or finances. The terms and conditions of this Section 9 shall survive the termination of this Agreement.

9.6 Dispute Resolution; Arbitration

In the event of a dispute by either party related to this Agreement, the parties agree to first attempt to resolve such dispute by having the parties' Chief Executive Officers (or their designees) meet in person within 30 days of written notice of dispute issued by either party. In the event the dispute is not resolved after reasonable efforts by the Chief Executive Officers within such 30 day period, either party may then proceed to arbitration under this Section. All disputes, controversies or claims arising out of or relating to the operation or interpretation of this Agreement shall be settled by arbitration before one arbitrator in accordance with the Commercial Rules of the American Arbitration Association. The arbitrator shall be jointly selected by the GLENDALE and ASI. Any award rendered by the arbitrator shall be final and binding upon the parties and judgment upon any such award may be entered in any court having jurisdiction thereof. Arbitration shall take place in Arizona, or at a location mutually agreed upon by the parties. The fees and expenses of the arbitrator shall be borne equally by the parties. Each party shall pay its own fees and costs relating to any arbitral proceedings, including experts' and attorneys' fees. The arbitrator shall render his/her determination in a manner consistent with the terms of this Agreement, and the arbitrator shall not be entitled to award punitive or exemplary damages.

9.7 Notices and Communications

- **Notices.** All notices provided for herein shall be sent by either:
  - Confirmed facsimile;
  - Guaranteed overnight mail, with tracing capability;
  - Certified mail; or
  - First class United States mail, with postage prepaid, addressed to the other party at their respective addresses set forth below or such other addresses as either party may designate in writing to the other from time to time for such purposes.

All notices provided for herein shall be deemed given or made when received.

- **Addresses.**

  - GLENDALE's address for notices as described above is:

    City of Glendale
    ATTN: Jim Brown, HR & Risk Management Executive Director
    5850 West Glendale Avenue
    Glendale, Arizona 85301

  - ASI's address for notices as described above is:

    Application Software, Inc.
    ATTN: Lesley Parisio
    201 West Broadway #4C
    Columbia, Missouri 65203

- **Communications.** GLENDALE agrees that ASI may communicate confidential, protected, privileged or otherwise sensitive information to GLENDALE through a named contact designated by GLENDALE (Named Contact) and specifically agrees to indemnify ASI and hold it harmless:

  - For any such communications directed to GLENDALE through the Named Contact attempted via facsimile, mail, telephone, e-mail or any other media, acknowledging the possibility that such communications may be inadvertently misrouted or intercepted; and

  - From any claim for the improper use or disclosure of any PHI by ASI if such information is used or disclosed in a manner consistent with its duties and responsibilities hereunder.

9.8 Termination of Agreement

- **Automatic.** This Agreement automatically terminates on the earliest of the following:

  - The effective date of any legislation which makes the Program and/or this Agreement illegal;

  - The date GLENDALE or ASI becomes insolvent, or bankrupt, or subject to liquidation, receivership, or conservatorship; or

  - The termination date of the Program. This termination is subject to any Agreement between GLENDALE and ASI regarding payment of benefits after the Program is terminated.

- **Optional.** This Agreement may be terminated as of the earliest of the following:

  - By ASI upon the failure of GLENDALE to pay any service charges within 30 business days after they are due and payable as provided in Section 8;

  - By ASI upon the failure of GLENDALE to perform its obligations, including its obligations as Plan Administrator and/or Named Fiduciary where applicable, as such terms are defined in ERISA, and in accordance with this Agreement, including the provisions of Section 3;

  - By GLENDALE upon the failure of ASI to perform its obligations in accordance with this Agreement, including the provisions of Section 4;

  - By either GLENDALE or ASI, as of the end of the term of this Agreement, by giving the other party 30 days written notice; or

  - By either GLENDALE or ASI, upon a material breach of the other party's duties under this Agreement, or upon non-material breaches of a recurrent nature, after 30 days notice in the event of a material breach, or 60 days notice in the event of a non-material breach of a recurrent nature, and the right to cure such breach by the breaching party.

- **Limited Continuation After Termination.** If the Program is terminated, GLENDALE and ASI may mutually agree in writing that this Agreement shall continue for the purpose of payment of Program benefits, expenses, or claims incurred prior to the date of Program termination. In addition, GLENDALE and ASI may mutually agree in writing that this Agreement shall continue for the purpose of payment of any claims for which requests for reimbursements have been received by ASI before the date of such termination.

  If this Agreement is continued in accordance with this subsection, GLENDALE shall pay the monthly service charges incurred during the period that this Agreement is so continued and a final termination fee equal to the final month's service charge.

- **Survival of Certain Provisions.** Termination of this Agreement does not terminate the rights or obligations of either party arising out of the period prior to such termination. The indemnity, confidentiality, privacy, and security provisions of this Agreement shall survive its termination.

9.9 Complete Agreement; Governing Law

This Agreement and Addendum (including the Schedules) is the full Agreement of the parties with respect to the subject matter hereof and supersedes all prior Agreements and representations between the parties. This Agreement shall be construed, enforced and governed by the laws of the State of Arizona.

In Witness Whereof, GLENDALE and ASI have caused this Agreement to be executed in their names by their undersigned officers, the same being duly authorized to do so.

CITY OF GLENDALE,
an Arizona municipal corporation

_____
Richard A. Bowers
Acting City Manager

ATTEST:

_____
City Clerk (SEAL)

APPROVED AS TO FORM:

_____
Nicholas C. DiPiazza
Acting City Attorney

Application Software, Inc., an Arizona corporation

_____
By:
Its:

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2013, by _____, the _____ who signed the above document.

_____
Notary Public

My Commission Expires:

_____

ADMINISTRATIVE SERVICES AGREEMENT
ADDENDUM

9.10 Immigration Law Compliance.

(a) ASI, 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 this section is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.

(c) Glendale retains the legal right to inspect the papers of ASI or subcontractor employee who performs work under this Agreement to ensure that ASI or any subcontractor is compliant with the warranty under this section above.

(d) Glendale may conduct random inspections, and upon request of Glendale, ASI shall provide copies of papers and records of ASI demonstrating continued compliance with the warranty under this section. ASI agrees to keep papers and records available for inspection by Glendale during normal business hours and will cooperate with Glendale 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.

(e) ASI agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon ASI and expressly accrue those obligations directly to the benefit of Glendale. ASI 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 Glendale.

(f) ASI's warranty and obligations under this section to Glendale is continuing throughout the term of this Agreement or until such time as Glendale determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.

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

9.11 Conflict. ASI 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 Glendale's behalf is also an employee, agent, or consultant of any other party to this Agreement.

Glossary

For the purposes of this Agreement, the following words and phrases have the meanings set forth below. Wherever appropriate, the singular shall include the plural and the plural shall include the singular.

Agreement means this ASI Administrative Services Agreement, including all Schedules hereto.

COBRA means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

Code means the Internal Revenue code of 1986, as amended.

DCAP has the meaning given in the Recitals.

Eligibility Reports has the meaning described in Section 3.

Client has the meaning given in the recitals.

ERISA means the Employee Retirement Income Security Act of 1974, as amended.

Effective Date has the meaning given in Section 1.

Electronic PHI has the meaning assigned to such term under HIPAA.

Health FSA has the meaning given in the Recitals.

HIPAA means the Health Insurance Portability and Accountability Act of 1996, as amended.

Named Fiduciary means the named fiduciary as defined in ERISA §402(a)(1).

Participant has the meaning given in Section 2.

Plan means the Health FSA or DCAP, as applicable.

Plan Administrator means the administrator as defined in ERISA §3(16)(A).

Prior Administration means services arising prior to the Effective Date.

Prior Reimbursement Requests means claims incurred prior to the Effective Date.

Program has the meaning given in the Recitals.

Protected Health Information or **PHI** has the meaning assigned to such term under HIPAA.

Schedule A
Health Flexible Spending Account (Health FSA)

Capitalized terms used in this Schedule but not defined have the meanings given in this Agreement.

GLENDALE has established a Code § 125 Cafeteria Plan under which a Code § 105 Health FSA is offered. GLENDALE has delegated certain administrative responsibilities with respect to the Health FSA to ASI.

As set forth in Section 8, the applicable service charges shall be as follows:

Standard Services Charges	**Cost**
PPPM Service Charge	$ 3.50*

Additional Service Charges	**Cost**
Set-Up Fee	N/A
Sample Documents and Forms	included
Staff Training	N/A
Online Enrollment	N/A
Open Enrollment Meetings	One day included at no cost; subsequent days will be billed at $250 per day plus travel expenses
Discrimination Testing	included
Form 5500 Preparation	N/A
Summary Annual Reports	N/A

*Only one $3.50 administrative fee is charged whether a plan participant is in one FSA category or both.

There is no per month minimum service charge.

Any courier charges incurred will be passed through at cost to the GLENDALE.

If the GLENDALE terminates the services, there will be a charge for a runoff period, should the GLENDALE choose to request one. This charge will be negotiated at the time of termination.

Services Included

GLENDALE is responsible for all legal requirements and administrative obligations with regard to the Health FSA, except for the following administrative duties specifically delegated to ASI:

- ASI shall make available (by electronic medium and paper copy) enrollment and reimbursement forms and instructions for filing Participant claims. Upon payment of additional fees, ASI shall make available other Health FSA documents.

- Upon receiving instructions from GLENDALE with regard to a Participant's change in status or other event that permits an election change under IRS regulations, ASI shall make the requested change in the Participant's election as soon as possible.

- ASI shall prepare the information necessary to enable GLENDALE to satisfy its Form 5500 filing obligation with regard to the Health FSA. GLENDALE shall be responsible for reviewing the information provided by ASI to ensure its accuracy, and, unless otherwise agreed by the parties in writing, GLENDALE shall prepare and submit any Form 5500.

- ASI shall assist GLENDALE in preparing preliminary, mid-year, and final nondiscrimination tests for the Health FSA:

  - Key employee concentration testing required under Code § 125;

  - The 55% average benefits test required under Code § 129; and

  - The 25% shareholder concentration test required under Code § 129.

- ASI shall make initial decisions with regard to Participant claims and disburse any benefit payments that it determines to be due within 30 business days of the day on which ASI receives the claim. Benefit payments shall be made by check or ACH payable to the Participant. If the amount of the claim exceeds the amount the Participant has had withheld to date, ASI will contact GLENDALE to make available such excess amount.

- ASI shall notify Participants with regard to any claims that are denied due to inadequate substantiation or data submission and provide an adequate period of time for the Participant to resubmit the claim. ASI shall follow the requirements of ERISA with regard to denial of claims.

Services Not Included

- GLENDALE's compliance with COBRA or compliance with HIPAA portability provisions.

- Determining whether GLENDALE's Health FSA documents are in compliance with the Code or any other applicable state, federal, or local statutes or regulations.

- Determining if and when an event has occurred under the IRS permitted election change regulations such that a change in election is permitted under the Health FSA.

- GLENDALE's responsibility for the determination on the second and any final level of appeal.

Schedule B
Dependent Care Assistance Program (DCAP)

Capitalized terms used in this Schedule and not defined have the meanings given in the Agreement.

GLENDALE has established a Code § 125 Cafeteria Plan under which a Code § 129 Dependent Care Assistance Program is offered. GLENDALE has delegated certain administrative responsibilities with respect to the DCAP to ASI.

As set forth in Section 8, the applicable services charges shall be as follows:

Standard Services Charges	**Cost**
PPPM Service Charge	$ 3.50 *

Additional Service Charges	**Cost**
Set-Up Fee	N/A
Sample Documents and Forms	included
Staff Training	N/A
Online Enrollment	N/A
Open Enrollment Meetings	One day included at no cost; subsequent days will be billed at $250 per day plus travel expenses

*Only one $3.50 administrative fee is charged whether a plan participant is in one FSA category or both.

There is no per month minimum service charge.

Any courier charges incurred will be passed through at cost to the GLENDALE.

If the GLENDALE terminates the services, there will be a charge for a runoff period, should the GLENDALE choose to request one. This charge will be negotiated at the time of termination.

Services Included

GLENDALE is responsible for all legal requirements and administrative obligations with regard to the DCAP, except for the following administrative duties specifically delegated to ASI:

- ASI shall make available (be electronic medium and paper copy) enrollment and reimbursement forms and instructions for filing Participant claims. Upon payment of additional fees, ASI shall make available other DCAP documents.

- Upon receiving instructions from GLENDALE with regard to a Participant's change in status or other event that permits an election change under IRS regulations, ASI shall make the requested change in the Participant's election as soon as possible.

- ASI shall assist GLENDALE in preparing preliminary, mid-year, and final nondiscrimination tests for the DCAP:

  - Key employee concentration testing required under Code § 125;

  - The 55% average benefits test required under Code § 129; and

  - The 25% shareholder concentration test required under Code § 129.

- ASI shall make initial decisions with regard to Participant claims and disburse any benefit payments that it determines to be due within 30 business days of the day on which ASI receives the claim. Benefit payments shall be made by check payable to the Participant.

- ASI shall notify Participants with regard to any claims that are denied due to inadequate substantiation or data submission and provide an adequate period of time for the Participant to resubmit the claim.

Services Not Included

- Determining whether GLENDALE's DCAP documents are in compliance with the Code or any other applicable state, federal, or local statutes or regulations.

- Determining if and when an event has occurred under the IRS permitted election change regulations such that a change in election is permitted under the DCAP.

Business Associate Agreement
between City of Glendale and Application Software, Inc.

This Agreement is made and entered into this _____ day of _____, 2013, by and between City of Glendale ("Covered Entity") and Application Software, Inc., dba ASI and ASIFlex ("Business Associate") (both parties collectively referred to herein as the "Parties").

Business Associate has entered into an arrangement with Covered Entity wherein Business Associate shall provide Covered Entity with administrative services for the flexible spending account programs, including claims payment and other related services; and

Business Associate acknowledges that it is a "Business Associate" of Covered Entity as those terms are defined by the Health Insurance Portability and Accountability Act and its implementing regulations (45 C.F.R. Parts 160-164) ("HIPAA").

In Consideration of the mutual covenants and conditions contained in this Agreement, the Parties agree as follows:

I. Definitions. Capitalized terms in this Agreement and not otherwise defined herein shall have the meanings set forth in HIPAA and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act"), which definitions are hereby incorporated by reference.

(a) *Breach.* "Breach" shall have the same meaning as the term "breach" in 45 CFR §164.402.

(b) *Breach Notification Rule.* "Breach Notification Rule" shall mean the Standards and Implementation Specifications for Notification of Breaches of Unsecured Protected Health Information under 45 CFR Parts 160 and 164, subparts A and D.

(c) *Business Associate.* "Business Associate" shall mean *Application Software, Inc.*

(d) *Covered Entity.* "Covered Entity" shall mean *City of Glendale.*

(e) *Electronic Protected Health Information.* "Electronic Protected Health Information" shall have the same meaning as the term "electronic protected health information" in 45 CFR §160.103.

(f) *Electronic Transactions Rule.* "Electronic Transactions Rule" shall mean the final regulations issued by HHS concerning standard transactions and code sets under 45 CFR Parts 160 and 162.

(g) *Enforcement Rule.* "Enforcement Rule" shall mean the Enforcement Provisions set forth in 45 CFR Part 160.

(h) *Genetic Information.* "Genetic Information" shall have the same meaning as the term "genetic information" in 45 CFR §160.103.

(i) *HHS.* "HHS" shall mean the Department of Health and Human Services.

(j) *HIPAA Rules.* "HIPAA Rules" shall mean the Privacy Rule, Security Rule, Breach Notification Rule, and Enforcement Rule.

(k) *HITECH Act.* "HITECH Act" shall mean the Health Information Technology for Economic and Clinical Health Act, enacted as part of the American Recovery and Reinvestment Act of 2009.

(l) *Privacy Rule.* "Privacy Rule" shall mean the Privacy Standards and Implementation Specifications at 45 CFR Parts 160 and 164, subparts A and E.

(m) *Protected Health Information.* "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR §160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity pursuant to this Agreement.

(n) *Required by Law.* "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR §164.103.

(o) *Security Incident.* "Security Incident" shall have the same meaning as the term "security incident" in 45 CFR §164.304.

(p) *Security Rule.* "Security Rule" shall mean the Security Standards and Implementation Specifications at 45 CFR Parts 160 and 164, subparts A and C.

(q) *Subcontractor.* "Subcontractor" shall have the same meaning as the term "subcontractor" in 45 CFR §160.103.

(r) *Transaction.* "Transaction" shall have the meaning given the term "transaction" in 45 CFR §160.103.

(s) *Unsecured Protected Health Information.* "Unsecured Protected Health Information" shall have the meaning given the term "unsecured protected health information" in 45 CFR §164.402.

II. Privacy and Security of Protected Health Information

(a) **Permitted Uses and Disclosures.** Business Associate is permitted to use and disclose Protected Health Information only as set forth below:

(i) **Functions and Activities on Covered Entity's Behalf.** To provide the following services: third party administrative services for the flexible spending account programs.

(ii) **Business Associate's Operations.** Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate. Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate or to carry out Business Associate's legal responsibilities, provided that—

(A) The disclosure is Required by Law; or

(B) Business Associate obtains reasonable assurance from any person or entity to which Business Associate will disclose Protected Health Information that the person or entity will—

(1) Hold the Protected Health Information in confidence and use or further disclose the Protected Health Information only for the purpose for which Business Associate disclosed Protected Health Information to the person or entity or as Required by Law; and

(2) Promptly notify Business Associate of any instance of which the person or entity becomes aware in which the confidentiality of Protected Health Information was breached.

(iii) **Minimum Necessary.** Business Associate will, in its performance of the functions, activities, services, and operations specified above, make reasonable efforts to use, to

disclose, and to request only the minimum amount of Protected Health Information reasonably necessary to accomplish the intended purpose of the use, disclosure, or request, except that Business Associate will not be obligated to comply with this minimum-necessary limitation if neither Business Associate nor Covered Entity is required to limit its use, disclosure, or request to the minimum necessary under the HIPAA Rules. Business Associate and Covered Entity acknowledge that the phrase "minimum necessary" shall be interpreted in accordance with the HITECH Act and the HIPAA Rules.

(b) **Prohibition on Unauthorized Use or Disclosure.** Business Associate will neither use nor disclose Protected Health Information, except as permitted or required by this Agreement or in writing by Covered Entity or as Required by Law. This Agreement does not authorize Business Associate to use or disclose Covered Entity's Protected Health Information in a manner that would violate the HIPAA Rules if done by Covered Entity, except as permitted for Business Associate's proper management and administration, as described above.

(c) **Information Safeguards.**

(i) **Privacy of Protected Health Information.** Business Associate will develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to protect the privacy of Protected Health Information. The safeguards must reasonably protect Protected Health Information from any intentional or unintentional use or disclosure in violation of the Privacy Rule and limit incidental uses or disclosures made pursuant to a use or disclosure otherwise permitted by this Agreement. To the extent the parties agree that the Business Associate will carry out directly one or more of Covered Entity's obligations under the Privacy Rule, the Business Associate will comply with the requirements of the Privacy Rule that apply to the Covered Entity in the performance of such obligations.

(ii) **Security of Covered Entity's Electronic Protected Health Information.** Business Associate will comply with the Security Rule and will use appropriate administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information that Business Associate creates, receives, maintains, or transmits on Covered Entity's behalf.

(iii) **No Transfer of PHI Outside United States.** Business Associate will not transfer Protected Health Information outside the United States without the prior written consent of the Covered Entity. In this context, a "transfer" outside the United States occurs if Business Associate's workforce members, agents, or subcontractors physically located outside the United States are able to access, use, or disclose Protected Health Information.

(d) **Subcontractors.** Business Associate will require each of its Subcontractors to agree, in a written agreement with Business Associate, to comply with the provisions of the Security Rule; to appropriately safeguard Protected Health Information created, received, maintained, or transmitted on behalf of the Business Associate; and to apply the same restrictions and conditions that

apply to the Business Associate with respect to such Protected Health Information.

(e) **Prohibition on Sale of Protected Health Information.** Business Associate shall not engage in any sale (as defined in the HIPAA rules) of Protected Health Information.

(f) **Prohibition on Use or Disclosure of Genetic Information.** Business Associate shall not use or disclose Genetic Information for underwriting purposes in violation of the HIPAA rules.

(g) **Penalties for Noncompliance.** Business Associate acknowledges that it is subject to civil and criminal enforcement for failure to comply with the HIPAA Rules, to the extent provided by the HITECH Act and the HIPAA Rules.

III. Compliance With Electronic Transactions Rule. If Business Associate conducts in whole or part electronic Transactions on behalf of Covered Entity for which HHS has established standards, Business Associate will comply, and will require any Subcontractor it involves with the conduct of such Transactions to comply, with each applicable requirement of the Electronic Transactions Rule and of any operating rules adopted by HHS with respect to Transactions.

IV. Individual Rights.

(a) **Access.** Business Associate will, within ten (10) calendar days following Covered Entity's request, make available to Covered Entity (or, at Covered Entity's written direction, to an individual or the individual's designee) for inspection and copying Protected Health Information about the individual that is in a Designated Record Set in Business Associate's custody or control, so that Covered Entity may meet its access obligations under 45 CFR §164.524. Effective September 23, 2013, if Covered Entity requests an electronic copy of Protected Health Information that is maintained electronically in a Designated Record Set in the Business Associate's custody or control, Business Associate will provide an electronic copy in the form and format specified by the Covered Entity if it is readily producible in such format; if it is not readily producible in such format, Business Associate will work with Covered Entity to determine an alternative form and format that enable Covered Entity to meet its electronic access obligations under 45 CFR §164.524.

(b) **Amendment.** Business Associate will, upon receipt of written notice from Covered Entity, promptly amend or permit Covered Entity access to amend any portion of an individual's Protected Health Information that is in a Designated Record Set in the custody or control of the Business Associate, so that Covered Entity may meet its amendment obligations under 45 CFR §164.526.

(c) **Disclosure Accounting.** To allow Covered Entity to meet its obligations to account for disclosures of Protected Health Information under 45 CFR §164.528:

(i) **Disclosures Subject to Accounting.** Business Associate will record the information specified below ("Disclosure Information") for each disclosure of Protected Health Information, not excepted from disclosure accounting as specified below, that Business Associate makes to Covered Entity or to a third party.

(ii) **Disclosures Not Subject to Accounting.** Business Associate will not be obligated to record Disclosure Information or otherwise account for disclosures of Protected

Health Information if Covered Entity need not account for such disclosures under the HIPAA Rules.

(iii) **Disclosure Information.** With respect to any disclosure by Business Associate of Protected Health Information that is not excepted from disclosure accounting under the HIPAA Rules, Business Associate will record the following Disclosure Information as applicable to the type of accountable disclosure made:

(A) **Disclosure Information Generally.** Except for repetitive disclosures of Protected Health Information as specified below, the Disclosure Information that Business Associate must record for each accountable disclosure is (i) the disclosure date, (ii) the name and (if known) address of the entity to which Business Associate made the disclosure, (iii) a brief description of the Protected Health Information disclosed, and (iv) a brief statement of the purpose of the disclosure.

(B) **Disclosure Information for Repetitive Disclosures.** For repetitive disclosures of Protected Health Information that Business Associate makes for a single purpose to the same person or entity (including Covered Entity), the Disclosure Information that Business Associate must record is either the Disclosure Information specified above for each accountable disclosure, or (i) the Disclosure Information specified above for the first of the repetitive accountable disclosures; (ii) the frequency, periodicity, or number of the repetitive accountable disclosures; and (iii) the date of the last of the repetitive accountable disclosures.

(iv) **Availability of Disclosure Information.** Business Associate will maintain the Disclosure Information for at least 6 years following the date of the accountable disclosure to which the Disclosure Information relates. Business Associate will make the Disclosure Information available to Covered Entity within ten (10) calendar days following Covered Entity's request for such Disclosure Information to comply with an individual's request for disclosure accounting.

(d) **Restriction Agreements and Confidential Communications.** Covered Entity shall notify Business Associate of any limitations in the notice of privacy practices of Covered Entity under 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information. Business Associate will comply with any notice from Covered Entity to (1) restrict use or disclosure of Protected Health Information pursuant to 45 CFR §164.522(a), or (2) provide for confidential communications of Protected Health Information pursuant to 45 CFR §164.522(b), provided that Covered Entity notifies Business Associate in writing of the restriction or confidential communications obligations that Business Associate must follow. Covered Entity will promptly notify Business Associate in writing of the termination of any such restriction or confidential communications requirement and, with respect to termination of any such restriction, instruct Business Associate whether any of the Protected Health Information will remain subject to the terms of the restriction agreement.

V. Breaches and Security Incidents.

(a) **Reporting.**

(i) **Impermissible Use or Disclosure.** Business Associate will report to Covered Entity any use or disclosure of Protected Health Information not permitted by this Agreement not more than 14 calendar days after Business Associate discovers such non-permitted use or disclosure.

(ii) **Breach of Unsecured Protected Health Information.** Business Associate will report to Covered Entity any potential Breach of Unsecured Protected Health Information not more than five (5) calendar days after discovery of such potential Breach. Business Associate will treat a potential Breach as being discovered in accordance with 45 CFR §164.410. Business Associate will make the report to Covered Entity's Privacy Officer. If a delay is requested by a law-enforcement official in accordance with 45 CFR §164.412, Business Associate may delay notifying Covered Entity for the applicable time period. Business Associate's report will include at least the following, provided that absence of any information will not be cause for Business Associate to delay the report:

(A) Identify the nature of the Breach, which will include a brief description of what happened, including the date of any Breach and the date of the discovery of any Breach;

(B) Identify the types of Protected Health Information that were involved in the Breach (such as whether full name, Social Security number, date of birth, home address, account number, diagnosis, or other information were involved);

(C) Identify who made the non-permitted use or disclosure and who received the non-permitted disclosure;

(D) Identify what corrective or investigational action Business Associate took or will take to prevent further non-permitted uses or disclosures, to mitigate harmful effects, and to protect against any further Breaches;

(E) Identify what steps the individuals who were subject to a Breach should take to protect themselves;

(F) Provide such other information, including a written report and risk assessment under 45 CFR §164.402, as Covered Entity may reasonably request.

(iii) **Security Incidents.** Business Associate will report to Covered Entity any Security Incident of which Business Associate becomes aware. Business Associate will make this report once per month, on or before the 10th calendar day of such month, except if any such Security Incident resulted in a disclosure not permitted by this Agreement or Breach of Unsecured Protected Health Information, Business Associate will make the report in accordance with the provisions set forth above. Trivial incidents that occur on a daily basis, such as scans, "pings," or unsuccessful attempts that do not penetrate computer networks or servers or result in interference with system operations will not be reported.

(b) **Mitigation.** Business Associate shall mitigate, to the extent practicable, any harmful effect known to the Business Associate resulting from a use or disclosure in violation of this Agreement.

(c) **Breach Notification to Third Parties.**

(i) Where necessary or required by law, Contractor agrees to provide by mail or (if specifically requested by the Individual) e-mail, written notification to each affected Individual of any Breach of Unsecured PHI not provided for by the Agreement of which it becomes aware and/or any Security Incident of which it becomes aware. If current contact information is unavailable, notice may be provided on Contractor's website, or major print or broadcast media (i.e. newspapers or television) in the geographic areas where the affected Individuals most likely reside.

(ii) Where necessary or required by law, Contractor agrees to provide notice to prominent media outlets following the discovery of any Breach of Unsecured PHI not

provided for by this Agreement of which it becomes aware and/or any Security Incident of which it becomes aware in which the PHI of more than 500 Individuals residing in the State or specific jurisdiction is, or is reasonably believed to have been accessed, acquired or disclosed during such Breach. If the Breach involves less than 500 Individuals, Contractor agrees to maintain a log of the Breach and to submit the log to HHS annually.

VI. Term and Termination.

(a) **Term.** This Agreement shall be effective as of July 1, 2013, and shall terminate on upon termination of underlying services agreement, subject to the provisions regarding return or destruction of PHI.

(b) **Right to Terminate for Cause.** Covered Entity may terminate this Agreement if it determines, in its sole discretion, that Business Associate has breached any provision of this Agreement, and after written notice to Business Associate of the breach, Business Associate has failed to cure the breach within thirty (30) calendar days after receipt of the notice. Any such termination will be effective immediately or at such other date specified in Covered Entity's notice of termination.

(c) **Treatment of Protected Health Information on Termination.**

(i) **Return or Destruction of Covered Entity's Protected Health Information Is Feasible.** Upon termination of this Agreement, Business Associate will, if feasible, return to Covered Entity or destroy all Protected Health Information in whatever form or medium, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is a subject of the Protected Health Information. This provision shall apply to Protected Health Information that is in the possession of any Subcontractors of Business Associate. Further, Business Associate shall require any such Subcontractor to certify to Business Associate that it has returned or destroyed all such information which could be returned or destroyed. Business Associate will complete these obligations as promptly as possible, but not later than ten (10) calendar days following the effective date of the termination of this Agreement.

(ii) **Procedure When Return or Destruction Is Not Feasible.** Business Associate will identify any Protected Health Information, including any Protected Health Information that Business Associate has disclosed to Subcontractors, that cannot feasibly be returned to Covered Entity or destroyed and explain why return or destruction is infeasible. Business Associate will limit its further use or disclosure of such information to those purposes that make return or destruction of such information infeasible. Business Associate will complete these obligations as promptly as possible, but not later than sixty (60) calendar days following the effective date of the termination or other conclusion of Agreement.

(iii) **Continuing Privacy and Security Obligation.** Business Associate's obligation to protect the privacy and safeguard the security of Protected Health Information as specified in this Agreement will be continuous and survive termination or other conclusion of this Agreement.

VII. General Provisions.

(a) **Definitions.** All terms that are used but not otherwise defined in this Agreement shall have the meaning specified under HIPAA, including its statute, regulations, and other official government guidance.

(b) **Inspection of Internal Practices, Books, and Records.** Business Associate will make its internal practices, books, and records relating to its use and disclosure of Protected Health Information available to Covered Entity and to HHS to determine compliance with the HIPAA Rules.

(c) **Amendment to Agreement.** This Agreement may be amended only by a written instrument signed by the parties. In case of a change in applicable law, the parties agree to negotiate in good faith to adopt such amendments as are necessary to comply with the change in law.

(d) **No Third-Party Beneficiaries.** Nothing in this Agreement shall be construed as creating any rights or benefits to any third parties.

(e) **Interpretation.** Any ambiguity in the Agreement shall be resolved to permit Covered Entity and Business Associate to comply with the applicable requirements under the HIPAA Rules.

(f) **Indemnification.**

(g) **Governing Law, Jurisdiction, and Venue.** This Agreement shall be governed by the law of Arizona, except to the extent preempted by federal law.

(h) **Severability.** The invalidity or unenforceability of any provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

(i) **Construction and Interpretation.** The section headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. This Agreement has been negotiated by the parties at arm's-length and each of them has had an opportunity to modify the language of the Agreement. Accordingly, the Agreement shall be treated as having been drafted equally by the parties, and the language shall be construed as a whole and according to its fair meaning. Any presumption or principle that the language is to be construed against any party shall not apply. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

(j) **Notices.** All notices and communications required by this Agreement shall be in writing. Such notices and communications shall be given in one of the following forms: (i) by delivery in person, (ii) by a nationally-recognized, next-day courier service, (iii) by first-class, registered or certified mail, postage prepaid; or (iv) by electronic mail to the address that each party specifies in writing.

(k) **Entire Agreement.** This Agreement and Addendum constitutes the entire agreement between the parties with respect to its subject matter and constitutes and supersedes all prior agreements, representations and understandings of the parties, written or oral, with regard to this same subject matter.

The Parties hereto execute this Agreement the date indicated above.

CITY OF GLENDALE,
an Arizona municipal corporation

_____
Richard A. Bowers
Acting City Manager

ATTEST:

_____
City Clerk (SEAL)

APPROVED AS TO FORM:

_____
Nicholas C. DiPiazza
Acting City Attorney

Application Software, Inc., an Arizona corporation

_____
By:
Its:

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2013, by _____, the _____ who signed the above document.

_____
Notary Public

My Commission Expires:

_____

BUSINESS ASSOCIATE AGREEMENT
ADDENDUM

VIII. Immigration Law Compliance.

(a) Business Associate, 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 this section is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.

(c) Covered Entity retains the legal right to inspect the papers of Business Associate or subcontractor employee who performs work under this Agreement to ensure that Business Associate or any subcontractor is compliant with the warranty under this section above.

(d) Covered Entity may conduct random inspections, and upon request of Covered Entity, Business Associate shall provide copies of papers and records of Business Associate demonstrating continued compliance with the warranty under this section. Business Associate agrees to keep papers and records available for inspection by Covered Entity during normal business hours and will cooperate with Covered Entity 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.

(e) Business Associate agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Business Associate and expressly accrue those obligations directly to the benefit of Covered Entity. Business Associate 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 Covered Entity.

(f) Business Associate's warranty and obligations under this section to Covered Entity is continuing throughout the term of this Agreement or until such time as Covered Entity 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.

IX. Conflict. Business Associate 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 Covered Entity's behalf is also an employee, agent, or consultant of any other party to this Agreement.

X. Governing Law. This Agreement is governed by the laws of the State of Arizona.

CITY COUNCIL REPORT

Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**AWARD OF CONTRACT 13-23 TO SP PLUS GAMEDAY FOR SHUTTLE OPERATIONS FOR STADIUM EVENTS**
Staff Contact:	**Cathy Colbath, Interim Executive Director, Transportation Services**

Purpose and Recommended Action

This is a request for City Council to award the bid and authorize the City Manager to enter into an agreement with Standard Parking Corporation (SP Plus Gameday) in an amount not to exceed $3,000,000 over the life of the five-year contract for operation of shuttles during large Stadium events.

Background Summary

As required by existing contracts with Stadium partners, the city has provided a free shuttle to guests attending large Stadium events since its opening in 2006. The shuttle operates between overflow parking lots and a depot just north of the stadium. The current contract for shuttle services expires in August 2013, and there are no additional options for renewal.

It is expected that a similar shuttle plan will remain in place for the upcoming football season that begins in August 2013. In addition to Cardinals football games and the Fiesta Bowl, the city will be required to operate shuttles during the 2015 Super Bowl. The details of this operation are pending the final decision from the National Football League on the location of the various parties and events associated with the Super Bowl. The city will be able to recoup some of the costs for this operation by charging for the service.

Staff issued Request for Proposals (RFP) 13-23 for shuttle operations for stadium events. Two proposals were received and SP Plus Gameday was selected as the most responsive, responsible proposer. The resulting contract is for an initial one-year period with the option of four annual renewals, subject to agreement by both parties.

Previous Related Council Action

On August 14, 2007, Council approved a contract with Gameday Management Group for operation of shuttle services for Stadium events.

On August 29, 2006, Council ratified a one-year agreement with Gameday Management Group for operation of shuttle services.

CITY COUNCIL REPORT

Budget and Financial Impacts

Cost	Fund-Department-Account
$330,000 annually	**1281-16840-518200, Stadium-Transportation Ops.**
$33,000 annually	**1281-16845-518200, Transportation-Fiesta Bowl Event**
$700,000 – FY2015	**To be discussed as part of the FY 2014-15 budget process**

Staff anticipates the annual expenditures during non-Super Bowl years will total approximately $363,000 for 10 Cardinals football games and the Fiesta Bowl game. This translates to $1,815,000 over the life of the five-year contract. An additional estimated $700,000 for Fiscal Year 2014-15 will cover the costs associated with operating shuttles during Super Bowl events, as required by the bid package.

The recommended not-to-exceed contract amount of $3,000,000, over the five-year period, will cover costs for additional unscheduled events that may arise, such as professional or college playoff games. These extra expenses will be covered utilizing existing operating funds. Appropriation of funds for the Super Bowl events shuttles will be discussed during the FY 2014-15 budget process.

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:	**Richard A. Bowers, Acting City Manager**
From:	**Cathy Colbath, Interim Executive Director, Transportation Services**
Item Title:	**AWARD OF CONTRACT 13-23 TO SP PLUS GAMEDAY FOR SHUTTLE OPERATIONS FOR STADIUM EVENTS**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

This report explains the proposed contract award to SP Plus Gameday (a division of Standard Parking Corporation) for providing shuttle services during stadium events.

BACKGROUND

By agreement with the Arizona Sports and Tourism Authority and the Arizona Cardinals, the city is responsible for operating free shuttles to and from overflow parking lots during large stadium events, including Cardinals football games, the Fiesta Bowl and the Super Bowl. This shuttle is required for any overflow parking located in excess of one-half mile from the stadium.

For the past seven years, the city has contracted with SP Plus Gameday to operate a shuttle service between Kellis High School and the stadium. The shuttle begins operating two hours prior to an event and commences one hour post event. On average, over 6,000 people are transported by shuttle service for each Cardinals game.

It is anticipated that the same shuttle plan will remain in place for next football season based on the current parking allocation for stadium events. In addition to Cardinals football games and the Fiesta Bowl, the city will be required to operate shuttles during the 2015 Super Bowl. The details of this operation are pending the final decision from the National Football League on the location of the various parties and events associated with the Super Bowl. The city will be able to recoup some of the costs for this operation by charging for the service.

ANALYSIS

The city's current contract with SP Plus Gameday for shuttle service expires on August 31, 2013, and there are no options for renewal. Due to the specialized nature of this service, staff issued Request for Proposal (RFP) 13-23 for shuttle operations for stadium events. Two proposals were received and evaluated by a five-person panel, including staff from Transportation Services. SP Plus Gameday was selected as the most responsive, responsible proposer. Staff recommends

entering into a contract with SP Plus Gameday. The contract is for one year with the option of four annual renewals, subject to agreement by both parties.

FISCAL IMPACTS

Per the SP Plus Gameday response to the RFP, it is estimated that the total cost to operate shuttles during each football game is $33,000. Based on these estimates, annual expenditures during non-Super Bowl years will total approximately $363,000, or $1,815,000 over the five-year contract period. An additional estimated $700,000 for Fiscal Year 2015 will cover the costs associated with operating shuttles during Super Bowl events, as required by the bid package.

There is the opportunity for the city to charge users for this service in an effort to offset the Super Bowl costs. The recommended not-to-exceed contract amount of $3,000,000, over the five-year period, will account for additional unplanned events that may arise, such as playoff games and college national championship games, as well as any variations in the length of the event, which increases labor costs.

Funds for a typical Cardinals football season and Fiesta Bowl game (11 events) are available in the operating budget in Accounts 1281-16840-518200 (Stadium – Transportation Ops.) and 1281-16845-518200 (Transportation – Fiesta Bowl Event).

Appropriation of funds for Super Bowl events shuttles will be discussed during the FY 2014-15 budget process.

C-

AGREEMENT FOR SERVICES

Shuttle Operations for Stadium Events

City of Glendale Solicitation No. 13-23

This Agreement for Services - Shuttle Operations for Stadium Events ("Agreement") is effective and entered into between CITY OF GLENDALE, an Arizona municipal corporation ("City"), and Standard Parking Corporation, a Delaware 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 pursuant to Solicitation No. 13-23, excerpts of which are set forth in **Exhibit A**, (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 Shuttle Manager (hereinafter "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 $3,000,000 (Three Million dollars) over the Term and any renewals or extensions pursuant to Paragraph 16 of this this Agreement, 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 invoices within 30 days of each event for which Project services are provided (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 otherwise mutually agreed upon by the Contractor and the City. The Payment Application may include multiple events, but the services for each event shall be itemized in detail.

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.

6.3 For Cause. Contractor may terminate this Agreement for cause if City fails to cure any monetary breach of this Agreement within fifteen (15) days after receipt of written notice specifying the

breach, or any non-monetary breach within thirty (30) days after receipt of written notice specifying the breach.

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. Limits of Liability:

Type of Insurance	Limits of Liability (Minimum)
Workers' Compensation	Statutory
Employer's Liability	
Each Accident	$1,000,000
Disease-Each Employee	$1,000,000
Disease-Policy Limit	$1,000,000

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. 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.

Each Occurrence	$1,000,000
Personal and Advertising	$1,000,000
General Aggregate	$2,000,000
Products-Completed Operations	$1,000,000

Automobile Liability shall include bodily injury and property damage for any owned, hired and non-owned vehicles used in the performance of the services.

Combined Single Limit (CSL)	$5,000,000

8.2 Workers' Compensation.

a. Contractor, performing as an independent Contractor, shall be fully responsible for providing Workers' Compensation or other applicable insurance coverage for itself and its employees and the City shall have no responsibility of liability for such insurance coverage.

b. Contractor shall be in full compliance with the provisions of the Arizona Worker's 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. Contractor 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.

c. Contractor further agrees that he shall require any and all sub-Contractors performing work under the agreement to comply with said Worker's Compensation Law. It is expressly understood and agreed that all persons employed directly or indirectly by the Contractor, or any of his sub-Contractors, shall be considered the employees of such Contractor, or his sub-Contractor(s), and not the employees of the City.

8.3 Notice of Changes. Contractor's Policies must provide for not less than 30 days' advance written notice to City Representative of:

a. Cancellation or termination of Contractor or Sub-contractor's Policies;

b. Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and

c. Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.

8.4 Certificates of Insurance.

a. 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.

b. Contractor shall provide to the City a copy of the policy or a certification by the insurance carrier along with the applicable endorsements showing the Contractor to have in effect during the term of this contract, a General Liability Insurance policy, which shall be the primary coverage for Contractor activities under this contract. The coverage limits of such insurance shall not be less than those listed below.

c. The insurance company issuing the policy required above shall have an AM Best financial rating of "A- VII" or better and be authorized by the State of Arizona Department of Insurance to transact business within the State. Except with respect to workers' compensation and employer's liability coverages**. the certificate and policy shall name the City, its officers, directors, employees, agents and assignees as an additional insured and shall be primary and non-contributory for any insurance and/or self-insurance coverage maintained by the City. The City shall also be an additional insured to the full limits of the liability insurance purchased by the Contractor even if those limits are in excess of those required by this contract.**

d. 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.

e. 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.

9. Waiver of Subrogation. Contractor hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor may acquire against the City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer

10. <u>Indemnification</u>.

10.1 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.

10.2. 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.

11. Damages. In the event Contractor fails to provide services and/or take the necessary steps to provide services as required under this Agreement, the City shall have the right to obtain services from an alternative provider. In such case, Contractor shall be obligated to pay damages in an amount equal to the cost of to cover the difference between this contract price and the price to secure services from an alternative provider.

12. Immigration Law Compliance.

12.1 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.

12.2 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.

12.3 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.

12.4 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 12.1 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.

12.5 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.

12.6 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.

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. 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.

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:

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.

14.2 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:

Standard Parking Corporation
c/o Tony Vitrano, Senior Vice President
315 East Robinson Street, Suite 505
Orlando, FL 32801

With required copy to:

Standard Parking Corporation
Attn: Legal Department
900 N. Michigan Avenue, Suite 1600
Chicago, IL 60611

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 Trevor Ebersole
5800 West Glenn Drive, Suite 315
Glendale, Arizona 85301

623-930-2940

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.

15. 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.

16. Entire Agreement; Survival; Counterparts; Signatures.

16.1 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.

16.2 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.

16.3 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.

16.4 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.

16.5 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.

16.6 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.

16.7 Counterparts. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

17. **Term.** The term of this Agreement commences on the effective date and continues through the day immediately preceding the first anniversary of such date, unless terminated earlier as provided in this Agreement. The City may, at its option and with the approval of the Contractor, extend the term of this Agreement an additional four years, renewable on an annual basis but subject to agreement by the parties on price adjustments based on Contractor's revised scope of work and budget. 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. Price adjustments will only be reviewed during the Agreement renewal period. There are no automatic renewals of this Agreement.

18. **Performance Surety Requirements.** Contractor shall, within 10 days of executing this Agreement, furnish a performance surety in the form of a bond, money order or certified or cashier's check, in the amount of $200,000 guaranteeing the faithful performance of this Agreement by Contractor. If a bond is submitted, it shall be written on the form provided by the City as an attachment to solicitation No. RFP 13-23. The attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of the power of attorney. The bond must be written by a surety with a Best Rating no less than an A and must be authorized and licensed to do business in this State by the Arizona Department of Insurance.

19. **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.

20. **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: Richard Bowers
Its: Acting City Manager

ATTEST:

_____
City Clerk (SEAL)

APPROVED AS TO FORM:

_____
Acting City Attorney

Standard Parking Corporation, a Delaware Corporation
authorized to do business in Arizona

_____
By: Tony Vitrano
Its: Senior Vice President

EXHIBIT A

13-23 Shuttle Operations for Stadium Events

PROJECT

[See attached]

1.0 PHASE 1: UNIVERSITY OF PHOENIX STADIUM FOOTBALL GAMES

The 63,000-seat capacity stadium (expandable to 73,000 seats) will be served by approximately 14,000 on-site parking spaces and another 6,000 parking spaces within walking distance.

For Arizona Cardinals games, the primary off-site parking lots are the Brown Lot and Kellis High School located at the intersection of 91st and Orangewood avenues. These lots include approximately 2,800 parking spaces. The number of designated off-site parking locations may increase for large attendance games such as the Fiesta Bowl, the BCS College Championship game, and the Super Bowl. Additional off-site parking location(s) will be determined at a later date.

A vicinity map and standard routing for automobile ingress and egress are shown in Exhibits attached to the Project solicitation.

The standard season includes ten (10) NFL games per season, (including pre-season games commencing in August 2013), a Fiesta Bowl, and other events to be determined, such as scrimmages or college games. The current football season schedule is:

- Saturday, August 17, 2013 (1:30 PM) – Cardinals vs. Dallas Cowboys
- Saturday, August 24, 2013 (7:00 PM) – Cardinals vs. San Diego Chargers
- Saturday, September 7, 2013 – University of Arizona vs. UNLV
- Sunday, September 15, 2013 (1:05 PM) – Cardinals vs. Detroit Lions
- Sunday, October 6, 2013 (1:05 PM) – Cardinals vs. Carolina Panthers
- Thursday, October 17, 2013 (5:25 PM) – Cardinals vs. Seattle Seahawks
- Sunday, October 27, 2013 (1:25 PM) – Cardinals vs. Atlanta Falcons
- Sunday, November 10, 2013 (2:25 PM) – Cardinals vs. Houston Texans
- Sunday, November 24, 2013 (2:05 PM) – Cardinals vs. Indianapolis Colts
- Sunday, December 8, 2013 (2:25 PM) – Cardinals vs. St Louis Rams
- Sunday, December 29, 2013 (2:25 PM) – Cardinals vs. San Francisco 49ers
- Wednesday, January 1, 2014 (6:30 PM) – Tostitos Fiesta Bowl

1.1 Task 1: Assistance in Review of the Stadium Football Traffic and Parking Management Plans.

1.1.1 For the past six seasons the shuttle operation has remained the same with depots at Kellis High School and Arena Lot G (see parking maps). The city anticipates this will remain constant for this Agreement; however, should a change be made the Contractor shall provide input related to the following issues:

1.1.1.1 Shuttle bus loading/unloading areas at On-site and Remote lots

1.1.1.2 Off-site parking/shuttle operations

1.1.1.3 Shuttle bus routing and priority

1.1.2 The Contractor shall be responsible for the following activities:

1.1.2.1 The Contractor shall attend and participate in city staff and Parking Operations meetings throughout the year, which meetings may be scheduled as often as monthly with a duration of one (1) hour.

1.2 Task 2: Operation of Stadium Football Shuttle Bus Service.

1.2.1 The Contractor shall be responsible for the following activities:

1.2.1.1 Work with city staff to determine the number of sites to be open for each event, the amount of anticipated off-site parking demand and the resulting shuttle bus requirements on an event-by-event basis. A plan shall be presented to city staff to review and approve no less than fourteen (14) days prior to the event. It is anticipated that Kellis High School and Arena Lot G will serve as the shuttle depots; however, this is subject to change.

1.2.1.2 Attend and participate in city staff and Parking Operations meetings and de-brief on performance of the traffic and parking plans and modifications to those plans as necessary.

1.2.1.3 Provide the necessary fleet of shuttle buses and all personnel necessary to operate the off-site parking shuttle service before, during and after events. This includes, but is not limited to the ground personnel, supervision, signage, and crowd control equipment and supplies necessary to assist in loading and unloading passengers as well as bus movement and operations at each end of the shuttle trip.

1.2.1.4 Hours of shuttle bus service operations shall commence two (2) hours prior to the game starting time and complete one (1) hour after the end of the game. The standard shuttle bus service operations are to be based on a game length of four (4) hours. These hours of operation exclude the time required for site preparation and site cleanup. Extended hours of operations may be necessitated by an extended game time beyond the four-hour standard.

1.2.1.5 Shuttle bus services shall meet ADA requirements.

2.0 PHASE 2: MULTI-PURPOSE UNIVERSITY OF PHOENIX STADIUM EVENTS

In addition to football games, the multi-purpose stadium can be used for other events including, but not limited to soccer matches, car shows, and concerts that may require fan shuttling.

The 63,000-seat capacity stadium (expandable to 73,000 seats) will be served by approximately 14,000 on-site parking spaces and another 6,000 parking spaces within walking distance.

For other stadium events, the primary off-site parking lots are the Brown Lot and Kellis High School located at the intersection of 91st and Orangewood avenues. These lots include approximately 2,800 parking spaces.

A vicinity map is shown in the Exhibits attached to the Project solicitation.

2.1 Task 1: Assistance in Review of the Event Traffic and Parking Management Plans.

2.1.1 For events other than football games, the Contractor shall provide input related to the following issues:

2.1.1.1 Shuttle bus loading/unloading areas at On-site and Remote lots

2.1.1.2 Off-site parking/shuttle operations

2.1.1.3 Shuttle bus routing and priority

2.1.2 The Contractor shall be responsible for the following activities:

2.1.2.1 The Contractor shall attend and participate in city staff and Parking Operations meetings throughout the year, which meetings may be scheduled as often as monthly, with a duration of one (1) hour.

2.2 Task 2: Operation of Stadium Football Shuttle Bus Service.

2.2.1 The Contractor shall be responsible for the following activities:

2.2.1.1 Work with city staff to determine the number of sites to be open for each event, the amount of anticipated off-site parking demand and the resulting shuttle bus requirements on an event-by-event basis. A plan shall be presented to city staff to review and approve no less than fourteen (14) days prior to the event. It is anticipated that Kellis High School and Arena Lot G will serve as the shuttle depots; however, this is subject to change.

2.2.1.2 Attend and participate in city staff and Parking Operations meetings and de-brief on performance of the traffic and parking plans and modifications to those plans as necessary.

2.2.1.3 Provide the necessary fleet of shuttle buses and all personnel necessary to operate the off-site parking shuttle service before, during and after events. This includes, but is not limited to the ground personnel, supervision, , signage, and crowd control equipment and supplies necessary to assist in loading and unloading passengers as well as bus movement and operations at each end of the shuttle trip.

2.2.1.4 Hours of shuttle bus service operations shall commence two (2) hours prior to the game starting time and complete one (1) hour after the end of the game. The standard shuttle bus service operations are to be based on a game length of four (4) hours. These hours of operation exclude the time required for site preparation and site cleanup. Extended hours of operations may be necessitated by an extended game time beyond the four-hour standard.

2.2.1.5 Shuttle bus services shall meet ADA requirements.

3.0 EMERGENCY SERVICES

3.1 During a natural disaster, or homeland security event, there may be a need for the City to access your business for products or services twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year. The need could be for a pick up or a delivery.

For this purpose, a primary and secondary emergency contact name and phone number are required from the Contractor. It is critical to the City that the Contactor's emergency contact information remains current.

All products or services provided to meet an emergency phone request are to be supplied as per the contract prices, terms and conditions. In general, the order will be placed using a City Procurement Card. The billing is to include the emergency opening fee, if applicable.

EXHIBIT B

13-23 Shuttle Operations for Stadium Events

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

Cost plus based on rates established on the following page.

NOT-TO-EXCEED AMOUNT

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the Term and any and all renewals and extensions must not exceed $3,000,000.

DETAILED PROJECT COMPENSATION

See attached.

5.0

PRICE SHEET
BEST AND FINAL OFFER

Shuttle Bus

5.1 Provide the cost for your staff to participate in the planning activities. This may include the monthly staff and Parking Operations meetings and the evaluation of the operating plans during the pre-season games.

Hourly Rate: $ N/A

5.2 Provide the hourly cost per bus of providing the shuttle bus and driver service to and from the stadium and off-site parking locations.

Bus Hourly Rate: $ Motorcoaches during regular season will be $102 per hour; during post-season and Bowl Games $155. School buses during the regular season will be $82; during post-season and Bowl Games $125.

5.3 Provide an hourly rate/lump sum for the staffing required to provide the shuttle bus service.

Staff Title: Shuttle Manager

Lump Sum Rate: $ 1600

Staff Title: Shuttle Coordinator

Hourly Rate: $ 14

Staff Title: Shuttle Assistant

Hourly Rate: $ 13

5.4 Provide the cost per event for shuttle signing and crowd control equipment.

Equipment Cost: $ 3400 per event (includes bike barricade, cones and radios). Signage will be a one time cost at the start of the season.

COMPANY NAME: SP Plus Gameday

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EXHIBIT C

13-23 Shuttle Operations for Stadium Events

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:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**AGREEMENT WITH CORPORATE JOB BANK FOR TEMPORARY STAFFING OF CUSTODIAL SERVICES AND RATIFICATION OF EXPENDITURES**
Staff Contact:	**Christina Betz, Acting Deputy Director, Public Works**

Purpose and Recommended Action

This is a request for City Council to authorize the City Manager to enter into an agreement with Corporate Job Bank in an amount not to exceed $200,000 annually for temporary staffing required to meet the cities custodial needs in fiscal year (FY) 2013-14.

This is a request for Council to ratify the expenditure of funds exceeding $50,000 to Corporate Job Bank for temporary staffing services provided in FY 2012-13.

Background Summary

The Custodial Services Division of the Public Works Department is responsible for providing the material and labor for custodial services to 52 city buildings representing 567,252 square feet of interior building space, and for city parking garages, exterior courtyards and downtown special events. Cleaning services are currently provided through 11 full time city employees and the use of temporary staffing agencies for 10 additional staff.

Temporary Staffing Agreement:

The vendor, Corporate Job Bank, was awarded this bid through a competitive bid process by the State of Arizona Contract ADSPO13-043964 on April 1, 2013 for one year with four one-year extension options, in accordance with the terms of the State of Arizona Contract.

Ratification of Expenditures:

Invoices for temporary staffing for custodial services provided by Corporate Job Bank in FY 2012-13 have exceeded the $50,000 expenditure authority limit to any single vendor. The total expenditure for custodial services temporary staffing did not exceed the department's authorized budget for the fiscal year. The expenditure was administratively approved and requires Council action to ratify the expenditure of funds exceeding $50,000 to Corporate Job Bank.

Community Benefit/Public Involvement

Custodial services are necessary to comply with state health codes, for the proper maintenance of care of public facilities, and to ensure Glendale's facilities meet the needs and expectations of the community.

Budget and Financial Impacts

The proposed agreement with Corporate Job Bank is in an amount not to exceed $200,000 annually for temporary staffing for custodial services at various city facilities and funds are available in the FY 2013-14 Field Operations, Parks, Recreation and Library Services, and Water Services operating budgets.

Attachments

Staff Report

Agreement

STAFF REPORT

To:	**Richard A. Bowers, Acting City Manager**
From:	**Christina Betz, Acting Deputy Director, Public Works**
Item Title:	**AGREEMENT WITH CORPORATE JOB BANK FOR TEMPORARY STAFFING OF CUSTODIAL SERVICES AND RATIFICATION OF EXPENDITURES**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

This report contains information on the proposed agreement for temporary staffing of custodial services at various city facilities in an amount not to exceed $200,000 for fiscal year (FY) 2013-14, and for Council to ratify the expenditure of funds exceeding $50,000 to Corporate Job Bank for temporary staffing services in FY 2012-13.

BACKGROUND

The Custodial Services Division of the Public Works Department is responsible for providing the material and labor for custodial services to 52 city buildings representing 567,252 square feet of interior building space. In addition, the Division also provides cleaning services to city parking garages, exterior courtyards and downtown special events.

Cleaning services are currently provided through 11 full time city employees and the use of temporary staffing agencies for 10 additional staff. The Custodial Services Division has been using temporary staff for many years to maintain current service levels. All of the temporary employees working in city buildings are required to satisfactorily pass a background check through the Police Department and are issued identification cards.

Temporary Staffing Agreement:

The vendor, Corporate Job Bank, was awarded this bid through a competitive bid process by the State of Arizona Contract ADSPO13-043964 on April 1, 2013 for one year with four one-year extension options, in accordance with the terms of the State of Arizona Contract. The terms and conditions for use of this State of Arizona contract is that the political subdivisions shall have entered into a Cooperative Purchasing Agreement with the Department of Administration, State Procurement Office, in which Glendale is entered.

Ratification of Expenditures:

Invoices for temporary staffing for custodial services provided by Corporate Job Bank in FY 2012-13 have exceeded the $50,000 expenditure authority limit to any single vendor. This action

occurred due to the transfer of custodial services for the Glendale Public Libraries from the Parks, Recreation and Library Services Department to the Custodial Services Division of Public Works. The services were previously being contracted out by the Library Services Division and a decision was made to bring it back in-house and to be provided by the Custodial Services Division.

Additionally, one of the city's authorized vendors for temporary staffing went bankrupt during the year and Custodial Services was forced to utilize the only other authorized vendor, Corporate Job Bank, to provide the staffing necessary to maintain city facilities.

The total expenditure for custodial services temporary staffing did not exceed the department's authorized budget for the fiscal year. The expenditure was administratively approved in order for the city to remain compliant with the billing agreement, and requires Council action to ratify the expenditure of funds exceeding $50,000 to Corporate Job Bank.

ANALYSIS

- Public Works is recommending the approval of the agreement with Corporate Job Bank in an amount not to exceed $200,000 annually for temporary staffing required to meet the city's custodial needs.
- Custodial services are necessary to comply with state health codes, for the proper maintenance of care of public facilities, and to ensure Glendale's facilities meet the needs and expectations of the community.

FISCAL IMPACTS

The cost related to this agreement to be implemented next FY is $200,000 annually and is available in the FY 2013-14 Field Operations, Parks, Recreation and Library Services, and Water Services operating budgets.

The request for Council to ratify the expenditure of funds exceeding $50,000 to Corporate Job Bank does not have a fiscal impact as expenses have already been paid from the FY 2012-13 Field Operations operating budget. Sufficient funds were available in the Custodial Service fund to pay the expenditures and the division did not go over budget for this service.

AGREEMENT FOR

Temporary Staffing for Custodial Services

Between City of Glendale and Corporate Job Bank

This Agreement for Custodial Services ("Agreement") is effective and entered into between CITY OF GLENDALE, an Arizona municipal corporation ("City"), and Corporate Job Bank., an Arizona 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. State of Arizona Contract ADSPO13-043964 (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

The parties hereby agree as follows:

1. Key Personnel; Subcontractors.

1.1 Services. Contractor 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 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 opinion, 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; 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 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. Subcontractors.

(1) Contractor may engage specific technical contractors (each a "Subcontractor") to furnish certain service functions.

(2) Contractor will remain fully responsible for Subcontractor's services.

(3) Sub-contractors must be approved by the City, unless the Subcontractor was previously mentioned in the response to the solicitation.

(4) Contractor shall certify by letter that 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. 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 Subcontractors 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 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 Contractor's contracting ability.

(2) Contractor must notify City immediately if any Approvals or Debarment changes during the Agreement's duration. 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 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) 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 will 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 Subcontractors will not exceed **$200,000.00**, 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 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.

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 Subcontractors; and

(2) Unconditional waivers and releases on final payment from 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 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 Services furnished, City will pay the amount due to Contractor, less City's damages, in accordance with the provisions of Sec. 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 Subcontractors. Contractor, and each 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 "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 limit.

(2) 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. 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 Subcontractors and covering owned, non-owned and hired automobiles.

d. Workers' Compensation and Employer's Liability. Contractor must also maintain 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 Subcontractor's Policies;

(2) Reduction of the coverage limits of any of Contractor or and Subcontractor's Policies; and

(3) Any other material modification of Contractor or Subcontractor'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 Subcontractor's Policies, which will confirm the existence or issuance of Contractor and Subcontractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Subcontractor'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 Subcontractor's Policies, or to examine Contractor and Subcontractor's Policies, or to inform Contractor or Subcontractor 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 Subcontractor 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 Subcontractors.

a. Contractor must also cause its Subcontractors to obtain and maintain the Required Insurance.

b. City may consider waiving these insurance requirements for a specific Subcontractor if City is satisfied the amounts required are not commercially available to the Subcontractor and the insurance the Subcontractor does have is appropriate for the Subcontractor's work under this Agreement.

c. Contractor 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, 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 Subcontractor 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 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 Contractor or Subcontractor employee who performs work under this Agreement to ensure that the Contractor or any Subcontractor is compliant with the warranty under this section.

9.4 City may conduct random inspections, and upon request of City, Contractor will provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under this section. 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. 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.

11. Notices.

11.1 a. A notice, request or other communication that is required or permitted under this Agreement ("Notice") will be effective only if:

(1) The Notice is in writing; and

(2) Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested).

b. 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.

c. The burden of proof of the place and time of delivery is upon the Party giving the Notice.

d. 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:

Corporate Job Bank
c/o Morris Jessup
1955 E. Broadway Road, #102
Tempe, AZ 85282

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 Christina Betz
6210 W. Myrtle Avenue, #111
Glendale, Arizona 85301
623-930-2659

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 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. 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 one year initial period. The City may, at its option and with the approval of the Contractor, extend the term of this Agreement an additional four years, 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. 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 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 effective as of the date shown above.

City of Glendale,
an Arizona municipal corporation

_____

By: Richard Bowers
Its: Acting City Manager

ATTEST:

_____

City Clerk (SEAL)

APPROVED AS TO FORM:

_____

Nicholas C. DiPiazza
Acting City Attorney

CORPORATE JOB BANK,
an Arizona Corporation

_____

By: Morris Jessup
Its: VP of Operations

EXHIBIT A

Temporary Staffing for Custodial Services

PROJECT

Temporary staffing for Janitor/Custodial Services on an "as needed" basis for City of Glendale facilities, in accordance with Arizona State Contract #ADSPO13-043964 and corresponding Solicitation No. RFP ADSPO13-00002527.

EXHIBIT B

Temporary Staffing for Custodial Services

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

The vendor, Corporate Job Bank, was awarded this bid through an evaluation process by the State of Arizona, with a State Purchasing Cooperative program of which the City is also a member.

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 **$200,000.00**.

DETAILED PROJECT COMPENSATION

PER ATTACHMENTS:

- Header Information: Master Blanket Purchase Order ADSPO13-043964 (RFP ADSPO13-00002527)
- Arizona Department of Administration/State Procurement Office, Notice of Solicitation Results
- Attachment III - Job Titles and Descriptions and Pricing for Corporate Job Bank

State of Arizona - Master Blanket

Master Blanket Purchase Order ADSPO13-043964

Header Information

Purchase Order Number:	ADSPO13-043964	**Release Number:**	0	**Short Description:**	Temporary Staffing Services
Status:	3PS - Sent	**Purchaser:**	Connie Schneider	**Receipt Method:**	Quantity
Fiscal Year:	2013	**PO Type:**	Blanket	**Minor Status:**	
Organization:	State Procurement Office				
Department:	ADSPO - State Procurement Office	**Location:**	SPO - State Procurement Office	**Type Code:**	Statewide
Alternate ID:		**Entered Date:**	03/25/2013 02:56:01 PM	**Control Code:**	
Days ARO:	0	**Retainage %:**	0.00%	**Discount %:**	0.00%
Print Dest Detail:	If Different				
Catalog ID:		**Release Type:**	Direct Release	**Pcard Enabled:**	No
Contact Instructions:	Connie.Schneider@azdoa.gov 602-542-9190	**Tax Rate:**		**Actual Cost:**	$0.00
Master Blanket/Contract End Date (Maximum):	03/31/2018 11:59:59 PM				
Project No.:					
Building Code:					
Cost Code:					
Special Purchase Types:					
PIJ NUMBER:					
Coop Spend To Date:					
Attachments:	RFP ADSPO13-00002527.zip, Corporate Job Bank Job Descriptions Revised.xlsx, ADSPO13-043964 - Corporate Job Bank Personnel.zip, Amendment One.pdf, Master Job Descriptions~37.zip, Temp Staffing Master Pricesheet~15.xlsx				

Primary Vendor Information & PO Terms

Vendor:	9000004459 - CORPORATE JOB BANK PERSONNEL SERVICES Joe DiGiovanni 1955 E. Broadway Rd Suite 102 Tempe, AZ 85282	**Payment Terms:**	Net 30	**Shipping Method:**	

Offer and Acceptance

Solicitation No.: RFP ADSPO13-00002527

Offeror: Corporate Job Bank

State of Arizona
State Procurement Office
100 N.15th Ave., Suite 201
Phoenix, AZ 85007

OFFER

TO THE STATE OF ARIZONA:
The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status.

Arizona Transaction (Sales) Privilege Tax License No.: N/A

Federal Employer Identification No.: 80-0017175

E-mail: morris@corporatejobbank.com

Phone: 480.966.0709

Fax: 480.966.1992

Corporate Job Bank
Company Name

1955 E. Broadway Rd #102
Address

Tempe, AZ 85282
City State Zip

Signature of Person Authorized to Sign Offer

Morris L. Joseph
Printed Name

VP operations
Title

By signature in the Offer section above, the Offeror certifies:

1. The submission of the Offer did not involve collusion or other anticompetitive practices.
2. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 2009-09 or A.R.S. §§ 41-1461 through 1465.
3. The Offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The Offeror certifies that the above referenced organization ___ IS/ X IS NOT a small business with less than 100 employees or has gross revenues of $4 million or less.
5. In accordance with A.R.S. §35-393, the offeror hereby certifies that the Offeror does not have scrutinized business operations in Iran.
6. In accordance with A.R.S. §35-391, the offeror hereby certifies that the Offeror does not have scrutinized business operations in Sudan.

ACCEPTANCE OF OFFER

The Offer is hereby accepted.
The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the State.
This Contract shall henceforth be referred to as Contract No. ADSPO13-043964. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contact release document or written notice to proceed.

State of Arizona
Awarded this 25th day of March 2013

Procurement Officer

Janice K. Brewer
Governor

Brian C. McNeil
Director

ARIZONA DEPARTMENT OF ADMINISTRATION
STATE PROCUREMENT OFFICE
100 NORTH FIFTEENTH AVENUE • SUITE 201
PHOENIX, ARIZONA 85007
(602) 542-5511 (main) (602) 542-5508 (fax)
http://spo.az.gov

March 25, 2013

SENT VIA EMAIL: joe@corporatejobbank.com

To: Corporate Job Bank
Attn: Joe DiGiovanni
Subject: RFP ADSPO13-00002527, Temporary Staffing Services
Notice of Solicitation Results

Dear Mr. DiGiovanni:

The proposal received from Corporate Job Bank was evaluated in accordance with the evaluation factors set forth in the solicitation, ADSPO13-00002527 for Temporary Staffing Services. I am pleased to inform you that your Company's proposal has been selected for award.

The files for this solicitation, including the resulting contract, will soon be available for public viewing online at ProcureAZ. Also included is an Evaluation Summary Report. The resulting contract shall begin on April 1, 2013.

Please note that the high-level category of "Special Expertise" is not part of this award.

The Contract requires verification of insurance be provided prior to commencement of work being performed by the Contractor. Therefore, a certificate of insurance must be submitted within ten (10) days of receipt of this correspondence.

****The certificate of insurance <u>must exactly</u> match all the requirements and language provided in the Solicitation, Special Terms and Conditions.**

Contractor shall not begin any work until the Contractor receives email notification through ProcureAZ that the contract has been sent. If you have any questions in this regard, please contact me by email at connie.schneider@azdoa.gov or by phone at (602) 542-9190.

Thank you for your proposal and for your continued interest in doing business with the State of Arizona. On behalf of the State of Arizona and the Department of Administration, I congratulate you on your contract award.

Sincerely,

Connie Schneider, C.P.M.
Sr. Procurement Officer

cc: Solicitation File – ADSPO13-00002527

Attachment III - Job Titles and Descriptions and Pricing

Solicitation No.: RFP ADSPO13-00002527 - Description: Temporary Staffing Services

Offeror: Corporate Job Bank

General Duties & Qualifications include the following at a minimum - Ability to use a variety of tools / maintenance equipment, Possess manual dexterity, Ability to perform repetitive work, Ability to follow instructions, Ability to identify flaws or imperfections in a product, Ability to handle large objects, Ability to transport items weighing up to 75 pounds, Ability to accurately count materials, Ability to walk, sit or stand for long periods of time, Knowledge of safety requirements or procedures, Safety steel toed shoes required, possess a valid Arizona's Driver's License as required by customer, Checking or inspecting materials / products to make sure they meet standards, Verifying information or accessing information in tables / lists, Counting materials and performing simple mathematical calculations, Copying numbers, codes or other information and filling out forms, Removing dirt and trash from work areas, Cleaning floors, sinks, toilets, bathtubs or showers, Dusting or wiping furniture, fixtures or equipment, Maintaining company grounds, Setting up tables, chairs or equipment, Packing materials or products into shipping containers, Sealing or wrapping packages for shipment, Placing labels or stickers on materials, Unpacking incoming materials, Checking materials for proper quantities, Requesting materials from an in-house source, Ability to meet Department of Health standards for food workers, Washing dishes, pans and utensils. Offeror may add positions as applicable to this high-level category..

LIGHT INDUSTRIAL: JOB TITLES AND DESCRIPTIONS

Scope of Work Reference #	JOB TITLE	JOB DESCRIPTION	HOURLY RATES
3.1.8 – Light Industrial - Maintenance	Janitor/Custodian - Entry Level	Additional duties and qualifications shall include the following at a minimum: Basic custodial duties including keep building/office clean and in orderly condition. Other duties to include sweeping, vacuuming, mopping, stripping, washing and buffing floors, washing walls/windows and emptying trash, cleans lavatories, kitchen facilities and rest rooms, keeps parking lots and patios clean, sets up and tears down equipment, Usually works under direct supervision but may be required to be self-directed, Knowledge of equipment and materials used in custodial work, Familiar with MSDS.	11.14
3.1.8 – Light Industrial - Maintenance	Janitor/Custodian - Mid Level	Additional duties and qualifications shall include the following at a minimum: Requires 6 months to 2 years of previous experience or equivelent combination of eduction and experience.	12.74
3.1.8 – Light Industrial - Maintenance	Janitor/Custodian - Senior Level	Additional duties and qualifications shall include the following at a minimum: Requires 2+ years previous experience or equivelent combination of education and experience.	15.55

EXHIBIT C

Temporary Staffing for Custodial 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 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 (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 15 years' experience with commercial litigation 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 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 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, 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:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**AGREEMENT WITH CLIFTONLARSONALLEN LLP FOR EXTERNAL AUDIT SERVICES**
Staff Contact:	**Diane Goke, Chief Financial Officer, Financial Services**

Purpose and Recommended Action

This is a request for City Council to authorize the City Manager to enter into an agreement for external audit services for three years and an option to renew for two more years in an amount not to exceed $475,400 beginning with the FY 2012-13 external audit.

Background Summary

The city is required to have an annual external audit performed by a certified public accountant (CPA) as part of the charter, Arizona Revised Statutes and the U.S. Office of Management and Budget.

To be eligible to provide audit services to the city, the CPA firm must be independent and licensed in Arizona; have no conflict of interest with work done for other clients; agree to abide by the city's Request for Proposal (RFP); submit a copy of its last quality control review report and have a record of quality audit work.

Community Benefit/Public Involvement

An external audit and the preparation of a Comprehensive Annual Financial Report are beneficial to citizens and the business community. The rating agencies and investors use this report to determine the financial health of the city. The report also contains useful information to Glendale's citizens on the results of financial transactions for the fiscal year.

Budget and Financial Impacts

The following amounts are for FY 2012-13, the amounts increase incrementally in years two through five of the agreement.

Cost	Fund-Department-Account
$47,791	**1000-11310-518200, Finance Administration**

CITY COUNCIL REPORT

$33,086	**1000-11801-518200, Non-Departmental**
$2,757	**1000-12120-518200, Police Support Services**
$2,757	**1000-12410-518200, Fire Administration**
$5,514	**1660-16510-518200, Transportation Program Management**

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:	**Richard A. Bowers, Acting City Manager**
From:	**Diane Goke, Chief Financial Officer, Financial Services**
Item Title:	**AGREEMENT WITH CLIFTONLARSONALLEN LLP FOR EXTERNAL AUDIT SERVICES**
Requested Council Meeting Date:	**6/25/2013**
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 to enter into an agreement for external audit services in an amount not to exceed $475,400 beginning with the FY 2012-13 audit.

BACKGROUND

The city is required to have an annual external audit performed by a certified public accountant (CPA) as part of the charter, Arizona Revised Statutes and the U.S. Office of Management and Budget.

To be eligible to provide audit services to the city, the CPA firm must be independent and licensed in Arizona; have no conflict of interest with work done for other clients; agree to abide by the city's Request for Proposal (RFP); submit a copy of its last quality control review report and have a record of quality audit work.

ANALYSIS

An RFP was issued and the city received six proposals. An evaluation panel consisting of representatives from Financial Services, Water Services and Public Works reviewed the proposals. Specific evaluation criteria included firm qualifications, firm experience, staff qualifications, staff experience, other similar government services, audit approach and pricing. CliftonLarsonAllen LLP was selected for recommendation by the evaluation panel. CliftonLarsonAllen LLP is a national CPA firm and has both government and private clients throughout the United States. CliftonLarsonAllen LLP has also audited the Cities of Mesa, Scottsdale and Surprise.

FISCAL IMPACTS

The total cost for the first three years of the contract and the options for the additional two years is an amount not to exceed $475,400.

C-475,400

PROFESSIONAL SERVICES AGREEMENT
(Not Construction Related)

This Professional Services Agreement ("Agreement") is entered into and effective between CITY OF GLENDALE, an Arizona municipal corporation ("City") and CliftonLarsonAllen LLP, a certified public accounting firm, authorized to do business in the State of Arizona, ("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. Consultant shall not engage any subcontractor for the work or services to be performed under 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 currently holds all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of Services ("Approvals"); and

b. Neither Consultant nor any Subconsultant 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. Subject to any limitations expressly stated in the Project Budget, Consultant 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, 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 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 $475,400 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

(2) Unconditional waivers and releases on final payment from all Subconsultants 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 provisions 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. Consultant, and each Subconsultant 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 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 or Subconsultant, 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 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.

a. Consultant must also cause its Subconsultants to obtain and maintain the Required Insurance.

b. City may consider waiving these insurance requirements for a specific Subconsultant if City is satisfied the amounts required are not commercially available to the Subconsultant and the insurance the Subconsultant does have is appropriate for the Subconsultant's work under this Agreement.

c. Consultant 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, 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 employee who performs work under this Agreement to ensure that the Consultant, Subconsultant, or any employee, 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 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:

Dennis Osuch, CPA, Partner
20 E Thomas Rd., #2300
Phoenix, AZ 85012
602-604-3630

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 Diane Goke, Chief Financial Officer
5850 W. Glendale Ave., #302
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 3 year initial period. The City may, at its option and with the approval of the Consultant, extend the term of this Agreement an additional 2, 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: Richard Bowers
Its: Acting City Manager

ATTEST:

_____
City Clerk (SEAL)

APPROVED AS TO FORM:

_____
City Attorney

CliftonLarsonAllen LLP,
an Arizona Limited Liability Partnership

_____
By: Dennis J. Osuch, CPA
Its: Partner

EXHIBIT A
Professional Services Agreement

PROJECT

(Cover Page)

CLIFTONLARSONALLEN, LLP

EXTERNAL AUDIT AGREEMENT

APPENDIX A

(PROJECT)

CliftonLarsonAllen LLP shall provide external audit services to the City of Glendale in accordance with the conditions and requirements of Solicitation Number RFP 13-35 External Audit Services.

EXHIBIT B
Professional Services Agreement

SCOPE OF WORK

(Cover Page)

CLIFTONLARSONALLEN LLP

EXTERNAL AUDIT SERVICES

APPENDIX B

(SCOPE OF WORK)

- Perform an annual financial audit of the City for the year ending June 30, 2013, 2014 and 2015 with the option to renew for two additional years in accordance with generally accepted auditing standards, Government Auditing Standards (2011, Revised), and the Single Audit Act Amendments of 1996, and OMB Circular No. A-133, Audits of State and Local Governments and Non-Profit Organizations.
- Provide an opinion on the City's fair presentation of the financial statements in conformity with accounting principles generally accepted in the United States of America, including and "in-relation-to" opinion on the fair presentation of supplementary schedule of expenditures of federal awards and combining information.
- Provide an independent auditors' report on compliance and on internal control over financial reporting based on an audit of the financial statements performed in accordance with Government Auditing Standards.
- Provide an independent auditors' report on compliance with requirements applicable to each major federal program and internal control over compliance in accordance with OMB Circular A-133.
- Provide a schedule of findings and questioned costs.
- Provide a schedule of prior audit findings and corrective action plan.
- Audit the City's Annual Expenditure Limitation Report and provide an opinion thereof.
- Complete the Highway User Revenue Fund Report
- Perform an attestation on Housing and Urban Development Financial Data Schedule (FDS) data as to its "fair presentation in relation to the audited basic financial statements".
- Perform agreed-upon procedures with respect to the City's compliance with the financial test option for its landfill.
- Preparation of Internal Revenue Service Form 990 for the City's Municipal Property Corporation.
- Preparation of Internal Revenue Service Form 990 for the City's Public Facilities Corporation.
- Prepare a letter to governance of our comments and recommendations regarding internal control.
- Prepare a management letter which identifies recommendations to enhance operational efficiency and effectiveness, implement best practices and plan for emerging issues (if applicable).
- Present audit results to management and City Council.
- Proactively serve as your resource throughout the year

EXHIBIT C
Professional Services Agreement

SCHEDULE

(Cover Page)

CLIFTONLARSONALLEN LLP

EXTERNAL AUDIT SERVICES

APPENDIX C

(SCHEDULE OF WORK)

Our delivery of services includes the development of a work plan which will consist of:	
Pre-audit	• We will complete our client acceptance procedures and will review prior working papers.
Planning (Week of May 20, 2013)	• A planning meeting with the City's management and staff. The purpose of this meeting is to establish a liaison between the City and CLA, develop an understanding of the exact audit time lines and expectations, as well as complete our required SAS 99 communication. • Following our planning meeting we will provide a client assistance letter specifying the items that the City's management will need to prepare or make available for our audit team, thus maximizing the efficiency of our services and ultimately minimizing the cost. • We will request documents such as grant applications and contracts. We will begin to assess internal control structures and gather file documentation.
Fieldwork (We will schedule 2 weeks of preliminary work and 2 weeks of final work)	• Fieldwork for the audit will include completing the assessment of internal controls, detailing audit procedures and performing our tests of compliance and internal controls over the applicable grant records. • We will perform our detail audit testing of the significant audit areas such as revenues and accounts receivable, capital assets, debt, cash and investments and expenditures (both personnel and non-personnel services) • We will utilize our IT staff to assess and test the controls of the general ledger system.
Communication During final fieldwork	• We will communicate with management on at least a weekly basis to share information about the status of our fieldwork. We will also share any potential management letter comments with management at that time. • We will hold an exit meeting with City representatives and City management and provide a list of any additional follow-up questions or information requests needed to conclude our audit procedures. We will also discuss logistics for issuing our final reports.
Reporting	• We will review the audit report and prepare a letter of recommendation and a communication letter for governance. We will be available to attend any and all committee and subcommittee meetings. • We will conduct an exit conference with management prior to distributing any drafts. • Delivery date of final reports will be established with management.

	Target Date
Prepare an engagement letter	Upon award of the contract
Complete an entrance conference with management	May 2013
Send a client assistance letter to prepare for the audit	May 2013
Planning procedures prior to fieldwork	May 2013
Preliminary fieldwork (2 weeks)	June and July 2013
Final fieldwork (2 weeks)	September and October 2013
Exit conference	October 2013
Provide recommendations to the CAFR	November 2013
Issuance of signed auditors' opinion	December 2013

EXHIBIT D
Professional Services Agreement

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

See detailed price sheet attached - schedule D

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 $475,400.

DETAILED PROJECT COMPENSATION

CLIFTONLARSONALLEN, LLP

EXTERNAL AUDIT SERVICES

APPENDIX D

COMPENSATION

Professional fees to be charged by the Contractor, including direct out-of-pocket expenses, are summarized as follows:

5.1 Schedule of Professional Fees and Expenses for 2012-2013 Comprehensive Annual Financial Report:

Description	Number of Hours	Standard Hourly Rate(s)	Proposed Hourly Rate	Proposed Total Dollars
Partners	40	$ 260	$ 185	$ 7,400
Managers	60	$ 170	$ 120	$ 7,200
Supervisory Staff	100	$ 150	$ 105	$ 10,500
Staff	475	$ 130	$ 90	$ 42,750
Other (Clerical)	10	$ 80	$ 55	$ 550
Total	685	N/A	N/A	$ 68,400

5.2 Schedule of Professional Fees and Expenses for the 2012-2013 Single Audit Report:

Description	Number of Hours	Standard Hourly Rate(s)	Proposed Hourly Rate	Proposed Total Dollars
Partners	10	$ 260	$ 185	$ 1,850
Managers	10	$ 170	$ 120	$ 1,200
Supervisory Staff	30	$ 150	$ 105	$ 3,150
Staff	110	$ 130	$ 90	$ 9,900
Other (Clerical)	5	$ 80	$ 55	$ 275
Total	165	N/A	N/A	$ 16,375

5.3 Schedule of Professional Fees and Expenses for the 2012-2013 Annual Expenditure Limitation Report:

Description	Number of Hours	Standard Hourly Rate(s)	Proposed Hourly Rate	Proposed Total Dollars
Partners	3	$ 260	$ 185	$ 555
Managers	2	$ 170	$ 120	$ 240
Supervisory Staff	1	$ 150	$ 105	$ 105
Staff	10	$ 130	$ 90	$ 900
Other (Clerical)	2	$ 80	$ 55	$ 110
Total	18	N/A	N/A	$ 1,910

5.4 Schedule of Professional Fees and Expenses for the 2012-2013 Agreed-Upon Procedures Report for Landfill:

Description	Number of Hours	Standard Hourly Rate(s)	Proposed Hourly Rate	Proposed Total Dollars
Partners	3	$ 260	$ 185	$ 555
Managers	2	$ 170	$ 120	$ 240
Supervisory Staff	3	$ 150	$ 105	$ 315
Staff	10	$ 130	$ 90	$ 900
Other (Clerical)	2	$ 80	$ 55	$ 110
Total	20	N/A	N/A	$ 2,120

5.5 Schedule of Professional Fees and Expenses for the 2012-2013 Preparation of Form 990 for Municipal Property Corporation and Public Facilities Corporation:

Description	Number of Hours	Standard Hourly Rate(s)	Proposed Hourly Rate	Proposed Total Dollars
Partners	4	$ 260	$ 185	$ 740
Managers	2	$ 170	$ 120	$ 240
Supervisory Staff	2	$ 150	$ 105	$ 210
Staff	20	$ 130	$ 90	$ 1,800
Other (Clerical)	2	$ 80	$ 55	$ 110
Total	30	N/A	N/A	$ 3,100

The following tables summarize our inclusive fees for the 2012-13 and subsequent 4 years for all services provided.

5.6 All Inclusive Schedule of Professional Fees and Expenses for 2012-2013:

Nature of Services Provided	Total Price
Comprehensive Annual Financial Report (Part I)	$ 68,400
Single Audit Report (Part II)	$ 16,375
Annual Expenditure Limitation Report (Part III)	$ 1,910
Agreed-Upon Procedures (Part V)	$ 2,120
Preparation of Form 990 for MPC and PFC	$ 3,100
Total	$ 91,905

5.7 All Inclusive Schedule of Professional Fees and Expenses for 2013-2014:

Nature of Services Provided	Total Price
Comprehensive Annual Financial Report (Part I)	$ 69,800
Single Audit Report (Part II)	$ 16,710
Annual Expenditure Limitation Report (Part III)	$ 1,947
Agreed-Upon Procedures (Part V)	$ 2,161
Preparation of Form 990 for MPC and PFC	$ 3,162
Total	$ 93,780

5.8 All Inclusive Schedule of Professional Fees and Expenses for 2014-2015:

Nature of Services Provided	Total Price
Comprehensive Annual Financial Report (Part I)	$ 70,725
Single Audit Report (Part II)	$ 16,935
Annual Expenditure Limitation Report (Part III)	$ 1,974
Agreed-Upon Procedures (Part V)	$ 2,192
Preparation of Form 990 for MPC and PFC	$ 3,204
Total	$ 95,030

5.9 All Inclusive Schedule of Professional Fees and Expenses for 2015-2016:

Nature of Services Provided	Total Price
Comprehensive Annual Financial Report (Part I)	$ 72,125
Single Audit Report (Part II)	$ 17,270
Annual Expenditure Limitation Report (Part III)	$ 2,011
Agreed-Upon Procedures (Part V)	$ 2,233
Preparation of Form 990 for MPC and PFC	$ 3,266
Total	$ 96,905

5.10 All Inclusive Schedule of Professional Fees and Expenses for 2016-2017:

Nature of Services Provided	Total Price
Comprehensive Annual Financial Report (Part I)	$ 73,525
Single Audit Report (Part II)	$ 17,605
Annual Expenditure Limitation Report (Part III)	$ 2,048
Agreed-Upon Procedures (Part V)	$ 2,274
Preparation of Form 990 for MPC and PFC	$ 3,328
Total	$ 98,780

5.11 Schedule of Professional Fees and Expenses for Additional Services:

Description	Number of Hours	Standard Hourly Rate(s)	Proposed Hourly Rate	Proposed Total Dollars
Partners	N/A	$ 260	$ 185	N/A
Managers	N/A	$ 170	$ 120	N/A
Supervisory Staff	N/A	$ 150	$ 105	N/A
Staff	N/A	$ 130	$ 90	N/A
Other (Clerical)	N/A	$ 80	$ 55	N/A
Total	N/A	N/A	N/A	N/A

Total amount of compensation to be paid by Contractor pursuant to this Agreement is $475,400. Although this Exhibit includes a schedule of Professional Fees and Expenses for Additional Services, any such Fees and Expenses may only be billed and collected from City if the City requests additional services during the term of this Agreement.

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:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**AGREEMENT WITH JNA CONSULTING GROUP, LLC FOR FINANCIAL ADVISORY SERVICES**
Staff Contact:	**Diane Goke, Chief Financial Officer, Financial Services**

Purpose and Recommended Action

This is a request for City Council to authorize the City Manager to enter into an agreement for financial advisory services with JNA Consulting Group, LLC.

Background Summary

The city uses financial advisory services for overall debt management including working with rating agencies, analyzing market conditions, assisting the city with preparation of offering documents, preparing an annual debt management plan and reviewing all documents that are related to debt issuances. Financial advisory services also include cash flow forecasts, preparing regulatory filings and preparing rate studies for the city's Water Services.

Community Benefit/Public Involvement

The city's financial condition is key to sound city management. A financial advisory firm gives the city guidance with complex bond transactions, rating agency discussions, rate analysis and other financial matters.

Budget and Financial Impacts

The fees paid to JNA Consulting Group, LLC are typically paid when bonds are issued and become part of the issuance costs. For FY 2013-14, the only issuance currently planned is the lease leaseback. JNA Consulting Group, LLC will be working with Water Services on their rate study which is budgeted.

Capital Expense? Yes ☐ No ☒

Budgeted? Yes ☒ No

Requesting Budget or Appropriation Transfer? Yes ☐ No ☒

If yes, where will the transfer be taken from?

CITY COUNCIL REPORT

Attachments

Staff Report

Agreement

STAFF REPORT

To:	**Richard A. Bowers, Acting City Manager**
From:	**Diane Goke, Chief Financial Officer, Financial Services**
Item Title:	**AGREEMENT WITH JNA CONSULTING GROUP, LLC FOR FINANCIAL ADVISORY SERVICES**
Requested Council Meeting Date:	**6/25/2013**
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 to enter into an agreement for financial advisory services with JNA Consulting Group, LLC for three years with an option to renew for two more years in an amount not to exceed $750,000.

BACKGROUND

The city uses financial advisory services for overall debt management including working with rating agencies, analyzing market conditions, assisting the city with preparation of offering documents, preparing an annual debt management plan and reviewing all documents that are related to debt issuances. Financial advisory services also include cash flow forecasts, preparing regulatory filings and preparing the financial plan for the city's Water Services.

ANALYSIS

The city has used three financial advisory firms in the past four years as well as a consultant to perform the city's annual Water Services financial plan. In order to increase efficiencies, staff proceeded to issue a Request for Proposal (RFP) to consolidate the services into one firm that could provide all of the city's financial advisory services, which includes a financial plan for Water Services. This adjustment is estimated to save the city $200,000 annually. In addition, as part of JNA Consulting Group, LLC's proposal, the city will not pay them a monthly retainer; instead the city will pay them on a per hour basis, plus expenses as indicated in the agreement.

An RFP was issued and the city received four proposals. An evaluation panel consisting of representatives from Financial Services, Water Services and Intergovernmental Programs reviewed the proposals. Specific evaluation criteria included firm qualifications, firm experience, staff qualifications, work management plan and pricing. JNA Consulting Group, LLC was selected for recommendation by the evaluation panel. JNA Consulting Group, LLC is a financial advisory firm with clients in Arizona, California and Nevada. The company has been one of the city's financial advisors for the past several years.

FISCAL IMPACTS

The city normally pays for financial advisory services in conjunction with the issuance of debt; however, if the city does not issue debt in a 12 month period, JNA Consulting Group, LLC will bill the city for hourly fees and expenses for the prior six months. Debt issuances include refunding's and bond issuances. The city will be billed separately for the Water Services rate study and will be paid from the Water and Sewer Fund.

PROFESSIONAL SERVICES AGREEMENT

for Financial Advisroy Services

This Professional Services Agreement ("Agreement") is entered into and effective between CITY OF GLENDALE, an Arizona municipal corporation ("City") and JNA Consulting Group, LLC, a Nevada limited liability company, registered to do business in the State of Arizona, ("Consultant") as of the _____ day of _____, 2013 ("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 $750,000 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 invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.

b. Payment Application(s) will be submitted by the Consultant to the City's Project Manager as follows:

(1) For Bond Services (as defined under SCOPE OF WORK in Exhibit B) rendered by the Consultant, Payment Application will be submitted within thirty days of issuance of bonds by the City. The Consultant additionally reserves the right to submit Payment Application to the City upon notification by the City's Project Manager to the Consultant that issuance of bonds will be indefinitely postponed.

(2) For Other Services (as defined under SCOPE OF WORK in Exhibit B) rendered, the Consultant, at its own election, will submit a Payment Application either upon completion of a project as assigned to the Consultant to the satisfaction of the City's Project Manager, or at the conclusion of the calendar quarter in which the services were rendered (each, a "Quarterly Payment Application"). The period covered by each Quarterly Payment Application will be up to the last day of the final month that has transpired since any previous Quarterly Payment Application(s).

(3) Payment Applications submitted by the Consultant will include amounts for Reimbursable Expenses outlined in Section 4.4 above.

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:

Martin R. Johnson
1400 Wyoming Street, #3
Boulder City, NV 89005

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 Diane Goke
Finance Director
5850 West Glendale Avenue, Suite 302
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 three (3) year initial period. The City may, at its option and with the approval of the Consultant, extend the term of this Agreement an additional two (2) years, 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 occur as described in Exhibit D. 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: Richard Bowers
Its: Acting City Manager

ATTEST:

_____

City Clerk (SEAL)

APPROVED AS TO FORM:

_____

Nicolas C. DiPiazza
Acting City Attorney

JNA Consulting Group LLC,
a Nevada limited liability company

_____

By:
Its:

EXHIBIT A
Professional Services Agreement

PROJECT

(Cover Page)

JNA CONSULTING GROUP, LLC

FINANCIAL ADVISORY SERVICES AGREEMENT

APPENDIX A

(PROJECT)

JNA Consulting Group, LLC shall provide financial advisory and consulting services to the City of Glendale in accordance with the conditions and requirements of Solicitation Number RFP 13-18 Financial Advisory Services.

EXHIBIT B
Professional Services Agreement

SCOPE OF WORK

(Cover Page)

JNA CONSULTING GROUP, LLC

FINANCIAL ADVISORY SERVICES AGREEMENT

APPENDIX B

(SCOPE OF WORK)

JNA Consulting Group, LLC shall provide the following financial advisory and consulting services to the City of Glendale:

Bond Services

- Work with the City's bond counsel and financing team in recommending size, structure, specific terms and conditions of a debt issue. Present information regarding methods of sale, including publicly offered and privately negotiated options;

- Assist the City in selection of formation of financing team, including preparing a list of services required of underwriter, trustee, verification agent and other professionals, as agreed upon;

- Advise on market conditions and provide information on other major national, state, and local debt issuances that may coincide or compete with the City's debt issuances;

- Distribute offering documents to generate the largest potential interest in the bonds. Advise on method and timing of sale. Facilitate the receipt of bids. Evaluate bids to determine overall interest cost;

- Review and advise on information contained in preliminary and final official statements, notices of sale, and other documents and material required to facilitate the sale of a debt issue and attend meetings as necessary;

- Provide a post-sale evaluation of debt issues (interest cost compared to other issues sold that day, responsiveness of participants, subscription for the issue, etc.);

- Advise on matters concerning disclosure requirements for debt issued local governments;

- Prepare and deliver presentations designed to facilitate an understanding of public sector financing and its implications to the City of Glendale as necessary.

- As requested by the City, coordinate and prepare presentations representing the interests of the City to:

    - Credit rating agencies, credit enhancement providers, trustees, and paying agents;
    - Assist in preparation of financial, economic, and other data to be provided.
    - Assist in planning visits to areas or entities that could have a potential impact on the rating.
    - Consult with the City regarding the expectations of a rating and strategy for improving the bond ratings; and

- Prepare closing memo, coordinate closing details, including wires of funds and delivery of other documents.

Other Services

- Develop cash flow pro-formas of anticipated revenue, which include development projects and trends in revenues;

- Review existing revenue sharing agreements, tax rebate agreements and debt commitments to determine potential impacts, if any, on the proposed financing and make appropriate recommendations to the City's financing team;
- Assist in the development of a marketing strategy and an overall investor relations program;

- Review and report on the feasibility of refunding any of the City's outstanding bond issues or lease obligations;

- Assist the City in restructuring its debt, including changes in variable rate exposure and early retirement of outstanding obligations.

- Assist in the planning of competitive and negotiated sales. Review the financial feasibility of revenue projects and assist in structuring an appropriate debt structure to meet the city's needs;

- As requested by the City, develop models demonstrating the impact of the financing of the City's financial resources. Generate various scenarios as necessary and make a recommendation as to the best overall method of financing;

- Provide guidance on the position the City should take with respect to regulatory constraints imposed by Congress and the U. S. Treasury including, but not limited to, Internal Revenue Service rules and policies;

- As requested by the City, review proposed legislation, attend and/or testify at hearings and prepare reports regarding a financial impact of proposed legislation on the City;

- Provide current information and backup on a broad range of financial, legal, and business areas. Initiate and handle any research and analytical projects that are necessary to meet the City's objectives and goals outlined above;

- As requested by the City, prepare special studies of a financial nature and review new financial products or techniques which may be proposed to the City from time to time;

- As requested by the City, develop funding strategies and options for City Staff and Council discussion, attend meetings of Staff, Council or other authorizing bodies and assist in development of ballot disclosure as requested;

- As requested by the City, perform periodic calculations of the amount of the arbitrage rebate earned, compliance with appropriate tests and submissions of a report detailing the results to the City as requested;

- Prepare regulatory filings and other reports for the city related to city issued bonds, as required;

- Prepare a debt management plan and maintain the plan annually; and

- Assist in the annual development and analysis of charges for services such as water, wastewater, sanitation and landfill.

EXHIBIT C
Professional Services Agreement

SCHEDULE

(Cover Page)

EXHIBIT C
Professional Services Agreement

SCHEDULE

Services are performed as requested, on an as-needed basis.

EXHIBIT D
Professional Services Agreement

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

The City shall pay JNA for professional services rendered on a per-hour basis.

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 $750,000.

DETAILED PROJECT COMPENSATION

The following hourly rates shall apply for services performed by the following categories of employees:

President	$ 350.00 per hour
Vice President (Deal Management)	$ 315.00 per hour
Assistant Vice President	$ 280.00 per hour
Vice President (Research)	$ 265.00 per hour
Associate	$ 245.00 per hour
Analyst	$ 235.00 per hour
Research Analyst	$ 220.00 per hour

The hourly rates above will increase above by the U.S. Department of Labor , Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average for the West Region each November 1st that this Agreement remains effective. Application of all rates charged shall be based on the employee's regular title at the time the work is performed.

Billings and Payment shall be made in accordance with Paragraph 5 of the Agreement. However, the Parties agree that the City will recive a 2% discount for the cost of professional services only if the Contractor's invoice is paid within 20 days of its receipt by the City. No discount shall be applied for any expenses incurred and billed by the Contractor .

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:	**6/25/2013**
Meeting Type:	**Voting**
Title:	**REZONING APPLICATION ZON12-03 (ORDINANCE): LUKE LAND INDUSTRIAL PARK – 6010 NORTH LITCHFIELD ROAD (PUBLIC HEARING REQUIRED)**
Staff Contact:	**Jon M. Froke, AICP, Planning Director**

Purpose and Recommended Action

This is a request by Gilmore Parsons, representing Luke Land, for City Council to approve a Rezoning Application for property located west of Litchfield Road on the north and south sides of the Bethany Home Road alignment. The request would rezone 171 acres from A-1 (Agricultural) and C-3 (Heavy Commercial) to M-1 (Light Industrial).

Staff is requesting Council to conduct a public hearing, waive reading beyond the title, and adopt an ordinance for ZON12-03, subject to the stipulations as recommended by Planning Commission.

Background Summary

The owner intends to develop a 171 acre industrial park. The applicant has submitted a conceptual land use plan that depicts six lots ranging from 11.6 acres to 57.1 acres in size.

Previous Related Council Action

On May 14, 2013, City Council approved the ordinance for AN-189, which annexed 167 acres of the subject site into the City of Glendale. Four acres of the site were previously annexed in 1992 and 1995.

Community Benefit/Public Involvement

Approval of this request would facilitate future development of the site for industrial land uses. Due to the property's location, safety and noise issues make it less suitable for residential development or non-residential development that generates large numbers of employees or customers.

On September 18, 2012, the applicant mailed 193 notification letters to adjacent property owners and interested parties. The applicant was contacted by three individuals. The first individual lives in the subdivision east of Litchfield Road and had concerns related to loss of property value, increased crime and noise, loss of desert views, and increased commercial vehicular traffic along Bethany Home Road. The applicant responded that the request complies with the existing

General Plan land use designation; an arterial street separates the proposed development from residential land uses; native desert and views are difficult to preserve in urban areas and around airports; and that commercial traffic would not choose a less expedient route to or from the property along Bethany Home Road. The second individual represented the owner of a property to the south of the subject property and supported the request and wanted to know if the applicant could include the adjacent property in the annexation and rezoning applications. The applicant responded that they could not do so due to their development schedule. The third individual represented Wigwam Resort and expressed no concerns with the proposal.

Planning did not receive any direct communication regarding the request. The applicant's Citizen Participation Final Report is attached.

A Notice of Public Hearing for the City Council hearing was published in *The Glendale Star* on June 6, 2013. Notification postcards of the public hearing were mailed to adjacent property owners and interested parties on June 7, 2013. The property was posted on June 7, 2013.

Attachments

Staff Report

Ordinance

Excerpt of Meeting Minutes

Narrative

CP Final Report

Letter

ZON12-03 Map

ZON12-03 Aerial

STAFF REPORT

To:	**Richard A. Bowers, Acting City Manager**
From:	**Jon M. Froke, AICP, Planning Director**
Item Title:	**REZONING APPLICATION ZON12-03 (ORDINANCE): LUKE LAND INDUSTRIAL PARK – 6010 NORTH LITCHFIELD ROAD (PUBLIC HEARING REQUIRED)**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

This is a request by Gilmore Parsons, representing Luke Land, for City Council to approve a Rezoning Application for property located west of Litchfield Road on the north and south sides of the Bethany Home Road alignment. The request would rezone 171 acres from A-1 (Agricultural) and C-3 (Heavy Commercial) to M-1 (Light Industrial).

BACKGROUND

1. On May 14, 2013, City Council approved the ordinance for AN-189, which annexed 167 acres of the subject site into the City of Glendale. Four acres of the site were previously annexed in 1992 and 1995.

2. The property received City of Glendale zonings of A-1 and C-3 upon annexation. The applicant is requesting to rezone the entire site to M-1.

3. The site is currently vacant. It is surrounded by Luke Air Force Base (LAFB) on the north and west, vacant land to the south in both Maricopa County and the City of Litchfield Park that is zoned residential, and mostly developed land to the east, across Litchfield Road, that is zoned Maricopa County residential and commercial. The site also surrounds a five acre property that is zoned Maricopa County residential and is used by The Wigwam Resort for organized events.

4. A majority of the property is located adjacent to the Joint Land Use Study 65 Ldn "high noise or accident potential zones" as identified by the Arizona State Statutes (A.R.S.). Approximately 10.9 acres of the property are located within the 65-70 Ldn noise contour. State legislation restricts properties within this noise contour to specific land uses. While the permitted uses of the M-1 zoning district are industrial in nature, and therefore generally permitted, each use will need to be reviewed on a case-by-case basis to ensure that the use complies with state statutes that are in effect at the time of development.

5. The property is also adjacent to but outside of the LAFB high-explosive munitions storage Quantity Distance (QD) arc and less than one mile from a jet engine maintenance test pad. The Air Force has advised that development of the property should include the mitigation of possible safety and noise issues, per the sound attenuation requirements found in the A.R.S.

6. The owner intends to develop a 171 acre industrial park. The applicant has submitted a conceptual land use plan that depicts six lots ranging from 11.6 acres to 57.1 acres in size. The master development plan includes a south-bound right turn lane on Litchfield Road at Bethany Home Road and a traffic signal at the intersection of Litchfield and Bethany Home roads.

7. Approval of a master development plan and design review will be required prior to the development of any portion of the site. The applicant's narrative states that the owner shall notify potential users within the development of the presence of LAFB, the 65 Ldn boundary, and the QD arc.

ANALYSIS

Findings:

- The proposed amendment is consistent with the policies and objectives of the Glendale General Plan.
- The proposed amendment furthers the public health, safety and general welfare of the citizens of Glendale; and
- If the amendment is to the official Zoning Map, the proposed change will include any conditions necessary to mitigate any adverse impacts on businesses, persons, or properties adjacent to the requested amendment.

Staff Analysis:

- The M-1 zoning district is the most appropriate zoning district for implementing the existing Light Industry and Luke Compatible Land Uses land use designations.
- The proposed zoning district will facilitate development that is compatible with adjacent land uses. The site is bounded by LAFB on the north and west and by Litchfield Road on the east. The portion of the property within the 65 Ldn cannot be developed with single-family residential dwellings. For reasons of safety and noise issues, its location adjacent to the QD arc makes it less suitable for residential development or non-residential development that generates large numbers of employees or customers.
- All applicable city departments have reviewed the application and recommend approval of the application, subject to stipulations.

Staff recommends approval of ZON12-03, by Ordinance, subject to the following stipulations:

1. Development shall be in substantial conformance with the project narrative dated October 30, 2012.

2. The developer shall be responsible to construct a southbound right turn lane at the intersection of Litchfield and Bethany Home roads.

3. The developer shall be responsible for installing signal foundations on the northwest corner and southwest corner of Litchfield and Bethany Home roads, which will be used for streetlights until a traffic signal is warranted. Also, the developer is required to install two #7 pull boxes and a 4 inch conduit run across Bethany Home Road (west leg).

ORDINANCE NO. 2848 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, REZONING PROPERTY LOCATED AT 6010 NORTH LITCHFIELD ROAD FROM A-1 (AGRICULTURAL) AND C-3 (HEAVY COMMERCIAL) TO M-1 (LIGHT INDUSTRIAL); AMENDING THE ZONING MAP; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Glendale Planning Commission held a public hearing on March 7, 2013 in zoning case ZON12-03 in the manner prescribed by law for the purpose of rezoning property located at 6010 North Litchfield Road from A-1 (Agricultural) and C-3 (Heavy Commercial) to M-1 (Light Industrial);

WHEREAS, due and proper notice of such Public Hearing was given in the time, form, substance and manner provided by law including publication of such notice in the *Glendale Star* on December 13, 2012; and

WHEREAS, the City of Glendale Planning Commission has recommended to the Mayor and the Council the zoning of property as aforesaid and the Mayor and the Council desire to accept such recommendation and rezone the property described on Exhibit A as aforesaid.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That a parcel of land in Glendale, Maricopa County, Arizona located at 6010 North Litchfield Road and more accurately described in Exhibit A to this ordinance, is hereby conditionally rezoned from A-1 (Agricultural) and C-3 (Heavy Commercial) to M-1 (Light Industrial).

SECTION 2. That the rezoning herein provided for be conditioned and subject to the following:

1. Development shall be in substantial conformance with the project narrative dated October 30, 2012.

2. The developer shall be responsible to construct a southbound right turn lane at the intersection of Litchfield and Bethany Home roads.

3. The developer shall be responsible for installing signal foundations on the northwest corner and southwest corner of Litchfield and Bethany Home roads, which will be used for streetlights until a traffic signal is warranted. Also, the developer is required to install two #7 pull boxes and a 4” conduit run across Bethany Home Road (west leg).

SECTION 3. Amendment of Zoning Map. The City of Glendale Zoning Map is herewith amended to reflect the change in districts referred to and the property described in Section 1 above.

SECTION 4. Effective Date. This Ordinance shall become effective at the time and in the manner prescribed by law.

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:

_____
Acting City Attorney

REVIEWED BY:

_____
Acting City Manager

z_ZON12-03

EXHIBIT A

A PORTION OF SECTION 9 AND A PORTION OF SECTION 16 ALL WITHIN TOWNSHIP 2 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 9; THENCE SOUTH 0°04' 10" WEST ALONG THE EAST LINE OF SAID SECTION 9, A DISTANCE OF 209.03 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE NORTH 88°53' 38" WEST, A DISTANCE OF 2254.56 FEET; THENCE SOUTH 0°12' 21" WEST, A DISTANCE OF 1002.32 FEET TO A POINT ON A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 6500.00 FEET AND WHOSE CENTER BEARS SOUTH 49°57' 28" EAST FROM THE LAST DESCRIBED POINT; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 1°02' 36", AN ARC LENGTH OF 118.38 FEET TO A POINT OF NON-TANGENCY; THENCE SOUTH 0°12' 21" WEST, A DISTANCE OF 946.92 FEET; THENCE SOUTH 89°55' 50" EAST, A DISTANCE OF 229.06 FEET; THENCE SOUTH 0°04' 10" WEST, A DISTANCE OF 1670.68 FEET; THENCE SOUTH 89°06' 42" EAST, A DISTANCE OF 2104.77 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 16; THENCE NORTH 0°05' 21" EAST ALONG SAID EAST LINE, A DISTANCE OF 20.00 FEET; THENCE NORTH 89°06' 42" WEST ALONG THE BOUNDARY LINE OF THAT CERTAIN PARCEL AS DESCRIBED IN DOCUMENT NUMBER 2008-0090066, RECORDS OF MARICOPA COUNTY, ARIZONA, A DISTANCE OF 520.63 FEET TO A POINT OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 373.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AND CONTINUING ALONG SAID BOUNDARY LINE, THROUGH A CENTRAL ANGLE OF 22°02' 50", AN ARC LENGTH OF 143.53 FEET TO A POINT OF TANGENCY; THENCE NORTH 67°03' 52" WEST AND CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 44.39 FEET TO A POINT OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 373.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AND CONTINUING ALONG SAID BOUNDARY LINE, THROUGH A CENTRAL ANGLE OF 24°03' 50", AN ARC LENGTH OF 156.66 FEET; THENCE NORTH 43°00' 02" WEST AND CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 64.68 FEET; THENCE NORTH 35°46' 14" EAST AND CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 390.67 FEET; THENCE SOUTH 89°54' 39" EAST AND CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 645.00 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 16; THENCE NORTH 0°05' 21" EAST ALONG SAID EAST LINE AND DEPARTING SAID BOUNDARY LINE, A DISTANCE OF 769.53 FEET TO THE NORTHEAST CORNER OF SAID SECTION 16, SAID POINT BEING IN COMMON WITH THE SOUTHEAST CORNER OF SAID SECTION 9; THENCE

NORTH 0°04' 10" EAST ALONG THE EAST LINE OF SAID SECTION 9, A DISTANCE OF 2403.87 FEET TO THE TRUE POINT OF BEGINNING,

EXCEPT THE EAST 55.00 FEET THEREOF, AND

EXCEPT THE FOLLOWING DESCRIBED PARCEL;

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 16; THENCE SOUTH 0°05' 21" WEST ALONG THE EAST LINE OF SAID SECTION 16, A DISTANCE OF 769.53 FEET; THENCE NORTH 89°54' 39" WEST, A DISTANCE OF 645.00 FEET; THENCE SOUTH 35°46' 14" WEST, A DISTANCE OF 390.67 FEET; THENCE NORTH 43°00' 02" WEST, A DISTANCE OF 225.08 FEET; THENCE NORTH 49°11' 05" WEST, A DISTANCE OF 118.94 FEET; THENCE NORTH 53°00' 21" WEST, A DISTANCE OF 111.00 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL, SAID PARCEL BEING THAT CERTAIN PARCEL AS DESCRIBED IN DOCUMENT NUMBER 1995-0190869, RECORDS OF MARICOPA COUNTY, ARIZONA; THENCE SOUTH 39°44' 37" WEST, A DISTANCE OF 18.02 FEET; THENCE SOUTH 53°00' 21" EAST, A DISTANCE OF 50.38 FEET; THENCE SOUTH 39°44' 37" WEST, A DISTANCE OF 229.25 FEET; THENCE NORTH 72°33' 57" WEST, A DISTANCE OF 450.00 FEET; THENCE NORTH 23°33' 07" EAST, A DISTANCE OF 476.74 FEET; THENCE SOUTH 54°00' 23" EAST, A DISTANCE OF 500.00 FEET; THENCE SOUTH 39°44' 37" WEST, A DISTANCE OF 74.85 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS 7,433,875 SQUARE FEET OR 170.658 ACRES, MORE OR LESS.

DESCRIPTION
Dictated
Typed
Proof-1
Proof-2 DFK
KEOGH ENGINEERING, INC.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
10846
DENNIS FRANK
KEOGH
DATE SIGNED 9/4/12
ARIZONA U.S.A.
EXPIRES 6/30/2013

MINUTES EXCERPT
CITY OF GLENDALE PLANNING COMMISSION

CITY COUNCIL CHAMBERS
5850 WEST GLENDALE AVENUE
GLENDALE, ARIZONA 85301

THURSDAY, MARCH 7, 2013
7:00PM

ZON12-03: A request by Gilmore Parsons, representing Litchfield & Bethany Home, LLC, to rezone 171 acres from A-1 (Agricultural) and C-3 (Heavy Commercial) to M-1 (Light Industrial). The site is located west of Litchfield Road on the north and south sides of Bethany Home Road (6010 North Litchfield Road). Staff Contact: Karen Stovall, Senior Planner (Yucca District)

Ms. Karen Stovall, Senior Planner presented this item. Case ZON12-03 is a request by Gilmore Parsons/Litchfield and Bethany Home L.L.C. to rezone from A-1 (Agricultural) and C-3 (Heavy Commercial to M-1 (Light Industrial). The Planning Commission must conduct a public hearing and determine if this request is in the best long-term interest of this neighborhood and consistent with the General Plan. On January 3, 2013, the Planning Commission voted to continue this item to March 7, 2013. The request to continue the item was made by staff.

Ms. Stovall said the site has RU-43 (Rural Zoning District) and C-3 Maricopa zoning. If the annexation requested is approved, the properties will initially receive City of Glendale equivalent zoning for A-1and C-3. The applicant is requesting to rezone the entire site to M-1 (Light Industrial)

She explained the site is currently vacant and is surrounded by Luke Air Force Base on the north and west, vacant land to the south in both Maricopa County and City of Litchfield Park that is zoned residential, and mostly developed land to the east, across Litchfield Road, that is zoned Maricopa County residential and commercial. The site also surrounds a five acre property that is zoned Maricopa County residential and is used by The Wigwam Resort for organized events.

The owner intends to develop a 171 acre industrial park. The applicant has submitted a conceptual land use plan that depicts six lots ranging from 11.6 acres to 57.1 acres in size. Annexation and approval of a master development plan and Design Review will be required prior to the development of any portion of the site.

Ms. Stovall continued by stating on September 18, 2012, the applicant mailed 193 notification letters to adjacent property owners and interested parties and was contacted by three individuals. The first individual lives in the subdivision east of Litchfield Road and had concerns related to loss of property value, increase crime and noise, loss of desert views, and increased commercial vehicular traffic along Bethany Home Road. The applicant responded that the request complies with the existing General Plan land use designation: an arterial street separates the proposed

APPROVED

development from residential land uses: native desert and views are difficult to preserve in urban areas and around airports: and commercial traffic would not choose a less expedient route to or from the property along Bethany Home Road. The second individual represented the owner of a property to the south of the subject property and supported the request and wanted to know if the applicant could include the adjacent property in the annexation and rezoning applications. The applicant responded that they could not do so due to their development schedule. The third individual represented Wigwam Resort and expressed no concern with the proposal. Planning staff did not receive any direct communication regarding the request.

This request would facilitate development of the 171 acre site for industrial land uses.

Ms. Stovall said in conclusion this request appears to meet the required findings for ZON12-03 approval and should be approved, subject to the following stipulations listed in the staff report.

Chairperson Petrone called for any questions from the Commission.

Upon an inquiry from Commission Larson, Ms. Stovall reiterated this request was for the rezoning application only and not for annexation. She noted the annexation hearing will go before Council not the Planning Commission.

Commissioner Williams inquired about a property shown on the map. Ms. Stovall stated that property was owned by Wigwam Resorts.

Commissioner Aldama commented on the citizens who voiced their concerns regarding the loss of desert views. He suggested the applicant continue using a desert landscaping theme for the surrounding community. Ms. Stovall agreed and added the City of Glendale always ask that developers use native and low water use plants.

Chairperson Petrone clarified the process they were undertaking today was only a recommendation for rezoning.

Chairperson Petrone called for the applicant's presentation.

Mr. Jack Gilmore with Gilmore /Parsons Land Design Group, representing Litchfield and Bethany Home L LC, stated they were anxious to start work in Glendale. He said they have had good communications with their surrounding neighbors and have addressed all community concerns. They are ready to move forward and start final design work. Mr. Gilmore called for questions from the Commission. There were none.

Chairperson Petrone thanked him for his time and application.

Chairperson Petrone called for any additional questions. There were none.

Chairperson Petrone opened the public hearing.

APPROVED

Since there were no additional public comments, he closed the public hearing.

Commissioner Williams made a motion to recommend approval of ZON12-03 subject to the stipulations listed in the staff report. Commissioner Penilla seconded the motion, which was unanimously approved.

Ms. Robberson stated the Planning Commission's actions are not final. The Commission's recommendation will be forwarded to City Council for further action.

APPROVED

NARRATIVE

ZON12-03

October 30, 2012

REZONING APPLICATION

ZON12-03

for

LUKE LAND INDUSTRIAL PARK

On approximately 171 acres, located at

6010 North Litchfield Road

Submitted September 5, 2012
2nd Submittal – October 4, 2012
3rd Submittal – October 30, 2012

Submitted For

Litchfield & Bethany Home LLC

Submitted By

Gilmore Parsons Land Design Group, Inc.

I. PROJECT TEAM

Land Owner

Litchfield & Bethany LLC
c/o Luke Lewis
7801 N. Black Canyon Hwy
Phoenix, AZ 85021
(602) 995-7575
luke@lukelandrealty.com

Applicant & Land Planner

Gilmore Parsons Land Design Group
Jack Gilmore
2211 North 7th Street
Phoenix, Arizona 85006
(602) 266-5622
jgilmore@getgilmore.com

Civil Engineer

Keogh Engineering
Dennis Keogh
14150 W. McDowell Road
Goodyear, AZ 85338
(623) 535-7260
dennis@keoghengineering.com

II. PROJECT OVERVIEW

On behalf of Litchfield & Bethany Home LLC, the property owner (Owner), Gilmore Parsons Land Design Group (Applicant) respectfully submits for consideration this application to rezone approximately 170.7 acres (the Property) from A-1 (Agricultural) and C-3 (Heavy Commercial) to M-1 (Light Industrial). This application has been filed in conjunction with a request to annex this same Property into the City the Glendale (AN-189). The Property is situated west of the intersection of Litchfield Road and Bethany Home Road in Maricopa County, Arizona. Refer to **Exhibit 1** - Vicinity Map for the location of this property. The Owner intends to develop an industrial park attracting a variety of light industrial users seeking to develop businesses in close proximity to the commerce associated with Luke Air Force Base (Luke AFB) and the expanding west valley market.

The total land area by ownership is 170. 7 acres consisting of 8 parcels: 501-58-001C, 501-58-002, 501-58-003A, 501-58-004A, 501-58-005B, 501-62-018F, 501-62-018G, and 501-62-018K. Currently, there are two existing Maricopa County zoning districts within the 170.7 acre Property. The major portion, 167.1 acres is Rural-43 (RU-43), Maricopa County's low density residential district allowing one unit per acre. The remaining 3.6 acres are situated at on west side of the intersection of Litchfield Road and Bethany Home Road, and the existing County zoning is C-3 (General Commercial). Upon annexation, this property will receive City of Glendale equivalent zoning of A-1 (Agricultural) on 167.1 acres and C-3 (Heavy Commercial) on 3.6 acres. The requested rezoning will provide uniform zoning across the property of M-1 (Light Industrial). Refer to **Exhibit 2** Existing Condition w-Aerial to locate these existing zoning districts.

There is a user, Kodiak Fresh Produce that is under contract to purchase 40 acres on the north side of Bethany Home Road at the west property line. Kodiak Fresh Produce has been in business since 1984 as a wholesale provider of fresh fruits and vegetables to grocery stores, restaurants, and other retail users throughout Arizona and the surrounding States. Kodiak Fresh Produce is intending to develop in phases, with the first phase including lot 4, an approximate 20 acre area representing the east half of the 40 acre parcel. Refer to **Exhibit 3** Conceptual Land Use Plan to locate lots 4 and 5, the Kodiak Fresh Produce parcels. The target date to obtain a Certificate of Occupancy and begin in-house operations is December 15, 2013. In order to achieve that goal, the

project design team for Kodiak Fresh Produce will be submitting a separate application for Design Review in the near future.

At the northwest corner of the Property is an approximate 10.9 acre area that is located within a 65 LDN boundary established by Luke AFB. Included within the processing of this Rezoning Application will be a letter coming from Luke AFB that will request their review and approval of any proposed developments that may be located within the defined area of the 65 Ldn boundary. Future development of property within this restricted area will be qualified by Luke AFB and the City of Glendale with the filing of the Team Pre-Application Meeting and again with the application for Design Review. Refer to **Exhibits 2** and **4** for the location of this restricted area relative to the Property and Luke AFB.

Prior to submitting these current applications for annexation and rezoning, there was consideration given to processing a rezoning application through Maricopa County. Our due diligence included an application for 'Use Compatibility and Consistency Determination' for this defined area, which was approved by Luke AFB for specific light industrial uses (refer to **Exhibit 5** for a copy of this letter). That letter and Exhibit 2 both refer to another Luke AFB safety boundary identified as the Munitions Storage Area Quantity Distance arc (QD arc). Luke AFB defines the area within the arc as "an area which structural damage from overpressure during normal operations is expected to be minimal. If a mishap should occur, however, the risk of some structural damage is still present, as well as the risk of bodily injury and possible fatalities from flying debris". The letter further qualifies that the site is "adjacent to and outside" of this QD arc. The QD arc is illustrated on **Exhibit 2** near the west property line.

A. Existing Site Conditions

The Property is currently vacant and generally in its native condition with scattered creosote and few native trees. The site is relatively flat with natural grade falling from the northwest to a low point on the Litchfield Road frontage. There is an existing 66' easement established by the City of Glendale to provide access along the Bethany Home Road section line, 33' north and 33' south. This existing access along Bethany Home Road is unimproved, but leads to a secured Luke AFB gate at the west property line.

The portion of the Property south of Bethany Home Road includes an elevated site of approximately 5 acres that is owned by the Wigwam Resort. This hilltop site is currently used by the Resort for organized events. At the southeast corner of the Property is an 8.1 acre parcel owned by Desert Joy Christian Fellowship. Neither of these 'exception' parcels is included within the annexation or rezoning associated with the Property. Please refer to **Exhibit 2**, Existing Conditions w-Aerial for the location of these exception parcels.

B. Existing Zoning

Currently, there are two existing Maricopa County zoning districts within the 170.7 acre Property. The major portion, 167.1 acres is Rural-43 (RU-43), Maricopa County's low density residential district allowing one unit per acre. The remaining 3.6 acres are situated at on west side of the intersection of Litchfield Road and Bethany Home Road, and the existing County zoning is C-3 (General Commercial). Upon annexation, this property will receive City of Glendale equivalent zoning of A-1 (Agricultural) on 167.1 acres and C-3 (Heavy Commercial) on 3.6 acres. This requested rezoning will provide uniform zoning across the entire Property of M-1 (Light Industrial). Refer to **Exhibit 2** Existing Condition w-Aerial to locate these existing zoning districts.

C. Surrounding Land Uses

The land area surrounding the Property is described as follows:

North: Along the entire north property line is an approximate 200' plus area that is vacant and under the ownership of Luke AFB that acts as a buffer separating the subject property from the active area within Luke AFB. There is an 8' security fence with barbed wire that separates the subject property. This buffer area is under the jurisdiction of Maricopa County.

East: The land area east of Litchfield Road has been developed as residential and includes a mix of Manufactured Homes, a Mobile Home Park, and a Residential Unit Plan of Development (RUPD) for single family homes. This area is under the jurisdiction of Maricopa County.

South: The adjacent land is vacant and currently zoned Residential Estate RE within the City of Litchfield Park. This area is part of a large site intended for a mixed use medical and retirement complex that extends to Camelback Road.

The initial phases of the Sun Health La Loma Medical Campus have been completed.

West: The land area immediately west is part of Luke Air Force Base. Similar to the northern boundary, the area is fenced and there is an approximate 300' undeveloped buffer area separating the subject property from any improved services areas. Please refer to the **Exhibit 2**. This area west of the Property is under the jurisdiction of Maricopa County.

D. Proposed Zoning

The Owner intends to rezone the entire land area to Light Industrial, M-1. The packaging, warehousing and distribution by Kodiak Fresh Produce are permitted uses within the M-1 district. The approximate 10.9 acres that is situated within Luke AFB's 65-Ldn noise contour will be subject to special consideration and approval by Luke AFB under separate applications when that northern area is proposed for development.

E. General Plan Conformance

The Glendale General Plan 2025 designation for the major portion of the Property is Light Industrial (LI). Of the 170.7 acres, this Light Industrial designation includes 159.8 acres or 94% of the Property. The Light Industrial land use is intended to provide areas for the development of light industrial activity involving light manufacturing, assembling, warehousing, and wholesale activities with associated office space and support uses. The balance of the Property, 10.9 acres is within the 65 Ldn boundary established by Luke AFB and is designated as Luke Compatible Land Use (LCLU). Refer to **Exhibit 6**, Glendale General Plan 2025 that illustrates the location of the Property relative to the General Plan Land Use Map. The City of Glendale has long recognized the importance of Luke AFB as an economic generator for the City and is committed to preserving its function as a military training base. The proposed M-1 zoning supports the LCLU land use by restricting residential development and promoting light industrial developments recognizing the state legislation that ensures land use compatibility around Luke AFB. Future site development within the 65Ldn boundary will be further scrutinized as part of the City's Design Review process.

F. Existing Improvements

Litchfield Road: There is an existing ROW of 110' that is currently under the jurisdiction of the City of Glendale. Improvements include 5 lanes of traffic, 2 each way plus a common left turn lane. There is a paved shoulder along the west side, but no curb, gutter or sidewalk.

Bethany Home Road: West of Litchfield Road, Bethany Home Road is a partially graded road leading to a secured gate for Luke AFB. There is a 66' roadway easement for the City of Glendale.

III. GENERAL DEVELOPMENT PLAN

With Kodiak Fresh Produce under contract to purchase 40 acres, the Owner intends to annex and rezone the Property to Light Industrial M-1. Providing a site for Kodiak Fresh Produce that can be "shovel ready" is the highest priority for the project team members. As the initial user, infrastructure improvements will be phased to satisfy access and utility services to their first phase of development. These initial improvements will include access and utilities along Bethany Home Road west of Litchfield Road. Included with the application for Design Review for Kodiak Fresh Produce will be a Master Development Plan that will include: proposed access points for all 6 lots, the proposed streetscape for Litchfield Road and Bethany Home Road, and general descriptions of the architectural themes, building colors and materials.

As the adjacent lots 1, 2, 3, and 6 are acquired and/or developed, additional street improvements and utility extensions can be planned for orderly and efficient expansion. Liberty Water is the designated provider for water and sewer service. The subject property is within their service area for water, but outside their service boundary for sanitary sewer service. The Owner will participate in an application to MAG to amend the 208 Plan and expand the CC&N Boundaries.

The Owner will continue to market the balance of the property to potential light industrial users and industrial developers interested in establishing a business in close proximity to Luke AFB. With the recent announcement that Luke will become the training base for the new F-35 interceptor jets, the Owner anticipates that there will be new business interests seeking proximate locations to the commerce associated with a military air base. The Property also fronts onto Litchfield Road, a major arterial with expedient access to both Interstate 10 (4.5 miles south), the Loop 101 (5 miles east along

Glendale Avenue), and eventually to the Loop 303 (4.5 miles west along Camelback Road). As these new users come forward, subsequent applications for Design Review will be processed ensuring both Luke AFB and the City of Glendale with compatible development projects.

A. Land Use

Luke Land Industrial Park will be developed in accordance with all land use regulations as set forth in Section 5.840 M-1 Light Industrial of the Glendale Zoning Ordinance. Recognizing the sensitivity of adjacent land uses and considering Luke AFB's recommendation for a "strong notification program on the part of the applicant" to inform potential tenants, the Owner shall notify all potential users within the Industrial Park of the presence of Luke AFB, the 65 Ldn Boundary, and the Munitions Storage Area Quantity Distance arc (QD arc).

B. Access and Circulation

The primary access for the Luke Land Industrial Park will be Litchfield Road; a designated major arterial road that links directly with Interstate 10 approximately 4.5 miles to the south. Litchfield Road along with Glendale Avenue provides the primary access to Luke AFB. The Loop 101 is located 6 miles east at the interchange with Glendale Avenue. Construction of the Loop 303 is underway and it too will provide another regional route around the Valley. The most direct route will be south to Camelback Road then west a total of 4.5 miles to the Loop 303 interchange.

The City of Glendale's Roadway Functional Classification Plan has identified Litchfield Road as a major arterial. East of Litchfield Road, Bethany Home Road is a minor arterial that terminates 2 miles east at El Mirage Road. This portion of Bethany Home Road provides access to an extensive residential area and should not be impacted by the users within Luke Land Industrial Park who will seek more expedient routes to the regional freeway systems. There is no recognition of Bethany Home Road west of Litchfield Road. Because of the configuration of Luke AFB, it is highly unlikely that Bethany Home Road will ever extend past the subject property. Subject to further traffic assessments, and considering additional ingress and egress off Litchfield Road, the Owner intends to request abandonment of the existing 66' City of Glendale easement and develop this portion of Bethany Home Road as a private road with access easements for the adjacent lots and for Luke AFB.

C. Street Improvements

Street improvements will be phased and constructed per City of Glendale standards.

Litchfield Road: Will continue as a 5 lane arterial. No additional dedication of ROW beyond the existing west 55' is expected at this time. A south bound right turn/ deceleration lane will be installed at the approach to Bethany Home Road. Future improvements will be associated with later phases of the Industrial Park for their portions of the frontage. Provisions for a future signal at Bethany Home Road will be included with the first phase of development as approved by the Glendale Engineering Dept.

Bethany Home Road: will be developed as a private road with 3 lanes of traffic, one each way with a common left turn lane. The road will terminate at this project's west property line. A partially improved roadway will extend west from the cul-de-sac to provide access for Luke AFB to their existing gate. Details of these improvements are to be approved by Luke AFB and the City of Glendale with the improvements planned for the first phase of development.

D. Traffic Signals

The Owner shall be required to participate in the cost for a traffic signal at the intersection of Litchfield Road and Bethany Home Road. The City of Glendale has recently initiated a signal warrant study for Dreaming Summit Elementary School to determine the potential warrants for signals along Litchfield Road at both Bethany Home Road and Missouri Avenue. Details will be resolved with the Glendale Engineering and Transportation Departments as a condition of completing the required off-site improvement plans.

E. Landscape

The selection of landscape materials prescribed for trees, shrubs, groundcovers and accents will be selected from the Arizona Department of Water Resources low water use plant list for the Phoenix Active Management Area (Phoenix AMA). A Master Plant Schedule and Master Landscape Theme will be submitted with the first phase of development when Kodiak Fresh Produce submits for Design Review. The size and quantities of plant material shall conform to the landscape standards in Chapter 19 of the Code of the City of Glendale.

F. Water Service

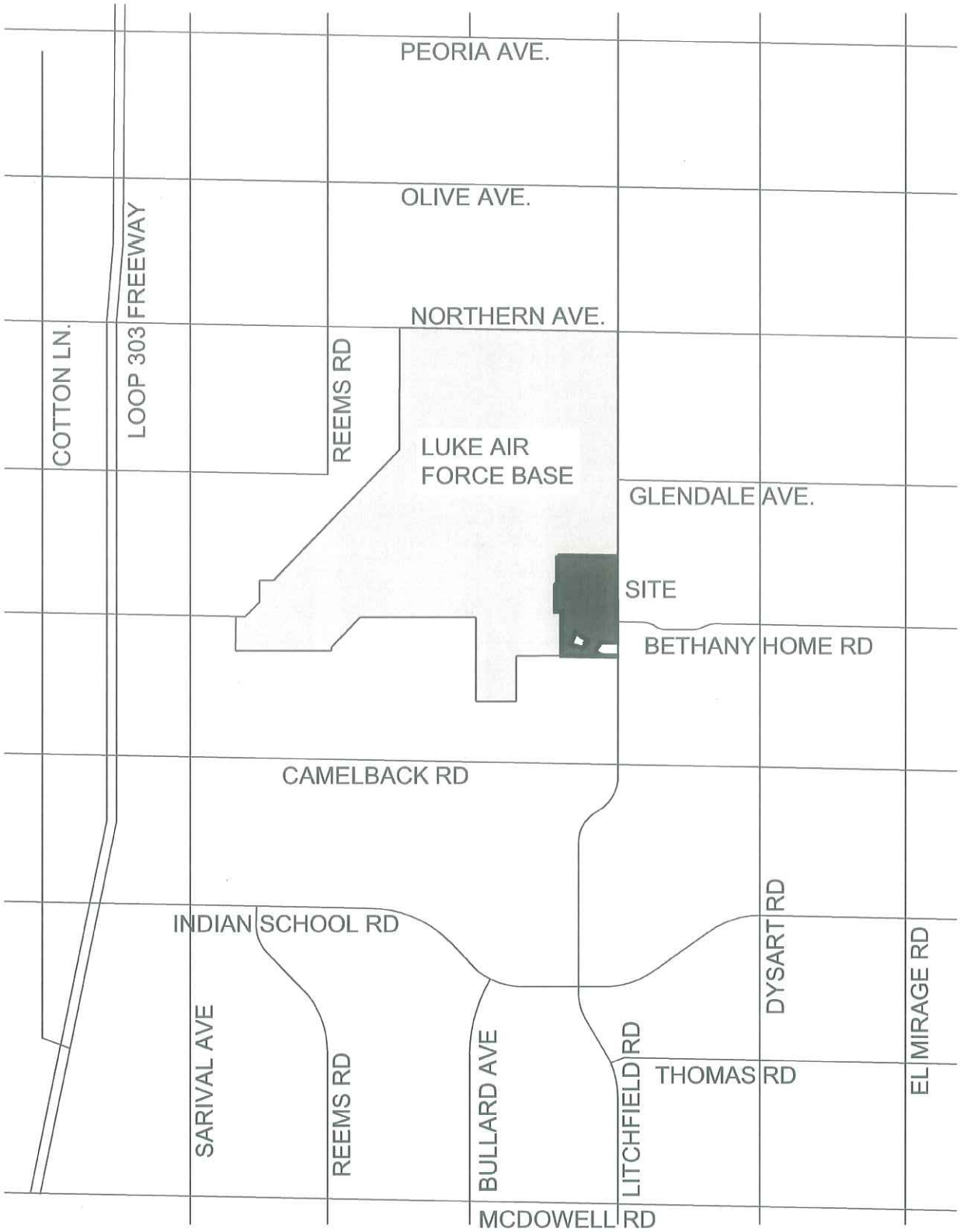
Liberty Utilities is the provider of domestic water for this western area of Glendale. The project is currently within their service area. Owner shall install all onsite water improvements required to serve the Property in accordance with Liberty Utilities and the City of Glendale.

G. Sanitary Sewer Service

Liberty Utilities is the provider of sanitary sewer services in this western area of Glendale. The project area is not within their current service area. The Owner has initiated the process with Liberty Utilities to apply for expansion of the MAG 208 and the Certificate of Convenience and Necessity (CC&N) for sanitary sewer service. The CC&N is expected to be approved within 8-9 months and the MAG 208 within 12 -14 months. Representatives with Liberty Utilities have agreed to provide a "will serve" letter and only require the approved CC&N to allow the connection into their sewer system.

IV. EXHIBITS

1. Vicinity Map
2. Existing Conditions / Aerial Map
3. Conceptual Land Use Plan
4. Noise Contour Map
5. Luke AFB: Use Compatibility & Consistency Determination
6. Glendale General Plan 2025



LUKE LAND INDUSTRIAL PARK

VICINITY MAP

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GLENDALE, AZ

PREPARED FOR: LITCHFIELD & BETHANY HOME LLC

SCALE: NTS
DATE: 09.05.12
GP JOB# 12037

NORTH

GILMORE PARSONS
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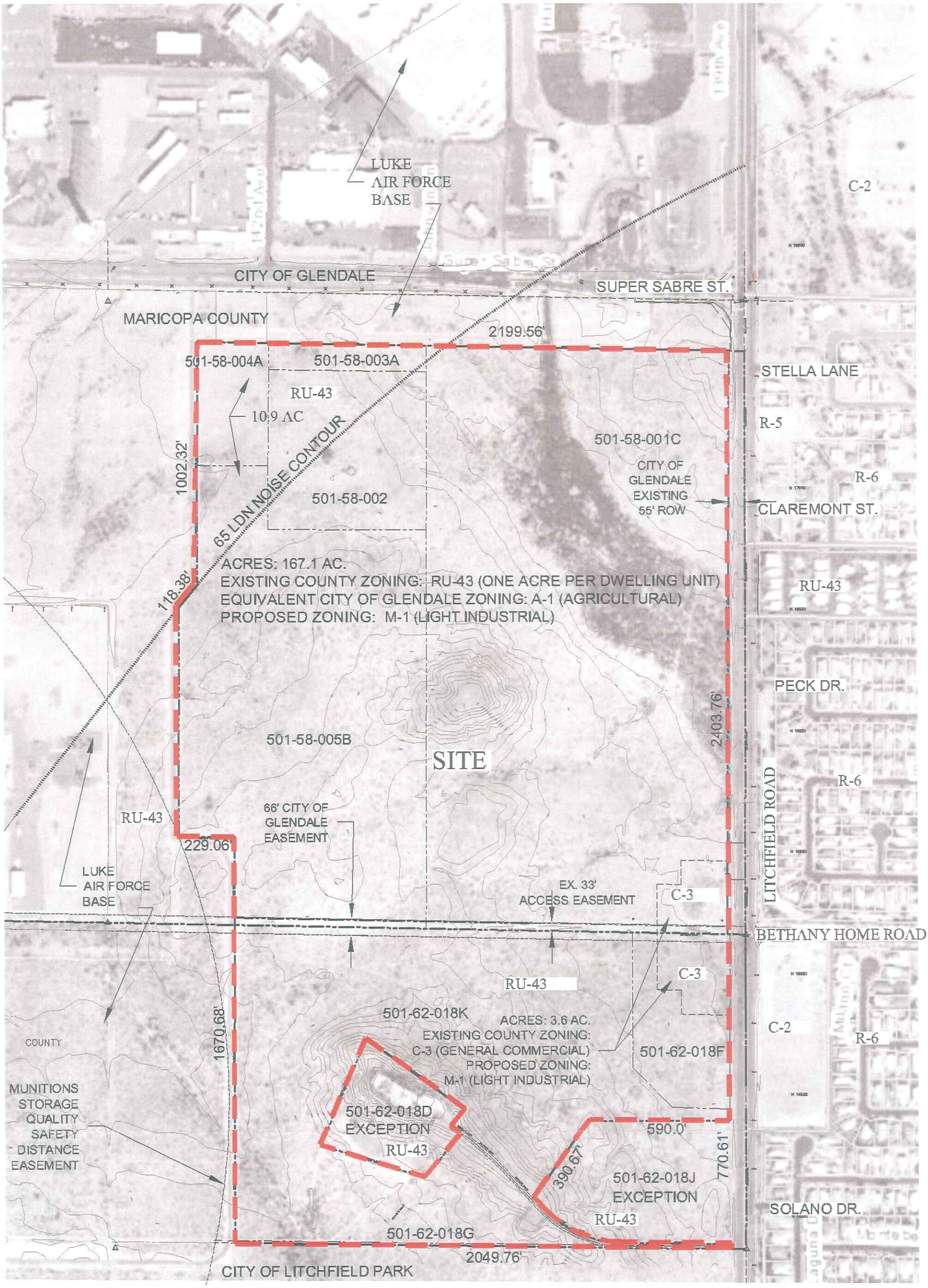
www.getgilmore.com

EXHIBIT #1



LAND AREA	
TOTAL GROSS OWNERSHIP:	170.7 AC.

EXISTING ZONING:		
MARICOPA COUNTY:	RU-43 167.1 AC – C-3 3.6 AC	=170.7 AC
CITY OF GLENDALE EQUIVALENT:	A-1 (AGRICULTURAL) 167.1 AC – C-3 3.6 AC	=170.7 AC
PROPOSED CITY OF GLENDALE ZONING:	M-1 (LIGHT INDUSTRIAL)	=170.7 AC

ZON12-03

EXISTING
CONDITIONS
W/ AERIAL

LUKE LAND INDUSTRIAL PARK

GLENDALE, AZ

PREPARED FOR: LITCHFIELD & BETHANY HOME LLC

SCALE: NTS
DATE: 10.03.12
GP JOB# 00000

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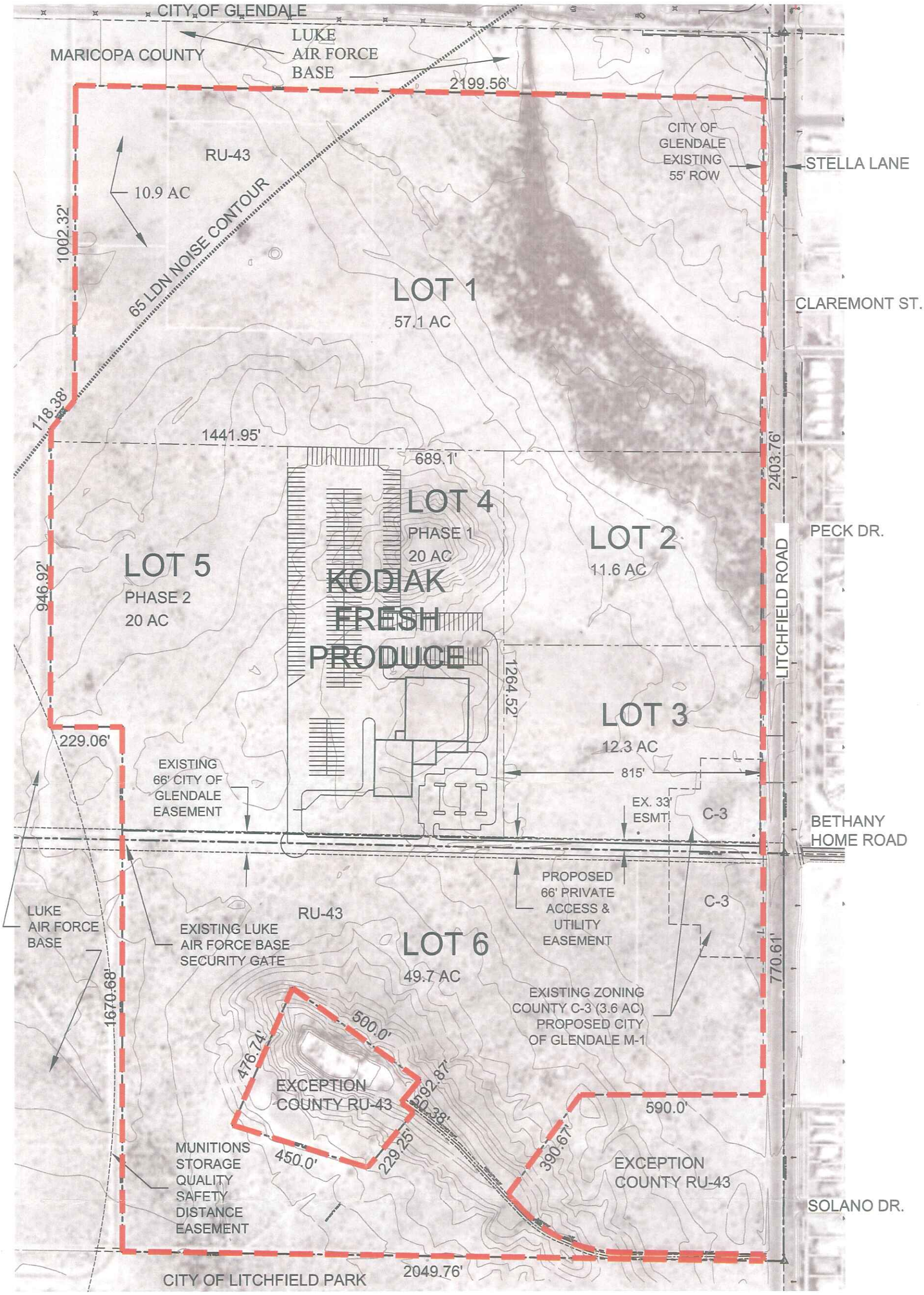
EXHIBIT #2

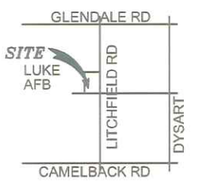


LAND AREA		
TOTAL GROSS OWNERSHIP:		170.7 AC.
LAND USE SUMMARY		
KODIAK FRESH PRODUCE		
PHASE 1 PLAN OF DEVELOPMENT	LOT 4	20 AC.
FUTURE PHASE:	LOT 5	20 AC.
TOTAL KODIAK ACQUISITION		40 AC.
BALANCE OF INDUSTRIAL PROPERTY		130.7 AC.

EXISTING ZONING:

MARICOPA COUNTY:	RU-43 167.1 AC + C-3 3.6 AC	=170.7 AC
CITY OF GLENDALE EQUIVALENT:	A-1 (AGRICULTURAL) 167.1 AC + C-3 3.6 AC	=170.7 AC
PROPOSED CITY OF GLENDALE ZONING:	M-1 (LIGHT INDUSTRIAL)	=170.7 AC

ZON12-03



VICINITY MAP
NTS
North

LUKE LAND INDUSTRIAL PARK

CONCEPTUAL LANDUSE PLAN

GLENDALE, AZ

PREPARED FOR: LITCHFIELD & BETHANY HOME LLC

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SCALE: 1"=300'
DATE: 10.26.12
GP JOB# 12037

0' 150' 300' 600'

NORTH

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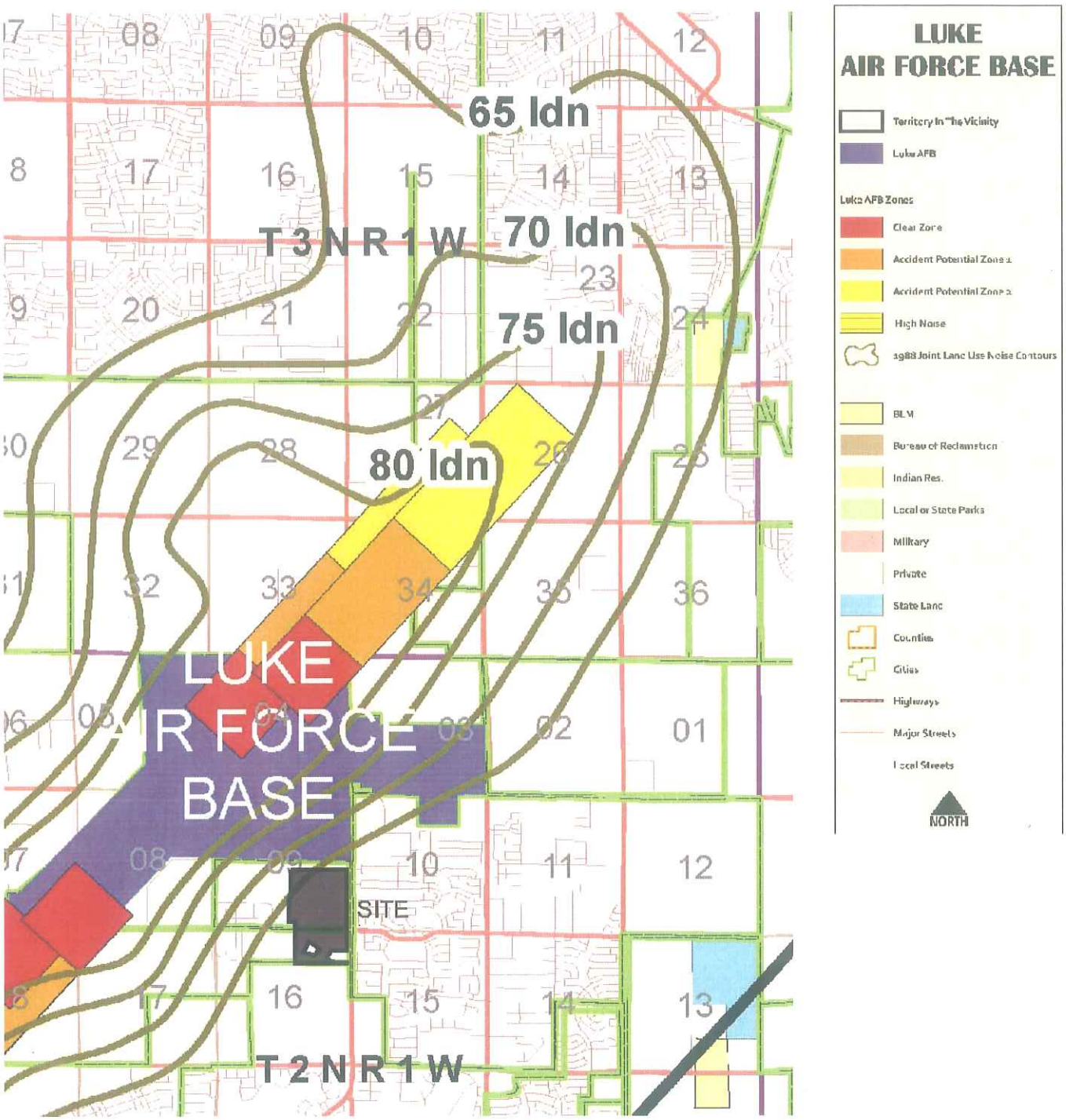
EXHIBIT #3



LUKE LAND INDUSTRIAL PARK

LUKE AFB NOISE CONTOURS

GLENDALE, AZ

PREPARED FOR: LITCHFIELD & BETHANY HOME LLC

SCALE: NTS
DATE 09.05.12
GP JOB# 12037

NORTH

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EXHIBIT #4

DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

31 May 2012

Mr. James R. Mitchell
Director, Community Initiatives Team
56th Fighter Wing
14185 West Falcon Street
Luke AFB AZ 85309-1629

Mr. Matt Holm, Principal Planner
Planning & Development Department
501 North 44th Street, Suite 100
Phoenix AZ 85008

Re: UC2012005 Litchfield and Bethany Mfg

Dear Mr. Holm

Thank you for the opportunity to provide comments on the Use Compatibility and Consistency Determination Application for the Litchfield and Bethany Manufacturing Development. The Litchfield and Bethany Development is located on 10.9 gross acres northwest of the northwest corner of Litchfield and Bethany Home Roads (APN 501-58-002, 003A, 004A and 005B). Plans are to use the land for the manufacturing of semi-trailers and fleet trucks, interior and outdoor manufacturing and storage, general warehousing and distribution of dry goods and outdoor vehicle storage with impound lot.

This use is compatible and consistent with the high noise and accident potential zone of Luke AFB. However, due to the location of site, adjacent to, and outside the Luke AFB high-explosive Munitions Storage Area Quantity Distance (QD) arc, we believe further comment is warranted. The QD arc represents an area which structural damage from overpressure during normal operations is expected to be minimal. If a mishap should occur, however, the risk of some structural damage is still present, as well as the risk of bodily injury and possible fatalities from flying debris. Therefore, buildings located in the QD arc, have the possibility of receiving structural damage during a mishap. Furthermore, personnel could be subject to injuries, or even fatalities, if a mishap were to occur.

If, after consideration of this concern, Maricopa County chooses to approve the development as submitted, special consideration must be made to mitigate the safety concerns. Consideration should be given to potential blast effects in the layout of the development and design of the structures. In addition, a strong notification program on the part of the applicant is essential to inform potential tenants about Luke AFB operations. We also recommend a review of the Luke AFB web site at http://www.luke.af.mil, Community Interests and Community Initiatives links, for further information.

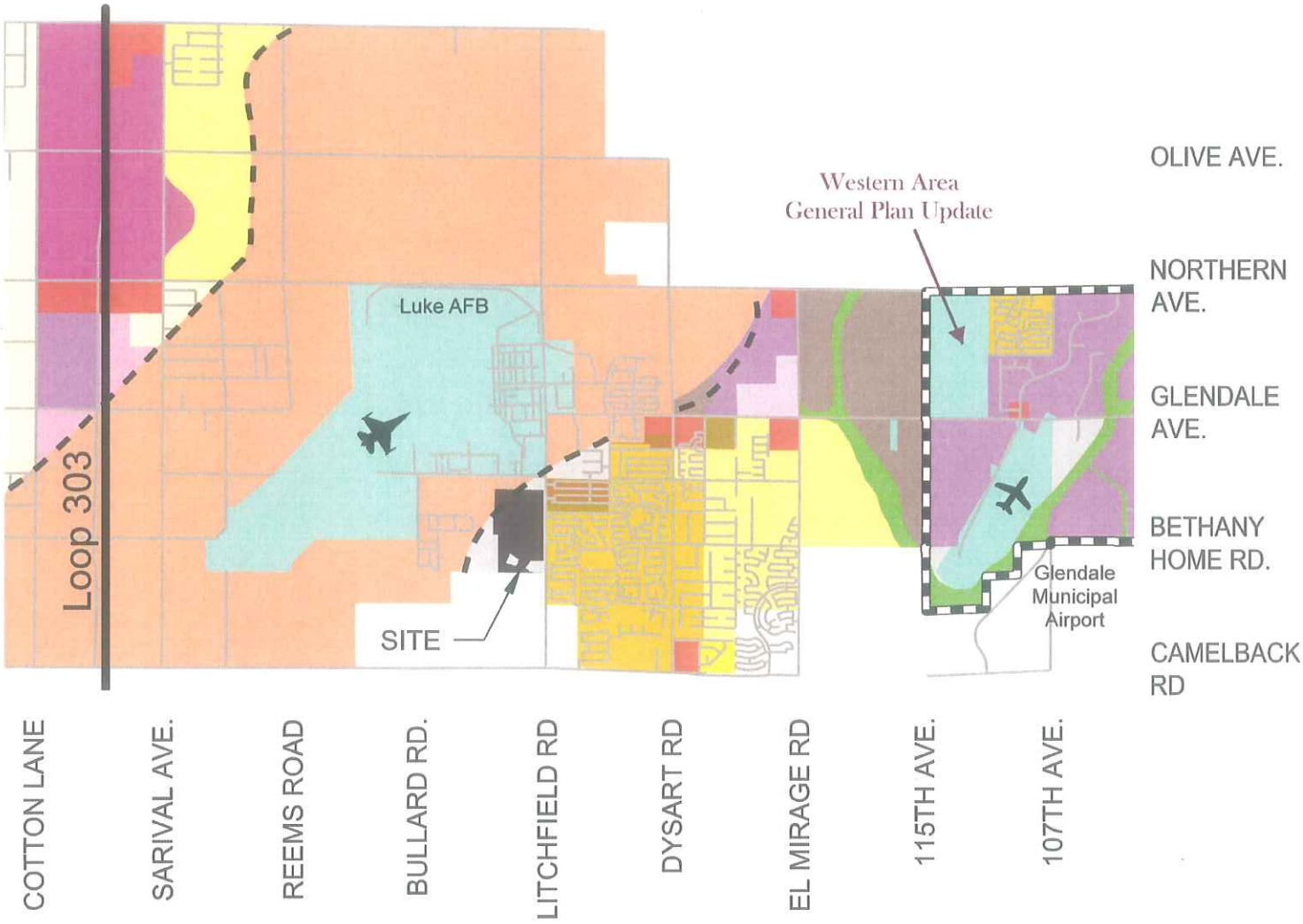
EXHIBIT 5

If you have any questions, please contact my Community Planner, Mr. Bob Dubsky, at (623) 856-6195.

Sincerely

JAMES R. MITCHELL

cc:
Colonel Robert E. Webb, Vice Commander, 56th Fighter Wing
Lieutenant Colonel Thomas L. Cluff, Jr., Staff Judge Advocate, 56th Fighter Wing



LAND USE DESIGNATIONS

- Low Density Residential: 0 - 1 du/ac
- Low Density Residential: 1 - 2.5 du/ac
- Medium Density Residential: 2.5 - 3.5 du/ac
- Medium Density Residential: 3.5 - 5.0 du/ac
- Medium-High Density Residential: 5.0 - 8.0 du/ac
- Medium-High Density Residential: 8.0 - 12.0 du/ac
- High Density Residential: 12.0 - 20.0 du/ac
- High Density Residential: 20.0 - 30.0 du/ac
- Office
- General Commercial
- Planned Commercial
- Entertainment Mixed-Use
- Corporate Commerce Center
- Business Park
- Light Industrial
- Heavy Industrial
- Institutional
- Educational
- Parks and Open-Space
- Public Facility
- Luke Compatible Land Use Area

- Municipal Planning Area Boundary
- Luke ARB 65 LDN

Note: Descriptions of each land use designation are found in the General Plan Land Use Element.

LUKE LAND INDUSTRIAL PARK

CITY OF GLENDALE GENERAL PLAN 2025

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GLENDALE, AZ

PREPARED FOR: LITCHFIELD & BETHANY HOME LLC

SCALE: NTS
DATE: 09.27.12
GP JOB# 00000

NORTH

EXHIBIT #6

CITIZEN PARTICIPATION FINAL REPORT

In association with

Rezoning Application (ZON12-03)

LUKE LAND INDUSTRIAL PARK

On approximately 171 acres, located west of
Litchfield Road & Bethany Home Road at

6010 N. Litchfield Road

Submitted November 8, 2012

Submitted For

Litchfield & Bethany Home LLC

Submitted By

Gilmore Parsons Land Design Group, Inc.

APPROVED
11/9/12
K.S.

1. PROJECT DESCRIPTION

On behalf of Litchfield & Bethany Home LLC, the property owner (Owner), Gilmore Parsons Land Design Group respectfully submits for consideration this Citizen Participation Final Report (CPFR) in support of our application to rezone approximately 170.7 acres (the Property) from A-1 (Agricultural) and C-3 (Heavy Commercial) to M-1 (Light Industrial). This rezoning application (ZON12-03) has been filed in conjunction with a request to annex (AN-189) this same Property into the City the Glendale. The Property is situated west of the intersection of Litchfield Road and Bethany Home Road at 6010 North Litchfield Road. Refer to the attached Vicinity Map for the location of this property. The Owner intends to develop an industrial park attracting a variety of light industrial users seeking to develop businesses in close proximity to the commerce associated with Luke Air Force Base (Luke AFB) and the expanding west valley market.

Currently, there are two existing Maricopa County zoning districts within the 170.7 acre Property. The major portion, 167.1 acres is Rural-43 (RU-43), Maricopa County's low density residential district allowing one unit per acre. The remaining 3.6 acres are situated at on west side of the intersection of Litchfield Road and Bethany Home Road, and the existing County zoning is C-3 (General Commercial). Upon annexation, this property will receive City of Glendale equivalent zoning of A-1 (Agricultural) on 167.1 acres and C-3 (Heavy Commercial) on 3.6 acres. The requested rezoning will provide uniform zoning across the property of M-1 (Light Industrial).

The total land area by ownership is 170. 7 acres and includes 8 parcels. At the northwest corner of the Property is an approximate 10.9 acre area that is located within a 65 LDN boundary established by Luke AFB. Future development of property within this restricted area will be qualified by Luke AFB and the City of Glendale with the filing of future Team Pre-Application Meeting(s) and again with the associated applications for Site Plan Approval. Refer to the attached Conceptual Land Use Plan included as Appendix 'A' for the location of this restricted area relative to the Property and Luke AFB.

2. PROVIDE A BRIEF OVERVIEW OF THE ELEMENTS OF THE CITIZEN PARTICIPATION PLAN.

The Citizen Participation Plan (CPP) requires and encourages applicants to include the surrounding property owners and registered interest groups in the land planning process to mitigate concerns and promote long term compatible land use relationships.

This effort started with a public notification letter, dated September 18, 2012, with appropriate exhibits that were sent to all the surrounding property owners within 500' of the subject property. Additional notification letters were sent to the interest groups who have requested notification of entitlements. For ZON12-03, the highest concentration of property owners who were included in the Citizen Participation Plan are situated east side of the Litchfield Road, and nearly all are single family home owners. The area north and west is controlled by a single entity, Luke AFB. The area south is vacant property situated within the City of Litchfield Park and planned for a church and various types of senior housing. There is also an exception parcel within the study area that is owned by the Wigwam Resort. This surrounding land use pattern places the majority of property owners east of Litchfield Road within the residential neighborhoods. Although the proposed zoning is in compliance with the City's General plan 2025, the anticipated potential for any concerns would be expected to come from these residential neighbors.

The CPP requires that the Applicant consider the impact of the proposed zoning and land use on those who could be directly or indirectly affected. The CPP includes our land use evaluation from the perspective of the Applicant for both on-site development, which is currently vacant, as well as the impact on each of the surrounding land uses.

Conversely, the CPP also requires the Applicant to take the position of the surrounding land users to evaluate the impact of this project. Luke AFB represents the largest adjacent property owner. With their participation and approval of the Glendale General Plan 2025, we are confident that the Luke Land Industrial Park will be viewed by Luke AFB as a compatible land use. The exception parcel owned by the Wigwam Resort will be impacted. However, as urban development has expanded in the immediate area and within the City of Litchfield Park, this event site that was for so long surrounded by native desert and panoramic distant views has already lost its unique isolated setting. The development of the Luke Land Industrial Park will only represent the final absorption of undeveloped property surrounding their location.

The only other potential impact will be the residents east of Litchfield Road. The homes fronting onto Litchfield Road will definitely be impacted and their home values

could be compromised if they choose to remain: however; this is a common problem for nearly any home fronting onto an arterial road. For the homes within a residential community that have been designed to back onto Litchfield Road, the impact is substantially reduced. The homes with rear lot lines situated along Litchfield Road could be more sensitive to this change of land use. Subdivision design criteria typically require a landscape buffer and screen walls along the arterial frontage. This can be an effective buffer that can reduce noise and provide a visual screen.

For this application, a neighborhood meeting was not required. The Notification Letters were issued on September 18th and included descriptions of the applications for annexation and rezoning, as well as the intended use of the property. As the Applicant, we encouraged anyone with questions or concerns to contact our office or the Glendale Planning Department. These Notification Letters included our office phone number, e-mail address, mailing address, and the same information for Karen Stovall the designated Staff Planner for this application. If as a result of the application review process there were material revisions to the land use plan, and in consideration of discussions with City Staff, another letter of notification could be issued explaining the revision and any impact to the development of the property. Additional exhibits could also be included to illustrate the modification.

It is the responsibility of the Applicant to record communication with the surrounding property owners. In whatever form, our communication is recorded by date and points of discussion. These communications have been shared by both phone calls and e-mails with Karen Stovall. It is nature of these communications and the issues involved that may warrant amendments to the application. That list of contacts is included elsewhere within this report.

The final element of the CPP is a tentative schedule outlining the various steps, including time periods for surrounding property owners to respond and an estimated date to complete the Citizen Participation Report, which was the week beginning October 19th.

3. LIST DATES THAT NOTIFICATION LETTERS AND MEETING NOTICES WERE MAILED, NEWSLETTERS, AND OTHER PUBLICATIONS WERE POSTED AND/OR ADVERTISED.

Letters of Notification were issued on September 18, 2012 that included a Vicinity Map and Conceptual Land Use Plan.

4. ATTACH AN OUTLINED MAP OF THE SPECIFIC AREAS WHERE RESIDENTS AND PROPERTY OWNERS WHO WERE NOTIFIED ARE LOCATED.

Please refer to Appendix 'B' for the Surrounding Ownership Map that illustrates the 500' perimeter boundary.

5. LIST THE NAMES OF HOMEOWNERS ASSOCIATIONS AND REGISTERED NEIGHBORHOOD GROUPS, AND THEIR REPRESENTATIVES, AND INDIVIDUALS ON THE DISTRICT'S "INTERESTED PARTIES" LIST WHO WERE NOTIFIED, AND INDIVIDUALS ON THE ADDITIONAL NOTIFICATION LIST WHO WERE NOTIFIED.

Glendale Homeowners Associations and Registered Neighborhood Groups: There are none in this area.

Interested Parties: Please refer to Appendix 'C' for a copy of the mailing list.

The Additional Notification List

City of Glendale Mayor's Office
Mayor Scruggs
5850 W. Glendale Avenue
Glendale, AZ 85301

Glendale City Council Office
Council member Martinez
5850 W. Glendale Avenue
Glendale, AZ 85301

Karen Stovall, Senior Planner
Planning
5850 W. Glendale Ave., Suite 212
Glendale, AZ 85301

Diana Figueroa, Senior Secretary
Planning
5850 W. Glendale Ave., Suite 212
Glendale, AZ 85301

6. IF APPLICABLE, IDENTIFY DATES AND LOCATIONS OF ALL MEETINGS WHERE CITIZENS WERE INVITED TO DISCUSS THE PROPOSAL.

As of this date, there have been no requests for meetings from any of the surrounding property owners. We are continuing to exchange e-mails with Christopher Davidson, and our office has offered to meet with he and any of his neighbors who would like to learn more about the rezoning and the project. If that meeting should occur, we will notify Karen Stovall and forward meeting results.

7. PROVIDE THE TOTAL NUMBER OF INDIVIDUALS NOTICED AND THE NUMBER OF PEOPLE THAT ACTUALLY PARTICIPATED IN THE PROCESS.

Surrounding Property Owners Notified:	140
Interested Parties:	49
Additional Notification List	4
Total Notification	193

8. LIST CONCERNS, ISSUES, AND PROBLEMS EXPRESSED BY THE PARTICIPANTS.

As a result of the public notification, there have been three property owners who have initiated contact regarding this application:

1. **Christopher Davidson** is a resident in the Dreaming Summit subdivision. Mr. Davidson claimed that his property backs onto Litchfield Road just north of Bethany Home Road. A review of the County Assessor's website and the mailing address we have indicates that he resides at 13830 W. Keim Drive, which is actually located approximately 400' east of Litchfield Road. His concerns involve the loss of the native desert, distant views west, loss of property value as a result of industrial development, and the expectation that crime follows this type of land use. We have exchanged a series of e-mails discussing his concerns that are referenced in Item 12 below, and copies of which are included within Appendix 'E'.
2. **Walter Rowe** represents the Desert Joy Christian Fellowship that owns an 8.1 acre parcel at the southeast corner of the subject property. Mr. Rowe initially sees no conflict and will prepare a letter in support. Walter's initial contact came by e-mail requesting that they be included in the annexation and rezoning. The e-mail clearly indicates that the Church has no immediate plans for development and there is a possibility that the property could be sold, which was another reason for their request to be included. With the church property zoned M-1, they believe it would have a higher land value and could still be developed as a worship facility if they chose.
3. **Andy Jochum** is a planning consultant for Beus Gilbert representing the Wigwam Resort. Andy called our office on October 18th to acknowledge that the Wigwam Resort had received the notification letter and that the Resort was requesting Beus Gilbert evaluate the rezoning application.

9. STATE HOW EACH CONCERN, ISSUE, AND PROBLEM HAS BEEN ADDRESSED AND HOW APPLICANT INTENDS TO CONTINUE TO ADDRESS THEM.

1. **Christopher Davidson:** Mr. Davidson has expressed his concern that industrial development is proposed on property that he believes should remain in its native desert condition serving also as a view corridor. He cites loss of property value, increased crime, additional noise, and added congestion. We have exchanged a series of e-mails where conformance with the City's General Plan has been stressed as well as acceptance by Luke AFB as a critical part of the land use approval. We have encouraged Mr. Davidson to call and/or continue the e-mails, and have also suggested that we are open to scheduling a meeting with him and any interested neighbors who would like to learn more about the application and the Industrial Park. To date, there has not been any issues presented that involve conflicts with the proposed zoning or land use that could not be resolved with references to the General Plan or Design Standards for arterial road improvements. If a meeting is scheduled, we will encourage Mr. Davidson to invite any neighbors who share any similar concerns and report the results to the City of Glendale.

2. **Walter Rowe:** Mr. Rowe represents the Desert Joy Christian Fellowship that owns an 8.1 acre parcel at the southeast corner of the subject property. Mr. Rowe has stated that the Church has no objection to this project and has volunteered to submit a letter of support to the City of Glendale.

3. **Andy Jochum:** Mr. Jochum is employed by Beus Gilbert, who provides legal counsel for land use issues to the Wigwam Resort. Mr. Jochum indicated that their office will be evaluating the land use relative to the interests of the Wigwam Resort for their event site within Lot 6 as indicated on the Conceptual Land Use Plan. To date, there have been no objections or concerns relative to this rezoning application or the proposed land use. Mr. Jochum has stated that he would contact our office as soon as possible with any questions. Per Mr. Jochum's request, we have sent copies of the planning exhibits that were included in the Rezoning Application. Should there be additional correspondence, calls, e-mails, or possibly a meeting, those results will be shared with the City of Glendale, along with an explanation regarding any potential influence to this application.

10. STATE CONCERNS, ISSUES, AND PROBLEMS THE APPLICANT IS UNABLE OR UNWILLING TO ADDRESS AND WHY.

1. **Christopher Davidson:** In our exchange of e-mails, Mr. Davidson has not presented any concerns, issues, or problems that we as the Applicant have been unable or unwilling to address. If we have an opportunity to extend our e-mails or possibly meet, we would emphasize some of the City's design standards for arterial frontages that may begin to alleviate some of the concerns about buffers. Beyond this frontage issue, there have not been any other material conflicts that would influence this application.

2. **Walter Rowe:** Mr. Rowe had requested that they be included within our applications for annexation and rezoning. The Church has no schedule to develop and indicated that they might be placing their property on the market for sale. We informed Mr. Rowe by phone that the sensitivity of our schedule would not allow us to amend these applications. There are no other concerns, issues, or problems that we as the Applicant have been unable or unwilling to address.
3. **Andy Jochum:** To date, Mr. Jochum has not presented any concerns, issues, or problems that we as the Applicant have been unable or unwilling to address.

11. SPECIFICALLY IDENTIFY HOW THE PROPOSAL HAS BEEN REVISED TO ADDRESS PUBLIC CONCERNS.

As of the date of this CPFR, there have not been any issues that would influence the rezoning application in a manner that might cause any revisions.

Luke AFB was notified prior to our first Pre-Application Meeting with City Staff that this property would be requesting annexation and rezoning to Light Industrial in the City of Glendale. We have shared both phone calls and e-mails with James "Rusty" Mitchell, Director of Community Initiatives, involving the land use restrictions within the 65 Ldn Boundary, the munitions storage quality safety distance easement (QD Arc), requesting a letter of support for this application, and more recently we were requesting their input on the type of perimeter screening along our common north and west property lines. All of these communications were initiated by the Applicant and there have not been any issues that would cause any revisions to this application.

12. ATTACH COPIES OF LETTERS, AFFIDAVITS, MEETING INVITATIONS, NEWSLETTERS, PUBLICATIONS, SIGN-IN SHEETS, PETITIONS RECEIVED IN SUPPORT OR AGAINST THE PROPOSED PROJECT, AND ANY OTHER MATERIALS PERTAINING TO THE NOTIFICATION PROCESS.

The Public Notification Letter dated September 18, 2012 along with the supporting exhibits are attached as Appendix 'D'.

COMMUNICATION LOG:

Copies of referenced e-mails are included in the attached Appendix 'E'.

1. **James "Rusty" Mitchell**, Director of Community Initiatives at Luke AFB

9-18-12 sent e-mail notification to Rusty letting him know that the Owners had decided to request annexation and rezoning in the City of Glendale (copy attached).

9-25-12 Called Rusty to request a letter of support similar to the UCCD letter that his office issued to Maricopa County. Rusty indicated that the City of Glendale would have to make that request.

10-5-12 sent e–mail to Rusty requesting Luke AFB's input on perimeter screening. (copy attached).

10-17-12 Called and left voice mail for Rusty requesting status of letter to City of Glendale and response regarding my previous e-mail on perimeter screening.

10-24-12 Called and left voice mail similar to 10-17-12.

10-24-12 Received call from Rusty indicating that he had not received the request from the City of Glendale. We discussed e-mail dates and he found the City's request for the letter. He apologized for the delay and indicated that his office would respond ASAP. We also discussed the perimeter screening. I followed this call with another e-mail that included the ALTA Survey locating their fence relative to our PL. Refer to attached copies with exchanges.

10-25-12 9:04AM received e-mail reviewing 30' clear zone requirement outside their perimeter fence.

10-25-12 10:16AM sent e-mail reply with copy of ALTA Survey indicating fence line locations and the need to potentially meet.

10-25-12 1:17PM received e-mail reply indicating that Luke AFB's Civil Engineering Dept will review their records as well and respond following week.

11-7-12 There has been no further communication from Luke AFB. To date

there have not been any issues relative to the proposed land use or the rezoning application. These e-mails have been related more to Design Review issues regarding perimeter fencing and a letter of support.

2. **Christopher Davidson**. Mr. Davidson is a resident within the Dreaming Summit subdivision who resides at 13830 W. Keim Drive.

   9-20-12 Received first e-mail from Mr. Davidson in response to our Notification Letter with his 'list' of issues and concerns (copy attached).

   9-21-12 Sent reply with responses (copy attached).

   10-26-12 Sent e-mail request regarding his status with responses (copy attached).

   10-26-12 Received e-mail reply with additional issues (copy attached).

   10-27-12 Sent e-mail reply with additional responses. Requested that he consider a meeting where we could meet with any of his concerned neighbors (copy attached).

   10-30-12 Sent e-mail inquiring about my last reply and if he and any of his interested neighbors might want to meet (copy attached).

   10-30-12 Received e-mail reply indicating that some his neighbors may be contacting me to learn more about the application and project (copy attached).

   11-7-12 There has not been any further communication from Mr. Davidson or any of his neighbors. The CPP and Notification Letter both called for a 3 week comment period, designating October 12th as the date to submit any questions or concerns.

3. **Walter Rowe**. Represents the Desert Joy Christian Fellowship that owns an 8.1 acre parcel at the southeast corner of the subject property.

   10-8-12 Received e-mail from Mr. Rowe in response to our Notification Letter. Mr. Rowe is a member of the Church Board and was inquiring about their ability to join with our applications.

   10-16-12 Called Mr. Rowe to discuss his interest. I stated that I would need to review their request with our client and City Staff determine impact to entitlement schedule.

   10-19-12 Received a return call from Thomas Ritz. Subsequent discussions with City Staff determined that the current schedule to complete annexation and rezoning would not be feasible if the applications were amended.

   10-22-12 Called Mr. Rowe to let him know that including their property was not feasible. He understood and indicated that he had no conflict with our land use and volunteered to prepare a letter of support.

4. **Andy Jochum**. Mr. Jochum is employed by Beus Gilbert, who provides legal counsel for the Wigwam Resort.

10-18-12 Received e-mail from Mr. Jochum in response to our Notification Letter. Mr. Jochum indicated that the Wigwam Resort is a client who requested their evaluation of the application. Mr. Jochum requested that we forward any additional planning exhibits that would help their analysis (copy attached).

10-18-12 Replied with additional exhibits included in Rezoning Application.

10-26-12 Called Mr. Jochum to inquire about the status of their review. Paul Gilbert is the lead counsel who was out of town until evening of 10-25-12. Mr. Jochum will review with Mr. Gilbert and respond ASAP.

11-5-12 Received an e-mail from Mr. Jochum stating that the Wigwam Resort's property, Sunset Point, within Lot 6 is entitled under Maricopa County for the Resort's use. There is no interest to participate in our annexation, and they did not indicate that there are any issues or conflicts with the rezoning application. (copy attached).

13 **ATTACH A COMPLETE MAILING LIST WHICH INCLUDES ALL INDIVIDUALS LOCATED IN THE NOTICE AREA, HOMEOWNERS ASSOCIATIONS, REGISTERED NEIGHBORHOOD GROUPS/ ASSOCIATIONS, INDIVIDUALS ON THE DISTRICT'S "INTERESTED PARTIES" LIST AND INDIVIDUALS ON THE ADDITIONAL NOTIFICATION LIST. THE REPORT SHOULD SPECIFY THAT THE MAILING LIST IS ATTACHED AS AN APPENDIX.**

The completed mailing lists are included in Appendix 'C'.

APPENDIX

Appendix 'A' – Conceptual Land Use Plan

Appendix 'B' - Surrounding Ownership Map

Appendix 'C' – Mailing Lists for Surrounding Property Owners
- Interested Parties
Additional Notification List

Appendix 'D' – Public Notification Letter
Vicinity Map
Conceptual Land Use Plan

Appendix 'E' – Copies of e-mail communications with respondents as referenced in the Communication Log.

James "Rusty' Mitchell – Luke AFB

9-18	sent initial contact informing Luke AFB of our intent to annex and rezone in Glendale.
10-5	e-mail requesting Luke AFB's input on perimeter Screening – 1 page.
10-25	9:04AM – 1 page reply from Rusty
10-25	10:16AM – 1 page reply to Rusty
10-25	1:17PM – 1 page reply from Rusty

Christopher Davidson (CD) – neighborhood resident

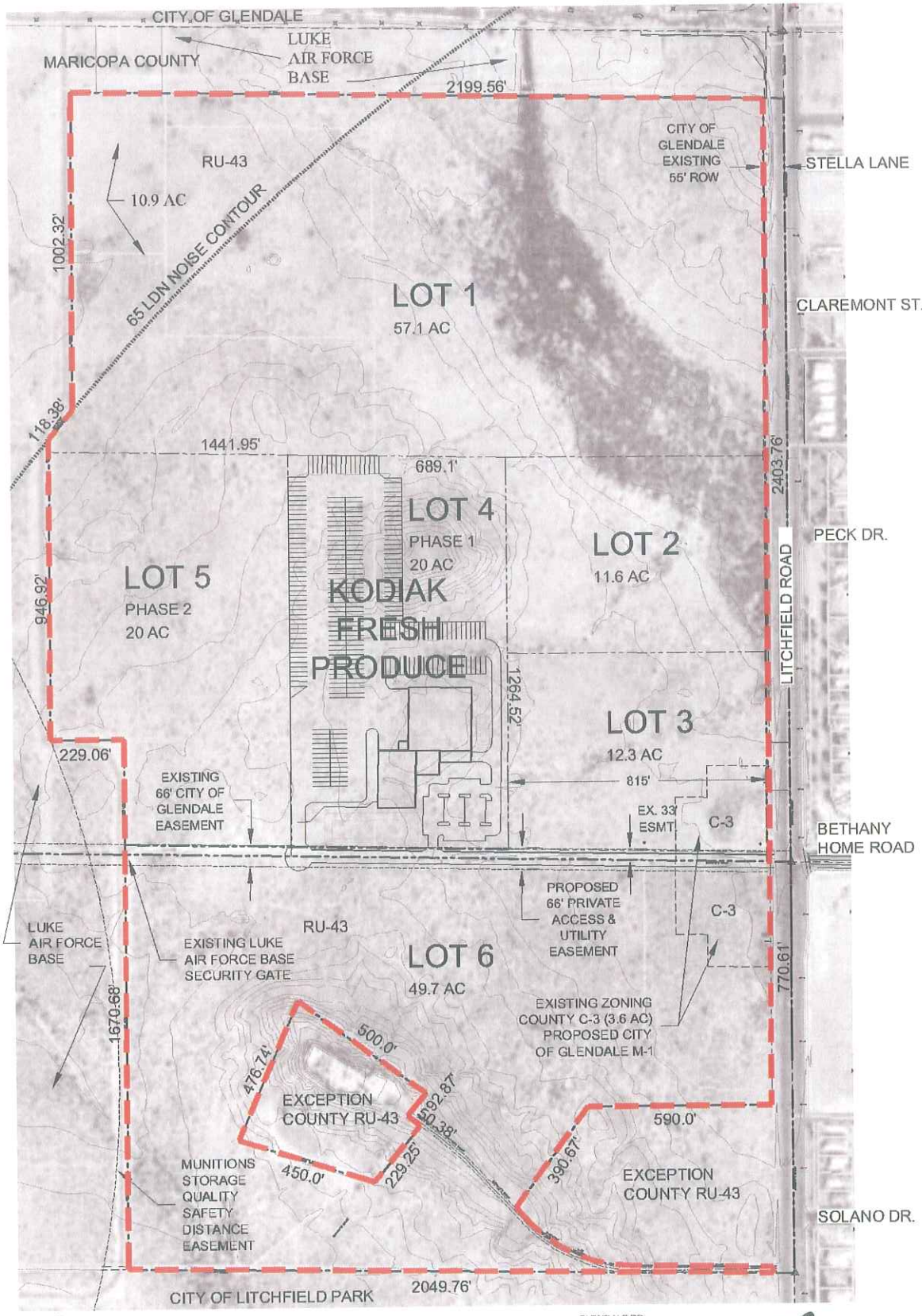
9-20	received initial e-mail from CD, 2 pages
9-21	3 page reply to CD
10-26	1 page inquiry to CD
10-26	3 page reply from CD
10-27	5 page reply to CD
10-30	1 page inquiry to CD
10-30	reply from CD indicating that the neighbors may contact us with questions.

Walter Rowe (WR) – representing the Desert Joy Christian Fellowship

10-8	received initial e-mail from WR

Andy Jochum (AJ) – representing the Wigwam Resort's out parcel 'Sunset Point' within Lot 6.

10-18	received initial e-mail notification with request for exhibits.
10-18	replied with exhibits attached.
11- 5	received e-mail stating no conflicts.



LAND AREA		
TOTAL GROSS OWNERSHIP:		170.7 AC.
LAND USE SUMMARY		
KODIAK FRESH PRODUCE		
PHASE 1 PLAN OF DEVELOPMENT	LOT 4	20 AC
FUTURE PHASE:	LOT 5	20 AC
TOTAL KODIAK ACQUISITION		40 AC.
BALANCE OF INDUSTRIAL PROPERTY		130.7 AC.
EXISTING ZONING:		
MARICOPA COUNTY:	RU-43 167.1 AC – C-3 3.6 AC	=170.7 AC
CITY OF GLENDALE EQUIVALENT:	A-1 (AGRICULTURAL) 167.1 AC – C-3 3.6 AC	=170.7 AC
PROPOSED CITY OF GLENDALE ZONING:	M-1 (LIGHT INDUSTRIAL)	=170.7 AC

ZON12-03

APPENDIX 'A'

LUKE LAND INDUSTRIAL PARK

CONCEPTUAL MASTER PLAN

GLENDALE, AZ

PREPARED FOR: LITCHFIELD & BETHANY HOME LLC

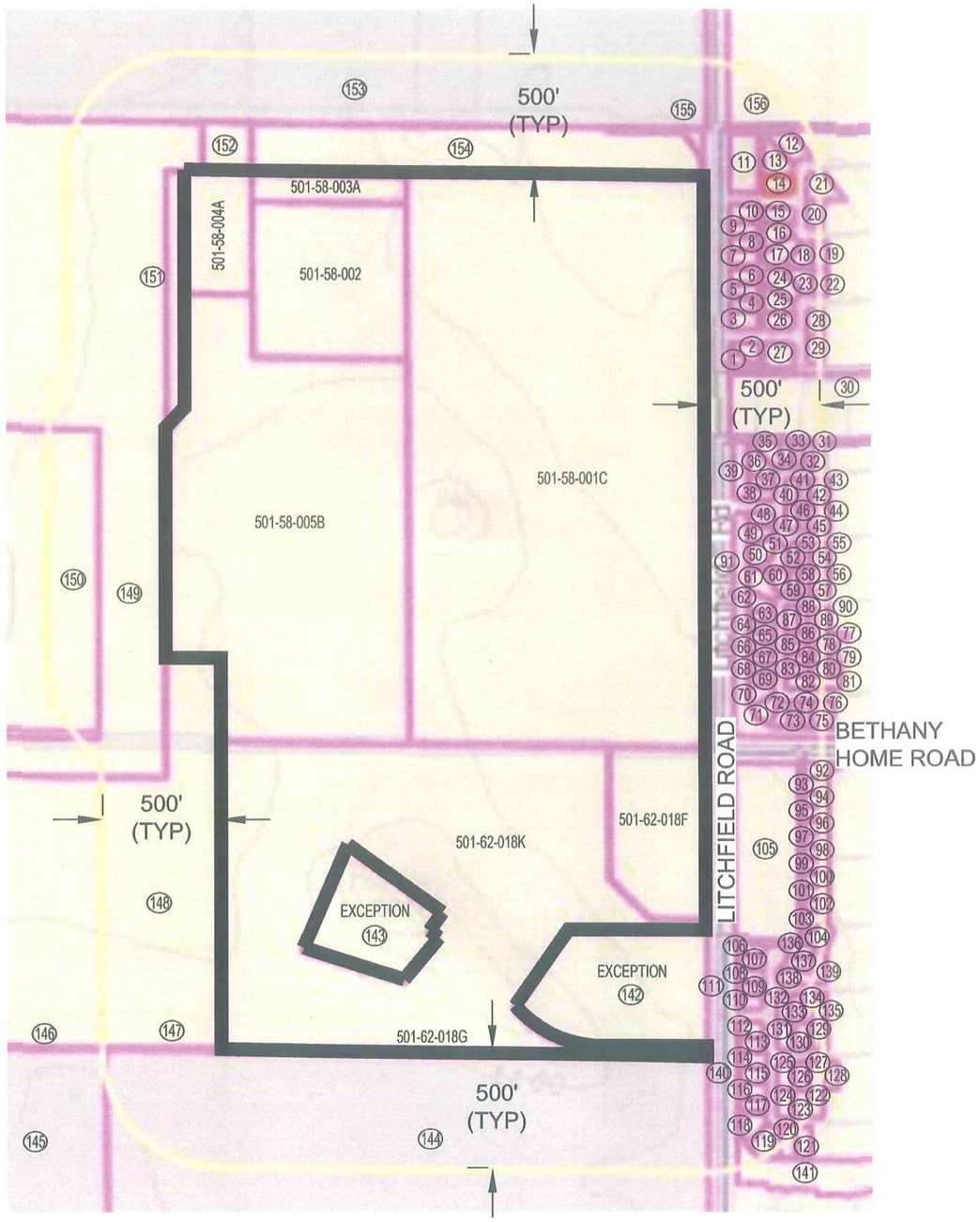
SCALE: 1"=300'
DATE: 09.06.12
GP JOB# 17003

0' 150' 300' 600'

NORTH

GILMORE PARSONS
LAND DESIGN GROUP
2211 N. 7th Street, Phoenix, Az 85006
T 602.266.5602 F 602.266.5707
www.gilgilmore.com

EXHIBIT #3



OWNERS WITHIN 500' OF SITE

1. 501-13-091B
2. 501-13-091C
3. 501-13-062A
4. 501-13-061A
5. 501-13-060B
6. 501-13-059B
7. 501-13-058B
8. 501-13-057B
9. 501-13-056D
10. 501-13-055D
11. 501-13-105A
12. 501-13-003
13. 501-13-002
14. 501-13-001
15. 501-13-054A
16. 501-13-053A
17. 501-13-052A
18. 501-13-051A
19. 501-13-050A
20. 501-13-027A
21. 501-13-026A
22. 501-13-067
23. 501-13-066
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141. 501-62-462
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143. 501-62-018D
144. 501-62-021
145. 501-62-020C
146. 501-62-017D
147. 501-62-018H
148. 501-62-017E
149. 501-58-006A
150. 501-58-008
151. 501-58-005A
152. 501-58-007
153. 501-58-006A
154. 501-51-002
155. 501-58-001A
156. 501-57-932A

APPENDIX 'B'

LUKE LAND INDUSTRIAL PARK

GLENDALE, AZ

PREPARED FOR: LITCHFIELD & BETHANY HOME LLC

PROPERTY OWNERS WITHIN 500' OF SITE

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SCALE: NTS
DATE: 09.05.12
GP JOB# 12037

NORTH

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EXHIBIT #6

GILMORE PARSONS
LAND DESIGN GROUP

September 18, 2012

Property Owner or Interested Party

RE: Rezoning Application ZON12-03 for the property located at
6010 N. Litchfield Road, Glendale, Arizona
Luke Land Industrial Park

The purpose of this letter is to inform you that Litchfield & Bethany Home LLC (Owner) has recently filed with the City of Glendale, a request to annex and rezone 170.7 acres (Property) located west of Litchfield Road north and south of Bethany Home Road. The Rezoning case number is ZON12-03. The proposed development is the Luke Land Industrial Park. The property is currently being considered for annexation by the City of Glendale, Case No. AN-189. Upon annexation, the property will receive equivalent Glendale zoning of A-1 (Agricultural) on 167.1 acres and C-3 (Heavy Commercial) on 3.6 acres. This request would rezone the entire 170.7 acres to the M-1 Light Industrial. This proposed M-1 zoning conforms to the City of Glendale's General Plan 2025.

The Owner intends to market the property to potential light industrial users and industrial developers interested in establishing a business in close proximity to Luke AFB. With the recent announcement that Luke will become the training base for the new F-35 interceptor jets, the Owner anticipates that there will be new business interests seeking proximate locations to the commerce associated with a military air base. The Property also fronts onto Litchfield Road, a major arterial with expedient access to Interstate 10 (4.5 miles south), Loop 101 (5 miles east along Glendale Avenue), and eventually Loop 303 (4.5 miles west along Camelback Road). The proposed industrial park is split by Bethany Home Road, which we intend to develop as a private street that will dead end near our west property line.

Phase 1 Development: The first phase of development is associated with Kodiak Fresh Produce, who is under contract to acquire 40 acres on the north side of Bethany Home Road at the west side of the property adjacent to Luke AFB. Kodiak Fresh Produce has been in business since 1984 as a wholesale provider of fresh fruits and vegetables to grocery stores, restaurants, and other retail users throughout Arizona and the surrounding States. They also distribute "Bountiful Baskets" as their trademark. Kodiak Fresh Produce is intending to develop in phases, with the first phase including Lot 4, a 20 acre area representing the east half of their 40 acre parcel. Please refer to the attached Conceptual Master Plan for Luke Land Industrial Park and the locations of Lots 4 and 5, the Kodiak Fresh Produce parcels. The first phase of improvements will include the extension of a paved street with water and sewer services along Bethany Home Road west of Litchfield Road. Intersection improvements will include a south bound right turn lane on Litchfield Road, full pavement and curb returns and provisions for future signalized access when traffic counts warrant the installation as managed by the City of Glendale. As additional light industrial users come forward; subsequent applications for Site Plan Approval will be processed ensuring both Luke AFB and the City of Glendale with compatible development projects.

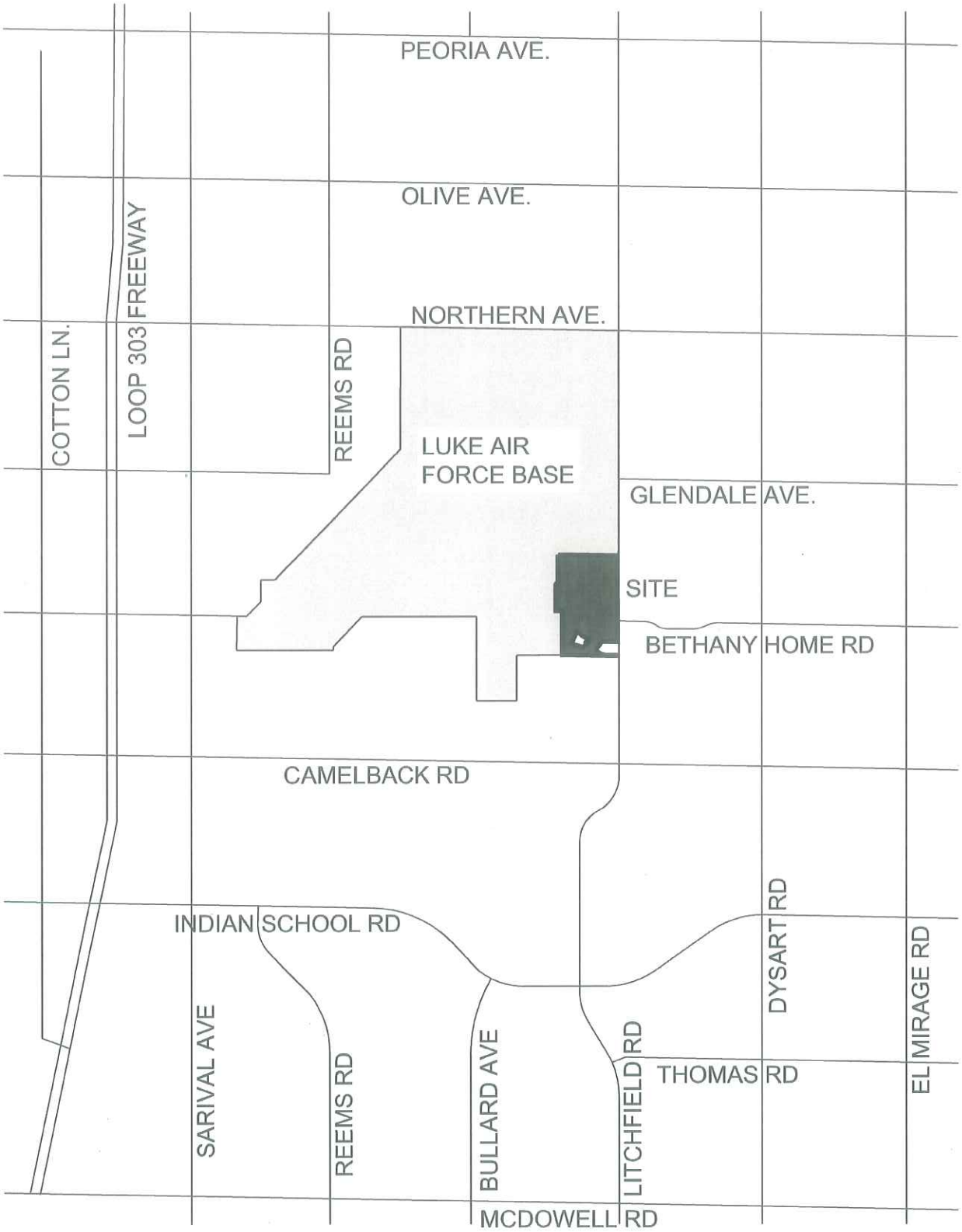
Please provide any comments to our rezoning application regarding the land use, the master plan or development improvements by October 12, 2012. You may call me, Jack Gilmore at 602-266-5622, send letters to me at 2211 N. 7th Street, Phoenix, AZ 85006, or send e-mails to jgilmore@getgilmore.com. You may also contact Karen Stovall with the City of Glendale Planning Department at 623-930-2553 or kstovall@glendaleaz.com.

Sincerely,

APPENDIX 'D'

Jack Gilmore, LA
Gilmore Parsons Land Design Group

cc: Karen Stovall, City of Glendale
attachments: Vicinity Map
Conceptual Master Plan



LUKE LAND INDUSTRIAL PARK

VICINITY MAP

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GLENDALE, AZ

PREPARED FOR: LITCHFIELD & BETHANY HOME LLC

SCALE: NTS
DATE: 09.05.12
GP JOB# 12037

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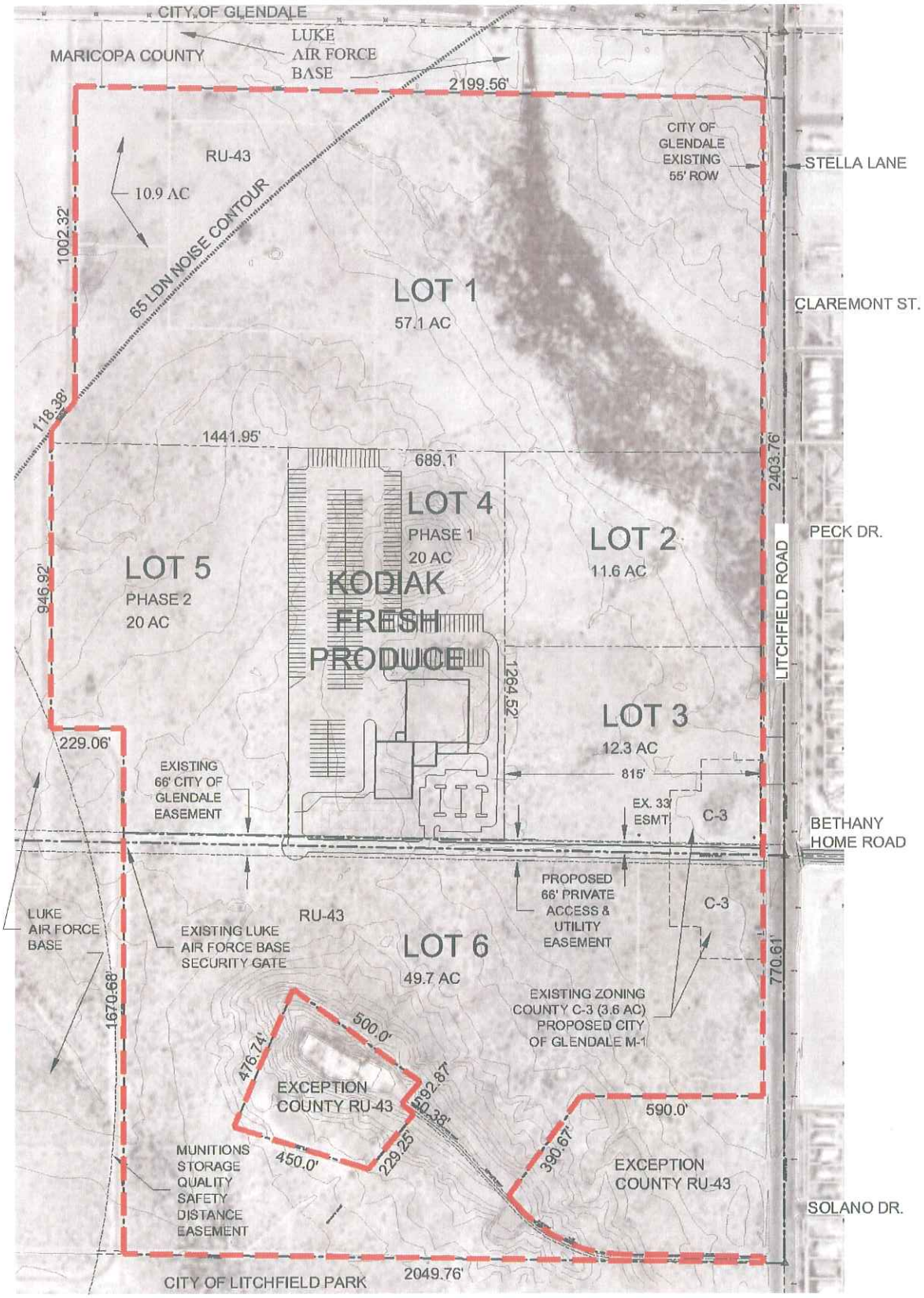
EXHIBIT #1

APP. 'D'



LAND AREA		
TOTAL GROSS OWNERSHIP		170.7 AC
LAND USE SUMMARY		
KODIAK FRESH PRODUCE		
PHASE 1 PLAN OF DEVELOPMENT	LOT 4	20 AC
FUTURE PHASE	LOT 5	20 AC
TOTAL KODIAK ACQUISITION		40 AC
BALANCE OF INDUSTRIAL PROPERTY		130.7 AC

EXISTING ZONING:		
MARICOPA COUNTY:	RU-43 167.1 AC – C-3 3.6 AC	=170.7 AC
CITY OF GLENDALE EQUIVALENT:	A-1 (AGRICULTURAL) 167.1 AC – C-3 3.6 AC	=170.7 AC
PROPOSED CITY OF GLENDALE ZONING:	M-1 (LIGHT INDUSTRIAL)	=170.7 AC

ZON12-03

LUKE LAND INDUSTRIAL PARK

CONCEPTUAL MASTER PLAN

GLENDALE, AZ

PREPARED FOR: LITCHFIELD & BETHANY HOME LLC

SCALE: 1"=300'
DATE: 30.08.12
GP 2012 12037

0 150' 300' 600'

NORTH

GILMORE PARSONS
LAND DESIGN GROUP
2211 N. 7th Street, Phoenix, Az 85006
T 602.266.5633 F 602.266.5707
www.gilmoreparsons.com

EXHIBIT #3

APP. 'D'

Jack Gilmore

From: Jack Gilmore
Sent: Tuesday, September 18, 2012 2:11 PM
To: James "Rusty" Mitchell
Subject: Luke Land Industrial Park
Attachments: #5 MASTER PLAN.pdf; #3 luke uccd letter.pdf

Rusty:

As you may recall, we made contact several months ago regarding property located at the northwest corner of Litchfield Road and Bethany Home Road. Our clients were interested in rezoning the property in the County to Light Industrial I-2. There is a 10.9 acre area within the 65 Ldn boundary and you issued a UCCD letter permitting specific light industrial uses within that defined area. We have since changed direction requesting annexation and rezoning in the City of Glendale. I have attached the letter you issued for the UCCD as well as the proposed Conceptual Master Plan.

As you will see on the Master Plan, we have a user, Kodiak Fresh Produce who is under contract to purchase Lots 4 and 5. Lot 4 is their Phase 1 development, and Lot 5 is their expansion area. Our client is the property owner, Litchfield & Bethany Home LLC (Luke Land Realty & Investments) whose principals I believe you know, David Lewis, and his two sons, Luke and Mark.

If possible, I would like to schedule a visit to present the rezoning application and discuss the larger study area. Please review the attached exhibits and let me know when we might be able to meet. Ultimately, I will be requesting a letter from your office in support of the application.

Regards

Jack Gilmore, LA

Gilmore Parsons Land Design Group
2211 N. 7th Street
Phoenix, AZ 85006
O: 602.266.5622 F: 602.266.5707
M: 602.999.8860
jgilmore@getgilmore.com

Jack Gilmore

From: Jack Gilmore
Sent: Friday, October 05, 2012 10:39 AM
To: James "Rusty" Mitchell
Subject: Luke Land Industrial Park
Attachments: #3 Conceptual Master Plan.pdf

Rusty:

I believe you are already familiar enough with the rezoning application associated with the attached exhibit. This e-mail is to question the type of separation along our north and west common boundary/property lines. The City of Glendale and most municipalities require a 6' masonry wall. However, because of security issues / visibility, I was questioning the need for dual separation. Luke AFB has an existing chain link fence with barbed wire. Do you see any problems with a 6' masonry screen wall adjacent to your existing fence. For the sake of cost, I would elect not to double-up, but that decision is belongs to the City of Glendale and influenced by Luke AFB.

Your thoughts and recommendations will be appreciated and considered by the City of Glendale and will impact the site improvements imposed by the City.

Regards

Jack Gilmore
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jgilmore@getgilmore.com
Thank you for considering the environment before printing this e-mail

Jack Gilmore

From: MITCHELL, JAMES R GS-14 USAF AETC 56 FW/CIT <james.mitchell.1@us.af.mil>
Sent: Thursday, October 25, 2012 9:04 AM
To: Jack Gilmore
Cc: HANSON, MICHAEL A GS-12 USAF AETC 56 FW/CVE
Subject: RE: Luke Land Industrial Park

Jack

I spoke with our Security Forces Commander and he says an Air Force Requirement is for a 30' clear zone outside of our fence-line. Is this possible in your design?

We have no opinion on whether or not you construct an additional wall on your property, at the 30' clear zone line.

If this is an issue please let me know and we will continue to discuss.

V/r

James "Rusty" Mitchell, DAFC GS-14
Director, Luke AFB Community Initiatives Team
Luke AFB AZ

Office: 623-856-6169
cell: 623-225-6977
NEW E-MAIL: James.Mitchell.1@US.AF.Mil
Alt E-mail: MitchellNArizona@AOL.Com

"Beware the Thunderbolt"
"Gamblers Play to Win"
"Audentes Fortuna Juvat"

Notice: Please do not forward this e-mail without the express consent of the sender (me).

-----Original Message-----
From: Jack Gilmore [mailto:jgilmore@getgilmore.com]
Sent: Friday, October 05, 2012 10:39 AM
To: MITCHELL, JAMES R GS-14 USAF AETC 56 FW/CIT
Subject: Luke Land Industrial Park

Rusty:

Jack Gilmore

From: Jack Gilmore
Sent: Thursday, October 25, 2012 10:16 AM
To: 'MITCHELL, JAMES R GS-14 USAF AETC 56 FW/CIT'
Cc: Luke Lewis
Subject: RE: Luke Land Industrial Park
Attachments: ALTA reduced file size.jpg

Rusty:

This is definitely an issue. On all previous exhibits and correspondence that we have from SunCor for their Sunset Estates project, and your UCCD letter addressed to the County dated May 31, 2012, there has been no discussion of this 30' clear zone?

Further analysis of the attached ALTA Survey indicates that the existing 10' fence along the north PL varies from 19.8 - 23'. Along the west PL from the NWC, the fence is 21-23' and the southern portion reduces from 10' to sharing the PL at the SWC corner. A review of the Aerial Maps indicate that Luke AFB has a vacant buffer of land that is approximately 190' north of the fence line to the parallel fence line along the south side of Super Sabre Street. On the west side, the closest base improvements beyond the north-south perimeter road is approximately 260' west of your 10' fence line.

First question; can your security staff accept the existing 20-23 ' average clear zone outside your fence line? The southern portion may require further discussion.

The second obvious question is; if the 30' clear zone is indeed the minimum, would Luke AFB shift the fence line to create the 30' dimension. Certainly there is plenty of room in the vacant buffer areas to move the fence. Please call to discuss or possibly a meeting is in order.

Jack Gilmore

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Jack Gilmore

From: MITCHELL, JAMES R GS-14 USAF AETC 56 FW/CIT <james.mitchell.1@us.af.mil>
Sent: Thursday, October 25, 2012 1:17 PM
To: Jack Gilmore
Cc: Luke Lewis; HANSON, MICHAEL A GS-12 USAF AETC 56 FW/CVE
Subject: RE: Luke Land Industrial Park

Jack

I am gathering more information on this. There seems to be some belief that our fence was set back enough to meet the 30' setback.....I will try to track that down.....Our Civil Engineering Squadron said that the fence should NOT be considered the property line....so either your guys or our guys need to establish where the actual property line is...and then where that falls in relation to the fence....

Ill let you know when I find out more, but im sure it wont be until next week....if you have engineering ability to determine the prop line before we do please let me know.

V/r

James "Rusty" Mitchell, DAFC GS-14
Director, Luke AFB Community Initiatives Team
Luke AFB AZ

Office: 623-856-6169
cell: 623-225-6977
NEW E-MAIL: James.Mitchell.1@US.AF.Mil
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"Beware the Thunderbolt"
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Sent: Thursday, October 25, 2012 10:16 AM
To: MITCHELL, JAMES R GS-14 USAF AETC 56 FW/CIT
Cc: Luke Lewis
Subject: RE: Luke Land Industrial Park

Rusty:

This is definitely an issue. On all previous exhibits and correspondence

From: Christopher Davidson [mailto:christopherdavidson@cox.net]
Sent: Thursday, September 20, 2012 5:30 PM
To: Jack Gilmore
Cc: kstovall@glendaleaz.com
Subject: RE: Rezoning Application ZON12-03 for the property located at 6011 N Litchfield Road Glendale Arizona

Dear Mr. Gilmore;

As a property owner and interested party, I would like to thank you for your letter dated September 18, 2012 and offer my reply.

Many of the residents and property owners I have spoken to here in the Dreaming Summit Development, myself included, are completely opposed to this rezoning request.

The negative effects that could result from this type of zoning and development are far reaching and unacceptable to us as residents and property owners of Dreaming Summit Development.

Our concerns include but are not limited to:

1. Industrial zoning (light or otherwise) in a area previously designated for agricultural use can only serve to decrease property values in an already weak residential market.
2. Increased traffic by non-passenger vehicles transporting heavier loads will result in necessity for more road maintenance and serve to decrease neighborhood safety as drivers (private and commercial) seeking relief will undoubtedly cut through the Dreaming Summit Development along Bethany Home Road.
3. The potential for increased crime that follows as a result of industrial development.
4. The potential for Increased noise not related to Military or associated base activity due to extended hours of operations for said industrial area.
5. The potential for Increased pollution over what some consider pristine desert areas resulting from industrial activity further diminishing the desert views along this stretch of road.

While we believe most everyone supports the concept and benefit of job creation through economic development, the long term employment outcome from this type of development often results in low paying or minimum wage jobs. While these jobs are an important function of the overall economy, these are not kind of jobs we want near our neighborhoods, schools and residential areas. Nor do we want the negative connotation associated with living near said industrial areas.

I and most everyone else I have spoken to fully support Luke's ongoing mission and understand what it means to live near the base. Your proposed development is not part of Luke's ongoing mission nor is it central to base operations as it exists today. It is merely a speculative business venture that may or may not support Luke's ongoing or future mission. Portraying this as anything other than a speculative business venture is deceptive marketing at best.

It is our view that the potential downside risk far outweighs the benefit to support your application for land use and we are very much opposed to this rezoning request.

Luke was here long before the Dreaming Summit Development so we knew what we were getting into when we purchased property and chose to live here. Your proposed industrial zoning and development however, was not part of that consideration, and as such is not something agreed to at the time, nor is it something we support now.

We encourage all residents of the Dreaming Summit Development to share their thoughts with you on this matter as well.

Sincerely,

Christopher Davidson

Jack Gilmore

From: Jack Gilmore
Sent: Friday, September 21, 2012 11:13 AM
To: 'Christopher Davidson'
Cc: Karen Stovall
Subject: RE: Rezoning Application ZON12-03 for the property located at 6011 N Litchfield Road Glendale Arizona

Christopher:

Thank you for sharing your concerns. I want to address each one separately and encourage you to respond again.

1. Industrial zoning (light or otherwise) in a area previously designated for agricultural use can only serve to decrease property values in an already weak residential market.

The area is not designated for agricultural use. The existing County Zoning is Rural-43, which is the base zoning for all county jurisdictional property that has not been developed. When this property is annexed into Glendale, the City automatically designates a City of Glendale Zoning District that matches the County. In Glendale, that is the A-1, Agricultural District. Please review Section 5.100 of the Glendale Zoning Ordinance, it is on their website. In the City of Glendale as well as all the municipalities in Arizona, land use is first controlled by the particular municipality's General Plan. The City of Glendale worked very closely with Luke AFB to adopt the Glendale General Plan 2025. The approved land use on the subject property is Light Industrial.

As for property values, I have a difficult time accepting that contention. Our site is across a major arterial street which is an appropriate buffer between dis-similar land uses, a very common pattern throughout the Valley. Dreaming Summit is a master planned Community that backs onto an arterial. The neighborhoods are internalized for the very reason you are concerned about. Pedestrian circulation and neighborhood orientation are organized along interior street systems where homes share common frontage and streets lead to common area open spaces, and schools. If your home was facing onto Litchfield Road, then you would have a stronger argument.

2. Increased traffic by non-passenger vehicles transporting heavier loads will result in necessity for more road maintenance and serve to decrease neighborhood safety as drivers (private and commercial) seeking relief will undoubtedly cut through the Dreaming Summit Development along Bethany Home Road.

Litchfield Road is a major arterial. Its purpose is to carry large volumes of traffic, and the streets are specially designed to carry the load. Bethany Home Road is a minor arterial and terminates at El Mirage Road. The traffic generated by the Industrial Park will always follow the more expedient routes where speed limits are faster and lead to the regional circulation network; Glendale Avenue to the Loop 101, Litchfield Road south to I-10, or north to the future Northern Parkway, and west along Camelback Road to Loop 303. Bethany Home leads only through a residential community with more traffic controls that slow down truck traffic. This should not develop into a problem for Dreaming Summit.

3. The potential for increased crime that follows as a result of industrial development.

A popular urban myth that I cannot accept.

4. The potential for Increased noise not related to Military or associated base activity due to extended hours of operations for said industrial area.

We are currently processing a rezoning application in Goodyear where truck noise has been raised as a potential conflict by the neighbors. That project is located on the south side of Goodyear, a 1.3MSF Warehouse/Distribution facility. We retained an acoustical engineer to test the noise generated by semi-trucks coming out of the project onto their adjacent street. The results surprised us all. The noise generate by Luke AFB over-flights, Phoenix Goodyear Airport over-flights, the UP Railroad, and the traffic on the existing road accounted for an ambient noise level of 62Ldn. The decibel level of our truck traffic coming out of the warehouse represented an increase of about 1%. I will not tell you that the neighbors backing onto Litchfield won't notice a difference, but our experience leads me to believe that the net impact is very marginal.

5. The potential for Increased pollution over what some consider pristine desert areas resulting from industrial activity further diminishing the desert views along this stretch of road.

As a landscape architect, I am the first to accept the necessity to preserve native desert environments. However, in an growing urban culture, impacts will occur and they must be managed. Preserving the native desert in urbanized areas is a complex and difficult goal to achieve at least on a meaningful scale. This is especially true around airports. This is one of the primary purposes of the General Plan, to locate and protect natural open spaces, and I am a strong proponent of the General Plan process.

Christopher, please feel free to respond or call. I will be sharing this e-mail with Karen Stovall, the City of Glendale Staff Planner assigned to this project. Thank you for your interest.

Jack Gilmore, LA

Gilmore Parsons Land Design Group
2211 N. 7th Street
Phoenix, AZ 85006
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M: 602.999.8860
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Sent: Thursday, September 20, 2012 5:30 PM
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I and most everyone else I have spoken to fully support Luke's ongoing mission and understand what it means to live near the base. Your proposed development is not part of Luke's ongoing mission nor is it central to base operations as it exists today. It is merely a speculative business venture that may or may not support Luke's ongoing or future mission. Portraying this as anything other than a speculative business venture is deceptive marketing at best.

It is our view that the potential downside risk far outweighs the benefit to support your application for land use and we are very much opposed to this rezoning request.

Luke was here long before the Dreaming Summit Development so we knew what we were getting into when we purchased property and chose to live here. Your proposed industrial zoning and development however, was not part of that consideration, and as such is not something agreed to at the time, nor is it something we support now.

We encourage all residents of the Dreaming Summit Development to share their thoughts with you on this matter as well.

Sincerely,

Christopher Davidson

Jack Gilmore

From: Jack Gilmore
Sent: Friday, October 26, 2012 10:46 AM
To: 'Christopher Davidson'
Subject: FW: Rezoning Application ZON12-03 for the property located at 6011 N Litchfield Road Glendale Arizona

Christopher:

Have you any additional questions regarding this project? Please feel free to call. I was intending to call you, but I do not have a phone number.

Jack Gilmore, LA

Jack Gilmore
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LAND DESIGN GROUP
2211 N. 7th Street, Phoenix, AZ 85006
p. 602 266 5622 \ c. 602 999 8860
jgilmore@getgilmore.com
Thank you for considering the environment before printing this e-mail

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Sent: Friday, September 21, 2012 11:13 AM
To: 'Christopher Davidson'
Cc: Karen Stovall
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As for property values, I have a difficult time accepting that contention. Our site is across a major arterial street which is an appropriate buffer between dis-similar land uses, a very common pattern throughout the Valley. Dreaming Summit is a master planned Community that backs onto an arterial. The neighborhoods are internalized for the very reason you are concerned about. Pedestrian circulation and neighborhood orientation are organized along interior street systems where homes share common frontage and streets lead to common

Jack Gilmore

From: Christopher Davidson <christopherdavidson@cox.net>
Sent: Friday, October 26, 2012 11:12 PM
To: Jack Gilmore
Cc: kstovall@glendaleaz.com
Subject: Re: Rezoning Application ZON12-03 for the property located at 6011 N Litchfield Road Glendale Arizona

Hi Jack,

Thanks for the follow-up. I have been out of town and as a result unable to respond to your answers. Below are my responses.

1. Industrial zoning (light or otherwise) in a area previously designated for agricultural use can only serve to decrease property values in an already weak residential market.

> The area is not designated for agricultural use. The existing County Zoning is Rural-43, which is the base zoning for all county jurisdictional property that has not been developed. When this property is annexed into Glendale, the City automatically designates a City of Glendale Zoning District that matches the County. In Glendale, that is the A-1, Agricultural District. Please review Section 5.100 of the Glendale Zoning Ordinance, it is on their website. In the City of Glendale as well as all the municipalities in Arizona, land use is first controlled by the particular municipality's General Plan. The City of Glendale worked very closely with Luke AFB to adopt the Glendale General Plan 2025. The approved land use on the subject property is Light Industrial.
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>
> While you are correct, currently the property is not zoned agricultural, but county zoned, Rural-43. The property is currently not zoned for industrial use. Furthermore, the property is not currently within the confines of the city of Glendale, which is why it would need to be annexed. If my records check is correct, it is un-incorporated county land. Our neighbors, and our community, are against this type of land use so close to our homes as these type of developments, historically, drive property values down. Unfortunately, you cannot dismiss an argument, simply because you do not like, or believe, the statistics that support such a conclusion. Industrial areas do diminish nearby residential property values.

2. Increased traffic by non-passenger vehicles transporting heavier loads will result in necessity for more road maintenance and serve to decrease neighborhood safety as drivers (private and commercial) seeking relief will undoubtedly cut through the Dreaming Summit Development along Bethany Home Road.

Litchfield Road is a major arterial. Its purpose is to carry large volumes of traffic, and the streets are specially designed to carry the load. Bethany Home Road is a minor arterial and terminates at El Mirage Road. The traffic generated by the Industrial Park will always follow the more expedient routes where speed limits are faster and lead to the regional circulation network; Glendale Avenue to the Loop 101, Litchfield Road south to I-10, or north to the future Northern Parkway, and west along Camelback Road to Loop 303. Bethany Home leads only through a residential community with more traffic controls that slow down truck traffic. This should not develop into a problem for Dreaming Summit.

I do wonder when was the last time you visited the area in question? Litchfield road, between Camelback and Glendale, is in very rough shape. There are only 2 lanes in each direction, with little room to widen the road, in order to accommodate the increase in heavy traffic. Litchfield road was not designed as a major arterial. While it's use has increased over the years, the 303 is statistically considered a major arterial, based on traffic volumes. Glendale Avenue essentially ends at the base. The South Gate is currently Luke's only west side active base access point. Additional traffic, on an already worn roadbed, will only increase noise, pollution and the like. Perhaps this section of Litchfield Road could be widened to better accommodate the traffic, but that does not belay the concerns surrounding the issue. As for people taking shortcuts through the residential areas, it already happens, so any increased traffic would contribute to the problem.

3. The potential for increased crime that follows as a result of industrial development.

A popular urban myth that I cannot accept.

This is a statistical fact. You cannot dismiss an argument, simply because you do not like the source.

4. The potential for Increased noise not related to Military or associated base activity due to extended hours of operations for said industrial area.

We are currently processing a rezoning application in Goodyear where truck noise has been raised as a potential conflict by the neighbors. That project is located on the south side of Goodyear, a 1.3MSF Warehouse/Distribution facility. We retained an acoustical engineer to test the noise generated by semi-trucks coming out of the project onto their adjacent street. The results surprised us all. The noise generate by Luke AFB over-flights, Phoenix Goodyear Airport over-flights, the UP Railroad, and the traffic on the existing road accounted for an ambient noise level of 62Ldn. The decibel level of our truck traffic coming out of the warehouse represented an increase of about 1%. I will not tell you that the neighbors backing onto Litchfield won't notice a difference, but our experience leads me to believe that the net impact is very marginal.

Unfortunately, both myself and my neighbors back up to Litchfield road, we would be effected by the increase in noise.

5. The potential for Increased pollution over what some consider pristine desert areas resulting from industrial activity further diminishing the desert views along this stretch of road.

As a landscape architect, I am the first to accept the necessity to preserve native desert environments. However, in an growing urban culture, impacts will occur and they must be managed. Preserving the native desert in urbanized areas is a complex and difficult goal to achieve at least on a meaningful scale. This is especially true

around airports. This is one of the primary purposes of the General Plan, to locate and protect natural open spaces, and I am a strong proponent of the General Plan process.

I am curious as to how an industrial area replacing pristine desert, is going to enhance the view? If Luke were expanding it's runway, it would have a minimal visual impact, building/warehouses are not visually minimal. I do sincerely believe that you would do your best to minimalize the visual eyesore that would replace the current view, but, I would not however, consider it an improvement.

Again, while we believe most everyone supports the concept, and benefit, of job creation through economic development, the long term employment outcome from this type of development often results in low paying, or minimum wage jobs. While these jobs are an important function of the overall economy, these are not the kind of jobs we want near our neighborhoods, schools and residential areas. Nor do we want the negative connotation, associated with living near said industrial areas. I wonder, how open you as a property owner, would be, to industrial encroachment in your area, especially if it were directly across the street from your residence? Do you honestly think it would not bring down your property value? Invite the potential for increased crime? How would you feel about losing a beautiful desert view?

As stated in my previous e-mail. I, and most everyone else I have spoken to, fully support Luke's ongoing mission, and understand what it means to live near the base. The proposed development is not part of Luke's ongoing mission, nor is it central to base operations, as it exists today. Marketing this as anything else is deceptive, and insults our intelligence. I believe it is an unintended consequence and not deliberate.
I fully support free market speculation, and the risk/reward ratio of economic theory. Like most citizens, I just don't want it where I live. Had this been in existence while I was searching for a neighborhood to call home, I would not have made the purchase, nor would many of my neighbors.

It is our view that the potential downside risk, far outweighs the benefit to support your application for land use, and we are very much opposed to this rezoning request.

Again, Luke was here long before the Dreaming Summit Development, so we knew what we were getting into when we purchased property, we chose to live here. Your proposed industrial zoning and development however, was not part of that consideration, and as such, is not something agreed to at the time, nor is it something we support now.

We have encouraged all residents of the Dreaming Summit Development to share their thoughts with you on this matter as well. We do appreciate the opportunity to voice our concerns and participate in the civic process as you solicited us to do.

Sincerely,

Christopher Davidson
From: Jack Gilmore
Sent: Friday, October 26, 2012 10:46 AM
To: Christopher Davidson
Subject: FW: Rezoning Application ZON12-03 for the property located at 6011 N Litchfield Road Glendale Arizona

Christopher:

p. 602 266 5622 \ c. 602 999 8860

jgilmore@getgilmore.com

Thank you for considering the environment before printing this e-mail

From: Jack Gilmore
Sent: Saturday, October 27, 2012 4:16 PM
To: 'Christopher Davidson'
Cc: Karen Stovall
Subject: RE: Rezoning Application ZON12-03 for the property located at 6011 N Litchfield Road Glendale Arizona

Christopher:

I am glad you responded. I am again responding and hope to clear up some misunderstandings. If I can address your concerns and your neighbors, I am certainly open to scheduling a time for a meeting. There will be public hearings scheduled before the Glendale Planning & Zoning Commission and City Council where you and your neighbors can share your concerns. The property will be posted with signage that will include dates for these hearings. Because of your interest, I will send you notification as well by e-mail.

Respectfully,

Jack Gilmore, LA

Jack Gilmore

GILMORE PARSONS

LAND DESIGN GROUP

2211 N. 7th Street, Phoenix, AZ 85006

p. 602 266 5622 \ c. 602 999 8860

jgilmore@getgilmore.com

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Sent: Friday, October 26, 2012 11:12 PM
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Thanks for the follow-up. I have been out of town and as a result unable to respond to your answers. Below are my responses.

1. Industrial zoning (light or otherwise) in a area previously designated for agricultural use can only serve to decrease property values in an already weak residential market.

The area is not designated for agricultural use. The existing County Zoning is Rural-43, which is the base zoning for all county jurisdictional property that has not been developed. When this property is annexed into Glendale, the City automatically designates a City of Glendale Zoning District that matches the County. In Glendale, that is the A-1, Agricultural District. Please review Section 5.100 of the Glendale Zoning Ordinance, it is on their website. In the City of Glendale as well as all the municipalities in Arizona, land use is first controlled by the particular municipality's General Plan. The City of Glendale worked very closely with Luke AFB to adopt the Glendale General Plan 2025. The approved land use on the subject property is Light Industrial.

As for property values, I have a difficult time accepting that contention. Our site is across a major arterial street which is an appropriate buffer between dis-similar land uses, a very common pattern throughout the Valley. Dreaming Summit is a master planned Community that backs onto an arterial. The neighborhoods are internalized for the very reason you are concerned about. Pedestrian circulation and neighborhood orientation are organized along interior street systems where homes share common frontage and streets lead to common area open spaces, and schools. If your home was facing onto Litchfield Road, then you would have a stronger argument.

While you are correct, currently the property is not zoned agricultural, but county zoned, Rural-43. The property is currently not zoned for industrial use. Furthermore, the property is not currently within the confines of the city of Glendale, which is why it would need to be annexed. If my records check is correct, it is un-incorporated county land. Our neighbors, and our community, are against this type of land use so close to our homes as these type of developments, historically, drive property values down. Unfortunately, you cannot dismiss an argument, simply because you do not like, or believe, the statistics that support such a conclusion. Industrial areas do diminish nearby residential property values.

We are working on two applications. Annexation into the City of Glendale AN-189, and a subsequent rezoning ZON12-03. My first reply is still correct. This property cannot be rezoned to industrial unless the City of Glendale's General Plan has previously designated this area as Industrial. A previous owner, SunCor attempted residential on our site and Luke AFB opposed it. We could have rezoned this property under Maricopa County jurisdiction, but as a Class I County island, the County for the most part defers land use decisions to the appropriate municipality, The City of Glendale. Our clients chose to annex into Glendale and rezone to Light Industrial M-1 in conformance with the General Plan and with the support of Luke AFB.

If you have a source of statistics that support your contention regarding a loss of value for homes within a master planned residential community that are separated by an arterial street from an industrial park, I would be very interested to review it. There are many assumptions that appraisers will use to qualify "comps". I can certainly understand the regional influence of proximity, but that must account for many socioeconomic impacts beyond the immediate neighborhood. To claim an automatic reduction because of proximity will be very hard to substantiate.

2. Increased traffic by non-passenger vehicles transporting heavier loads will result in necessity for more road maintenance and serve to decrease neighborhood safety as drivers (private and commercial) seeking relief will undoubtedly cut through the Dreaming Summit Development along Bethany Home Road.

Litchfield Road is a major arterial. Its purpose is to carry large volumes of traffic, and the streets are specially designed to carry the load. Bethany Home Road is a minor arterial and terminates at El Mirage Road. The traffic generated by the Industrial Park will always follow the more expedient routes where speed limits are faster and lead to the regional circulation network; Glendale Avenue to the Loop 101, Litchfield Road south to I-10, or north to the future Northern Parkway, and west along Camelback Road to Loop 303. Bethany Home leads only through a residential community with more traffic controls that slow down truck traffic. This should not develop into a problem for Dreaming Summit.

I do wonder when was the last time you visited the area in question? Litchfield road, between Camelback and Glendale, is in very rough shape. There are only 2 lanes in each direction, with little room to widen the road, in order to accommodate the increase in heavy traffic. Litchfield road was not designed as a major arterial. While it's use has increased over the years, the 303 is statistically considered a major arterial, based on traffic volumes. Glendale Avenue essentially ends at the base. The South Gate is currently Luke's only west side active base access point. Additional traffic, on an already worn roadbed, will only increase noise, pollution and the like. Perhaps this section of Litchfield Road could be widened to better accommodate the traffic, but that does not belay the concerns surrounding the issue. As for people taking shortcuts through the residential areas, it already happens, so any increased traffic would contribute to the problem.

My original reply still stands. The fact remains that Litchfield Road is an arterial road designed/intended to carry regional traffic. Widening our portion will complicate traffic flow as cars and trucks attempt to merge north and south of our frontage. The Traffic Engineer at the City of Glendale cannot justify adding lanes.

3. The potential for increased crime that follows as a result of industrial development.

A popular urban myth that I cannot accept.

This is a statistical fact. You cannot dismiss an argument, simply because you do not like the source.

Again, what statistical facts are you referring to and who is the source? I would be very interested to learn more about this. Please call the City of Glendale's Police Dept. or the County Sheriff's office and see if they can help address your concerns or provide you the information you are seeking.

4. The potential for Increased noise not related to Military or associated base activity due to extended hours of operations for said industrial area.

We are currently processing a rezoning application in Goodyear where truck noise has been raised as a potential conflict by the neighbors. That project is located on the south side of Goodyear, a 1.3MSF Warehouse/Distribution facility. We retained an acoustical engineer to test the noise generated by semi-trucks coming out of the project onto their adjacent street. The results surprised us all. The noise generate by Luke AFB over-flights, Phoenix Goodyear Airport over-flights, the UP Railroad, and the traffic on the existing road accounted for an ambient noise level of 62Ldn. The decibel level of our truck traffic coming out of the

warehouse represented an increase of about 1%. I will not tell you that the neighbors backing onto Litchfield won't notice a difference, but our experience leads me to believe that the net impact is very marginal.

Unfortunately, both myself and my neighbors back up to Litchfield road, we would be effected by the increase in noise.

I cannot claim that you will not be impacted. As a resident backing onto Litchfield Road, you will notice traffic noise more so than even your neighbors across the street. My contention, which has been substantiated on the project that I described above, in that the increase will be

Jack Gilmore

From: christopherdavidson <christopherdavidson@cox.net>
Sent: Tuesday, October 30, 2012 10:08 PM
To: Jack Gilmore
Cc: kstovall@glendaleaz.com
Subject: RE: FW: Rezoning Application ZON12-03 for the property located at 6010 N Litchfield Road Glendale Arizona

Hi Jack,

I have spoken with a number of the neighbors and they indicated to me that they will be reaching out to you individually within the next couple of days. I am not opposed to a meeting or call to discuss the issues in more detail. Perhaps after the neighbors have reached out to you would be a good time to schedule something.

Regards,

Christopher

Jack Gilmore <jgilmore@getgilmore.com> wrote:

Christopher:

Please share your thoughts regarding my last e-mail reply. Do you have an interest to meet? Please consider a call as well. Are any of your neighbors wanting to send e-mails, call, or meet?

We are hoping to finalize our submittal, and I would like to indicate to the City of Glendale that we are attempting to address your concerns.

Jack Gilmore

Jack Gilmore

GILMORE PARSONS

LAND DESIGN GROUP

2211 N. 7th Street, Phoenix, AZ 85006

Jack Gilmore

From: Walter Rowe <azsw@azswconstruction.com>
Sent: Monday, October 08, 2012 9:02 AM
To: Jack Gilmore; kstovall@glendaleaz.com
Cc: Dennis Conner; Eric Lockhart; wgrowe@cox.net
Subject: Rezoning Application ZON12-03 6010 N Litchfield Road, Glendale, AZ

Arizona Southwest Construction Inc.

Hello Mr. Gilmore,

My name is Walter Rowe and I am inquiring for Desert Joy Community Fellowship Church.

DJCF has received your letter concerning the application for rezoning the property in reference.

DJCF have two questions:

1. Could their property be added to your zoning application and would you consider adding this to your application?

2. If our property was rezoned as equal to your application, if decided upon in the future could the property still be built upon for church purposes once rezoned?

*DJCF thought process:
If they decided in the future to sell it they believe that it would be more marketable as light industrial and if elected they would still have an option to build a church there as well if they so decided.

Good luck with your venture, sounds like a great idea.
Thank you for your consideration.

Sincerely,

Walter Rowe
Walter Rowe
President
Arizona Southwest Construction, Inc.
10320 West McDowell RD
Suite K1136
Avondale, AZ 85392

www.azswconstruction.com

602.881.8300 direct
623.643.9400 office

Jack Gilmore

From: Jack Gilmore
Sent: Thursday, October 18, 2012 10:28 AM
To: 'Andy Jochums'
Cc: luke@lukelandrealty.com; david@lukelandrealty.com
Subject: RE: Luke Land Industrial Park
Attachments: #2 Noise Contour Map.pdf; #4 Existing Conditions w-Aerial bw.pdf; #5 Conceptual Master Plan.pdf; #6 GENERAL PLAN 2025.pdf

Andy:

I have attached the exhibits that we submitted with the rezoning application. Kodiak Fresh Produce is currently working with their architect to prepare a building program and site plan. The site information on the Conceptual Master Plan was provided to us by Kodiak and satisfies Staff for rezoning. Kodiak tentatively hopes to file a Design Review Application mid-December.....

Call with any questions.

Jack

From: Andy Jochums [mailto:ajochums@beusgilbert.com]
Sent: Thursday, October 18, 2012 10:14 AM
To: Jack Gilmore
Cc: luke@lukelandrealty.com; david@lukelandrealty.com
Subject: Luke Land Industrial Park

Jack,

We also represent the Wigwam Resort, which owns their Sunset Point property, which is located as an exception in the middle of the proposed Luke Land Industrial Park along Litchfield Road. They received your letter noticing all the surrounding property owners about the application and asked us to review it. With your letter, we got the conceptual master plan, but would it be possible to forward me any other electronic plans you might have, including any details on the Kodiak site and building? Thanks,

Andy Jochums, AICP
Planning Consultant

BEUS GILBERT PLLC
4800 N. Scottsdale Rd., Ste. 6000 | Scottsdale, AZ 85251
Direct: 480.429.3063 | Main: 480.429.3000 | Fax: 480.429.3100
Email: ajochums@beusgilbert.com
Secretary: Pat Wagner | 480.429.3103 | pwagner@beusgilbert.com

This message may contain confidential and privileged information. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

Jack Gilmore

From: Andy Jochums <ajochums@beusgilbert.com>
Sent: Monday, November 05, 2012 5:31 PM
To: Jack Gilmore
Subject: Luke Land Industrial Park

Jack,

I wanted to follow-up with you in regards to our phone conversation last week. I got a chance to talk with Paul about the possibility of annexation of the JDM/Wigwam Sunset Point property in conjunction with the Luke Land property. Paul agreed with me that there didn't seem to be an apparent need for annexation as our client's property is already entitled for what they want with Maricopa County, but he was going to contact them anyway. As there is no immediate desire on our part for annexation, there should be no reason to hold up your annexation and rezoning with Glendale. I will follow-up with you if Paul hears anything to the contrary from our client.

Andy Jochums, AICP
Planning Consultant

BEUS GILBERT PLLC
4800 N. Scottsdale Rd., Ste. 6000 | Scottsdale, AZ 85251
Direct: 480.429.3063 | Main: 480.429.3000 | Fax: 480.429.3100
Email: ajochums@beusgilbert.com
Secretary: Pat Wagner | 480.429.3103 | pwagner@beusgilbert.com

This message may contain confidential and privileged information. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

5 November 2012

Mr. James R. Mitchell
Director, Community Initiatives Team
56th Fighter Wing
14185 West Falcon Street
Luke AFB AZ 85309-1629

Ms. Karen Stovall, Senior Planner
City of Glendale
5850 West Glendale Ave
Glendale AZ 85301-2599

Re: Rezoning Application #ZON12-03 – Luke Land Industrial Park

Dear Ms. Stovall

Thank you for the opportunity to provide comments on the Rezoning Application for the Luke Land Industrial Park. The site is located on 170.7 gross acres at the west side of Litchfield Road, north and south of Bethany Home Road. The request is for an application to rezone from City of Glendale A-1 (Agricultural) and C-3 (Heavy Commercial) zoning to M-1 (Light Industrial) to develop an industrial park that would permit manufacturing, assembling, warehousing, and wholesale activities. Approximately 159.8 acres of the site is located adjacent to and outside the 1988 JLUS 65 Ldn, "high noise or accident potential zones," as identified by A.R.S. §28-8461, the munitions storage area Quantity Distance (QD) arc, and is within the "territory in the vicinity of a military airport," also defined by A.R.S. §28-8461. Approximately 10.9 acres of the site is located within the 65 Ldn. Note: Fence-line should not be the assumed actual property-line.

As described, a light industrial area is compatible and consistent with the high noise or accident potential of a military airport or ancillary military facility, and will not negatively impact the flying operations at Luke AFB. However, the property is located adjacent to the Luke AFB high-explosive munitions storage area and although the industrial site is outside the QD arc, this does not guarantee that there will be no structural damage, injuries, or even fatalities if a mishap were to occur. The property is also less than a mile from our jet engine maintenance test pad, which will generate higher than average noise levels during test operations.

If, after consideration of these concerns, the City of Glendale chooses to approve the industrial park as submitted, special consideration must be made to mitigate safety and noise issues. We recommend you review the sound attenuation requirements found in A.R.S. §28-8482 and use those requirements as a bare minimum.

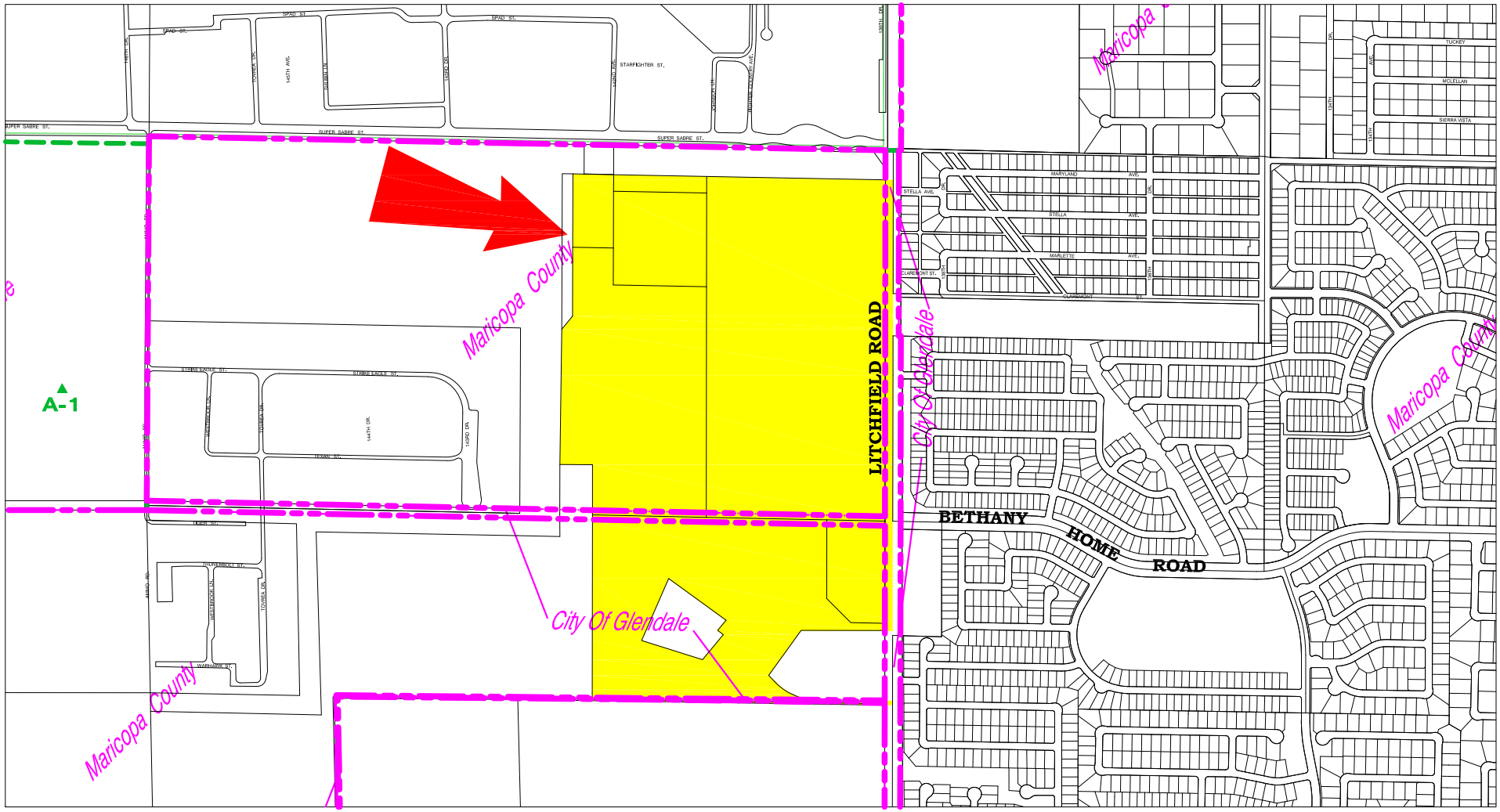
We recommend a review of the Luke AFB web site at http://www.luke.af.mil, Community Interests and Community Initiatives links, for further information.

If you have any questions, please contact my Community Planner, Lt Col Bill Engelson at (623) 856-9982.

Sincerely

JAMES R. MITCHELL

cc:
Colonel Robert E. Webb, Vice Commander, 56th Fighter Wing
Lieutenant Colonel Thomas L. Cluff, Jr., Staff Judge Advocate, 56th Fighter Wing



GLENDALE

CASE NUMBER

ZON12-03

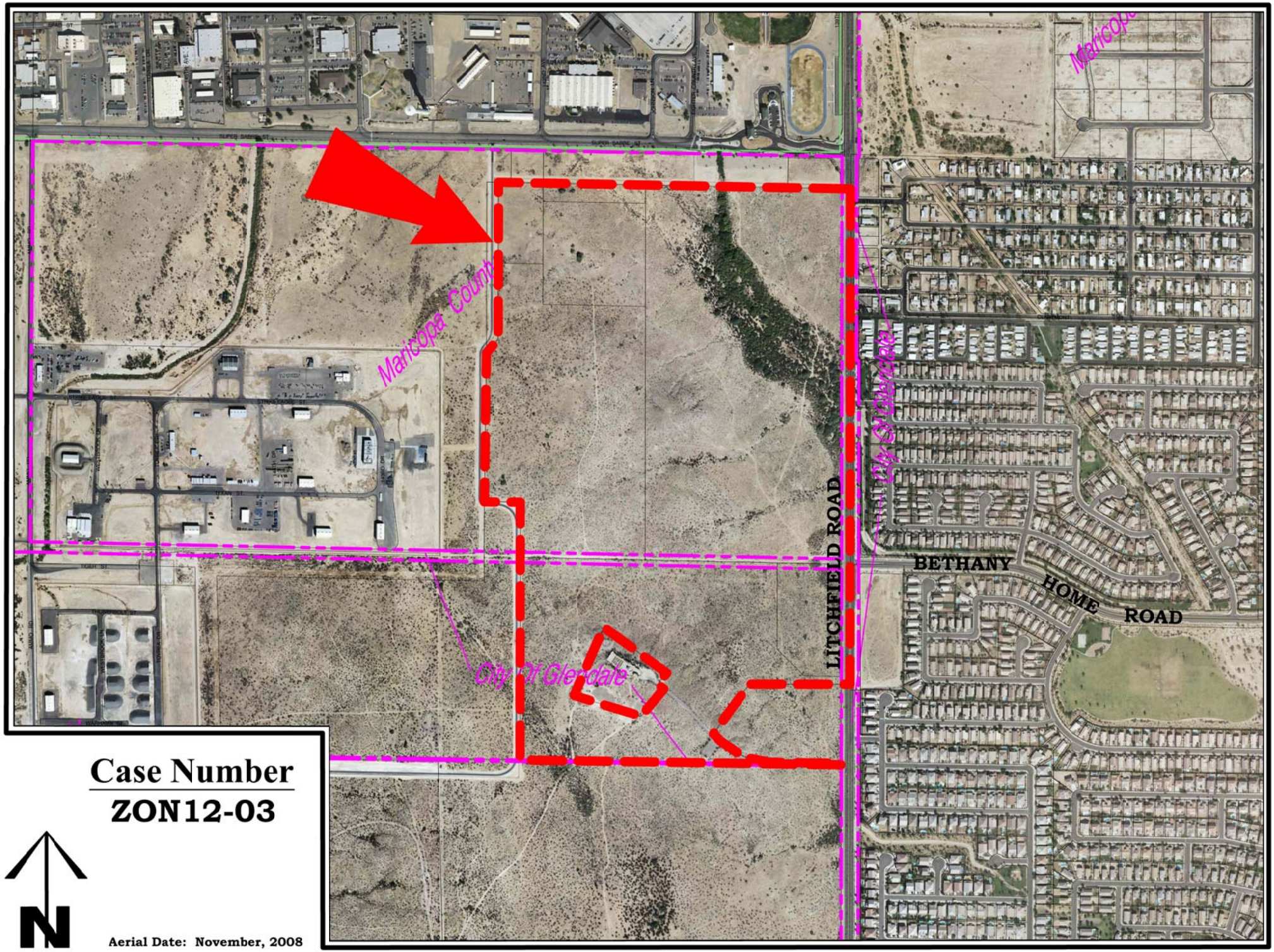
N

REQUEST

REZONE FROM A-1 (AGRICULTURAL) AND C-3 (HEAVY COMMERCIAL) TO M-1 (LIGHT INDUSTRIAL).

LOCATION

6010 N. LITCHFIELD ROAD



Case Number

ZON12-03

Aerial Date: November, 2008

CITY COUNCIL REPORT

Meeting Date: **6/25/2013**
Meeting Type: **Voting**
Title: **CITY AUDITOR ORDINANCE**
Staff Contact: **Candace MacLeod, City Auditor**

Purpose and Recommended Action

The purpose of this report is to request the City Manager forward this item to City Council for their consideration and approval. Under the proposed ordinance, the City Auditor's Office would report functionally to City Council and administratively to the City Manager. Staff is requesting that Council waive reading beyond the title and adopt an ordinance amending the reporting structure of the City Auditor's Office.

Background Summary

Amending the reporting structure of the City Auditor's Office was discussed by City Council at the February 5, 2013 and May 21, 2013 Council Workshops. Professional standards that govern the practice of internal auditing recommend that internal audit be established formally by charter or ordinance; be organizationally independent and free from management control and interference; have access to those charged with governance; have the authority to look at any department, function, system or transaction at any time; and report audit results to both the head of the government entity and to those charged with governance. The Institute of Internal Auditors states that organizational independence of the internal audit function is achieved most effectively when the chief audit executive reports functionally to the board and administratively to the chief executive officer. In the absence of an ordinance, the new Acting City Manager approved a City Auditor Administrative Policy on April 4, 2013, defining the purpose, responsibility and authority of the internal audit function.

Previous Related Council Action

City Council discussed moving forward with the City Auditor Ordinance at the February 5, 2013 and May 21, 2013 Council Workshops. City Council requested information on internal auditor independence at the December 4, 2012 Council Workshop.

Community Benefit/Public Involvement

Local governments establish and maintain independent audit functions to enhance accountability, strengthen citizen confidence, increase transparency and ensure compliance with laws, regulations, policies and procedures. Under the proposed ordinance, the City Auditor will be

responsible for transmitting each audit report to the impacted city departments, the City Manager, City Council and posting them on the City Auditor's website for public viewing.

Budget and Financial Impacts

There is no financial impact to the city.

Attachments

Ordinance

Other

ORDINANCE NO. 2849 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AMENDING GLENDALE CITY CODE CHAPTER 2, (ADMINISTRATION), ARTICLE III (OFFICERS AND EMPLOYEES), BY ADDING A NEW SECTION 2-54 RELATING TO THE OFFICE OF THE CITY AUDITOR; AND SETTING FORTH AN EFFECTIVE DATE.

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

SECTION 1. That Glendale City Code Chapter 2 (Administration), Article III (Officers and Employees), be amended by adding a new Section 2-54 to read as follows:

SEC. 2-54. OFFICE OF THE CITY AUDITOR.

THERE SHALL BE AN INDEPENDENT OFFICE OF THE CITY AUDITOR CHARGED WITH CONDUCTING FINANCIAL, CONTRACT COMPLIANCE, INTERNAL CONTROL, AND PERFORMANCE AUDITS OF ALL CITY DEPARTMENTS, PROGRAMS, ACTIVITIES, BOARDS, AND COMMISSIONS AND REPORT AUDIT FINDINGS AND RECOMMENDATIONS TO THE DIRECTORS OF THE AFFECTED DEPARTMENTS, THE CITY MANAGER AND CITY COUNCIL. THE OFFICE OF CITY AUDITOR SHALL BE UNDER THE INDEPENDENT CONTROL AND SUPERVISION OF THE CITY AUDITOR. THE CITY AUDITOR SHALL ORGANIZE AND ADMINISTER THE AUDITOR'S OFFICE TO OPERATE WITHOUT MANAGEMENT INTERFERENCE AND SHALL BE PROVIDED WITH FREE AND OPEN ACCESS, EXCEPT WHERE LIMITED BY LAW, TO ALL RECORDS, PERSONNEL, FACILITIES AND INFORMATION NECESSARY TO CARRY OUT THESE DUTIES. THE CITY AUDITOR AND STAFF OF THE OFFICE OF CITY AUDITOR SHALL BE MEMBERS OF THE MERIT SYSTEM AND ADHERE TO THE RULES AND DIRECTIVES APPLICABLE TO THE CLASSIFIED SERVICE.

SECTION 2. That the provisions of this ordinance shall become effective thirty (30) days after passage of this ordinance by the Glendale City Council.

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:

_____
Acting City Attorney

REVIEWED BY:

_____
Acting City Manager

c_auditor.doc

Administrative Policy

SUBJECT: City Auditor

EFFECTIVE: April 4, 2013

Mission: The City Auditor's Office assists the City of Glendale in accomplishing its objectives by bringing a systematic and disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes. The City Auditor's Office provides independent and objective feedback on city programs, activities and functions and the audit work plan is designed to add value and improve operations. These audits are vital in maintaining public trust and confidence that city resources are used efficiently and effectively with adequate levels of oversight.

Responsibility: City management has primary responsibility for establishing and maintaining an effective system of internal controls. The City Auditor's Office evaluates the adequacy of the internal control and operating environment, related financial and operational policies and reports the results accordingly.

Authority and Access: While conducting audit work, the City Auditor's Office staff will have free and open access to all city property, records, information and personnel. Interference with staff from the City Auditor's Office in conducting their work is strictly prohibited.

Independence: The City Auditor's Office staff will have no direct responsibility for or authority over, any of the activities, functions, or tasks reviewed by the department. Accordingly, City Auditor's Office staff should not develop or write policies and procedures that they may later be called upon to evaluate.

Audit Standards: The City Auditor's Office will adhere to applicable industry standards and codes of ethics issued by authoritative sources such as the Institute of Internal Auditors and the U.S. General Accounting Office.

Scope and Objectives: The scope of the City Auditor's Office includes examining and evaluating the adequacy and effectiveness of the city's internal control structure and the city's ability to carry out assigned responsibilities. Audit objectives include:

- Accomplishment of goals and objectives
- Compliance with laws, regulations, policies and procedures
- Reliability of financial data
- Efficiency and effectiveness of operations
- Safeguarding of assets
- Adequacy of information systems

Annual Audit Plan: Each year, an annual audit plan is developed by the City Auditor's Office in conjunction with management that identifies the city departments, programs, activities and contracts that will be audited. Additionally, the City Auditor may spontaneously initiate and conduct any other audit deemed necessary or as directed by the City Manager.

Management Response: Each audit will result in a written report that will be communicated to the department under review and the City Manager. The department will then be required to provide a management response to the findings and recommendations indicating agreement or reasons for disagreement, plans for implementing solutions to the identified problems and a time table to complete such activities. The full text of the department response will be included in the audit report. The department response must be provided to the City Auditor's Office within fifteen (15) calendar days from the date of the department receipt of the final draft. Upon request of a department, the City Auditor may grant a one-time extension of the time to respond up to, but not exceeding, fifteen (15) calendar days.

Reporting: The City Auditor shall be responsible for transmitting each audit report to the impacted departments, the City Manager, the City Council and posting them on the City Auditor's website for public viewing.

Audit Follow-up: The City Auditor shall follow-up on audit recommendations and the related management action plans to determine if corrective action has been taken.

4/4/2013

Richard Bowers, Acting City Manager

CITY COUNCIL REPORT

Meeting Date: **6/25/2013**
Meeting Type: **Voting**
Title: **WATER SERVICES ADVISORY COMMISSION**
Staff Contact: **Craig A. Johnson, P.E., Executive Director, Water Services**

Purpose and Recommended Action

This is a request for City Council to waive reading beyond the title and adopt an ordinance establishing a Water Services Advisory Commission on water and sewer**.**

Background Summary

In January 2012, Council adopted an ordinance establishing the Ad-Hoc Citizen Task Force on water and sewer in response to a Council Item of Special Interest. Fifty-five members were appointed and 44 completed the nine month assignment. The Task Force's recommendations were presented to Council at the December 18, 2012 meeting. One of the Task Force's primary recommendations was to form an on-going Water Services Advisory Commission to review and analyze policies relating to water and wastewater services.

Previous Related Council Action

On June 4, 2013, a presentation was made to the Government Services Committee with regard to the establishment of the commission. Water Services was directed to bring forward to the full Council an ordinance for consideration to establish an on-going Water Services Advisory Commission.

Community Benefit/Public Involvement

It is anticipated the proposed Water Services Advisory Commission would review and analyze strategies and policies, including financial policies, relating to water and wastewater services. The Water Services Advisory Commission would present recommendations to Council ensuring the citizens of the City of Glendale are provided a reliable, high quality and economical water supply, and a stable, environmentally safe, and economical wastewater collection and reclamation system.

Budget and Financial Impacts

Expenses will be nominal consisting of staff time and materials to support the Commission.

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

Ordinance

STAFF REPORT

To:	**Richard A. Bowers, Acting City Manager**
From:	**Craig A. Johnson, P.E., Executive Director, Water Services**
Item Title:	**WATER SERVICES ADVISORY COMMISSION**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

This report contains information on a proposed Water Services Advisory Commission to be appointed by City Council. The purpose of this report is to request the City Manager forward this item to the Council for their consideration and approval.

BACKGROUND

On January 24, 2012, Council adopted an ordinance establishing the Ad-Hoc Citizen Task Force on water and sewer in response to a Council Item of Special Interest. The Task Force was asked to provide Council with policy-related recommendations for Glendale's water and sewer utility.

A total of 55 members were appointed representing each Council district to serve on the Task Force. Forty-four members remained active until the completion. The members attended 11 meetings and participated in two site tours over a period of nine months. The desired outcome of the Task Force was, "To develop a shared understanding between the Task Force and the City on the management, sustainability, and value of water and its impact on the community by reaching consensus recommendations to ensure the well-being and quality of life of Glendale residents and businesses."

On December 18, 2012, recommendations from the Task Force were presented to Council. One of the primary recommendations to Council from the Task Force was the formation of on-going Water Services Advisory Commission. The Task Force recommended the proposed Commission review and analyze policies, including financial policies, relating to water and wastewater services. The Commission would also advise Council on water and wastewater policies by providing recommendations ensuring the citizens of the City of Glendale are provided a reliable, high-quality and economical water supply, and a stable environmentally safe and economical wastewater collection and reclamation system.

On June 4, 2013, a presentation was made to the Government Services Committee with regard to the establishment of a Water Services Advisory Commission. At this meeting, the Government Services Committee directed Water Services to bring forward to the full Council an ordinance for consideration to establish an on-going Water Services Advisory Commission.

FISCAL IMPACTS

Fiscal impacts are anticipated to be minimal consisting of dedicated staff time to provide support for Commission meetings. Funding is available in the Water Services FY 2013-14 operating budget.

ORDINANCE NO. 2850 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AMENDING GLENDALE CITY CODE CHAPTER 2 (ADMINISTRATION), ARTICLE VIII (BOARDS, COMMISSIONS, ETC.) BY ESTABLISHING A WATER SERVICES ADVISORY COMMISSION.

WHEREAS, at the January 24, 2012 Council meeting, Council established the Ad-Hoc Citizens Task Force on Water and Sewer;

WHEREAS, in a subsequent Council Workshop the recommendations from the Task Force were presented to Council including the establishment of an on-going Water Service Advisory Commission; and

WHEREAS, a presentation was provided to the Government Services Subcommittee on June 4, 2013, requesting and receiving guidance on the process for moving forward.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That Glendale City Code Chapter 2 (Administration), Article VIII (Boards, Commissions, Etc.) is hereby amended by adding a Division 8 to read as follows:

"DIVISION 8. WATER SERVICES ADVISORY COMMISSION"

Sec. 2-326. Established.

There is hereby established within the City of Glendale a Water Services Advisory Commission whose members shall be appointed by the council of the City of Glendale.

Sec. 2-327. Purpose.

The commission will provide Council with recommendations regarding policies and strategies to include regional collaboration, water resources sustainability, operations and infrastructure, all to ensure the well-being and quality of life of Glendale residents and businesses.

Sec. 2-328. Members.

(a) The commission shall be composed of seven (7) members who shall serve without compensation. The members shall be residents of the City of Glendale.

(b) The members of the commission shall be appointed for a term of two (2) years; except that members of the first commission shall be designated by the city council for the following terms:

(1) Three members for two (2) year terms;

(2) Four members for three (3) year terms.

(c) The chairperson and vice-chairperson of the commission shall be appointed by the mayor and city council from among the commission members. The term of appointment for the chairperson and vice-chairperson shall be for a period of one (1) year.

(d) The Water Services Executive Director shall serve as secretary and staff liaison to the commission.

Sec. 2-329. Meetings and rules.

(a) The commission shall establish and adopt such rules, regulations or bylaws as it deems necessary for the conduct of its business and performance of its duties.

(b) The commission shall establish a set time for regular meetings, which shall be at least quarterly if there is business to conduct.

(c) The commission will be provided with an educational program including water resources planning, water and wastewater treatment, reclaimed water storage, and other pertinent topics in order to perform their duties as a commission member.

(d) A majority of the commission shall constitute a quorum and the affirmative vote of a majority of the commission members present and voting shall be required to take action.

Sec. 2-330. Recommendation to council.

All recommendations forwarded by the commission to the city council and other actions of the commission must receive an affirmative vote of not less than a majority of the members present at the meeting at which an item is voted upon by the commission.

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:

_____
Acting City Attorney

REVIEWED BY:

_____
Acting City Manager

c_water_services_com

CITY COUNCIL REPORT

Meeting Date: **6/25/2013**
Meeting Type: **Voting**
Title: **AUTHORIZATION FOR LEASE FINANCING**
Staff Contact: **Diane Goke, Chief Financial Officer, Financial Services**

Purpose and Recommended Action

This is a request for the City Council to adopt an ordinance authorizing the City Manager to enter into a lease financing in an amount not to exceed $30 million.

Background Summary

In May 2010, the city agreed to pay $25 million for the National Hockey League (NHL) to operate the arena for Fiscal Year (FY) 2010-11. Of that $25 million, $21 million was funded with an inter-fund loan from the Landfill Fund and $4 million was funded with an inter-fund loan from the Sanitation Fund.

In May 2011, the city agreed to pay $25 million for the NHL to operate the arena for FY 2011-12. Of that $25 million, $15 million was funded with an inter-fund loan from Water and Sewer Fund, $2 million was funded with an inter-fund loan from the Technology Replacement Fund and $3 million was funded with an inter-fund loan from the Vehicle Replacement Fund. The remaining $5 million has not yet been paid to the NHL.

Community Benefit/Public Involvement

This financing will be a lease-lease back and will be secured by a ground lease of the City Hall complex. The financing will be structured with a term of no longer than 20 years, with an estimated interest rate of 5-7% annually. Lease payments will be subject to annual appropriation; however, the lease documents will allow the lessee to exclude the city from possession of City Hall for the term of the ground lease if the city fails to appropriate.

The proceeds of this lease will fund the payoff of several inter-fund loans associated with the NHL payments allocated as follows: Water and Sewer Fund - $15 million, Sanitation Fund - $4 million, Vehicle Replacement Fund (VRF) - $3 million, Technology Replacement Fund (TRF) - $2 million and it will fund the remaining $5 million for the FY 2011-12 NHL payment. In addition, the proceeds will also fund the upgrade of the PeopleSoft HRMS system in the amount of $1 million and the estimated costs of the transaction.

As discussed above, the proceeds of this lease will properly restore the operating funds of Water and Sewer, TRF, VRF and Sanitation. The only outstanding loan that will remain as a result of the

payments to the NHL will be the Landfill loan. The money loaned to the General Fund from the Landfill Fund was a reserve to cover closing costs when the Landfill reaches end of life and is not needed for current operations. End of life for the Landfill is not expected for 30 or more years and the loan will be repaid in that timeframe.

The General Fund balance at the end of FY 2011-12 was negative $27 million which has contributed to the city being downgraded by the rating agencies and put on negative outlook. The proceeds of this lease will improve the General Fund balance by $30 million. The rating agencies should look favorably on the city's attempt to restore operating funds to Water and Sewer, TRF, VRF and Sanitation and the improvement in the city's General Fund balance.

Budget and Financial Impacts

The amount below is the estimated debt service payment that will be paid in FY 2013-14.

Cost	Fund-Department-Account
$1,800,000	**1282-11415-561400, Arena Management debt service**

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

Ordinance

STAFF REPORT

To:	**Richard A. Bowers, Acting City Manager**
From:	**Diane Goke, Chief Financial Officer, Financial Services**
Item Title:	**AUTHORIZATION FOR LEASE FINANCING**
Requested Council Meeting Date:	**6/25/2013**
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 to adopt an ordinance authorizing the City Manager to enter into a lease financing in an amount not to exceed $30 million.

BACKGROUND

In May 2010, the City agreed to pay $25 million for the National Hockey League (NHL) to operate the arena for FY 2010-11. Of that $25 million, $21 million was funded with an inter-fund loan from the Landfill Fund and $4 million was funded with an inter-fund loan from the Sanitation Fund.

In May 2011, the City agreed to pay $25 million for the NHL to operate the arena for FY 2011-12. Of that $25 million, $15 million was funded with an inter-fund loan from Water and Sewer Fund, $2 million was funded with an inter-fund loan from the Technology Replacement Fund and $3 million was funded with an inter-fund loan from the Vehicle Replacement Fund. The remaining $5 million has not yet been paid to the NHL.

ANALYSIS

This financing will be a lease-lease back and will be secured by a ground lease of the City Hall complex. The financing will be structured with a term of no longer than 20 years, with an estimated interest rate of 5-7% annually. Lease payments will be subject to annual appropriation; however, the lease documents will allow the lessee to exclude the city from possession of City Hall for the term of the ground lease if the city fails to appropriate.

The proceeds of this lease will fund the payoff of several inter-fund loans associated with the NHL payments allocated as follows: Water and Sewer Fund - $15 million, Sanitation Fund - $4 million, Vehicle Replacement Fund (VRF) - $3 million, Technology Replacement Fund (TRF) - $2 million and it will fund the remaining $5 million for the FY 2011-12 NHL payment. In addition, the proceeds will also fund the upgrade of the PeopleSoft HRMS system in the amount of $1 million and the estimated costs of the transaction.

As discussed above, the proceeds of this lease will properly restore the operating funds of Water and Sewer, TRF, VRF and Sanitation. The only outstanding loan that will remain as a result of the payments to the NHL will be the Landfill loan. The funds loaned to the General Fund from the Landfill Fund were part of a reserve to cover closing costs when the Landfill reaches end of life and is not needed for current operations. End of life for the Landfill is not expected for 30 or more years and the loan will be repaid in that timeframe.

The General Fund balance at the end of FY 2011-12 was negative $27 million which has contributed to the city being downgraded by the rating agencies and put on negative outlook. The proceeds of this lease will improve the General Fund balance by $30 million. The rating agencies should look favorably on the city's attempt to restore operating funds to the Water and Sewer, TRF, VRF and Sanitation and the improvement in the city's General Fund balance.

FISCAL IMPACTS

Debt service payments for this lease are estimated to be $1.8 million for FY 2013-14 and are budgeted in the General Fund.

ORDINANCE NO. 2851 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, RELATING TO: (1) REFINANCING CERTAIN INTER-FUND LOANS; (2) FUNDING THE PURCHASE OF SOFTWARE UPGRADES; (3) PROVIDING FUNDS FOR SUCH REFINANCING AND SOFTWARE UPGRADES BY EXECUTING AND DELIVERING A GROUND LEASE AND A LEASE PURCHASE AGREEMENT; (4) APPROVING THE SALE AND EXECUTION AND DELIVERY OF CERTIFICATES OF PARTICIPATION, IN ONE OR MORE SERIES, IN PAYMENTS REQUIRED BY SUCH LEASE PURCHASE AGREEMENT; (5) DELEGATING TO THE CITY MANAGER, OR ANY EMPLOYEE OF THE CITY HAVING THE RESPONSIBILITY AND DUTIES OF THE CITY MANAGER, THE AUTHORITY TO TAKE ALL ACTIONS NECESSARY TO DETERMINE WHEN AND HOW SUCH CERTIFICATES SHALL BE SOLD AND OTHER MATTERS RELATED TO SUCH LEASE PURCHASE AGREEMENT; (6) AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO CONSUMMATE THE TRANSACTIONS CONTEMPLATED BY THIS ORDINANCE; AND (7) DECLARING THIS ORDINANCE TO BE AN EMERGENCY.

WHEREAS, the Mayor and Council of the City of Glendale, Arizona (the "City"), have determined that it will be beneficial to its citizens to provide funds for the use of the General Fund, to refinance inter-fund loans from the City's Water and Sewer, Vehicle Replacement, Sanitation and Information Technology Replacement Funds and to upgrade existing computer software, to pay costs of issuance and, if necessary, fund a debt service reserve fund (collectively, the "Projects"); and

WHEREAS, in connection with the refinancing and acquisition, as applicable, of the Projects, it is necessary that the City enter into a ground lease (the "Ground Lease") with respect to City Hall Complex and adjacent parking garage (collectively, the "Property") with a lessee that will lease the Property to the City pursuant to a separate Lease Purchase Agreement (the "Lease Purchase Agreement"); and

WHEREAS, Section 2-166 of the Glendale City Code authorizes the City Council to sell, lease, exchange or otherwise dispose of City property for the best interests of the City and the determination of the City Council shall be final; and

WHEREAS, the Mayor and Council of the City have determined that it is in the best fiscal interest of the City that financing for the Projects be undertaken through either the negotiation of the Lease Purchase Agreement directly to an accredited investor or qualified institutional buyer or the sale and delivery to an accredited investor or qualified institutional buyer, either directly or indirectly through an investment bank acting as placement agent, of one or more series of certificates of participation (the "Certificates"), evidencing and representing proportionate interests of the owners thereof in the Lease Purchase Agreement, specifically the lease payments to be made by the City pursuant thereto, the choice between the two to be

determined as provided herein, and that the Mayor and Council of the City also approve and execute all required legal documents in connection therewith; and

WHEREAS, if it is determined that such financing should be undertaken through the sale of the Certificates, the Certificates will be executed, delivered and paid pursuant to the terms and provisions of a trust agreement (the "Trust Agreement") to be executed and delivered by the City, and may be sold pursuant to a certificate purchase agreement (the "Purchase Agreement") between the City, a trustee and an investment bank acting as placement agent, or one or more accredited investors or qualified institutional buyers (in each case, the "Original Purchaser"); and

WHEREAS, the City has the general power and authority to enter into and deliver the Ground Lease and the Lease Purchase Agreement, and, if necessary, the Trust Agreement and the Purchase Agreement (collectively, the "City Documents") and, if necessary, to cause the sale and the execution and delivery of the Certificates, in order to refinance and acquire, as applicable, the Projects.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. The forms, terms and provisions of the City Documents in the forms of such documents (including the exhibits thereto) presented at the meeting at which this Ordinance was adopted are hereby approved with such insertions, omissions and changes as shall be approved by the Mayor or, in the absence thereof, Vice Mayor of the City, particularly, but not by way of limitation, to accommodate the determination made pursuant to Section 3, Subsection (1) hereof, the execution of such documents being conclusive evidence of such approval, and the Mayor or, in the absence thereof, Vice Mayor and Clerk of the City are hereby authorized and directed, for and on behalf of the City, to sign and attest the City Documents as well as any and all other documents necessary in connection with the foregoing. If it is determined that the Certificates should be sold and executed and delivered as provided herein, U.S. Bank National Association is hereby appointed as the "Trustee," "Lessor" and "Lessee," as applicable, for all purposes of the City Documents.

SECTION 2. From and after the execution and delivery of the City Documents in definitive form by the City and the other parties thereto, as required, the officers, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such agreements, documents, instruments and certificates as may be necessary to carry out and comply with the provisions thereof.

SECTION 3. The City Manager of the City, or any employee of the City having the responsibility and duties of the City Manager, is hereby authorized and directed to determine on behalf of the City: (1) whether the negotiation of the Lease Purchase Agreement directly with an accredited investor or qualified institutional buyer, or the sale of the Certificates to the Original Purchaser provides the better economic terms available to the City for refinancing and the acquisition, as applicable, of the Projects; (2) the dated date and total amount of principal components of lease payments under the Lease Purchase Agreement (but not to exceed $30,000,000 in total principal components); (3) the final principal and maturity date schedules of

the Lease Purchase Agreement but not later than June 30, 2033; (4) the interest rate on each maturity of the principal components of the Lease Purchase Agreement (but not more than 8% per annum) and the dates for payment of such interest; (5) the term of the Ground Lease (not to exceed 25 years); (6) the provisions for redemption in advance of maturity of the payment of the principal components of the Lease Purchase Agreement; and (7) if sold and executed and delivered, the sales price, and terms of the Certificates (including the funding of a debt service reserve fund, series designations and a determination as to whether the interest components of the lease payments are intended to be tax-exempt for federal income tax purposes).

SECTION 4. The City Manager of the City, or any employee of the City having the responsibility and duties of the City Manager, is hereby designated and appointed as a "Lessee Representative" as defined in the Lease Purchase Agreement and is authorized to execute in the name of and on behalf of the City any closing documents, certificates or other instruments or documents necessary or appropriate in connection with the transactions described in or contemplated by the City Documents and to do all acts and things as may be necessary or desirable to carry out the terms and intent of this Ordinance and of any of the documents referred to herein.

SECTION 5. If applicable, the City covenants that it will use, and will restrict the use and investment of, the proceeds of the Lease Purchase Agreement for which tax-exemption of the portion of lease payments is designated interest is intended in such manner and to such extent as may be necessary so that: (a) the Lease Purchase Agreement or Certificates will not (i) constitute private activity bonds, arbitrage bonds or hedge bonds under Sections 141, 148 or 149 of the Internal Revenue Code of 1986, as amended (the "Code"), or (ii) be treated other than as bonds to which Section 103(a) of the Code applied; and (b) the interest thereon will not be treated as a preference item under Section 57 of the Code.

If applicable, the City further covenants: (a) that it will take or cause to be taken such actions that may be required of it for the interest related to the Lease Purchase Agreement to be and remain excluded from gross income for federal income tax purposes; (b) that it will not take or authorize to be taken any actions that would adversely affect that exclusion; and (c) that it, or persons acting for it, will, among other acts of compliance (i) apply the proceeds of the Lease Purchase Agreement to the government purposes of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Mayor, the City Manager, or any employee of the City having the responsibility and duties of the City Manager, the Chief Financial Officer or any other officer of the City having responsibility for execution and delivery of the Lease Purchase Agreement is hereby authorized: (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Lease Purchase Agreement as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for or available under Section 148 of the Code, for the purpose of

assuring, enhancing or protecting favorable tax treatment or status of the Lease Purchase Agreement or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer; (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Lease Purchase Agreement; and (c) to give one or more appropriate certificates of the City for inclusion in the transcript of the proceedings for the Lease Purchase Agreement, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Lease Purchase Agreement, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest related to, and the tax status of, such Lease Purchase Agreement.

SECTION 6. In order for the City to obtain the terms provided for in the Lease Purchase Agreement in a favorable financial market and to obtain funds to allow the City to have sufficient cash on hand to meet its current obligations plus a reasonable required fund balance, the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health and safety of the City; therefore, an emergency is hereby declared to exist and this Ordinance is enacted as an emergency measure and shall be in full force and effect from and after the passage and adoption by the Council of the City, as required by law, and it is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

SECTION 7. All actions of the officers, agents and employees of the City which are in conformity with the purposes and intent of this Ordinance shall be, and the same are hereby, in all respects, authorized, approved, ratified and confirmed.

SECTION 8. After the Lease Purchase Agreement is executed and delivered, this Ordinance shall be and remain not subject to repeal until the principal and interest represented thereby shall have been fully paid, cancelled and discharged.

SECTION 9. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 10. All orders or parts thereof in this Ordinance that are inconsistent herewith, are hereby waived to the extent only of such inconsistency. This waiver shall not be construed as reviving any order or any part thereof in this Ordinance.

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:

_____

Acting City Attorney

REVIEWED BY:

_____

Acting City Manager

b_cop2013(2)

CITY COUNCIL REPORT

Meeting Date: **6/25/2013**
Meeting Type: **Voting**
Title: **SANITATION ROLL-OFF SERVICE RATE ADJUSTMENT**
Staff Contact: **Stuart Kent, Executive Director, Public Works**

Purpose and Recommended Action

This is a request for City Council to waive reading beyond the title and adopt a resolution adjusting the rates for roll-off service provided by the City of Glendale, effective July 1, 2013.

Background Summary

The city has provided roll-off service for more than 30 years. Roll-off bins are large [20-, 30- and 40-yard] metal containers provided by the city to commercial and residential customers for a fee. Roll-off bins are suitable for larger refuse producing businesses, as well as for home improvement remodeling and renovation projects. Customers use the bins to dispose of large amounts of solid waste and the city delivers the bins to the Glendale Municipal Landfill (Landfill) for disposal. The roll-off bins are charged per call for collection. At any given time, there is an average of 72 customers who receive roll-off service from the city.

The Solid Waste Collection (Sanitation) division is an Enterprise Fund operation and revenue is collected in the form of user fees to cover operational and capital expenses. Staff has examined operating expenses and revenue collections for the roll-off service area and determined that it is not operating at 100% cost recovery; therefore, it is recommended that the city's roll-off rates be adjusted in order for the service area to remain self-supportive. This action will adjust the city's rates for roll-off service only. Roll-off service rates have not been adjusted since 2008.

Previous Related Council Action

On May 27, 2008, Council adopted a resolution adjusting the rates for sanitation and landfill disposal services, with an effective date of July 1, 2008. This was the most recent rate increase for roll-off service. At that time, the inside city rate increased by $30 [from $130 to $160].

Community Benefit/Public Involvement

Per Arizona Revised Statue § 9-499.15, the proposed fee increase was posted on the home page of the city's website beginning on April 23, 2013 and running through July 1, 2013.

Budget and Financial Impacts

The proposed roll-off service rate adjustment would increase the service fee from $160 to $175 per call, and increase the Landfill roll-off service disposal tonnage rate from $18 to $20. This adjustment would generate approximately $74,000 annually for the Sanitation Enterprise Fund, and ensure the cost of Roll-Off Service is offset by full cost recovery.

Attachments

Staff Report

Resolution

STAFF REPORT

To:	**Richard A. Bowers, Acting City Manager**
From:	**Stuart Kent, Executive Director, Public Works**
Item Title:	**SANITATION ROLL-OFF SERVICE RATE ADJUSTMENT**
Requested Council Meeting Date:	**6/25/2013**
Meeting Type:	**Voting**

PURPOSE

This report contains information on the proposed rate adjustment for roll-off service provided by the City of Glendale. The purpose of this report is to request the City Manager forward this item to the City Council for their consideration and approval.

BACKGROUND

The city has provided roll-off service for more than 30 years. Roll-off bins are large (20-, 30-, and 40-yard) metal containers provided by the city to commercial and residential customers for a fee. Roll-off bins are suitable for larger refuse producing businesses, as well as for home improvement remodeling and renovation projects. Customers use the bins to dispose of large amounts of solid waste and the city delivers the bins to the Glendale Municipal Landfill (Landfill) for disposal. The roll-off bins are serviced on an on-call or scheduled basis and are charged per call for collection. At any given time, there is an average of 72 customers who receive roll-off service from the city. Of that number, approximately 56 are regular customers and 16 are temporary customers. Many of the city's commercial roll-off customers contract for multiple bins and require frequent servicing. Last year, the city serviced approximately 3,200 containers and collected about 13,000 tons of material.

The Solid Waste Collection (Sanitation) division is an Enterprise Fund operation and revenue is collected in the form of user fees to cover operational and debt requirements. The fund receives no tax revenue and pays an annual contribution to the General Fund for administrative support services such as personnel, finance and legal services that General Fund departments provide. Periodically, user fees or rates must be adjusted to ensure that the Sanitation division continues to operate at 100% cost recovery. Staff has examined operating expenses and revenue collections for the roll-off service area and determined that it is not operating at 100% cost recovery; therefore, it is recommended that the city's roll-off rates be adjusted in order for the service area to remain self-supportive. Roll-off service rates have not been raised since 2008.

Due to the downturn in the economy, roll-off has been underperforming with regard to revenue recovery. The city currently has a set roll-off rate of $160 per service, and $18 per ton for disposal

at the Landfill. This fiscal year roll-off service is projecting to generate approximately $600,000 in revenue and anticipates expending a little over $650,000 to provide the service to the community. Thus, expenses are projected to exceeded revenue by approximately $50,000 for the current fiscal year. Further, despite efforts to match staffing levels required for the business demand for service it is anticipated that revenue will fall short of expenses by $50,000 in Fiscal Year 2013-14; therefore, staff is recommending a rate increase.

ANALYSIS

- Staff recommends a rate adjustment for roll-off services, with an effective date of July 1, 2013.

- Efforts to reduce expenses have been implemented, reducing the number of drivers from three to one, and reallocating equipment from roll-off to the city's Materials Recovery Facility (MRF).

- Option 1 – Increase the container service fee from $160 to $175 per call for roll-off service. This additional $15 per service call would generate approximately $48,000 ($15 x 3,200 calls = $48K). Increase the Landfill roll-off service disposal tonnage rate from $18 to $20. This additional $2 per ton would generate approximately $26,000 ($2 x 13,000 tons = $26,000). The total adjustment would generate approximately $74,000 annually for roll-off service.

- Option 2 – Eliminate the roll-off bin service altogether (this is not a required service that has to be provided to customers); however, the following would occur:
    - Residents would no longer have the option to use city services for roll-off needs.
    - Businesses and construction companies would no longer have the option of using city services for roll-off needs.
    - Public Works would have to begin paying an outside vendor for roll-off service for several city facilities that are currently covered by the Sanitation division. The cost would be approximately $43,000 per year.
    - Other city departments would have to contract with an outside vendor for roll-off bin service that they currently receive and pay for from the Sanitation division. The outside vendor rate will be determined by the vendor and could be raised at any time.

- On May 27, 2008, Council adopted a resolution adjusting the rates for sanitation and landfill disposal services, with an effective date of July 1, 2008. This was the most recent rate increase for roll-off service. At that time, the inside city rate increased by $30 (from $130 to $160); and, the outside city charge increased by $37.50 (from $162.50 to $200).

- In 2010, the State mandated a uniform notification for increasing municipal taxes and fees. Arizona Revised Statute § 9-499.15 (B) (2) reads, [If the municipality proposes to increase the rate of an existing tax or fee on a business, provide written notice of the proposed increase on

the home page of the municipality's website at least sixty days before the date the proposed new rate is approved or disapproved by the governing body of the municipality.]

- Public notice of proposed roll-off service rate adjustment was posted on the home page of the city's website beginning on April 23, 2013 and will remain posted through July 1, 2013.

FISCAL IMPACTS

This action will ensure that the cost of roll-off service is offset by full cost recovery.

RESOLUTION NO. 4702 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, ADJUSTING THE RATES FOR ROLL-OFF SERVICE FEES; AND ESTABLISHING AN EFFECTIVE DATE.

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

SECTION 1. That pursuant to Glendale City Code, Division 3. Fees, Sec. 18-141, the fees for Roll-Off Bins shall be as follows:

Roll-Off Bins:

- Roll-off bins are serviced on an on-call or scheduled basis and are charged per call for collection of refuse or recyclables:

	Inside City Rates	Outside City Rates*	Other Fees
Open top roll-off bins (all sizes)	$175.00	$218.75	Plus applicable Glendale Municipal Landfill disposal fees, which either includes the roll-off service disposal rate of $20.00 per ton, or the hard-to-handle disposal rate of $131.25 per ton.
Large compactors (customer owned)	$175.00	$218.75	Plus applicable Glendale Municipal Landfill disposal fees, which either includes the roll-off service disposal rate of $20.00 per ton, or the hard-to-handle disposal rate of $131.25 per ton.
Open top roll-off bins (all sizes)	$175.00	$218.75	Per month rental rate if no service was ordered within a 30-day period

* Outside City Rates have a 25% surcharge over the Inside City Rates per City Council.

Setup Services:

	Inside City	Outside City
New account opening fee	$31.80	$39.75
Bin delivery fee per truckload	$46.11	$57.66

SECTION 2. That the adopted rates and fees set forth in Sections 1 shall be effective July 1, 2013

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:

_____
Acting City Attorney

REVIEWED BY:

_____
Acting City Manager

f_sanit_rolloff