Michael K. Jeanes, Clerk of Court
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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2009-020757 07/29/2009

HON. EDWARD O. BURKE

CLERK OF THE COURT
L. Nixon
Deputy

GOLDWATER INSTITUTE CARRIE ANN SITREN

v.

CITY OF GLENDALE, et al. NICHOLAS C DIPIAZZA

MINUTE ENTRY

The Court has received and reviewed 322 pages of documents under seal from Defendant, City of Glendale (the "City"), the City's Motion for *In Camera* Inspection and Protective Order, and Plaintiff's Response thereto and having heard oral argument, enters the following ruling.

Plaintiff previously requested pursuant to A.R.S. § 39-121.01 that the City provide copies of all public records including drafts, correspondence, notes, emails, memoranda, proposals and other records of negotiation with new potential owners of the Phoenix Coyotes Hockey Team from May 11, 2009, and on a continuing basis to send records as they are created which the Court granted in part. Pursuant to that ruling the City produced the documents referenced above under seal for an in camera inspection.

Although there is "a statutory policy favoring disclosure," and records "are presumed open to the public for inspection." Carlson v. Pima County, 141 Ariz. 487, 491, 687 P.2d 1242 (1984), governmental agencies may place restrictions on disclosure for privacy, confidentiality, and the best interests of the state. Mathews v. Pyle, 75 Ariz. 76, 81, 251 P.2d 893 (1952) and Carlson v. Pima County, 141 Ariz. 487, 491, 687 P.2d 1242 (1984). These restrictions may include contracts that are the subject of negotiations and negotiations for the purchase, sale or lease of real property. A.R.S. § 38-431.03 (A)(3), (4), and (7).

This Court previously ruled that disclosing the records of negotiations with prospective bidders for the purchase of the Phoenix Coyotes before the bids were final would have an important and harmful effect on the City and the application process in the Bankruptcy Court. Although two initial bids have been submitted to the Bankruptcy Court, each is contingent on negotiations with the City and silent about any proposed terms that have been reached with the City. The Court's review of the records filed under seal indicates that no definitive terms have been agreed to by the City with any bidder or prospective bidder, intensive negotiations are ongoing and disclosure of the majority of the documents would have a devastating impact on the City's ability to negotiate with the bidders.

Therefore, with the exception of the document bates stamped "COG00288 through COC00322, which shall be disclosed immediately, the remaining documents do not have to be disclosed until the City reaches a tentative agreement with one or both of the bidders. Immediately upon reaching a tentative agreement(s), which is defined as the point at which City staff decides to present a proposal to the City Council, the documents shall be e-mailed or faxed to Plaintiff and a press release distributed to the media regarding same.

The Court is very concerned that because the City can convene a special City Council meeting on 24 hours notice neither Plaintiff nor the City's taxpayers will have sufficient time to digest, analyze and prepare to comment on any proposed agreement and/or concessions. Therefore the City is ordered to disclose the records as soon as a decision is made to present a proposal to the Council and not at a later time when a notice of a special Council meeting has been prepared and given.