

**CITY CLERK
ORIGINAL**

**C-10591
01/20/2016**

**SERVICES AGREEMENT BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
ON ASSIGNMENT STAFFING SERVICES, LLC DBA LAB SUPPORT**

THIS AGREEMENT is made between the CITY OF GLENDALE, an Arizona municipal corporation (the "City") and ON ASSIGNMENT STAFFING SERVICES, LLC DBA LAB SUPPORT, a Delaware limited liability company authorized to do business in Arizona ("Contractor"). The City and Contractor agree as follows:

1. Term of Agreement. This Agreement is effective as of the date the last party executes the Agreement. This Agreement will end on April 30, 2016.
2. Scope of Work. Contractor will provide Thomas Swenson to work for the City at the rates to be agreed upon by the parties. This amount is inclusive of all Services, including all labor, travel, and expenses through completion of the work.
3. Conversion. The City agrees to not convert Thomas Swenson to a City employee. This restriction conversion ends on May 1, 2016.
4. Payments. The City will pay Contractor subject to Contractor submitting an invoice to the City for each requested payment. Invoices will itemize all Services completed to the date of the invoice and provide sufficient detail to justify payment. Upon approval of the invoice, the City will pay the invoiced amount to Contractor within fifteen (15) days of receipt. Contractor will invoice the City on a weekly basis.
5. Ownership of Documents. All documents prepared and submitted to the City by Contractor under to this Agreement will be the property of the City.
6. Contractor Personnel. Contractor has agreed to provide Thomas Swenson to perform work for the City. Contractor represents that Thomas Swenson is experienced and capable of successful completion of the Services within the terms of this Agreement.
7. Inspection; Acceptance. All work will be subject to inspection and acceptance by the City at reasonable times during Contractor's performance.
8. Licenses; Materials. Contractor must maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by Contractor, including a City of Glendale business license. The City has no obligation to provide Contractor, its employees, or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The City has no obligation to provide tools, equipment, or material to Contractor.
9. Force Majeure. Except for payment for sums due, neither party will be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure

includes acts of God: acts of the public enemy; war; acts of terror, hate crimes affecting public order; riots; strikes; mobilization; labor disputes; civil disorders; fire; floods; lockouts, injunctions-interventions-acts, or failures or refusals to act by government authority; events or obstacles resulting from a governmental authority's response to the foregoing; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence. The force majeure will be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this Contract. Force majeure will not include the following occurrences:

- a) Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences.
- b) Late performance by a subcontractor unless the delay arises out of a *force majeure* occurrence in accordance with this section.

10. Performance Warranty. Contractor warrants that the Services rendered will conform to the requirements of this Agreement and to the highest professional standards in the field.

11. Standard of Professionalism. Contractor must conduct all work consistent with the highest professional standards for the industry and type of work being performed under the Agreement.

12. Insurance.

12.1. General.

12.1.1. Insurer Qualifications. Without limiting any obligations or liabilities of Contractor, Contractor must purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the City. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option.

12.1.2. No Representation of Coverage Adequacy. By requiring insurance herein, the City does not represent that coverage and limits will be adequate to protect Contractor. The City reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement, but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency will not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

12.2. Insurance Requirements.

12.2.1. Contractor and subcontractors must procure and maintain until all of their obligations have been discharged, including any warranty periods under this Agreement, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Contractor, its agents, representatives, employees or subcontractors.

12.2.2. The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The City in no way warrants that the minimum limits contained herein are sufficient to protect Contractor from liabilities that might arise out of the performance of the work under this Agreement by Contractor, its agents, representatives, employees, or subcontractors, and Contractor is free to purchase additional insurance.

12.3. Minimum Scope and Limits of Insurance. Contractor must provide coverage with limits of liability not less than those stated in this Agreement below.

12.3.1. Commercial General Liability - Occurrence Form

12.3.2. The policy must include bodily injury, property damage, personal injury, and broad form contractual liability coverage.

General Aggregate	\$2,000,000
Products - Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability - Written and Oral	\$1,000,000
Fire Legal Liability	\$50,000
Each Occurrence	\$1,000,000

The policy must be endorsed to include the City of Glendale and its departments, agencies, boards, commissions, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of Contractor.

The policy must contain a waiver of subrogation against the City of Glendale and its departments, agencies, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of Contractor.

12.3.3. Business Automobile Liability

The policy must include coverage for bodily injury and property damage for any owned, hired, and/or non-owned vehicles used in the performance of this Agreement.

Combined Single Limit (CSL) \$1,000,000

The policy must be endorsed to include the City of Glendale and its departments, agencies, boards, commissions, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of Contractor involving automobiles owned, leased, hired, or borrowed by Contractor.

The Policy must contain a waiver of subrogation against the City and its departments, agencies, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of Contractor.

12.3.4. Worker's Compensation and Employers' Liability

The policy must include workers' compensation statutory employers' liability coverage.

Each Accident	\$ 500,000
Disease-Each Employee	\$ 500,000
Disease - Policy Limit	\$1,000,000

The Policy must contain a waiver of subrogation against the City of Glendale and its departments, agencies, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of Contractor.

12.3.5. Professional Liability (Errors and Omissions Liability)

Policy must include professional liability coverage.

Each Claim	\$500,000
Annual Aggregate	\$1,000,000

- a) In the event that the professional liability insurance required by this Agreement is written on a claims-made basis, Contractor warrants that any retroactive date under the policy will precede the effective date of this Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Agreement is completed.
- b) The policy must cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this Agreement.

12.4. Contractor's Coverage is Primary. Contractor's insurance coverage will be primary insurance with respect to all other available sources. Coverage provided by Contractor may not be limited to the liability assumed under the

indemnification provisions of this Agreement.

- 12.5. Notice of Cancellation. Each insurance policy required by this Agreement must provide the required coverage and may not be suspended, voided, canceled, or reduced. Contractor must provide the City with prompt notice if the insurance is suspended, voided, cancelled, or reduced. Such notice must be sent directly to the City's procurement division.
- 12.6. Acceptability of Insurers. Insurance must be obtained from duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. The City in no way warrants that the above-required minimum-insurer rating is sufficient to protect Contractor from potential insurer insolvency.
- 12.7. Verification of Coverage. Contractor will furnish the City with a declarations page for each policy, as well as any amendments or riders in order to verify contractual insurance requirements are being satisfied.

All certificates and endorsements are to be received and approved by the City's procurement division before work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Agreement must be sent directly to the City's procurement division. The City project/contract number, if applicable, and project description must be noted on the certificate of insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time.

- 12.8. Subcontractors. Contractor's certificate(s) must include all subcontractors as insureds under its policies or Contractor must furnish to the City separate certificates and endorsements for each subcontractor. All coverage for subcontractors is subject to the minimum requirements identified above.
 - 12.9. Approval. Any modification or variation from the *insurance requirements* in this Agreement will be made by the City, whose decision is final. Such action will not require a formal Agreement amendment, but may be made by administrative action.
13. Indemnification. To the fullest extent permitted by law, Contractor will indemnify, defend and hold harmless the City and its council members, officers, boards, commissions, officials, employees, or agents (collectively the "Indemnified Party"), for, from, and against any and all losses, claims, damages, liabilities, costs, and expenses (including, but not limited to, reasonable attorneys' fees, claims processing, investigation, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions with respect thereof) directly arise out of the negligent or willful acts or omissions of work or professional services of Contractor, its officers, employees,

agents, or any tier of subcontractor in the performance of this Agreement. Notwithstanding the foregoing, Contractor will not be obligated to indemnify the City to the extent such Claims relate to, arise out of, or are caused by the City's acts or omissions. In consideration of the award of this Agreement, Contractor agrees to waive all rights of subrogation against the City, its officers, officials, agents, and employees for losses arising from the work performed by Contractor for the City. The amount and type of insurance coverage required by this Agreement will in no way be construed as limiting the scope of the indemnity in this section.

14. Applicable Law; Venue. In the performance of this Agreement, Contractor will abide by and conform to any and all laws of the United States, the State of Arizona, and the City of Glendale, including but not limited to federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act, and any other federal or state laws applicable to this Agreement. This Agreement is governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the State of Arizona in Maricopa County.

15. Termination; Cancellation.

15.1. For City's Convenience. This Agreement is for the convenience of the City and may be immediately terminated without cause after receipt by the Contractor of written notice by the City. Upon termination for convenience, Contractor will be paid for all undisputed services performed up to the termination date.

15.2. Conflict of Interest. This Agreement is subject to the provisions of A.R.S. § 38-511. The City may cancel this Agreement without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of the City or any of its departments or agencies: is at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the Agreement subject.

15.3. Fund Appropriation Contingency. Contractor understands that the continuation of this Agreement is subject to the budget of the City providing for the contract item as an expenditure. The City cannot assure that the budget item for funding this Agreement will be approved in the future. In such event, the City may terminate this Agreement.

16. Miscellaneous.

16.1. Relationship of the Parties; Independent Contractor. Each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party may not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and the Contractor agrees to be fully and solely responsible for the payment of such taxes or any other tax applicable to this Agreement. Contractor, its employees, and subcontractors are

not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Contractor. Contractor, and not the City, will determine the time of its performance of the Services so long as Contractor meets the requirements of this Agreement. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere.

- 16.2. Laws and Regulations. Contractor must at all times during the performance of its duties under this Agreement ensure that it and any person for whom Contractor is responsible remains in compliance with all rules, regulations, ordinances, statutes, or laws affecting the Services, including existing and future (i) City and County ordinances and regulations, (ii) state and federal laws and (iii) Occupational Safety and Health Administration standards.
- 16.3. Amendments. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the Contractor and City.
- 16.4. Provisions Required by Law. Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included and, if through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Agreement will promptly be physically amended to make such insertion or correction.
- 16.5. Severability. The provisions of this Agreement are severable. To the extent that any provision is held to be invalid by a court of competent jurisdiction, such holding will not affect any other provision of the Agreement which may remain in effect without the invalid provision.
- 16.6. Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the parties with respect to its subject matter. All previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements, or oral agreements have been made by any of the parties except as expressly set forth in this Agreement. This Agreement will be construed and interpreted according to its plain meaning, and no presumption will be deemed to apply in favor of or against the party drafting the Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in drafting, reviewing, and entering into this Agreement.
- 16.7. Assignment; Subcontractor. No right or interest in this Agreement may be assigned by Contractor without prior written permission of the City, signed by the City Manager. No delegation of any duty of the Contractor may be made without prior written permission of the City, signed by the City Manager. Any attempted assignment or delegation by the Contractor in violation of this provision is a breach of this Agreement by the Contractor.
- 16.8. Subcontracts. No subcontract may be entered into by Contractor with any other party to furnish any of the material or services specified herein without the prior

written approval of the City. Contractor is responsible for performance under this Agreement whether or not subcontractors are used.

- 16.9. Rights and Remedies. No provision in this Agreement may be construed, expressly or by implication, as waiver by the City of any existing or future right or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of the City to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the City's acceptance of and payment for services, will not release Contractor from any responsibilities or obligations imposed by this Agreement or by law, and will not be deemed a waiver of any right of the City to insist upon the strict performance of this Agreement.
- 16.10. Attorneys' Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party is entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which will accrue on the commencement of such action and will be enforced whether or not such action is prosecuted through judgment.
- 16.11. Liens. All materials or services must be free of all liens and, if the City requests, a formal release of all liens must be delivered to the City.
- 16.12. Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement must be in writing. Notices will be deemed to have been duly given if (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, (iii) given to a recognized and reputable overnight delivery service, to the address set forth below, or (iv) delivered by facsimile transmission to the number set forth below or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this section.

To City of Glendale: City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301
Attn:

With Copy to: City Attorney's Office
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

City Manager
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

If to Contractor:

On Assignment Staffing Services,
LLC dba Lab Support
4400 Cox Road, Suite 200
Glen Allen, VA 23060
Attn: Legal Department

Notices are deemed received (i) when delivered to the party, (ii) three (3) business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (iv) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party will mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

- 16.13. Confidentiality of Records. Contractor must establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement will not be used or disclosed by it, its agents, officers, or employees, except as required to perform Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons will not be divulged other than to employees, agents, or officers of the Contractor as needed for the performance of duties under this Agreement.
- 16.14. Public Records. Notwithstanding any provisions of this Agreement regarding confidentiality, secrets, or protected rights, Contractor acknowledges that all documents provided to the City may be subject to disclosure by laws related to open public records (A.R.S § 39-121 *et. seq.*). Consequently, Contractor understands that disclosure of some or all of the items subject to this Agreement may be required by law. In the event the City receives a request for disclosure that is reasonably calculated to incorporate information that might be considered confidential by Contractor, the City agrees to provide Contractor with notice of that request. Within ten (10) days of such notice, Contractor must inform the City in writing of any objection by Contractor to the disclosure of the requested information. Failure by Contractor to object timely will waive Contractor's ability to object under this section and will waive any remedy against the City for disclosure. In the event Contractor objects to disclosure within the time specified, Contractor agrees to handle all aspects related to the request including properly communicating with the requester and timely responding with information. Furthermore, Contractor agrees to indemnify and hold harmless the City from any claims, actions, lawsuits, or any other controversy or remedy, in whatever form, that arises from the failure to comply with the request for information and the laws pertaining to public records, including defending the

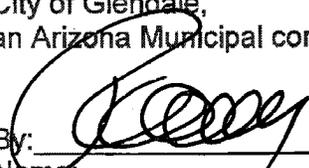
City in any legal action and payment of any penalties or judgments assessed against the City. This provision will survive the termination of this Agreement.

16.15. Compliance with Federal Immigration Laws and Regulations. Contractor warrants that it complies with all federal immigration laws and regulations that relate to its employees and that it complies with A.R.S. § 23-214(A). Contractor acknowledges that pursuant to A.R.S. § 41-4401, a breach of this warranty is a material breach of this Agreement subject to penalties up to and including termination of this Agreement, and that the City retains the legal right to inspect the papers of any employee who works on the Agreement to ensure compliance with this warranty.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date the last party signs.

CITY:

City of Glendale,
an Arizona Municipal corporation

By: 

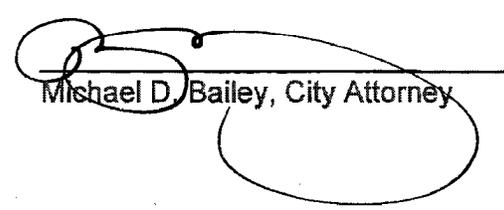
Name:

Title:

ATTEST:

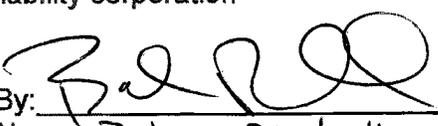

Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:


Michael D. Bailey, City Attorney

CONTRACTOR:

On Assignment Staffing Services, LLC
dba Lab Support, a Delaware limited
liability corporation

By: 

Name: Baher Rizkalla

Its: Authorized Representative