



# City of Glendale

5850 West Glendale Avenue  
Glendale, AZ 85301

## City Council Workshop Agenda

*Mayor Jerry Weiers  
Vice Mayor Ian Hugh  
Councilmember Jamie Aldama  
Councilmember Samuel Chavira  
Councilmember Ray Malnar  
Councilmember Lauren Tolmachoff  
Councilmember Bart Turner*

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Tuesday, October 18, 2016

1:30 PM

Council Chambers

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### Workshop

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

#### CALL TO ORDER

#### WORKSHOP SESSION

1. [16-520](#) COUNCIL ITEM OF SPECIAL INTEREST - OPTIONS TO INCREASE PATRONAGE AT THE GLENDALE CIVIC CENTER  
Staff Contact and Presenter: Erik Strunk, Director, Public Facilities, Recreation and Special Events  
Staff Presenter: Diane Williams, Administrator, Civic Center

Attachments: [Civic Center Background Materials](#)

#### CITY MANAGER'S REPORT

This report allows the City Manager to update the City Council. The City Council may only acknowledge the contents to this report and is prohibited by state law from discussing or acting on any of the items presented by the City Manager since they are not itemized on the Council Workshop Agenda.

#### CITY ATTORNEY'S REPORT

This report allows the City Attorney to update the City Council. The City Council may only acknowledge the contents to this report and is prohibited by state law from discussing or acting on any of the items presented by the City Attorney since they are not itemized on the Council Workshop Agenda.

#### COUNCIL ITEMS OF SPECIAL INTEREST

Councilmembers may indicate topic(s) they would like to have discussed by the Council at a future Workshop and the reason for their interest. The Council does not discuss the new topics at the Workshop where they are introduced.

## **MOTION AND CALL TO ENTER INTO EXECUTIVE SESSION**

### **EXECUTIVE SESSION**

#### **1. LEGAL MATTERS**

A. The City Council will meet with the City Attorney for legal advice, discussion and consultation regarding the city's position in pending or contemplated litigation, including settlement discussions conducted in order to avoid or resolve litigation. (A.R.S. § 38-431.03(A)(3)(4))

B. Council will meet to discuss and consider records exempt by law from public inspection and are specifically required to be maintained as confidential by state or federal law. (A.R.S. § 38-431.03(A)(4))

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)).

#### **Confidentiality**

Arizona statute precludes any person receiving executive session information from disclosing that information except as allowed by law. A.R.S. § 38-431.03(F). Each violation of this statute is subject to a civil penalty not to exceed \$500, plus court costs and attorneys' fees. This penalty is assessed against the person who violates this statute or who knowingly aids, agrees to aid or attempts to aid another person in violating this article. The city is precluded from expending any public monies to employ or retain legal counsel to provide legal services or representation to the public body or any of its officers in any legal action commenced for violation of the statute unless the City Council takes a legal action at a properly noticed open meeting to approve of such expenditure prior to incurring any such obligation or indebtedness. A.R.S. § 38-431.07(A)(B).



## Legislation Description

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**File #: 16-520, Version: 1**

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### **COUNCIL ITEM OF SPECIAL INTEREST - OPTIONS TO INCREASE PATRONAGE AT THE GLENDALE CIVIC CENTER**

Staff Contact and Presenter: Erik Strunk, Director, Public Facilities, Recreation and Special Events

Staff Presenter: Diane Williams, Administrator, Civic Center

### **Purpose and Recommended Action**

This item is follow up to a Council Item of Interest by Vice Mayor Hugh to review the current business model for the Civic Center and to discuss possible actions to increase patronage at the facility.

### **Background**

In 1995, the City recognized that for a community of its size (185,919 residents), it had minimal public meeting space available for conferences, organizations, clubs and civic activities. To address this lack of meeting space, the City began studying the possibility of constructing a "Civic Center" on City-owned land between Glenn Drive and Palmyra Avenue from 57th Drive to 57th Avenue to be used for community meetings and activities, as well as City sponsored functions. It was further directed that the design of the center should be one that could serve as a focal point of downtown Glendale, include state-of-the-art audio and visual capabilities, and contain meeting space to accommodate several hundred people, including a catering facility, and smaller breakout rooms. In 1997, the City Council subsequently provided staff direction to move forward with the construction of the new "Civic Center".

Design and construction took approximately two years, and the total cost of the new Civic Center amounted to \$8,500,000. The 36,000 square foot facility first opened its doors to the public on December 31, 1999. In 2006, a second ancillary building, the 3,800 square foot "Annex", was acquired and remodeled, resulting in nearly 40,000 square-feet of rentable space for corporate meetings, conferences, trade shows, graduations and a variety of social gatherings including weddings and proms. Since its inception, full catering services have been provided to Civic Center patrons upon request. These catering services have been provided by a private, full-service professional food and beverage firm via a separate, contractual agreement and have been competitively selected by the City (via a "Request for Proposal" - RFP).

In 2012, the Civic Center was awarded the #1 ranking for conference centers of its size by Arizona Business Magazine's *"Ranking Arizona: The Best of Arizona Business."* The Civic Center has received this prestigious award now for five years in a row (most recently in May 2016). This positioned the Glendale Civic Center to out-rank nationally known facilities such as Marriott's Camelback Inn Resort, Loew's Ventana Canyon in Tucson, and the Sanctuary Resort in Scottsdale. Glendale's Civic Center is the only government-owned and managed venue on the list.

### **Analysis**

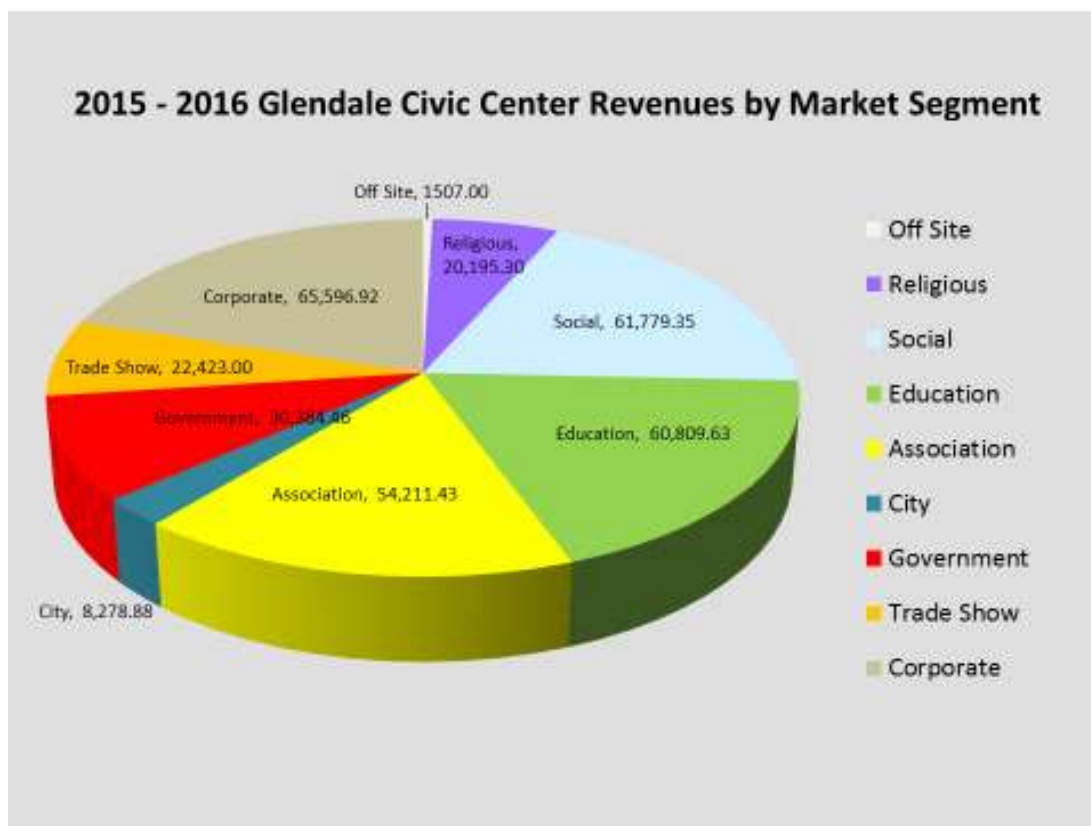
There is no outstanding debt on either two buildings that comprise the Civic Center, and it is estimated that in the past 15 years, more than a million people have used it to participate in various events for which it was designed. A five-year statistical analysis shows that on average, the Civic Center hosts approximately 195 events annually that draw 56,306 persons to the downtown/Centerline area. Additionally, the Civic Center recovers 64% of its expenses through rental fees, services and commissions from the caterer.

It is important to note that the number of events a facility can accommodate is in direct correlation to the operating budget and staff that is in place to support and manage those events. The more employees available to service the guests, the greater the likelihood of increased revenue and patronage.

FY	Visitors	Actual Revenue	Actual Expenditures	General Fund	Revenue Recovery	FTE's
2011-2012	65,585	\$406,211	\$763,498	\$357,287	53%	6
2012-2013	53,392	\$395,476	\$647,938	\$252,462	61%	5
2013-2014	53,349	\$408,309	\$599,749	\$191,440	68%	4
2014-2015	57,517	\$375,728	\$541,919	\$166,191	69%	3
2015-2016	51,688	\$328,163	\$485,109	\$156,946	68%	3
5 Year Avg.:	56,306	\$400,359	\$607,643	\$224,865	64%	4.2

Previous economic impact studies show that for each Civic Center attendee, approximately \$67.00 per day in spending occurs in the downtown/Centerline area. A review of the Civic Center user demographics for FY 15-16 shows that the largest amount of revenue produced is from the corporate sector, followed by the social, education and association sectors.





Overall, the Civic Center competes with a variety of venues depending on the market segments that are booked. When competing against these venues, staff promotes value-added items such as complimentary parking in a covered parking garage, competitively-priced equipment such as staging and audio-visual, and menus. The staff also promotes the opportunity for exclusivity if a client is booking the entire ballroom or building. Additionally, the Civic Center is known as “ADA-friendly” and viewed as an ideal location for events seeking a single level facility. The Civic Center also has hearing-assistive devices available at no charge for use during an event.

As indicated earlier, the Civic Center is a full-service conference venue with a business model that includes the provision of catering (food and beverage) services by a professional food and beverage company. Currently, these services are provided by Arizona Catering, Inc. Under the term of the existing multi-year Council-approved agreement (C# -7369), the City is in year seven of the agreement and currently receives 14% of net revenue for all food sales and 15% for all beverages sold by the caterer. Since the approval of this exclusive contract in 2010, the City has received the following revenue:

Item	2015	2014	2013	2012	2011	Total
Net Revenue to City	\$41,259	\$43,334	\$42,894	\$57,751	\$50,792	\$236,030
Gross Sales by Caterer	\$350,595	\$403,086	\$331,593	\$412,884	\$490,828	\$1,988,986

Under the terms of the Agreement, the caterer has exclusive rights to all food and beverage sold at the Civic Center and the City receives a net percentage of these revenues as indicated above. This is a very common industry practice when compared to other municipalities and private sector venues that offer full-service conference center services. In exchange for the opportunity to earn revenue and operate as the exclusive in-

house caterer, Arizona Catering, Inc., is responsible for all food and beverage licenses (i.e. - Maricopa County Health, state liquor license, sales tax licenses, etc.); the independent contracting of staff to prepare and serve food and beverage (i.e. - all HR functions and compliance with Federal and State employment law); the storage and preparation of all foodstuffs and beverages, expenses for maintenance and repair of the kitchen area and the equipment provided (i.e. - grease traps, pest control, etc.); all plates, utensils, cooking materials, serving trays, stemware, cook stoves, pots, pans, etc.; and for covering 50% of all utilities per month (i.e. - water, sewer, sanitation fees, electricity, gas, etc.) for the kitchen area. It is estimated that approximately \$125,000 has been invested by the current caterer to make its efforts at the Glendale Civic Center a success.

### **Recommended Actions**

The local Glendale economy continues to improve and along with it, there are several opportunities to further enhance revenue and patronage of the Civic Center.

Among the immediate concepts that have either been implemented or are pending action would include:

- **5% Growth Goal:** The Civic Center has established a goal of increasing patronage at the facility by five percent each year, over the next five years. As the Center re-establishes its business plan to reflect the market demographic it can best service, it will also focus on generating more business at the facility. This will further fulfill the original objective of the Center to help create a more vibrant downtown, Centerline experience.
- **Creation of Marketing Budget:** With the recent City re-organization that took effect on July 1, 2016, the new Public Facilities, Recreation and Special Events Department (in which the Civic Center is organizationally located) now also includes the Glendale Convention and Visitors Bureau (CVB) and the Office of Special Events. With the re-alignment that has taken place, the CVB now incorporates the Civic Center in its promotional literature for all national and international marketing and advertising campaigns, including mention at all trade and tourism conferences and shows. Additionally, with the commitment of Proposition 202 Tohono O'odham gaming revenue shared with the City, \$100,000 is specifically earmarked for CVB functions. Of this amount, \$30,000 will be used to specifically develop much needed marketing collateral and additional advertising to encourage greater use of the Civic Center by residents and visitors. Because they are Proposition 202 funds guaranteed in the current City of Glendale agreement with the Tohono O'odham Nation, there will not be any impact to the General Fund.
- **Staff Re-Assignment:** Again, due to the recent city re-organization, new staff synergies can be expected to help increase business and patronage at the Civic Center. The Civic Center Administrator now oversees both Audio/Visual Services as well as the Civic Center. The reassignment of the Audio/Visual Services into the Civic Center organization will enhance the overall operation by providing the much needed expertise and assistance to potential clients in need of multi-media services for their event.
- **New Maintenance Fund:** The Civic Center is regarded as a first class event facility and needs to be maintained as such. Its appearance and reputation as a first-rate facility is central to repeat and new patronage. To compete with high quality hotels, country clubs and larger convention/conference centers in the valley, the Civic Center must offer first class amenities such as state-of-the-art audio-visual

equipment and sound systems, and furniture for meetings and events which is comfortable, well-made, and able to withstand constant wear and tear. In an effort to better address this situation, in FY 16-17, an additional \$15,000 was added to the Building Maintenance and Repair fund (which now totals \$50,312). Although this amount will not adequately cover major capital items such as HVAC, the air walls, carpeting, wood repairs and roof and tile repairs, it does demonstrate a positive commitment by the City Council to “step up” needed repair work that can be handled on a routine basis. This in turn, will assist with the facility’s marketability and overall patronage.

- **New User-Fee Philosophy:** To stay competitive in the marketplace, it would be beneficial for Civic Center management to have the ability to negotiate room rental rates. Currently, staff is bound by Council-established fees. Allowing for a potential variable fee range would result in greater staff flexibility to adjust rental fees based on scope of a proposed event and market conditions. The ability to negotiate seasonal discounts would be extremely helpful with respect to increasing business for the “slower” summer months due to heat. This endeavor will occur as a part of the FY 17-18 budget process, which is slated to begin in March 2017. A new user-fee model will be created so as to maintain market competitiveness and capture new revenue currently not actualized.
- **Allow Up To Six (6) Major Events at No Charge:** Just as with the current, three-year pilot program to encourage more community use of the E. Lowell Rogers Amphitheatre and Murphy Park, it is recommended that upon the discretion of the City Manager and/or his/her designee, authority be granted to identify up to six (6) marquee community events per year (to be defined as an event with more than 500 persons in attendance) with no rental charge to the partnering client (excluding catering fees). Examples might include special city-initiated events in observance of cultural/ethnic celebrations, certain functions by local school districts, other government entities, or non-profit organizations with which the City has a working relationship, and/or special event functions of a public and non-commercial/religious nature. The intent is to increase community engagement and visibility. This would be done via written contract, and could not be done at the expense of any pre-existing, contract for use of the facility. With Council authorization, it would be done on a pilot basis for a three-year period, beginning January 1, 2017. It is estimated that if approved, the total cost of this option would amount to \$50,000 in forgone revenue.
- **New Annual Progress Report:** With consensus of the above recommendations, staff is confident patronage and use of the Civic Center will increase. On an annual basis, staff will complete a progress report for Council to review and for further discussion. Meaningful metrics will be employed and an annual assessment conducted by the Parks and Recreation Advisory Commission will determine if additional measures should be recommended to the Council in order to increase patronage at the Civic Center. Should this prove not to be the case, a more in-depth analysis and recommendation regarding the current catering contract, city-ownership of the venue, and the potential for privatizing its functions will be conducted and presented to Council for consideration, as appropriate.

### **Community Benefit/Public Involvement**

The Glendale Civic Center has been a significant economic engine for the downtown Centerline area for the past 16 years. It has provided a much needed, top-quality, meeting and banquet facility for Glendale residents, businesses and visiting clients; additional foot traffic to the immediate downtown area; and has been recognized as the “best facility” of its type and size in the State of Arizona - for each of the past five

years - by its patrons. With direction, staff will endeavor to continue to improve upon the success of the Civic Center and work to ensure its long-term viability and positive impact for the greater Glendale community.

### **Budget and Financial Impacts**

With the exception of any adjustment to user-fees (which will be determined as a part of the FY 17-18 budget process), and the potential provision of six major, rental-free events each year (estimated to be \$50,000 in foregone revenue), the Civic Center revenues from catering should increase slightly as more patrons and events occur. It is estimated revenue derived from this source would increase by approximately 3% each year. It should also be noted that a change was made to the budget for FY 16-17 that includes \$50,312 moved from the CIP budget to the Civic Center's Building Maintenance and Repair account to facilitate needed maintenance and repairs (this was previously reviewed and approved by Council as part of the FY 16-17 budget process).

### **Summary**

The Civic Center was built to provide top-quality meeting and banquet facility accommodations for the Glendale community and to encourage local economic growth. Staff is seeking guidance from Council on the recommendations included in this report to better assist in meeting the goals of increasing patronage and encouraging further economic growth in the community.

# **Civic Center Background Materials**

- 2016 Background Report
- Current Comparative Pricing Matrices
- Current FF&E
- Current Catering Contract

# Glendale Civic Center Background Information

FY 15-16



## **A. Background**

The original idea to construct the Civic Center can be traced to 1995, where City Management and the Mayor and Council discussed a concern over the lack of available public meeting space in downtown Glendale, the identification of an opportunity to construct a high-end conference and banquet center to assist with the revitalization of downtown Glendale, generate further downtown economic growth and increase new activity to benefit nearby merchants.

At the time, staff was directed to "...explore designing a Center with meeting space to accommodate several hundred people, including a catering facility, a performing arts facility, space for displaying artwork and smaller break-out rooms. " It was further directed that the design of the center serve as the focal point of downtown Glendale and include state-of-the-art audio and visual capabilities. This concern was discussed openly at several City Council workshops in April, July, September and December 1996. As a part of the FY 97-98 budget process, Council programed "Pay as You Go" funds into the City CIP to begin formal design and eventual construction of a new facility. The total cost of the "Phase I" planning and construction amounted to \$7,094,447.

The Civic Center opened its doors to the public on December 31, 1999. Later, in 2006, a second ancillary building, the Annex, was added to the campus, offering in total 40,000 square-feet of rentable space for corporate meetings, conferences, trade shows, graduations and a variety of social gatherings including weddings and proms. The total cost of this "Phase II" acquisition and refurbishment of the building (which was previously a commercial bank), amounted to \$3,350,000. As of this date, there is no outstanding debt on either of the buildings that comprise it.

Since then, the facility has brought over a million visitors to the downtown Glendale/Centerline area, each of whom have visited or participated in various ceremonies and civic events at the site.

Beginning in 2012, the Civic Center was awarded the #1 ranking for conference centers of its size by Arizona Business Magazine's *"Ranking Arizona: The Best of Arizona Business."* The Civic Center has received this prestigious award now for five years in a row, most recently receiving it again in November 2015. This has positioned the center to out-rank nationally known facilities such as Loew's Ventana Canyon in Tucson, the Scottsdale Plaza Resort and the Wigwam Resort in Litchfield Park. Of note is the fact that Glendale's Civic Center is the only government-owned and managed venue on the list.

## **B. Market Competition**

The Civic Center competes with a variety of venues depending on the market segments that are booked. For example, for corporate meetings and conferences, full-service hotels and conference centers in the area would be considered our competition. Specifically, the center compares its room rental and catering practices to the Glendale Renaissance Spa and Hotel, the

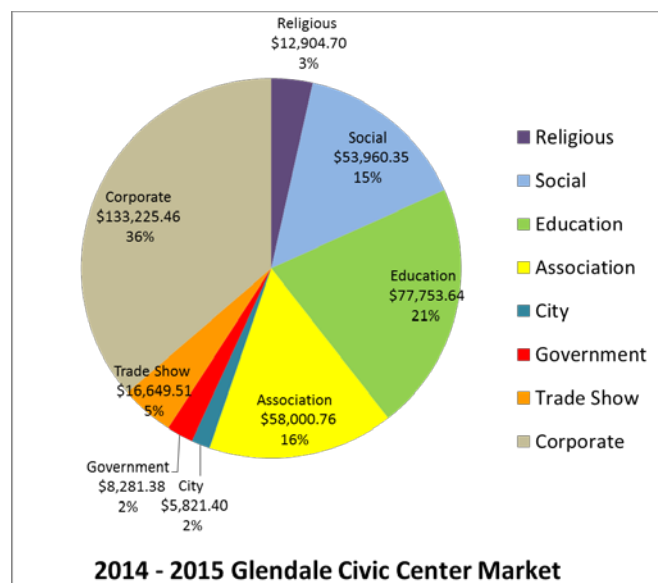
Phoenix Civic Plaza, Mesa Convention Center, the Wigwam, ASU West, and the Thunderbird Conference Center. The most recent analysis of fee and catering charges as compared to the Glendale Civic Center are included in Attachment A of this report. For weddings and other smaller social events, the Arrowhead Country Club, for example, would be considered a competitive venue.

When competing against these venues, the staff promotes value-added items such as complimentary parking in a covered parking garage, competitive equipment and menu pricing, and exclusivity if they are booking the entire ballroom or building. The Civic Center is known as “ADA-friendly” and viewed as an ideal location for events seeking a single level facility. The Civic Center also has hearing-assistive devices available for use during an event on a complimentary basis. The Civic Center currently has no marketing budget to promote these accomplishments.

### C. Market Segment

Although discussed on and off by management and City Council since its inception, the Glendale Civic Center is lacking the one common feature that the majority of other, major convention centers have: the co-location of a major hotel (excluding the Motel 6 at 59<sup>th</sup> and Glenn). In fact, the nearest concentration of hotels is in the Westgate Entertainment District, are in direct competition with the Civic Center, and not proximate to convenient walking distance. This makes the marketability of the center all the more challenging. Even so, the Civic Center has thrived by focusing on the following key market segments:

- Corporate
- Association
- Education
- Social Events including Weddings, Proms, etc.
- Trade Show
- Religious
- Government
- City





Over the past five fiscal years, the focus on these market niches has brought approximately 262,000 visitors to downtown Glendale as a result of 981 hosted events at the center, which has generated an estimated \$1.96 million in revenue. When factored over the past five-years, approximately 60% of the operating costs are recovered through these revenues.

#### **D. Financial Analysis**

##### **1. Fee Philosophy**

When the Civic Center first opened in 1999, business was booked on a first-come, first-served basis regardless of the size of the group or its economic impact. This was initially implemented because of the public nature of the Civic Center business model. Like most government-owned convention centers, the facility has always been supported by the General Fund to offset its operating expenses.

Glendale Civic-Center			
Year	Revenue	Expenses	Revenue Recovery
FY10-11	\$415,884	\$763,498	54%
FY11-12	\$406,211	\$751,586	53%
FY12-13	\$395,476	\$647,938	61%
FY13-14	\$408,309	\$599,749	68%
FY14-15	\$375,728	\$541,919	69%
5-Year Avg.:	\$400,321.60	\$660,938.00	59%

This led to the first-come, first-served mode, which soon proved to be a poor business model. For example, a small meeting room would be booked and would generate \$240 in revenue, while the average daily cost for electricity would be \$242 (additionally, the cost for labor to set and break down the room would be additional expenses). As such, direction was given to staff by city management to consider an event's profitability and not just relegate its operations to one of quantity.

The Civic Center's rental fees and booking policies and procedures were first adopted and approved by City Council in June, 1999 (Resolution No. 3295). These same fees remained in place until June, 2012 whereby Council approved a 20% room rental rate increase for the Civic Center. These same rates are in effect today. Examples of business model also include changes to booking events that are profitable or booking multiple events on the same day to use staff/labor more efficiently. For example,

- Priority booking for the Glendale Civic Center is now used for events that utilize the entire facility.

- Secondary priority is granted to events that provide maximum use of space and the greatest economic impact.
- Center management has the discretion to decide which events will be given priority on a case-by-case basis.
- With the exception of certain major City events, such as the Mayor's State of the City Address, or at the request of City Council or the City Manager's Office, City events may be bumped to an alternate date in order to accommodate our Priority Booking Policy and to draw in revenue.

At the same time, approval of new fees and policies also provided the following with regard to the public nature of the Civic Center:

- A 20% discount on room rental applies for Glendale residents, city departments and also non-profit organizations located within Maricopa County.
- If a catered meal, such as a full breakfast, lunch or dinner is purchased through the caterer, the discount for room rental then increases to 40%.

A comparative summary in Attachment A will show that despite being a government-owned facility, the Civic Center is remarkably competitive with respect to rental and catering fees for its market size and niche.

## 2. Budget and Fiscal Support

It will come as no surprise that the General Fund portion of the Civic Center's operating budget has decreased. With a reduced operating budget in place, the current business model can only sustain a certain level of business. Additional events equate to additional labor and utility costs and wear and tear on the furniture, fixtures and equipment (FFE). There is currently no dedicated funding for maintenance or replacement of FF&E.

A review of the Civic Center's General Fund budget for the past five years demonstrates a decrease in the overall operating budget, transfer amount and staffing. Since FY2010 the Civic Center's budget has been reduced significantly by 36.7%. The General Fund transfer amount was also reduced by 36%. Part of the budget reductions since the facility opened involved reducing FTE staff. Current staffing

levels are at the lowest, with just four FTEs, compared to the facility's peak staffing of seven FTEs in FY 09-10. This is a reduction in staffing of 43%. The five-year history is as follows:

Glendale Civic-Center: Operating Budget & FTE's

Year	General Fund Budget	General Fund Subsidy	FTE's
FY10-11	\$756,461	\$347,614	6
FY11-12	\$786,261	\$357,287	5
FY12-13	\$691,105	\$252,462	4
FY13-14	\$586,180	\$191,440	4
FY14-15	\$539,568	\$166,191	3
5-Year Avg.:	\$671,915	\$262,999	4.4

At the current staffing level of 4 FTE's and a budget of \$539,000, the Civic Center has reached a 69% cost recovery with a General Fund transfer of approximately \$166,191 to operate and manage the Civic Center. With this current business model, and the above-mentioned budget and staffing, revenue generation is estimated to be \$380,000.

### 3. Maintenance Reserve

The Civic Center is regarded as a first class event facility and needs to be maintained as such. To compete with high quality hotels, country clubs and larger convention/conference centers in the vicinity, the Civic Center must offer first class amenities such as state-of-the-art audio-visual equipment and sound systems, furniture for meetings and events which is comfortable, well-made, and able to withstand constant wear and tear.

When the facility first opened, the Civic Center had \$100,000 budgeted annually for its maintenance reserve. These monies were used for the regular maintenance, repairs and upgrades, as well as the replacement of furniture, fixtures and equipment. In FY 2004/2005, this amount was reduced to \$25,000. In 2005/2006, this increased to \$31,000 and then subsequently to \$100,000 for FY 2007. The amount fluctuated thereafter until in 2015, it was reduced to \$35,000 annually. This amount allocated does not adequately cover the capital items in need of repair or replacement as well as the replacement of audio visual equipment. For example, a few of the items in need of attention would include:

- Replacement of Crowne Ballroom air walls
- Interior wood accent repairs
- Cleaning of interior ballroom walls for Crowne Ballroom
- Replacement of wallpaper
- Exterior of facility:
  - Grout repair for flagstone on entire front of building. Estimate: \$89,000.
  - Front entrance repair and replacement of threshold and grate. Estimate: \$25,000.

### E. **Marketing**

As indicated earlier, the Civic Center currently does not have dedicated funds for marketing and

advertising. However, staff uses a variety of sales/marketing techniques and tools to promote the facility which include:

- A focus on specific customer requests. Provide immediate information i.e. pricing and sample diagrams so they can make informed decisions.
- Utilizing sales strategies that influence buyers' decisions on selecting the Glendale Civic Center over other venues.
- Continuation of value-added market enhancements to our existing products, such as high-tech multi-colored LED up-lighting for social events such as weddings and proms.
- "Pre-selling" through web marketing designed to reach the end-user. Currently showcase a variety of event packages that include pricing information.
- Providing a high level of customer service to ensure repeat bookings.
- Follow up on business leads generated from industry websites such as Cvent, Arizona Finest Wedding Sites, Wedding Wire, Wedding Mapper, and Eventective, for example.
- Continue to network with community partners such as the Convention and Visitor's Bureau, Hotel and Venue Advisory Commission, Glendale Chamber of Commerce and area hotels for referral business.

Due to the lack of funding available for advertising, the Civic Center has pursued other sources such as free website listings for advertising on various industry websites. It currently "lists" its service on WeddingWire.com, Cvent, Arizona's Finest Wedding Sites, WeddingMapper.com, Eventective.com and Pinterest. These sites provide free exposure and advertising and can generate leads for the staff.

The Civic Center's website has also become an integral part of the sales strategy. Most of the clientele operates online and seek immediate information. Having information available online enables the client to view the options available to them. The Civic Center's website showcases various event packages available to each of our target market segments. These packages were designed with the client in mind and include the necessary information to make informed choices with products and pricing included. The facility now uses digital photos, menus, special packages, FAQ's, and miscellaneous information that is helpful for potential clients when browsing the Web. Regular re-design and updating of the Civic Center website is required to remain competitive in a very concentrated market.

## **F. Current Barriers to Competitiveness**

Unless otherwise directed, the Civic Center will continue to strive for a higher self-sufficiency goal. As this occurs, there are many current "barriers to competitiveness" that will continue to make this a

challenging endeavor.

- The Business Model: The Civic Center is a public enterprise and as such, is subject to the many policies and procedures of the City of Glendale. These are not always conducive to the quick decision making and market expectation of the product.
- Non-Negotiable Rental Rates: Currently, the rates are set by council and are not negotiable. It would be advantageous to be able to negotiate room rental based on a more yield management model (demand or need periods), or for short term bookings as our competitors do.
- No Hotel: As indicated, there is a need for a hotel in the area. Many prospective clients inquire about the availability of a hotel within walking distance. For the social market, for an event such as a wedding reception, a hotel will typically include a guest room or suite for the bride and groom on their wedding night. The clients also generally want to book a block of rooms for their guests at a nearby hotel for their event. Having the ability to partner with a nearby hotel could potentially increase bookings.
- Adequate Parking: The Civic Center is limited in what it is able to book during the downtown festival weekends due to parking restrictions throughout the downtown area. The Civic Center currently has only 70 dedicated parking spots in their east parking lot available for use. Although the parking garage is nearby, it is reserved for the Special Event Division as it is a revenue source for them. It currently charges \$10.00 per vehicle for parking.
- Traffic Congestion on Weekend Festivals: Many potential clients state they simply do not want the “hassle” of dealing with all of the traffic congestion during the festivals.

## **G. A Bright Future**

Despite its competitive disadvantage in some areas, the future of the Glendale Civic Center as a major component of the City’s Centerline redevelopment is positive and laden with opportunity with respect to bringing unique, entertaining, interesting and fun events to the core of downtown Glendale. Growth opportunities would include pursuing more trade shows and even more corporate meetings and conferences (which presently account for 52% of the business at the Civic Center).

To accomplish this potential growth, staff is recommending consideration of a variety of business model techniques, all of which would alter the current policies and procedures of the Civic Center, and allow for a balanced growth that would accommodate smaller, community-based functions, and larger corporate and special events.

What follows are several options for possible operational changes for the Civic Center and within the City to continue its success. It is important to note, however, that any change to the current business model may impact staffing levels, revenues and expenses.

1. Flexible Rental Rates – To have the ability to negotiate room rental rates during high-use periods, short term bookings and during the slower summer periods. The department is currently completing a much larger fee-study that will include the recommendation to allow greater managerial discretion of adjusting fees based on a sliding range. This would include the ability to discount based on seasonality and repeat patronage (i.e. – entering in to multi-year contracts).
2. Allow Six (6) Major Events at No Charge – Under this concept, the City Manager and/or designee would have the Council authority to provide the use of the Civic Center, free of all fees City charges (would not include catering fees), for marquee events that would bring-in at least 500 or more customers per event. Examples might include the annual Chamber of Commerce “State of the City” event, the annual Cesar Chavez Celebrating Diversity Breakfast, the Governor’s State of the State address, and other special events as appropriate. There would be a revenue impact; however, the advantage to offering these events would be their contribution to the community.
3. Sufficient Parking – Parking is at a premium during event season. Staff recommends should a Civic Center event fall on the same date and time as a downtown special event, the parking garage at the promenade be dedicated to Civic Center patrons.
4. Use of CVB Funds for Marketing – The CVB collects a specific bed tax that is to be used for the general promotion for Glendale based tourist activities. Seeing that the Civic Center does not have a formal marketing budget, it is recommended that it be granted a \$50,000 stipend each year for the next three-years to increase its market presence to increase business in the Centerline area. The success of this initiative would be monitored and reported to the CVB as part of its financial support of the Civic Center.
5. Development of a Downtown Hotel – A report was commissioned by Economic Development in 2011 regarding building a hotel in the downtown area. The report indicated that it would be a good idea to build a boutique style hotel in the downtown area.

# Attachments

- Comparative Pricing Matrices
- Current FF&E
- Current Catering Contract

## Room Rental Rate Comparison

Property Name	Largest Rentable Ballroom			Smallest Section of Ballroom			Boardroom or Smallest Meeting Room		
	Square Ft	Cost	Cost / Sq Ft	Square Ft	Cost	Cost / Sq Ft	Square Ft	Cost	Cost / Sq Ft
<b>Glendale Civic Center</b>	<b>12,788</b>	<b>\$2,400.00</b>	<b>\$0.19</b>	<b>1312</b>	<b>\$288.00</b>	<b>\$0.22</b>	<b>414</b>	<b>\$150.00</b>	<b>\$0.36</b>
Phoenix Convention Center	45,200	\$7,684.00	\$0.17	10,000	\$1,700.00	\$0.17	540	\$150.00	\$0.28
Tucson Convention Center	20,164	\$2,254.00	\$0.11	5041	\$564.00	\$0.11	460	\$127.00	\$0.28
Mesa Convention Center	5100	\$1,200.00	\$0.24	1560	\$400.00	\$0.26	550	\$150.00	\$0.27
<b>Average Cost</b>	<b>18,247</b>	<b>\$3,384.50</b>	<b>\$0.19</b>	<b>4,288</b>	<b>\$738.00</b>	<b>\$0.17</b>	<b>491</b>	<b>\$144.25</b>	<b>\$0.30</b>



**BANQUET/CATERING COMPETITIVE PRICING ANALYSIS - Continental Breakfast and Breakfast**

	<b>Glendale Civic Center</b>	PHX Civic Plaza	Mesa Convention Center	Renaissance Hotel Glendale	Wigwam Resort	ASU West	Thunderbird Conference Center	
Traditional Plated Breakfast	\$21.95	\$26.00	\$16.75	\$24.00	\$28.00	\$11.49	\$14.55	
Traditional Breakfast Buffet	\$18.95	\$31.00	\$16.75	\$32.00	\$30.00	\$11.49	\$14.55	

**BANQUET/CATERING COMPETITIVE PRICING ANALYSIS – COFFEE BREAKS**

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	<b>Glendale Civic Center</b>	PHX Civic Plaza	Mesa Convention Center	Renaissance Hotel Glendale	Wigwam Resort	ASU West	Thunderbird Conference Center	
<b>Std. Continental Breakfast</b>	\$11.95	\$20.00	\$11.00	\$24.00	\$20.00	\$7.99	\$9.85	
<b>Deluxe Continental Breakfast (w/fruit)</b>	\$13.95	\$23.00	\$14.00	\$27.00	\$23.00	\$10.79	\$11.15	
<b>Coffee</b>	\$3.95 per person	\$66.00 gallon	\$32.00 gallon	\$89.00 gallon	\$74.00 gallon	\$25.49 gallon	\$22.45 gallon	
<b>Sodas</b>	\$2.50 per person	\$3.50 ea.	\$2.50 ea.	\$5.00 ea.	\$4.00 ea.	\$1.99 ea.	\$1.99 ea.	
<b>Bottled Waters</b>	\$2.50 per person	\$3.50 ea.	\$2.75 ea.	\$5.00 ea.	\$4.50 ea.	\$1.99 ea.	\$1.85 ea.	
<b>Breakfast Breads</b>	N/A	\$42.00 doz.	\$20.00 doz.	\$52.00 doz.			\$9.83 per loaf	
<b>Breakfast Pastries/Muffins</b>	N/A	\$42.00 doz.	\$20.00 doz.	\$52.00 doz.	\$62.00 doz.	\$21.99 doz.	\$16.35 doz.	
<b>Orange Juice</b>	N/A	\$4.50 ea.	\$25.00 gallon	\$5.00 ea.	\$69.00 gallon	\$17.99 gallon	\$19.75 gallon	
<b>Apple/Cranberry Juice</b>	N/A	\$4.50 ea.	\$25.00 gallon	\$5.00 ea.	\$69.00 gallon	\$17.99 gallon	\$19.75 gallon	
<b>Afternoon Break Pkgs.</b>	\$11.95	\$13.00	\$9.25	\$20.00	\$14.00	\$5.99	\$9.85	

**BANQUET/CATERING COMPETITIVE PRICING ANALYSIS - LUNCH**

Page 3

	<b>Glendale Civic Center</b>	<b>PHX Civic Plaza</b>	<b>Mesa Convention Center</b>	<b>Renaissance Hotel Glendale</b>	<b>Wigwam Resort</b>	<b>ASU West</b>	<b>Thunderbird Conference Center</b>	
<b>Chicken - plated</b>	\$23.95	\$36.00	\$21.00	\$41.00	\$40.00	\$13.99	\$18.25	
<b>Beef - plated</b>	\$26.95	\$44.00	\$28.00	\$44.00	\$42.00	\$13.99	\$18.89	
<b>Light Plated Lunch (2 course)</b>	\$17.95	\$30.00						
<b>Box Lunch</b>	\$14.95	\$26.00	\$13.50	\$34.00	\$30.00	\$8.99	\$11.55	
<b>Deli Buffet</b>	\$17.95	\$33.00	\$18.00	\$42.00	\$36.00	\$10.99	\$17.89	
<b>Italian Buffet</b>	\$20.95	\$40.00	\$19.50	\$47.00	\$43.00	\$15.99	\$33.95	
<b>Mexican Buffet</b>	\$18.95	\$37.00	\$18.75	\$45.00	\$44.00	\$16.99	\$28.65	

**BANQUET/CATERING COMPETITIVE PRICING ANALYSIS - DINNER**

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	Glendale Civic Center	PHX Civic Plaza	Mesa Convention Center	Renaissance Hotel Glendale	Wigwam Resort	ASU West	Thunderbird Conference Center	
<b>Chicken - plated</b>	\$34.95	\$45.00	\$28.00	\$65.00	\$65.00	\$18.99	\$21.59	
<b>Plated Beef (lowest price)</b>	\$34.95	\$53.00	\$34.00	\$64.00	\$70.00	\$21.99	\$25.65	
<b>Plated Beef – Prime Rib</b>	N/A Plated		\$35.00				\$33.09	
<b>Plated Beef – Filet Mignon</b>	45.95	\$72.00		\$87.00	\$87.00		\$33.99	
<b>Seafood - plated</b>	39.95	Market Price	\$30.50	\$78.00	\$78.00	\$20.99	\$28.79	
<b>Hot Buffet ( 1 Entrée)</b>	29.95	\$53.00				\$18.99		
<b>Hot Buffet (2 Entrees)</b>	\$39.95	\$61.00	\$28.00	\$86.00			\$28.89	
<b>Hot Buffet (3 Entrees)</b>	48.95			\$91.00	\$95.00			

**BANQUET/CATERING COMPETITIVE PRICING ANALYSIS - BEVERAGES**

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**CASH BAR****HOST BAR**

Property	CALL BRANDS	PREMIUM BRANDS	DOMESTIC BEER	IMPORTED BEER	HOUSE WINE		CALL BRANDS	PREMIUM BRANDS	DOMESTIC BEER	IMPORTED BEER	HOUSE WINE	
<b>Glendale Civic Center</b>	\$6.50	\$9.50	\$4.50	\$5.50	\$6.00		<b>\$6.50</b>	<b>\$9.50</b>	<b>\$4.50</b>	<b>\$5.50</b>	<b>\$6.00</b>	
<b>Phoenix Civic Plaza</b>	\$9.00	\$10.00	\$7.00	\$8.00	\$9.00		\$8.00	\$9.00	\$6.00	\$7.00	\$8.00	
<b>Renaissance Hotel Glendale</b>	\$10.00	\$11.00	\$6.50	\$7.00	\$9.00		\$9.00	\$10.00	\$6.00	\$6.50	\$8.00	
<b>Wigwam Resort</b>	\$9.00	\$11.00	\$6.50	7.00	\$9.00		\$8.00	\$10.00	\$5.50	\$6.00	\$8.00	

(Hosted Beverage prices listed above do not include the customary taxable service charge and sales tax added to all food and beverage items. Cash Bar prices listed above are inclusive of tax and service charges).

**BANQUET/CATERING COMPETITIVE PRICING ANALYSIS - HORS D'OEUVRES**

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Facility	COLD REGULAR HORS/100	SEAFOOD ON ICE PER 100	HOT REGULAR HORS/100	BROCHETTES/ DRUMETTES PER 100	PASTA STATION (Per Person)	FAJITA STATION (Per Person)	STEAM- SHIP ROUND OF BEEF (Per Person)	BAKED HAM (Per Person)	CHEESE TRAY (small, serves 25)	VEGET- ABLE TRAY (small, serves 25)	FINGER DESSERT Per 100	ATTEND- ANT CARVER FEE
<b>Glendale Civic Center</b>	N/A per piece	N/A per piece	N/A per piece	N/A per piece	12.95 With 2 add'l station	\$10.95 With 2 add'l stations	\$10.95 With 2 add'l stations	\$10.95 With 2 add'l stations	N/A A la Carte	N/A A la Carte	\$8.95	\$150.00
Phoenix Civic Plaza	\$6.00 per piece	\$10.00 per piece Shrimp	\$7.00 per piece	\$6.00 per piece	\$12.00	\$12.00	\$14.00	\$9.00	\$11.00 (50ppl)	\$9.00 (50ppl)	\$14.00	\$165.00
Mesa Convention Center	\$240	\$375 Shrimp	\$250	\$300					\$187.50 (50ppl)	\$120 (50ppl)	\$400	
Renaissance Hotel Glendale	\$6.00 per piece	\$7.00 per piece Shrimp	\$6.50 per piece	\$6.50 per piece	\$23.00	\$25.00	\$13.00	\$10.00	\$10.00 (30ppl)	\$7.75 (30ppl)	\$18.00	\$150.00
Wigwam Resort	\$6.00 per piece	\$7.00 per piece Shrimp	\$7.00 per piece	\$6.00 per piece Shrimp	\$20.00	\$20.00	\$12.00	\$7.50	\$425.50 (50ppl)	\$375.00 (50ppl)	\$18.00	\$150.00
ASU West	\$22.99 per doz.	\$32.99 per doz. Ahi	\$24.99 per doz.	\$24.99 per doz.	\$14.99	\$14.99	\$14.99	\$14.99	\$69.99 (24ppl)	\$48.99 (24ppl)	\$18.99 per doz.	
Thunderbird Conference Center						\$10.19	\$13.65	\$8.29	\$6.99	\$6.99	\$11.35	

## GLENDALE CIVIC CENTER CATERING LICENSE AGREEMENT

This GLENDALE CIVIC CENTER CATERING LICENSE AGREEMENT ("Agreement") is entered into this 5th day of August, 2010 ("Effective Date"), between Glendale AZCAT LLC, an Arizona limited liability company ("Caterer") and the City of Glendale, an Arizona municipal corporation ("City"), collectively referred to as "Parties."

### RECITALS

A. The City operates and maintains a Civic Center for public and private events and has available, for additional charges, contract catered food and beverage services, licensed beverage services and concession services ("Services") for the Glendale Civic Center and auxiliary structures ("Facility") for the convenience of its customers;

B. The current catering contract (Glendale Contract No. C-7010) expires in August, 2010;

C. The City issued a Request For Proposal (Solicitation No. RFP 11-04) in order to solicit qualified bidders for the continued provision of Services; and

D. Caterer has been selected to provide the Services.

NOW, THEREFORE, in consideration of the recitals above, and for other good and valuable considerations, the receipt, sufficiency and validity of which are hereby acknowledged, the Parties agree as follows:

### AGREEMENT

#### 1. DEFINITIONS

A. The term "Catering License" as used in this Agreement, means the license granted to Caterer in Section 3 of this Agreement.

B. The term "Catering Service" as used in this Agreement, means the provision of any food or non-alcoholic drink supplied to customers in the Facility at a prearranged price and billed to one client. It does not include food items sold individually on a cash basis to customers (see "Concession Service").

C. The term "City Catering" means any Catering, Licensed Beverage Services, or Concession Services provided at City's request.

D. The term "Concession Service" means those food and beverage sales which customers purchase individually on-site using cash.

E. The term "Licensee" as used in this Agreement, means a use granted under this Agreement issued by the City to, or on behalf of, a person or entity, (including any of its guests or invitees), granting that person or entity use of space at the Facility.

F. The term "Licensed Beverage Service" means the provision of alcoholic beverages under a liquor license issued by the Arizona State Department of Liquor.

G. The term "Net Gross Receipts," as used in this Agreement, means all monies and payments, in whatever form, received or receivable by the Caterer for any Catering, Licensed Beverage or Concession Services sales made, or rendered at or from the Facility, or from any other source related directly or indirectly to operations resulting from this Agreement, whether collected or uncollected, whether for cash or credit; provided, however, that sales taxes imposed by local, state or federal law which are stated to, and paid by, a purchaser of any item sold by Caterer or of any authorized service or activity of the Caterer and payable directly to a taxing authority shall be excluded from the computation of "gross receipts" as shall be legitimate refunds made to a purchaser on any such sale of an item or authorized service by the Caterer. The cost of goods and general labor must be excluded from Net Gross Receipts for Concession Services; however, the cost of management services is included.

H. The term "Other Services" means the Net Gross Receipts from the provision of the following services directly provided by Caterer to Licensees, and which are delineated specifically on an invoice as provided by Caterer to the Licensee: decorations; linens; tables; chairs; floral services; and small wares.



2. TERM

The original term of this Agreement is for a five (5) year period, beginning on the Effective Date and ending five (5) years thereafter. The City may, at its option, and with the approval of Caterer, extend the term of this Agreement an additional three (3) years, renewable on an annual basis. Caterer will be notified in writing by the City of the option to extend at least thirty (30) calendar days prior to the expiration of the original or any renewal period. Price and rate adjustments will only be considered as part of the renewal process.

3. GRANT OF LICENSE

A. Under this Agreement, the City hereby grants to Caterer an exclusive license to provide Catering, Licensed Beverage Service, and Concession Services at the Facility.

B. The license granted by the City shall be exercised solely for the conduct of approved catering, licensed beverage, and concession operations in the areas approved by the City, which areas may be subject to increase or decrease in both square footage and placement from time to time by mutual consent.

C. The license granted in this Section 3 is subject to the exceptions and conditions set forth in this Agreement.

D. The exclusivity provided for above (Subsections A and B) does not apply to events for which Caterer declines to provide City Catering.

4. PAYMENTS TO THE CITY

A. In consideration for Caterer's exclusive license under this Agreement, Caterer agrees to pay City the following commissions of Caterer's Net Gross Receipts for Catering Services, Licensed Beverage Services, and Concession Services:

- i) For the first twelve (12) months,  
regardless of the amount of Net  
Gross Receipts for all Services  
collectively: Fourteen percent (14%)

- ii) Starting with month thirteen (13),  
for Net Gross Receipts of more than  
Four-Hundred Thousand Dollars  
(\$400,000), but less than  
Five-Hundred Thousand  
Dollars (\$500,000) for Catering  
Food: Fifteen percent (15%)

- iii) Starting with month thirteen (13),  
the following table sets forth the  
commission structure for the remainder  
of this Agreement for each Service:

Catering Food--Public Use:

Net Gross Receipts of \$500,001 to \$600,000----	16%
Net Gross Receipts of \$600,001 to \$700,000----	17%
Net Gross Receipts of \$700,001 to \$750,000----	18%
Net Gross Receipts of \$750,001 to \$800,000----	19%
Net Gross Receipts of \$800,001 to \$850,000----	20%
Net Gross Receipts of \$850,001 and above-----	22%

All Alcohol Services:

Net Gross Receipts of \$0 to \$10,000-----	15%
Net Gross Receipts of \$10,001 to \$20,000-----	18%
Net Gross Receipts of \$20,001 to \$30,000-----	20%
Net Gross Receipts of \$30,001 and above-----	22%

All Concession Services-----30%

B. Catering and Licensed Beverage services for City Catering paid for by a City issued check or draft are excluded from the commission payments above so long as Caterer grants City a discount equal to, or greater than, the applicable commission for the City function. Commission payments do not apply to Concession Services provided for City Catering.

C. Caterer shall pay City ten percent (10%) for all Other Services provided.

D. If Caterer uses City equipment to prepare food or beverage for an off-site private contract not related to the Facility or a Licensee, Caterer shall pay City five percent (5%) on the gross amount for each contract.

E. Caterer shall pay all monies due to the City on a monthly basis and within twenty (20) days after the close of the immediately preceding month and in no case later than the 20th day of the month. Amounts are due and payable without any notice from the City. A check payable to the City, or any electronic form of payment agreeable to the City, in the full amount due for the previous month's commissions shall accompany the monthly report of Net Gross Receipts (see Section 19) and shall also be forwarded to the Facility Manager unless the Caterer is otherwise directed in writing by an authorized representative of the City.

F. All unpaid commissions due the City hereunder shall bear a service charge of one percent (1%) per month. The service charge shall commence immediately upon Caterer's failure to timely pay the required commissions.

## 5. CATERING SERVICES

A. Caterer shall offer Catering Services to all Licensees for which a demand for Services reasonably exists. Caterer shall offer such services that are requested by the Licensee and approved by the Facility Manager. Caterer shall not, without the express approval of the Facility Manager, offer Catering, Licensed Beverage or Concession Services for a use of the Facility not authorized by the Facility Manager.

B. Caterer is strongly encouraged to have a representative on-site during the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday to arrange bookings and assist with the sales process. Based on need and business levels, Caterer and Facility Manager will work together to determine the necessary and appropriate level of on-site Caterer sales staff.

C. Caterer must give priority to serving Facility clients and provide the City a business plan (acceptable to the Facility Manager) that will supplement existing marketing efforts by the Facility staff. Caterer will work closely with the Facility Manager to promote and market the Civic Center. Caterer will include the Civic Center in their annual Business/Marketing Plan and will provide the Plan to the Facility Manager for review.

D. Caterer agrees to provide all types of foods requested by Licensees, including kosher meals and ethnic foods. If Caterer is not reasonably able to provide

the food requested, Caterer agrees, at the discretion of the Facility Manager, to allow the food to be provided from other sources or to allow the food to be provided directly by the Licensee.

6. LICENSED BEVERAGE SERVICE

A. Caterer is required to obtain, through the State of Arizona, a Series 12 liquor license. The license will be held by the Caterer and remain the Caterer's property. All costs, taxes, and fines associated with the license and its continuation are the Caterer's responsibility.

B. The privilege to sell alcoholic beverages is subject to the applicable provisions of local, state and federal law. Final decision regarding the events at which alcoholic beverages may be sold; when sales can start and when they end; rests solely with the Facility Manager or designee.

C. Caterer's staff is responsible for checking proper identification, prevention of excessive drinking, and the peaceful removal from the premises of any Licensee or their associated parties or invitees who are in violation of applicable provisions of local, state or federal law or of any City policy or regulation.

D. Caterer must communicate with the Facility Manager or designee any intent to take action (or of any action taken) regarding any alcohol-related issues. Caterer agrees to support and assist the Facility Manager or designee concerning decisions about alcohol-related issues.

E. Caterer must submit the proposed size of drinks, liquor portions, and proposed price schedule to the Facility Manager for approval within the thirty (30) days of the execution of this Agreement. Initial prices must not exceed those Caterer submitted in its response to the City's Request For Proposal. Caterer must submit change requests for bar and concession services to the Facility Manager in writing for approval in advance.

F. First quality mixers must be used, i.e. fruit juices, carbonated water, etc.

G. Caterer must submit requests for bar and concession guarantees and corkage services to the Facility Manager in writing for approval in advance of each event.

H. Prices shall be comparable to, but not be higher than, those charged for the same quality merchandise in the Phoenix Metro area. Prices must be posted or displayed permanently on all stands and on Caterer's (or the vendor's) equipment.

## 7. CONCESSION SERVICES

A. Caterer shall provide Concession Services at reasonable times before, during and after all events, as determined by the Facility Manager. Concession areas shall not be in operation when there are no events at Facility, unless otherwise approved by the Facility Manager.

B. The Facility Manager or designee will furnish the Caterer advance notice of the nature of each scheduled event and all available information, regarding the probable attendance at each event. Every effort will be made by the City to notify the Caterer of the cancellation of scheduled events when due notice has been given to the Facility Manager, however, the City is not liable for failure to deliver notice of cancellation to the Caterer. Caterer is strictly accountable for furnishing complete and adequate service for the full period of time required for each event of which notice has been given.

C. All foods, drinks, beverages, confectionery, refreshments, and the like, sold or kept for sale, shall be first quality, wholesome and pure and shall conform in all respects to all applicable federal, state and municipal food laws, ordinances and regulations. No imitation, adulterated, or misbranded food or beverage item shall be sold or kept for sale, and all merchandise kept on hand shall be stored and handled with due regard for sanitation and preservation. Leftover perishable merchandise shall not be sold at any time.

D. Caterer is responsible for the set-up of portable equipment such as bars, snack stands and equipment relating to the operation of concessions and bar service. However, the City, through its Facility Manager, reserves the right to specify the location of portable bars that may be required for any particular event.

E. Caterer agrees that, from time to time, Caterer will be requested to waive exclusive food and beverage rights for the sole purpose of allowing exhibitors to dispense samples. Exhibitor samples, either food or beverage, may be no larger than two (2) ounce portions. Exhibitor samples will only be allowed if, in the discretion of the Facility Manager, the samples are germane to the trade show or exhibitor. If any sample is in competition with items permitted to be sold by the Caterer, the sample may



only be dispensed as free samples by exhibitors if mutual agreement is reached between the Caterer and the Facility Manager.

F. The Facility Manager may direct the Caterer to partially or completely suspend sales before or during those events, which, in the opinion of the Facility Manager, do not require partial or full concession operations.

G. Any deposit required by Caterer in anticipation of the provision of Concession Services is limited to the cost associated with staff actually required to support the Licensee's event.

## 8. ADVERTISING

A. With the Facility Manager's written consent, Caterer has the non-exclusive right to use the name "Glendale Civic Center" and the Facility's likeness and logo in its promotion, marketing or advertising of the catering services it provides at the Facility.

B. Caterer understands that it may be requested to participate in joint advertising efforts with the City to promote the Facility. If any portion of the advertising is deemed to benefit Caterer then, as mutually agreed, Caterer may be required to contribute to any costs associated with the advertising.

## 9. QUALITY OF SERVICES

A. Services provided shall be of the highest quality attainable. Caterer will keep all Service areas clean, orderly and sanitary at all times and be in strict accordance with all applicable laws, ordinances, rules and regulations.

B. If the Facility Manager or designee finds fault with any aspect of the Caterer's operation (including but not limited to procedures, equipment, employees, service, etc.), the Facility Manager shall notify, in writing, both the Caterer, and if applicable, Caterer's corporate general manager, for purpose of correction. Caterer shall make all required corrections within forty-eight (48) hours of written notice. Caterer's failure to take appropriate action after notification from the Facility Manager or designee may be cause for cancellation of this Agreement by the City.

C. It is the City's intent to regularly distribute client surveys, which it will share with the Caterer. Caterer must maintain a "Good" or better rating on a rating system of Excellent, Very Good, Good, Poor and Needs Improvement in every area

which is subject to a rating. Ratings may be determined by surveys circulated at the Facility or by any other convenient method during or after an event.

D. Caterer must provide high-quality food, beverages, and service equal to that of 3- and 4-star hotels found in the Phoenix Metro area.

E. All merchandise kept for sale is subject to inspection and approval by the Facility Manager. Rejected merchandise shall be immediately removed from the Facility and not returned for sale.

F. Caterer agrees to maintain an average of not less than one (1) service person for each 20 to 25 guests served. Service persons are those persons whose only assignment is to wait tables. These numbers may be changed as agreed to by Caterer and the Facility Manager.

G. Caterer agrees to maintain an average of not less than one (1) service person for each 25 to 30 guests at buffet service situations. Other appropriate bussing/service staff (as required) are those persons whose only assignment is providing beverages and clearing tables on the dining room floor during an event. These numbers may be changed as agreed to by Caterer and the Facility Manager.

H. In addition to the normal dining and catering functions, Caterer shall provide specialized services normally associated with Facility activities. These may include, but are not limited to, water and tablecloth service, special meeting and banquet catering services (i.e. small boardroom meetings), and mobile thematic concession facilities service.

I. Caterer shall ensure that its employees do not solicit tips or imply that a tip is appropriate from a Licensee.

#### 10. PRICING OF CATERING AND CONCESSION SERVICES

A. Within thirty (30) days following execution of this Agreement by the City, Caterer shall submit to the Facility Manager a detailed price schedule, menus and wine and liquor price lists for all items the Caterer proposes to sell, showing size, weight or amount of item. This schedule must include all items proposed for sale. Catering menus and prices shall be comparable to menus and prices for the same kind and quality of service for similar facilities elsewhere within and around the Phoenix Metro area. Only the sale of the highest quality food and beverages and accompanying service

is permitted. All prices and products require the prior written approval of the Facility Manager.

B. If Caterer desires to offer for sale any article not included in the price schedule, menu or wine and liquor list, or to change the price of items for sale, the Caterer may do so upon written approval of the Facility Manager. It is understood that there will be customer menus and that these will be modified from time to time to meet Licensee requests and desires. Caterer will submit proposed changes to the Facility Manager.

C. The price of all Services shall include the gratuity within the 20% service charge.

D. Caterer shall have no charge for simple water service provided in connection with all other Services. This prohibition of charge does not authorize Caterer to alter the nature or level of service that would normally be associated with a Service provided under which other beverage Services are not selected.

#### 11. OPERATING CONDITIONS

A. The City is responsible for setting up tables, chairs and the staging necessary for all events or functions at which the Caterer is to provide services. Caterer is responsible for the removal of litter, removal of linens and cleaning of tables immediately after an event, in a manner suitable to the Facility Manager.

B. The City is responsible for the removal of all tables and chairs after all events or functions at the Facility.

C. Caterer must furnish, at its expense, all labor required for the moving, setting up and dismantling of temporary hors d'oeuvre or temporary refreshment stands in locations as may be agreed upon between the Caterer and the Facility Manager.

D. Caterer must furnish to the Facility Manager the names of all of its staff working within the Facility. Caterer agrees to have all staff clearly identified by uniforms and badge numbers whenever they are present in the Facility.

E. Representatives of the City shall have the right to enter upon, and have access to, all spaces occupied by the Caterer during events and at all times when Caterer's employees are present.



F. Caterer shall not remove any article or piece of equipment belonging to the City without the express written permission of the Facility Manager.

## 12. UTILITIES

A. All electricity, gas and water utility service will be delivered via the delivery system to the Facility. The kitchen area has submeters for these utilities and Caterer will be charged for those utilities used by Caterer in the kitchen. No surcharge shall be added over the actual cost the City pays or incurs for these services. City will bill Caterer each month, and payment is due by Caterer within twenty (20) days of billing. Utility bills not paid within thirty (30) days are grounds for termination of this Agreement. City will provide, at its own costs, all utilities for all other areas of the Facility.

B. City shall arrange and contract for garbage and waste services for the Facility. City and Caterer will split equally the costs of garbage and waste services, except for garbage service provided for exhibits and shows, which shall be the sole responsibility of City. City will bill Caterer monthly for its share of the garbage and waste costs; Caterer must pay its portion of these costs within twenty (20) days of billing by City.

C. The City is not liable or responsible to Caterer for any failure to furnish utilities set forth above occasioned by any reason beyond the control of City, including, but not limited to, strikes or other work stoppage, the act of any other government agency or public utility, or the breakdown or failure of apparatus, equipment or machinery employed in supplying the services.

D. City is not responsible or liable to Caterer for any direct or consequential damages incurred by Caterer, including damage to any goods, merchandise or equipment stored at the Facility by Caterer, as a result of power failures, flood, fire, explosion or other causes beyond City's control.

## 13. CLEANING AND MAINTENANCE

A. Caterer shall provide its own janitorial service, pick-up, cleanup and disposal of all litter for all space assigned or used in its operation. Caterer shall also clean and keep catering and concession areas free of debris during events. Only cleaning materials authorized for use by the Facility Manager may be utilized for surface cleaning.

B. Caterer shall keep neat, clean and in a sanitary condition all areas within the Facility which it uses during the term of this Agreement. The kitchen, refreshment stands and related concession areas shall be kept clean at all times. Caterer must comply with all applicable federal, state and local laws and regulations regarding the operation of a food-serving establishment. Caterer must promptly dispose of all refuse and waste materials created in the Caterer's designated seating and production areas after each event. Waste foods must be kept in closed containers until removed from the Facility. Removal shall be made promptly during and after the event. Caterer must deposit all refuse and waste material in outdoor litterbins provided by the City and designated by the Facility Manager for Caterer's use.

C. Caterer must not allow or commit any waste, injury or damage upon, or to, the Facility or its equipment. At the expiration of the Caterer's agreement, the Caterer must leave the Facility and its equipment in at least the same clean, safe, and like-new condition as they were at the commencement of the agreement, excepting only normal wear and tear.

D. Caterer shall not erect, maintain or keep at the Facility any structure or equipment of any kind, whether temporary or otherwise, except with the written consent of the Facility Manager. The Caterer shall not make any alterations to, additions to, nor post any signs upon, any part of the Facility's premises or permit signs to be posted for advertising of goods of any nature on Facility's premises or on vendors' personnel or equipment without prior written permission of the Civic Center Manager.

E. The Caterer must, at its sole cost and expense, provide pest control service in all food preparation and service areas. The Caterer must not perform this service on its own or with its own personnel, but must hire or contract this service to be performed by a professional exterminator licensed under the laws, ordinances and regulations of the City and State of Arizona. The Facility shall receive treatment at least once a month or more as determined by the Facility Manager. The City agrees to provide pest control services for the balance of the facility. Pest control services will be coordinated between the Facility Manager and the Caterer's on-site manager.

#### 14. EQUIPMENT AND SUPPLIES

A. City will provide only the kitchen/food service equipment and furnishings as listed in the attached Exhibit "A". All equipment and furnishings shall be and remains the property of the City and shall not be removed by Caterer without the express written permission of the Facility Manager. During the term of this Agreement,

Caterer is responsible, at its sole cost, for the maintenance and repair of all equipment and furnishings provided by City. City agrees to make available to Caterer all warranty and contract information it possesses or may receive for the equipment listed in Exhibit "A".

B. Caterer is responsible to obtain and provide, at its sole cost and expense all other equipment and supplies not provided by City necessary for Caterer to prepare all foods on-site.

C. Caterer may bring in other Caterer-owned equipment into the facility during the period covered by this Agreement. Any installation connection or disconnection of equipment to utilities or drains will be at the sole cost of Caterer and subject to the approval of the Facility Manager. Caterer retains ownership of its equipment and remains responsible for its removal. Caterer also remains responsible for the maintenance and repair of its own equipment during the term of this Agreement. In no case shall City-owned equipment be removed or disconnected without the written approval of the Facility Manager.

D. Caterer must provide, at no expense to the City, all operating equipment, including, but not limited to: linens, cash registers, chinaware, silverware, cutlery, pots and pans, glassware, cooking utensils and food trays, walking vendor equipment and office machines, all of which are subject to approval of the Facility Manager. Caterer retains title to all of the above-listed items. The Caterer must provide sufficient quantities of identical table service items (china, glassware, silverware and other items), all of design and quality approved by the Facility Manager, to accommodate a catered function for 1,000 persons at one time. Samples of items shall be submitted to and approved by the Facility Manager before final procurement by the Caterer. Quantities of the table service items sufficient to serve at least 500 persons at one time must be on hand in the Facility at all times, unless the Facility Manager approves the removal of those items for use at other locations.

E. Caterer must submit, within thirty (30) days after execution of this Agreement, a descriptive list of items of equipment and furnishings that Caterer proposes to provide in order to comply with this Agreement.

F. Caterer must make no alterations to, or replacements of, any kitchen/food service/food preparation equipment or furnishings furnished by the City without the written consent of the Facility Manager. Caterer shall cause periodic cleaning and servicing of all kitchen/food service/food preparation equipment and furnishings,

whether City- or Caterer-owned, so as to keep the operating condition and appearance clean and like new, except for normal wear and tear.

G. Caterer is responsible for monthly inspection and periodic servicing of fire extinguishers and fire protection systems in the kitchen/food preparation areas and shall ensure that they remain in usable, serviceable condition at no cost to the City. Caterer is also responsible for the cleaning and servicing, at no cost to the City, of grease traps associated with the kitchen installation and operations. Grease traps must be serviced a minimum of four times per year and more frequently if necessitated by business volumes.

#### 15. CATERER'S EMPLOYEES

A. Caterer is entitled to a reasonable number of employees who will be permitted entry to the Facility, provided that the Facility Manager approves the number of employees. Caterer's employees will be admitted in accordance with regulations established by the Facility Manager. The Facility Manager, for good cause, may deny entry to the Facility to any person employed by the Caterer. Caterer will provide an ongoing and accurate list of employees requiring building security code and key access to the Facility. Building security codes and keys must not be shared with any employee not on the list as presented to and approved by the Facility Manager. All codes and keys issued will be signed for by each Caterer employee granted access and must be returned upon termination of employment or termination of the Agreement. Caterer is responsible for all costs associated with security actions necessary for stolen, lost or misplaced codes or keys.

B. Employees of the Caterer shall, at all times, be neatly and cleanly uniformed at no expense to the City. The Facility Manager must approve the style and colors of uniforms for Caterer's employees. Caterer's employees must meet all sanitary standards prescribed for restaurant employees and shall, at all times, reflect personal cleanliness. Unkempt and unclean employees will not be tolerated. Employees' uniforms must be devoid of advertising, unless advertising is approved in writing by the Facility Manager, and shall be worn with numbered badges, with badges placed in a location on the uniform approved by the Facility Manager so that the badge number is visible to patrons. Caterer must keep accurate records of the names and addresses of those to whom badges are issued to assure proper identification of employees at any time required by the City, the Facility Manager or any other authorized agency.

C. Unless the Caterer personally operates concessions and catering, the Caterer shall employ a representative designated the Caterer's Resident Manager and



shall be present and have authority at all times during the operation of the concessions and catering at the Facility. If at any time the Facility Manager or designee finds that the concession or catering Resident Manager is unsatisfactory, the Caterer shall, within ten (10) days, replace the Resident Manager with one who is satisfactory to the Facility Manager.

D. Caterer's employees shall at all times be polite and courteous in their dealings with the Facility's patrons and management. Caterer's employees must not, either by act or language, offend or unreasonably disturb patrons and spectators or interfere with a program or event in progress. The Facility Manager's decision is final in the determination of appropriate Caterer employee behavior.

E. The Facility Manager or designee may recommend that the Caterer discipline, or remove from employment at the Facility, an employee of Caterer. Any employee removed from employment by the Caterer is not permitted, without the written consent of the Facility Manager or designee, to enter the Facility as an employee of Caterer. The City agrees that it shall not employ any employee of Caterer at the Facility during the term of this Agreement, absent Caterer approval.

F. Caterer shall train and closely supervise all employees in order to promote constant practices of high standards of cleanliness, courtesy and service. Caterer will provide an adequate number of personnel in the Facility to properly service and attend to patrons.

G. Caterer and Caterer's employees must be familiar with the security, emergency preparedness and evacuation procedures established for the Facility. Caterer is responsible for assisting in the training and participation of quarterly drills of emergency procedures as requested by the Facility Manager.

#### 16. OBSERVANCE OF LAWS, RULES AND REGULATIONS

A. Caterer must at all times comply with all applicable federal, state, and local laws, rules and regulations and orders.

B. Caterer shall strictly observe all requirements of federal, state and local laws and regulations pertaining to or affecting the handling, sale, and disposal of food, beverage (alcoholic and non-alcoholic), tobacco and other goods or merchandise served or sold. The Caterer shall, at Caterer's expense, procure and keep in force during the entire period of this Agreement, all permits and licenses required by legal the appropriate authority.

17. PERFORMANCE SURETY

Upon execution of this Agreement, Caterer must provide a performance surety in the amount of \$10,000 guaranteeing Caterer's faithful performance of this Agreement. The performance surety may be in the form of a bond, cashier's check, certified check or money order. Personal or company checks are not acceptable unless certified. If a bond is submitted, it must be written on the form approved by the City. The attorney-in-fact that 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 an A. M. Best Company, Inc., rating of no less than an "A" or a Standard and Poor's' rating of no less than BBB, and must be authorized and licensed to do business in this State by the Arizona Department of Insurance. Individual sureties and letters of credit are not acceptable.

18. INSURANCE AND INDEMNITY

A. Without limiting any of its obligations or liabilities, Caterer, at its own expense, must purchase and maintain the minimum insurance specified below with companies duly licensed or otherwise approved by the State of Arizona, Department of Insurance, and with forms reasonably satisfactory to the City. Each insurer shall have a current A.M. Best Company, Inc., rating of not less than "A" or a Standard and Poor's' rating of not less than BBB. Use of alternative insurers requires prior approval from City. All insurance required herein shall be maintained in full force and effect until services required to be performed under the terms of this Agreement are satisfactorily completed and formally accepted. At the sole discretion of the City, failure to maintain insurance coverage may be considered a material breach of this Agreement.

B. Caterer must carry a comprehensive general liability policy with minimum limits of \$2,000,000 combined single limit for bodily injury and property damage, and providing the following minimum coverages:

- i) Premises Operations
- ii) Broad Form Property Damage
- iii) Broad Form Contractual Liability
- iv) Completed Operations

- v) Products Liability for Caterer (Food and Drink)
- vi) Personal Injury (Coverage A, B and C)
- vii) Fire Legal Liability in an amount not less than \$500,000
- viii) Liquor Liability in an amount not less than \$2,000,000 combined single limit

C. Insurance coverage provided shall include the following terms and conditions:

- i) Additional Insured. Insurance coverage must name the City, its agents, representatives, officials, employees and officers as additional insureds and specify that the insurance afforded the Caterer shall be primary insurance and that any insurance coverage carried by the City or its employees shall be excess coverage and not contributory coverage to that provided by the Caterer.
- ii) Coverage Term. The policy shall require notice to City not less than thirty (30) days prior to cancellation or termination of the policy of insurance for any reason. All insurance required herein shall be maintained in full force and effect during the term of this Agreement. At the sole discretion of the City, failure to maintain the notice provision as required above may constitute a material breach of this Agreement.
- iii) Primary Coverage. Caterer's insurance shall be primary insurance in respect to the City and any insurance or self-insurance maintained by City shall be excess of the Caterer's insurance and shall not be contributory.
- iv) Claim Reporting. Any failure to comply with the claim reporting provisions of the policies or any breach of a policy warranty shall not affect coverage afforded under the policy to protect City.
- v) Waiver. The policies, except for Workers' Compensation and Professional Liability, shall contain a waiver of transfer rights of recovery (subrogation) against City, its agents, representatives, Facility Manager, officers and employees for any claims arising out of the work of the Caterer.
- vi) Deductible/Retention. Policies may provide coverage that contains deductibles or self-insureds retention. However, deductible and/or self-insured

retentions are not applicable with respect to the coverage provided to City under the policies. Caterer is solely responsible for deductible and/or self-insured retention and the City may require the Caterer to secure the payment of the deductible or self-insured retention by a surety bond or an irrevocable and unconditional letter of credit.

vii) Certificates of Insurance. Prior to commencing services under this Agreement, Caterer must furnish City with Certificates of Insurance by endorsement, issued by Caterer's insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Agreement are in full force and effect. Certificates shall identify this Agreement number and provide for not less than thirty (30) days advance Notice of Cancellation, Termination or Material Alteration. Certificates shall be sent directly to the Facility Manager, 5750 West Glenn Drive, Glendale, Arizona 85301.

D. Workers' Compensation. The Caterer shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Caterer's employees engaged in the performance of the services and Employer's Liability insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$500,000 disease policy limit. Caterer shall be in full compliance with the provisions of the Arizona Workers' Compensation Law (Title 23, Chapter 6, Arizona Revised Statutes, as amended) and all rules and regulations of the Industrial Commission of Arizona made in relation to Worker's Compensation. Caterer shall secure payment of compensation to employees by insuring the payment of 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. Caterer further agrees to require any and all subcontractors performing work under the Agreement to comply with all Workers' Compensation Laws and regulations as stated above. It is expressly understood and agreed that all persons employed directly or indirectly by the Caterer or any of its subcontractors are considered employees of Caterer or its subcontractors and not employees of the City.

E. Automobile Liability. Caterer shall carry Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damages of not less than \$1,000,000 each occurrence, regarding any owned, hired and non-owned vehicles assigned to or used in performance of the Caterer's Services. Coverage will be at least as broad as Coverage Code 1 "any auto" (Insurance Service Office policy form CA 0001 1/87 or any replacements thereof).



F. Indemnification. Caterer agrees to indemnify, defend and hold harmless the City against: i) any and all losses, claims, damages, lawsuits and liabilities for any personal injury, death, or property damage arising out, or as a consequence of, any work or activity performed by Caterer, or its employees, subcontractors, agents or assigns, pursuant to the Agreement; ii) any and all expenses related to claims or lawsuits resulting from the above, including court costs and attorney(s) fees; and iii) any and all penalties and damages incurred by reason of Caterer's failure to obtain any required permit or license, or comply with any applicable laws, ordinances, or regulations. Caterer shall hold the City harmless from any claimants supplying labor, materials, equipment or supplies to the Caterer or subcontractors in the performance of the Services required under this Agreement.

## 19. RECORDS AND AUDITS

A. Caterer must keep records of all operations satisfactory to the City. Caterer shall:

- i) Establish and maintain a complete record of the financial transactions and all operations conducted on the Facility's premises or in any way related thereto, which records shall be kept in conformance with accounting practices acceptable or required by the Finance Director of the City. Inventory systems to determine concession and alcohol sales must be approved by the Facility Manager. Invoices will determine all catering sales. Financial records shall be maintained separately from any other operations the Caterer may have.
- ii) Prepare and submit monthly to the Facility Manager, in triplicate, for each month or part thereof in which the operations are performed, a detailed report of the month's total gross receipts on a form to be approved by the Finance Director. The monthly report shall be submitted at the time of the payment for that month's operation.
- iii) Maintain a separate commercial bank account into which all cash receipts from the catering, concession and licensed beverage will be deposited within one (1) working day after their receipt. Caterer may make disbursements from Caterer's corporate bank account but must keep account records as to all disbursements as they relate to the Facility.
- iv) Secure and maintain a separate sales tax permit for use at the Facility.

- v) Make available to the Facility Manager, the Finance Director or the City Auditor, or their duly authorized representatives, upon request, for inspection or auditing purposes, all of Caterer's accounting records that pertain to the operations, including but not limited to, daily sales records and purchase invoices for goods purchased for use or resale in the operations.
- vi) Use cash registers of a type approved by the Facility Manager for the recordation of all sales made at each refreshment stand permitted to operate and at such other concession operations or locations as determined by the Facility Manager. Cash registers must be kept in full view during times that registers are in use for the recording of sales.

B. Caterer may also be required, at the discretion of the Facility Manager, to submit other financial statements from time to time pertaining to the catering, concession and licensed beverage operations as required by the City.

C. The City or its authorized representative, shall at all times have the right to examine books, papers and records of the Caterer relative to the gross receipts and all of the catering, concession and licensed beverage operations pertaining to the Facility. The Caterer must have appropriate records pertaining to the catering, concession and licensed beverage operations accessible at the Facility at all times.

D. An inventory of all supplies, materials and food items shall be made by the Caterer no later than thirty (30) days after the close of each fiscal year. A copy of the inventory will be submitted to the Facility Manager within thirty (30) days following the inventory.

## 20. BRAND NAME AND PRODUCT APPROVAL

The Facility Manager must approve all product brands for use in the Civic Center. Such approval will not be withheld without stated cause. The Civic Center may, at its choosing, sell sponsorships to brand names and recognize their use at the Facility. Such brands must be competitively priced at both the wholesale (to Caterer) and retail (to Clients) levels.

## 21. FORCE MAJEURE

A. City and Caterer hereby acknowledge that the Arizona Department of Economic Security (D.E.S.) may attempt to exercise operating rights over the concession

and vending portions of this Agreement which D.E.S. may assert under the Randolph Shepard Act (20 U.S.C. § 107 *et seq.*) and/or such rights as may be available under A.R.S. § 23-504. City currently disputes that D.E.S. has those rights. In the event a court of competent jurisdiction rules that D.E.S. has non-exclusive vending and/or concession operating rights, then Caterer, at its sole option, may continue this Agreement, terminate the entire agreement, or terminate only the vending and concession portions without liability to City. In the event a court of competent jurisdiction rules that D.E.S. has exclusive vending and/or concession operating rights, thereby rendering the vending and/or concession portions of this Agreement unenforceable and void, Caterer's rights to provide vending and/or concession services under this Agreement will be deemed terminated by virtue of the court order, and neither party will have any further liability or responsibility to the other party under this Agreement. Further, if the vending and concession services are deemed unenforceable and void by the order of a court of competent jurisdiction, Caterer may, at its sole option and with no further obligation or liability to City, terminate the catering and licensed beverage services portion of this Agreement.

B. Neither party is liable to the other if this Agreement, in whole or in part, is deemed unenforceable or void by action of any governmental entity other than the City.

## 22. TERMINATION FOR CAUSE

A. City may terminate this Agreement in its entirety upon the happening of any one or more of the following events and may exercise all rights of entry and re-entry with or without process of law upon the Facility:

- i) If the rentals, fees, charges or other money payments which Caterer agrees to pay or any part thereof are paid after the date specified for the payment, without authorization by the Facility Manager, on more than three (3) occasions during the term of this Agreement and any extension hereof, City may terminate this Agreement upon giving Caterer not less than thirty (30) calendar days notice and the cure provisions set forth below shall not apply.
- ii) If, after notice and opportunity to cure Caterer has failed in the performance of any covenant or condition required to be performed by the Caterer.
- iii) Upon the happening of any act or omission which results in the suspension or revocation of any act, power, license, permit or authority

that terminates the conduct and operation of the Caterer, in whole or in part, in the Facility or suspends the Caterer's operation for any time in excess of thirty (30) days.

- iv) If the interest or estate of the Caterer under the Agreement is transferred to, passes to, or devolves upon, by operation of law or otherwise, any other person, firm or corporation in a merger or a constituent corporation in a consolidation.
- v) If the levy of any attachment or execution or the appointment of any receiver or the execution of any other process of any court of competent jurisdiction which does or, as a direct consequence of the process, will interfere with Caterer's occupancy of the Facility and will interfere with Caterer's operations under the Agreement and which attachment, execution, receivership or other process of such court is not enjoined, vacated, dismissed or set aside within a period of thirty (30) days after notice to Caterer from City as provided herein.
- vi) If a petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute is filed against Caterer and Caterer's operations are interfered with or adversely affected thereby or Caterer is adjudicated as bankrupt.
- vii) If Caterer voluntarily abandons, deserts, vacates or discontinues all or part of its operation of its operations at the Facility or any other action that results in a failure by the Caterer to provide the public and others with the Services, contemplated or required by this Agreement, for more than two (2) calendar days, and fails to resume service within two (2) calendar days after being served written notice by City with direction to resume Services, this Agreement shall terminate immediately without further notice or action by City.
- viii) In the event of an emergency situation or natural catastrophe beyond the control of the City, the City may terminate this Agreement upon five (5) days' written notice of termination to the Caterer. The type of emergency situation or natural catastrophe contemplated shall include, but not be limited to, occurrences of the following:

- a) Conditions which render the Facility unsafe or unavailable for its intended use whether such conditions result from fire, storm, explosion, flood, riot, civil commotion or otherwise.
  - b) Acts or activities by the Caterer which, if not terminated quickly, may result in substantial damage to either the Facility or its operations or in direct and substantial interference with the use of the Facility.
  - c) Termination under this subsection does not relieve the Caterer of any obligations or responsibilities under the other terms of the Agreement.
- ix) If Caterer defaults, City may obtain the Services required to be provided by Caterer herein from another source and may recover the excess costs by a) deduction from any monies owed to Caterer by City, b) collection against the performance surety provided by Caterer, c) seeking recovery from Caterer for such costs by litigation, or d) a combination of the remedies above or any other remedies as provided by law.

B. Caterer may, at its option, declare this Agreement terminated in its entirety if the City fails to perform any covenant or condition required to be performed by the City within its control.

C. Procedures for Termination or Repossession. Except as provided in Sections 22(A)(i), 22(A)(vii) and 22(A)(viii) above, no termination declared by either party shall be effective, and the City shall not take possession of the Facility, unless and until thirty (30) days have elapsed after notice by either party to the other specifying the date upon which such termination shall take effect and the cause for which the Agreement is being terminated or for which the Facility is being repossessed to provide for the cure of any such default, and no termination will be effective nor shall the City retake possession of the Facility:

- i) If, in the sole discretion of City, the default is cured within the thirty (30) day period; or
- ii) If by its nature it cannot be cured within such thirty (30) day period, so long as the party in default promptly commences to correct the default within the thirty (30) days and corrects the same as promptly as is reasonably practicable.



D. City's failure to take any authorized action upon Caterer's default or breach of any of the terms, covenants, or conditions it must perform or observe shall not be construed to be, or act as, a waiver of default, or of any subsequent default of any of the terms, covenants and conditions to be performed, kept and observed by the Caterer. City's acceptance of payments from Caterer for any period or periods after a default by the Caterer of any of the terms, covenants and conditions required to be performed, kept and observed by the Caterer shall not be deemed a waiver or stopping of any right on the part of the City to terminate this Agreement for failure by the Caterer to so perform, keep or observe any of the terms, covenants or conditions.

E. On the date of any Notice of Termination, all right, title and interest of the Caterer shall terminate at the discretion of the City, except as otherwise provided herein. It is understood that the rights and remedies of the City and Caterer specified in this Agreement are not intended to be, and shall not be, exclusive of one another or exclusive of any common law or statutory right of either of the Parties.

23. CONTRACT ADMINISTRATION

The Facility Manager shall administer this Agreement for the City. Caterer shall take all direction from the City through the Facility Manager or designee.

24. SUBCONTRACTING AND ASSIGNMENTS

This Agreement, or any portion thereof, shall not be subcontracted or assigned by Caterer without the prior written approval of the Facility Manager. No approval will be construed as making the City a party of or to a subcontract or assignment, or subjecting the City to liability of any kind to any subcontractor or assignment. No subcontract shall, under any circumstances, relieve the Caterer of liability and obligation under this Agreement and, despite any such subcontracting or assignment, the City shall deal through the Caterer. Subcontractors and Assignees will be dealt with as workmen and representatives of the Caterer.

25. MATERIALS SAFETY DATA SHEET

Caterer is responsible to supply a Materials Safety Data Sheets (M.S.D.S.) in accordance with Federal requirements. If Caterer enters a City workplace and brings with it hazardous materials, Caterer will supply the Facility Manager with an M.S.D.S. covering those particular products to which the Caterer might expose City employees or the general public while working at the site.

26. COMPLIANCE WITH LEGAL REQUIREMENTS

Caterer's products, Services and facilities shall be in full compliance with all applicable federal, state and local health, environmental and safety laws, regulations, standards and ordinances, regardless of whether they are referred to by the City in this Agreement.

27. OSHA GUIDELINES

Caterer shall be familiar with and operate within the guidelines set forth by the Occupational Safety and Health Act (OSHA).

28. DELIVERIES

Deliveries of supplies, goods, wares, merchandise and equipment must be made at the service entrance of the Facility only, unless otherwise approved by the Facility Manager.

29. PUBLIC USE OF FACILITY

The Facility is primarily for use by the public for the purpose of attending conventions, trade shows, exhibits and other types of events held in this type of building; the public's right to use shall not be infringed upon by any activity of the Caterer. Caterer is responsible for rendering Services to the public in a dignified manner and the Caterer agrees to perform those Services for all persons, regardless of age, race, color, creed, religion, disability, sex or place of national origin.

...

30. NON-DISCRIMINATION

Under this Agreement, Caterer must not discriminate against any person or entity because of age, race, sex, creed, color, religion, disability or national origin, nor otherwise commit an unfair employment practice. Caterer must take affirmative action to ensure that applicants are employed, and that employees are dealt with during employment, without regard to their age, race, creed, color, age, disability, religion, sex or national origin. All actions shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeships. Caterer must comply with all requirements of the Americans with Disabilities Act (ADA). Caterer must deal with applicants or employees with disabilities covered by the ADA in accordance with ADA requirements. Caterer further agrees that it will incorporate this clause into all subcontracts entered into with suppliers of materials or services and all labor organizations furnishing skilled, unskilled, and union labor, or any who may perform any such labor or services, in connection with this Agreement.

31. DRUG-FREE WORKPLACE PROGRAM

A. The City has adopted a policy establishing a drug-free workplace for itself and for any of its vendors entering its Facility or doing business with the City to ensure the safety and health of employees working under City license agreements, contracts and/or projects.

B. Caterer agrees to require a drug-free workplace for all employees working under this Agreement. Specifically, under this Agreement, Caterer must notify all of its employees in writing that they are prohibited from the manufacture, distribution, possession, or unlawful use of a controlled substance in the workplace.

C. Failure to require a drug-free workplace in accordance with the City's policy may result in termination of the Agreement and possible debarment from bidding on future City projects.

32. NON-WAIVER PROVISIONS

A. No term or provision of this Agreement will be deemed to be waived and no breach excused, unless the waiver or consent is in writing and signed by the Party claimed to have waived or consented.



B. The City's waiver of any of Caterer's defaults or material breaches of any of the terms, covenants, or conditions to be performed, kept or observed by Caterer shall not be construed to be, or act as a waiver of, any subsequent default of any of the terms, covenants, and conditions in this Agreement. City's acceptance of payments for any period or periods after a default of any of the terms, conditions and covenants in this Agreement will not be deemed a waiver of any City's rights, including the right to terminate this Agreement for Caterer's failure to perform, keep or observe any of the terms, covenants, or conditions of this Agreement.

33. LICENSEE AN INDEPENDENT CONTRACTOR

A. Caterer acknowledges and agrees that under this Agreement, the right to enter upon the Facility and use City property is nothing more than a license granted solely for the purpose of exercising its rights and performing its duties under this Agreement. Nothing set forth in this Agreement creates a tenancy between the City and Caterer or grants the Caterer possession of any City property. Upon any termination of this Agreement, the City shall have the right to remove and exclude from the Facility, or any other City property, Caterer and any of Caterer's employees, without being deemed to have committed any unlawful entry, trespass, or injury of any sort whatsoever.

B. Both the City and the Caterer agree that in performing its duties and responsibilities under this Agreement, the Caterer is, and shall at all times be, acting as an independent contractor, and all persons employed by the Caterer, either directly or indirectly, shall be considered employees of the Caterer and not of the City. Accordingly, the Caterer is responsible for payment of all applicable taxes arising out of the Caterer's activities under this Agreement, including, without limitation, federal and state income tax withholding, Social Security tax and Unemployment Insurance taxes.

34. LEGAL PROCEEDINGS

The parties agree that if either party is required to take legal proceeding to enforce the terms and conditions of this Agreement, including, without limitation, the payment of license fees or commissions, the successful party shall be entitled to recover all of its reasonable attorney's fees and costs resulting from those legal proceedings.

35. NOTICES

A. Any notices required to be given under this Agreement are deemed to be properly served if sent by United States mail, postage-paid, or hand-delivered to the parties at the following addresses:

To Glendale:

Facility Manager  
Glendale Civic Center  
5750 West Glenn Drive  
Glendale, Arizona 85301

To Caterer:

Mitchell Katz, Managing Member  
Glendale AZCAT LLC  
1716 West Main Street  
Mesa, Arizona 85034

with a copy to:

Glendale City Attorney  
5850 West Glendale Avenue, #450  
Glendale, Arizona 85301

36. IMMIGRATION LAW COMPLIANCE

A. Caterer, and on behalf any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.

B. Any breach of warranty under subsection (A) above is considered a material breach of this Assignment and is subject to penalties up to and including termination of this Assignment.

C. City retains the legal right to inspect the papers of Caterer or any subcontractor employee who performs work under this Assignment to ensure that Caterer or any subcontractor is compliant with the warranty under subsection (A) above.

D. City may conduct random inspections, and upon request of the City, Caterer shall provide copies of papers and records demonstrating continued compliance with the warranty under subsection (A) above. Caterer 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 36.

E. Caterer agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon itself and expressly accrue those obligations directly to the benefit of the City. Caterer also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.

F. Caterer's warranty and obligations under this Section 36 to the City is continuing throughout the term of this Agreement until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.

G. The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

### 37. FOREIGN PROHIBITIONS

Caterer certifies to the extent applicable under A.R.S. §§ 35-391 *et seq.*, and 35-393 *et seq.*, that it does not have "scrutinized" business operations, as defined in the preceding statutory sections, in the countries of Sudan or Iran.

### 38. CONFLICTS OF INTEREST

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

### 39. TRANSITION

A. During the transition from the Services provided by the previous provider to Caterer, Caterer shall work in good faith to coordinate a smooth transition between providers.

B. Caterer agrees to be bound by, and not request any, additional deposits or consideration from Licensees for events already booked by the previous provider.

40. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the Caterer and the City relating to the Catering License. It may be amended or modified only by a properly executed written amendment.

41. SURVIVING PROVISIONS

The obligations under Section 18 (Insurance and Indemnity), Section 22 (Termination for Cause), Section 32 (Non-Waiver Provisions), Section 34 (Legal Proceedings) shall survive expiration, cancellation or any other termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

"Caterer":

GLENDALÉ AZCAT LLC,  
an Arizona limited liability company,


  
\_\_\_\_\_  
Mitchell Katz, Managing Member

"City":

CITY OF GLENDALE, an Arizona  
municipal corporation

  
\_\_\_\_\_  
Ed Beasley, City Manager

ATTEST:

  
\_\_\_\_\_  
Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Craig Tindall, City Attorney

APPROVED:

A handwritten signature in black ink, reading "Jennifer Reichelt", written over a horizontal line.

Jennifer Reichelt

Acting Civic Center Manager

## **EXHIBIT “A”**

### *Items supplied by the City of Glendale*

- |  |                                |
|--|--------------------------------|
| 1. Fly Fan                                     | 21. Pot Shelving               |
| 2. Can Wash                                    | 22. Prep Sink                  |
| 3. Hand Sink with Soap and Towel Dispenser     | 23. Work Table                 |
| 4. Soiled Dish Table with Double Racking Shelf | 24. Exhaust Hood               |
| 5. Soak Sink                                   | 25. Stainless Wall Flashing    |
| 6. Disposal with Spray Rinse                   | 26. Fire Protection System     |
| 7. Dish Machine                                | 27. Portable Table             |
| 8. Vent Cowls                                  | 28. Dish-Up Table              |
| 9. Clean Dish Table                            | 29. Hot Food Units             |
| 10. Wall Shelves                               | 30. Ice Machine with Bin       |
| 11. Booster Heater                             | 31. Floor Grate                |
| 12. Wire Shelves                               | 32. Beverage Counter with Sink |
| 13. Condensate Hood at Dishwasher              | 33. Glass Filler               |
| 14. Spare Number                               | 34. Tea Brewer                 |
| 15. Combination Wall-in Box                    | 35. Coffee Urn                 |
| 16. Cooler Mechanical System “A”               | 36. Upright Refrigerator       |
| 17. Freezer Mechanical System “B”              | 37. Wall Shelves               |
| 18. Walk-in Shelving                           | 38. Linen Cages                |
| 19. Pot Sink                                   | 39. Portable Bar               |
| 20. Wall Pot Rack/Shelf                        | 40. Linen Cart                 |