

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ HELD ON THIS 15<sup>th</sup> DAY OF MAY, 2014**

**CALL TO ORDER** - Mayor Bob Irvin called the meeting to order at 6:30 p.m.

**ROLL CALL** - City Clerk Virginia Mefford called the roll.

**PRESENT**

- Mayor Robert A. Irvin
- ~~Vice Mayor Bill Holloway~~
- Councilman Elwood A. Johnson
- Councilman Gerald W. Lindsey
- Councilwoman Monika Cronberg
- Councilman Earl Goolsby
- Councilman William "Bill" Nigh

**STAFF**

- City Manager Ted Soltis
- City Clerk Virginia Mefford
- City Attorney Ann P. Roberts
- Finance Director Ruth Graham
- Police Chief Glenn Childers
- ~~Library Director Tom Miner~~

**PLEDGE OF ALLEGIANCE TO THE FLAG** - Led by Mayor Irvin

**CALL TO THE PUBLIC**

Rob Jones - He noted that the open house at the library was very well attended. He thanked staff and Councilmember Lindsey and his wife for their attendance. He discussed a high school grant that teaches values. He also thanked Monika Cronberg for her years of service on Council.

**DECLARATION ON CONFLICT OF INTEREST** - None

**ADOPTION OF THE AGENDA**

**MOTION:** Councilmember Johnson made a motion to adopt the agenda as presented.  
**SECONDED:** Councilmember Cronberg  
**MOTION CARRIED**

**APPROVAL OF MINUTES OF THE REGULAR MEETING OF MAY 1, 2014.**

**MOTION:** Councilmember Johnson made a motion to approve the minutes.  
**SECONDED:** Councilmember Cronberg  
**MOTION CARRIED**

**FEE WAIVER REQUEST FROM THE ELKS LODGE FOR USE OF THE SWIMMING POOL**

**MOTION:** Councilmember Johnson made a motion to approve the fee waiver request from the Elks Lodge for use of the swimming pool; he clarified it was a five-year approval.  
**SECONDED:** Councilmember Cronberg  
**DISCUSSION:** Councilmember Johnson and Cronberg added this is a good free event for the community.  
**MOTION CARRIED**

**FEE WAIVER REQUEST FROM REX ALLEN DAYS INC. FOR USE OF BASEBALL FIELDS 1 AND 2 AT QUAIL PARK**

**MOTION:** Councilmember Goolsby made a motion not to approve the fee waiver request from Rex Allen Days Inc. for use of baseball fields 1 and 2 at Quail Park.  
**SECONDED:** Councilmember Cronberg  
**DISCUSSION:** Councilmember Johnson explained the reasoning behind the fee and gave an example of why it should not be waived.  
**MOTION CARRIED**

**CLEAR CHANNEL BILLBOARD LEASE AMENDMENTS**

**MOTION:** Councilmember Johnson made a motion to approve the Clear Channel billboard lease amendments.  
**SECONDED:** Councilmember Cronberg  
**DISCUSSION:** Councilmember Johnson asked if the billboards were going to be in the same location and if there would be a change in the design. Mr. Stoddard stated the locations were the same. He added we could change the

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND  
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ  
HELD ON THIS 15<sup>th</sup> DAY OF MAY, 2014**

design but at a cost. Ms. Shultz, a member of the audience, commented that they are not attractive, faded, and need some pizzazz. Councilmember Lindsay questioned the location of the billboards and whether they could be moved. Mr. Stoddard said they have always been in the same location. It was the consensus of Council to update the billboards.

**MOTION CARRIED**

**CITY MANAGER REPORT**

He introduced the new Public Works Director Kevin Hagerich. Mr. Hagerich stated he was happy to be here. He attended the movie Farmland. It is a documentary and it reminded him of the importance of the farming and ranching community in Willcox.

He attended the local Ranch Rodeo.

He thanked everyone for helping make the Open House at the library a success.

He attended the "Run for the Wall" event honoring veterans, their families, and friends. He thanked everyone for helping make it a success. He noted it is an event to be proud of.

Chief Childers announced Dale Hadfield as the new Sergeant and gave a background on his experience. He noted we are very fortunate to have him in our department. He presented Officer Hadfield with his sergeant badge and his wife, Crystal Hadfield, pinned it on.

**COMMENTS NOT FOR DISCUSSION FROM MAYOR AND COUNCIL MEMBERS**

Councilmember Goolsby congratulated both Sergeant Hadfield and his wife.

Councilmember Cronberg congratulated Sergeant Hadfield. She also reminded everyone of the Wine Festival this weekend, and added that local artists will be displaying some of their artwork at the Commercial.

The Mayor announced the upcoming car show. He also congratulated Sergeant Hadfield on his promotion.

Councilmember Lindsay congratulated Mr. Hadfield. He also mentioned the Run for the Wall was a great event.

Councilmember Johnson announced that several hundred Run for the Wall participants were served lunch at the Elks Lodge. He added that the school provided a band.

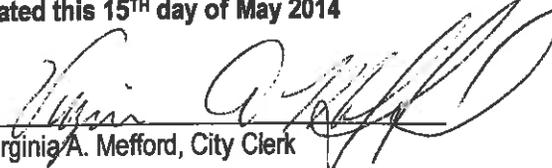
**ADJOURN**

Being no further business before the Mayor and Council, the meeting was adjourned at 6:59 p.m. by Mayor Irvin.

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the City Council of the City of Willcox held on the 15<sup>th</sup> day of May 2014. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 15<sup>th</sup> day of May 2014

  
Virginia A. Mefford, City Clerk

**PASSED, APPROVED AND ADOPTED** this 5<sup>th</sup> day of June 2014.

\_\_\_\_\_  
MAYOR ROBERT A IRVIN

ATTEST:

Date signed: \_\_\_\_\_

\_\_\_\_\_  
City Clerk Virginia A. Mefford



**SECTION 5 Interim Permit:**

1. If you intend to operate business when your application is pending you will need an Interim Permit pursuant to A.R.S. 4-203.01.
2. There **MUST** be a valid license of the same type you are applying for currently issued to the location.
3. Enter the license number currently at the location. 06020025
4. Is the license currently in use?  YES  NO If no, how long has it been out of use? \_\_\_\_\_

**ATTACH THE LICENSE CURRENTLY ISSUED AT THE LOCATION TO THIS APPLICATION.**

I, Marie Louise Figueroa, declare that I am the CURRENT OWNER, AGENT, CLUB MEMBER, PARTNER, MEMBER, STOCKHOLDER, OR LICENSEE (circle the title which applies) of the stated license and location.

(Print full name)

State of Arizona County of Maricopa

The foregoing instrument was acknowledged before me this

5 day of May, 2014  
Day Month Year

(Signature of NOTARY PUBLIC)

X Marie Louise Figueroa  
(Signature) Nuna Mendez  
Notary Public  
My commission expires on: 09-26-16  
My Comm. Expires 09-26-16

**SECTION 6 Individual or Partnership Owners:**

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$22 PROCESSING FEE FOR EACH CARD.

1. Individual:

Last	First	Middle	% Owned	Mailing Address	City State Zip
Mitchell	Matthew	Jerome	100%	190 W. PATTS Rd, W17108, Az	85213

Partnership Name: (Only the first partner listed will appear on license)

General-Limited	Last	First	Middle	% Owned	Mailing Address	City State Zip
<input type="checkbox"/>						
<input type="checkbox"/>						
<input type="checkbox"/>						
<input type="checkbox"/>						

) Y R A S S E C E N F I T

2. Is any person, other than the above, going to share in the profits/losses of the business?  YES  NO  
If Yes, give name, current address and telephone number of the person(s). Use additional sheets if necessary.

Last	First	Middle	Mailing Address	City, State, Zip	Telephone#

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$22 PROCESSING FEE FOR EACH CARD.

- CORPORATION **Complete questions 1, 2, 3, 5, 6, 7, and 8.**  
 L.L.C. **Complete 1, 2, 4, 5, 6, 7, and 8.**

1. Name of Corporation/L.L.C.: STUMBLEWEEDS, LLC  
 (Exactly as it appears on Articles of Incorporation or Articles of Organization)
2. Date Incorporated/Organized: 4/25/2014 State where Incorporated/Organized: Arizona
3. AZ Corporation Commission File No.: L19211952 Date authorized to do business in AZ: 4/25/2014
4. AZ L.L.C. File No: L19211952 Date authorized to do business in AZ: 4/25/14
5. Is Corp./L.L.C. Non-profit?  YES  NO
6. List all directors, officers and members in Corporation/L.L.C.:

Last	First	Middle	Title	Mailing Address	City State Zip
Mitchell	Matthew	Jerome	Owner <i>Manager/Member</i>	190 W. Patte Road	Willcox, Az 85643

(ATTACH ADDITIONAL SHEET IF NECESSARY)

7. List stockholders who are controlling persons or who own 10% or more:

Last	First	Middle	% Owned	Mailing Address	City State Zip
Mitchell	Matthew	Jerome	100%	190 W. Patte Rd	Willcox, Az 85643

(ATTACH ADDITIONAL SHEET IF NECESSARY)

8. If the corporation/L.L.C. is owned by another entity, attach a percentage of ownership chart, and a director/officer/member disclosure for the parent entity. Attach additional sheets as needed in order to disclose personal identities of all owners.

**SECTION 8 Club Applicants:**

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$22 PROCESSING FEE FOR EACH CARD.

1. Name of Club: \_\_\_\_\_ Date Chartered: \_\_\_\_\_  
 (Exactly as it appears on Club Charter or Bylaws) (Attach a copy of Club Charter or Bylaws)

2. Is club non-profit?  YES  NO

3. List officer and directors:

Last	First	Middle	Title	Mailing Address	City State Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

**SECTION 9 Probate, Will Assignment or Divorce Decree of an existing Bar or Liquor Store License:**

- 1. Current Licensee's Name: \_\_\_\_\_  
(Exactly as it appears on license) Last First Middle
- 2. Assignee's Name: \_\_\_\_\_  
Last First Middle
- 3. License Type: \_\_\_\_\_ License Number: \_\_\_\_\_ Date of Last Renewal: \_\_\_\_\_
- 4. ATTACH TO THIS APPLICATION A CERTIFIED COPY OF THE WILL, PROBATE DISTRIBUTION INSTRUMENT, OR DIVORCE DECREE THAT SPECIFICALLY DISTRIBUTES THE LIQUOR LICENSE TO THE ASSIGNEE TO THIS APPLICATION.

**SECTION 10 Government: (for cities, towns, or counties only)**

- 1. Governmental Entity: \_\_\_\_\_
- 2. Person/designee: \_\_\_\_\_  
Last First Middle Contact Phone Number

**A SEPARATE LICENSE MUST BE OBTAINED FOR EACH PREMISES FROM WHICH SPIRITUOUS LIQUOR IS SERVED.**

**SECTION 11 Person to Person Transfer:**

Questions to be completed by CURRENT LICENSEE (Bars and Liquor Stores ONLY-Series 06,07, and 09).

- 1. Current Licensee's Name: Figueroa Marie Louise Entity: Agent  
(Exactly as it appears on license) Last First Middle (Indiv., Agent, etc)
- 2. Corporation/L.L.C. Name: Nakai's Bar LLC  
(Exactly as it appears on license)
- 3. Current Business Name: Nakai's  
(Exactly as it appears on license)
- 4. Physical Street Location of Business: Street 116 E Maley ST.  
City, State, Zip Willcox AZ 85643
- 5. License Type: 06/Bar License Number: 06020025
- 6. If more than one license to be transferred: License Type: \_\_\_\_\_ License Number: \_\_\_\_\_
- 7. Current Mailing Address: Street PO BOX 1146  
(Other than business) City, State, Zip Willcox AZ 85644
- 8. Have all creditors, lien holders, interest holders, etc. been notified of this transfer?  YES  NO
- 9. Does the applicant intend to operate the business while this application is pending?  YES  NO If yes, complete Section 5 of this application, attach fee, and current license to this application.

14115  
5  
Liq. Lic. #11057

10. I, MARIE LOUISE FIGUEROA, hereby authorize the department to process this application to transfer the  
(print full name)

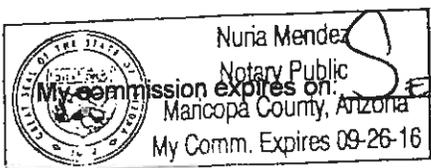
privilege of the license to the applicant, provided that all terms and conditions of sale are met. Based on the fulfillment of these conditions, I certify that the applicant now owns or will own the property rights of the license by the date of issue.

I, MARIE LOUISE FIGUEROA, declare that I am the CURRENT OWNER, AGENT, MEMBER, PARTNER  
(print full name)  
STOCKHOLDER, or LICENSEE of the stated license. I have read the above Section 11 and confirm that all statements are true, correct, and complete.

Marie Louise Figueroa  
(Signature of CURRENT LICENSEE)

State of ARIZONA County of MARICOPA  
The foregoing instrument was acknowledged before me this

5 May 2014  
Day Month Year  
Nuria Mender  
(Signature of NOTARY PUBLIC)



7. Has a license or a transfer license for the premises on this application been denied by the state within the past one (1) year?

YES  NO If yes, attach explanation.

8. Does any spirituous liquor manufacturer, wholesaler, or employee have any interest in your business?  YES  NO

9. Is the premises currently licensed with a liquor license?  YES  NO If yes, give license number and licensee's name:

License # 06020025 (exactly as it appears on license) Name Nakai Bar LLC MBE Louise Figueroa

**SECTION 14 Restaurant or hotel/motel license applicants:**

1. Is there an existing restaurant or hotel/motel liquor license at the proposed location?  YES  NO  
If yes, give the name of licensee, Agent or a company name:

\_\_\_\_\_ and license #: \_\_\_\_\_

Last First Middle

2. If the answer to Question 1 is YES, you may qualify for an Interim Permit to operate while your application is pending; consult A.R.S. § 4-203.01; and complete SECTION 5 of this application.

3. All restaurant and hotel/motel applicants must complete a Restaurant Operation Plan (Form LIC0114) provided by the Department of Liquor Licenses and Control.

4. As stated in A.R.S. § 4-205.02.G.2, a restaurant is an establishment which derives at least 40 percent of its gross revenue from the sale of food. Gross revenue is the revenue derived from all sales of food and spirituous liquor on the licensed premises. By applying for this  hotel/motel  restaurant license, I certify that I understand that I must maintain a minimum of 40 percent food sales based on these definitions and have included the Restaurant Hotel/Motel Records Required for Audit (form LIC 1013) with this application.

\_\_\_\_\_  
applicant's signature

As stated in A.R.S. § 4-205.02 (B), I understand it is my responsibility to contact the Department of Liquor Licenses and Control to schedule an inspection when all tables and chairs are on site, kitchen equipment, and, if applicable, patio barriers are in place on the licensed premises. With the exception of the patio barriers, these items are not required to be properly installed for this inspection. Failure to schedule an inspection will delay issuance of the license. If you are not ready for your inspection 90 days after filing your application, please request an extension in writing, specify why the extension is necessary and the new inspection date you are requesting. To schedule your site inspection visit [www.azliquor.gov](http://www.azliquor.gov) and click on the "Information" tab.

\_\_\_\_\_  
applicants initials

**SECTION 15 Diagram of Premises: (Blueprints not accepted, diagram must be on this form)**

1. Check ALL boxes that apply to your business:

- Entrances/Exits
- Liquor storage areas
- Patio:  Contiguous
- Service windows
- Drive-in windows
- Non Contiguous

2. Is your licensed premises currently closed due to construction, renovation, or redesign?  YES  NO  
If yes, what is your estimated opening date? \_\_\_\_\_

month/day/year

3. Restaurants and hotel/motel applicants are required to draw a detailed floor plan of the kitchen and dining areas including the locations of all kitchen equipment and dining furniture. Diagram paper is provided on page 7.

4. The diagram (a detailed floor plan) you provide is required to disclose only the area(s) where spiritous liquor is to be sold, served, consumed, dispensed, possessed, or stored on the premises unless it is a restaurant (see #3 above).

5. Provide the square footage or outside dimensions of the licensed premises. Please do not include non-licensed premises, such as parking lots, living quarters, etc.

As stated in A.R.S. § 4-207.01(B), I understand it is my responsibility to notify the Department of Liquor Licenses and Control when there are changes to boundaries, entrances, exits, added or deleted doors, windows or service windows, or increase or decrease to the square footage after submitting this initial drawing.

  
applicants initials

**SECTION 12 Location to Location Transfer. (BARS and LIQUOR STORES ONLY)**  
**APPLICANTS CANNOT OPERATE UNDER A LOCATION TRANSFER UNTIL IT IS APPROVED BY THE STATE**

1. Current Business: Name \_\_\_\_\_  
 (Exactly as it appears on license) Address \_\_\_\_\_
2. New Business: Name \_\_\_\_\_  
 (Physical Street Location) Address \_\_\_\_\_
3. License Type: \_\_\_\_\_ License Number: \_\_\_\_\_
4. If more than one license to be transferred: License Type: \_\_\_\_\_ License Number: \_\_\_\_\_
5. What date do you plan to move? \_\_\_\_\_ What date do you plan to open? \_\_\_\_\_

**SECTION 13 Questions for all in-state applicants excluding those applying for government, hotel/motel, and restaurant licenses (series 5, 11, and 12):**

A.R.S. § 4-207 (A) and (B) state that no retailer's license shall be issued for any premises which are at the time the license application is received by the director, within three hundred (300) horizontal feet of a church, within three hundred (300) horizontal feet of a public or private school building with kindergarten programs or grades one (1) through (12) or within three hundred (300) horizontal feet of a fenced recreational area adjacent to such school building  
 The above paragraph DOES NOT apply to:

- a) Restaurant license (§ 4-205.02)
- b) Hotel/motel license (§ 4-205.01)
- c) Government license (§ 4-205.03)
- d) Fenced playing area of a golf course (§ 4-207 (B)(5))

14 MAY 5 11:47 AM '03

1. Distance to nearest school: 400 ft. Name of school PPEP Tech HS  
 Address 158 W. Maley street, Willcox, Az 85643  
 City, State, Zip \_\_\_\_\_
2. Distance to nearest church: 500 ft. Name of church Willcox Unified Methodist Church  
 Address 124 S. Curtis Ave, Willcox, Az 85643  
 City, State, Zip \_\_\_\_\_
3. I am the:  Lessee  Sublessee  Owner  Purchaser (of premises)
4. If the premises is leased give lessors: Name Hector M and Marie Figueroa  
 Address P.O. Box 1146, Willcox, Az 85643  
 City, State, Zip \_\_\_\_\_
- 4a. Monthly rental/lease rate \$ 3090.00 What is the remaining length of the lease 2 yrs. 0 mos.
- 4b. What is the penalty if the lease is not fulfilled? \$ \_\_\_\_\_ or other Property returned to lessor  
 (give details - attach additional sheet if necessary)
5. What is the total **business** indebtedness for this license/location excluding the lease? \$ 0  
 Please list lenders you owe money to.

Last	First	Middle	Amount Owed	Mailing Address	City State	Zip

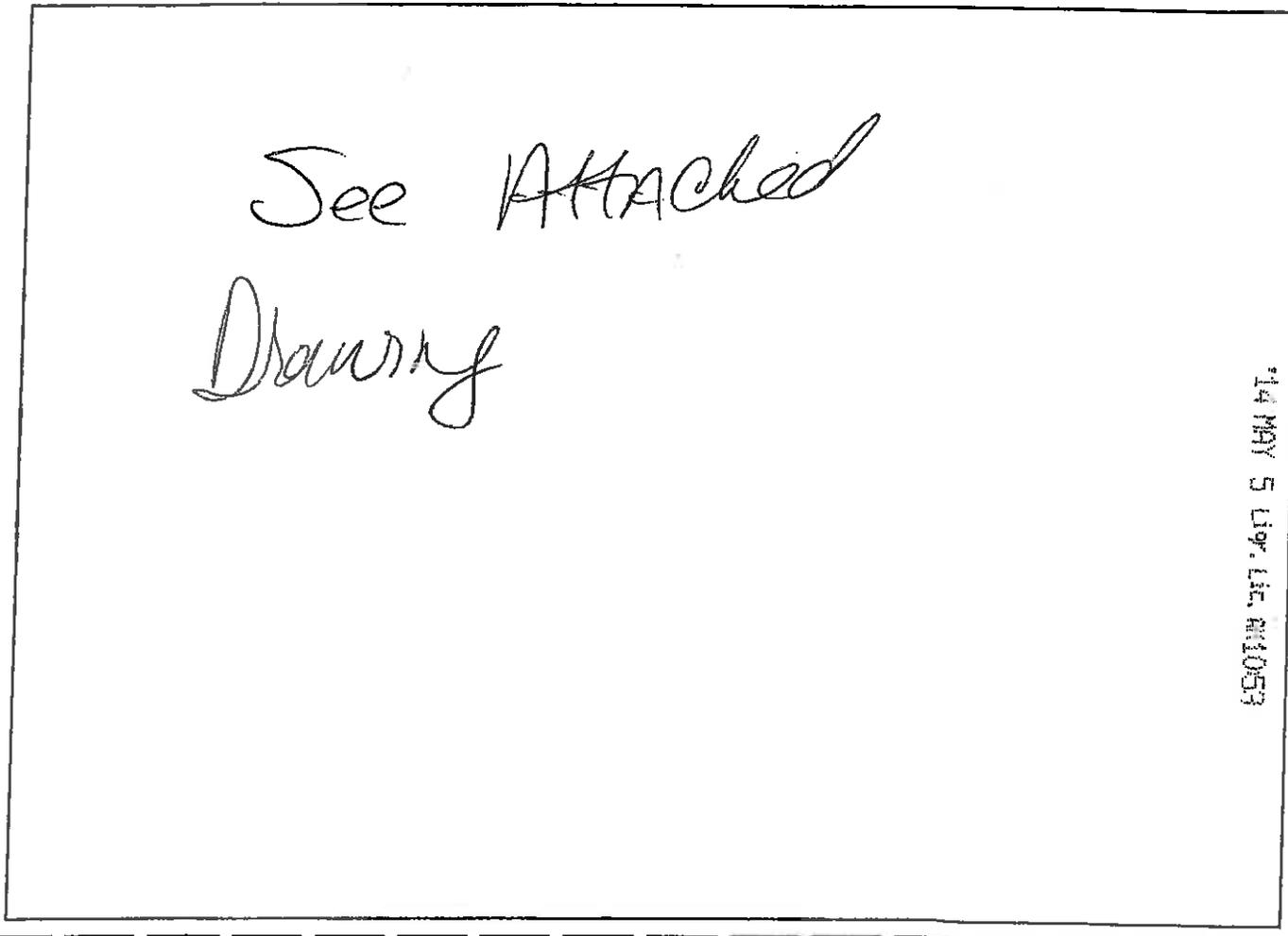
(ATTACH ADDITIONAL SHEET IF NECESSARY)

6. What type of business will this license be used for (be specific)? Bar/ Nightclub

**SECTION 15 Diagram of Premises**

4. In this diagram please show only the area where spirituous liquor is to be sold, served, consumed, dispensed, possessed or stored. It must show all entrances, exits, interior walls, bars, bar stools, hi-top tables, dining tables, dining chairs, the kitchen, dance floor, stage, and game room. Do not include parking lots, living quarters, etc. When completing diagram, North is up ↑.

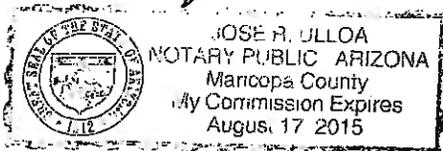
If a legible copy of a rendering or drawing of your diagram of premises is attached to this application, please write the words "diagram attached" in box provided below.



**SECTION 16 Signature Block**

I, Matthew Jerome Mitchell, hereby declare that I am the OWNER/AGENT filing this application as stated in Section 4, Question 1. I have read this application and verify all statements to be true, correct and complete.

X *Matthew Jerome Mitchell*  
(signature of applicant listed in Section 4, Question 1)



State of ARIZONA County of MARICOPA

The foregoing instrument was acknowledged before me this

5<sup>th</sup> of MAY 2014  
Day Month Year

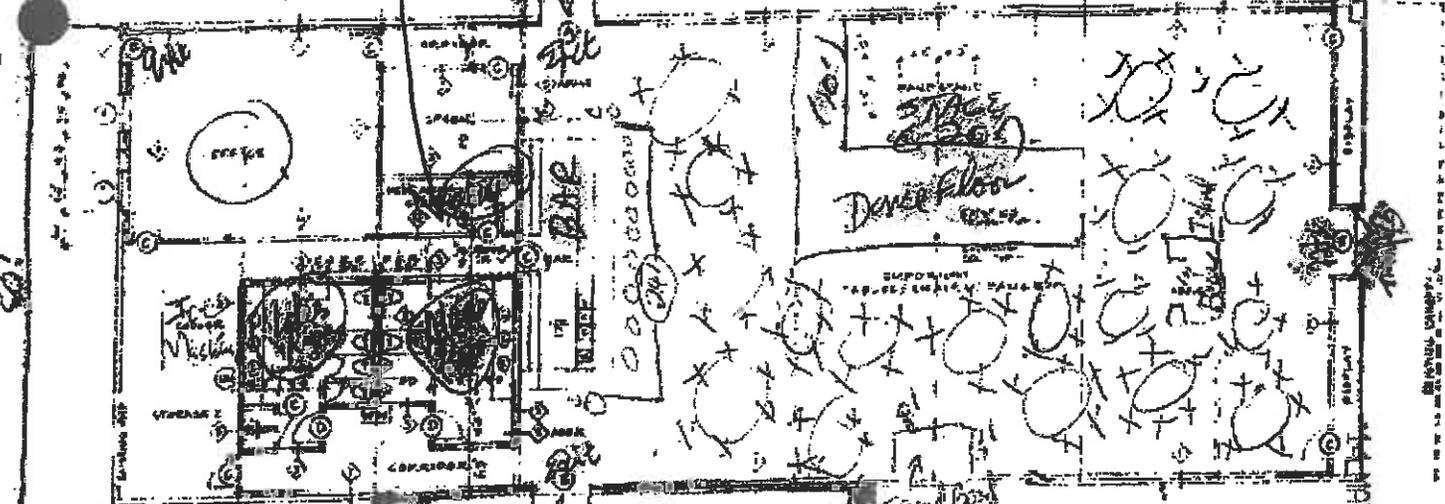
*[Signature]*  
signature of NOTARY PUBLIC

My commission expires on: 17 8 2015  
Day Month Year

(EXTENDED PREMISES)

Storeroom  
Vending

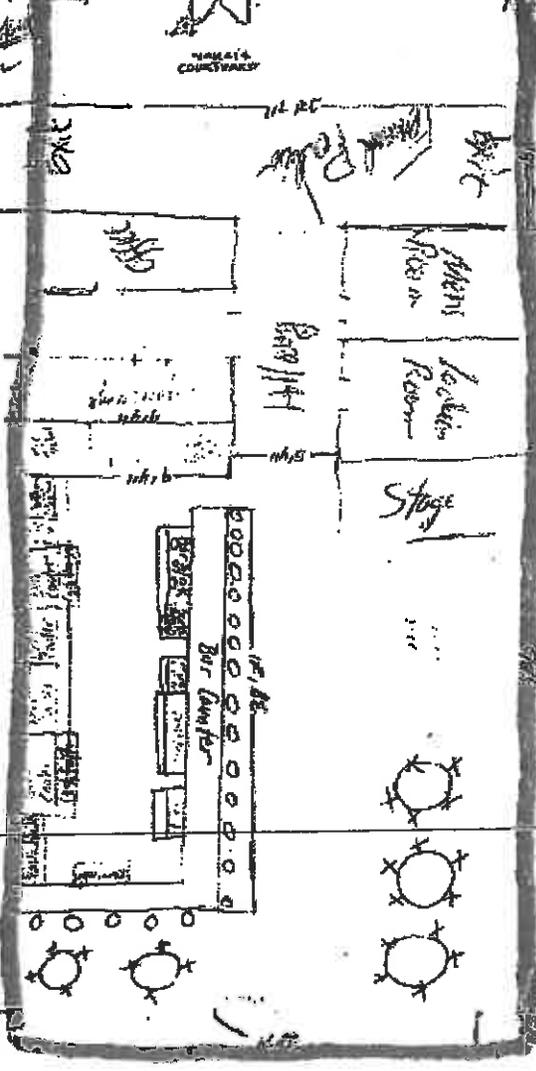
134'  
57'



Patio Addition

Outdoor #1509 #

Indoor #1509 #



114' 57' Lic. #11053

12 AUG 2 Lic. #11106

9000 sq ft



**CITY OF WILLCOX**  
**Request for Council Action**

**Agenda Item:** 10  
**Tab Number:** 3

<b>Date Submitted:</b> May 16, 2014 <b>Date Requested:</b> June 05, 2014	<b>Action:</b> <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Formal <input checked="" type="checkbox"/> Other	<b>Subject:</b> Rex Allen Days Inc. is requesting a waiver of fees for the Quail Park Rodeo grounds.
---	---	--

**To:** Mayor and City Council

**From:** Kevin T. Hagerich, Public Services and Works Director

**Discussion:** Rex Allen Days Inc. is requesting the waiver of fees for "Southern Arizona Free Ride" event on June 14, 2014 from 6:00 a.m. until 8:00 p.m. This event will provide the opportunity for adults and youth to ride a horse at no cost. It will also promote out of town guests whose products will be displayed at the park. By keeping the costs down it will allow RAD to keep the event free of charge. RAD would like the use of the Quail Park arena, concession stand and restrooms at no charge.

The fee schedule for all City facilities is currently under review. The gap between the cost of events (administrative costs, maintenance costs, and utilities) and revenues for the "special events" continues to widen and if not addressed in the near term may result in an overall loss of future services.

**Recommendation:** Recommend that a \$50 registration fee and a \$50 arena fee be accessed. Also recommend a deposit of \$150 for cleaning and damages, which is refundable based upon performance, should also be charged.

**Fiscal Impact:** \$100.00 - \$250.00

**Prepared By:**   
Kate Schwartz, Public Services and Works

**Recommended By:**   
Kevin T. Hagerich, Director Public Services and Works

**Approved By:**   
Ted Soltis, City Manager



25 March 2014

Rex Allen Days, Inc. would like to produce an event, stylized currently as the "Southern Arizona Free Ride" event. This would entail local stables and providers of equine training donating their time and resources to provide horses to the public.

RAD has secured insurance for the event and has paid \$50 for a deposit.

RAD respectfully requests the use of the Quail Drive main arena, play day arena and concessions stand, free of usage charges for this community-driven, non-fundraising event.

The idea of this event is to provide the opportunity for local adults and youths the chance to ride a horse without cost. Additionally, this is a great opportunity to not only showcase a great Western tradition, but to pull into town guests from outside of Willcox. We'll promote the event around Southern Arizona. This is a great time to show off the improvements to the rodeo arena. We'll also be inviting local merchants to setup displays to showcase their wares to guests and participants.

If successful, we would like to try to make this event happen more frequently. Any support the city of Willcox is willing to provide would be greatly appreciated.

Thank you,

A handwritten signature in black ink that reads "Michael Clement". The signature is written in a cursive style with a long, sweeping tail on the letter "t".

Michael Clement

President, Rex Allen Days, Inc.

CITY OF WILCOX, COCHISE COUNTY, ARIZONA  
Facilities Use Agreement

This Agreement made this 25<sup>th</sup> day of March, 20 14  
between Rex Allen Duggins ("PARTICIPANT") and  
the City of Willcox through the City Public Works Department ("CITY") for the use of the  
City owned facilities by a private organization.

**ARTICLE I --- TERM OF AGREEMENT:**

The term of this agreement shall be 14<sup>th</sup> June, 20 14, through  
14<sup>th</sup> June 20 14, unless earlier terminated by either party.

Please note starting time and ending time TO INCLUDE set up and tear down.

6 am start time 8 pm end time

Notice of termination shall be provided at least ninety (90) days prior to the effective termination date.

**ARTICLE II --- CITY OWNED FACILITIES:**

This agreement shall be for the use of Quail One Arena  
(facility and area/s)  
to be used for Southern Arizona Free Ride event  
(type of event)  
to be used by Southern Arizonans  
(example: public, family, friends)

PARTICIPANT wishes to use certain City owned facilities and the CITY is willing to permit the PARTICIPANT the primary use of the facilities under the conditions indicated in this Agreement and any Exhibit attached hereto during the term of this Agreement.

CITY agrees that it will perform the duties as outlined in Attachment "A".

PARTICIPANT agrees it will perform the duties as outlined in Attachment(s) "B".

PARTICIPANT agrees to pay the fees as are listed on Attachment "C".

**ARTICLE III --- INDEMNIFICATION AND INSURANCE**

PARTICIPANT agrees to secure liability insurance ten (10) days prior to the event to cover the term of this agreement in not less than the amount of one million dollars (\$1,000,000.00) which names the City as additionally insured and including required endorsement.

Each party agrees to be responsible for the conduct of its operations and performance of contract obligations and for any accidents or injuries to persons or property arising out of acts or omissions by its officers, agents or employees acting in the course or scope of their participation while performing duties undertaken pursuant to this Agreement.

The PARTICIPANT agrees to hold harmless the City, its officers, employees and agents from all losses, suits, damages or costs of any kind, including reasonable attorney's fees, defense costs and expenses arising from PARTICIPANT performance pursuant to this Agreement. The PARTICIPANT shall provide the CITY with current insurance certificates or the evidence of coverage as appropriate.

The CITY agrees to hold harmless the PARTICIPANT, its officers, employees and agents from all losses, suits, damages or costs of any kind, including reasonable attorney's fees, defense costs and expense arising from the CITY performance pursuant to this Agreement.

**ARTICLE IV -- MISC. PROVISIONS:**

**CANCELLATION FOR CONFLICT OF INTEREST**

This Agreement may be canceled pursuant to A.R.S. § 38-511, the pertinent provisions of which are fully incorporated herein by reference.

**NONASSIGNABILITY**

Neither party may assign a duty or responsibility under this Agreement without the prior written consent of the other party.

**RIGHTS/OBLIGATIONS OF PARTIES ONLY**

The terms of this Agreement are intended only to define the respective rights and obligations of the parties. Nothing expressed herein shall create any rights or duties in favor of any potential third party beneficiary or other person, agency or organization.

**NOTICE REQUIREMENTS**

All notices, requests for payment, or other correspondence between the parties regarding this Agreement shall be mailed or delivered to the respective party as follows:

If to the CITY:

**City of Willcox, Public Services and Works**  
**250 N. Railroad Avenue**  
**Willcox, Arizona 85643**

If to the PARTICIPANT:

Name:

Michael Clement

E-Mail Address:

President @ rexattendays.org

Organization:

Rex Attend Days Inc.

Contact Phone Number(s):

( ) 678-6540 ( )

Mailing Address:

City

State

Zip Code

**SEVERABILITY**

Each provision of this Agreement stands alone and, if any provision of this Agreement is held, in whole or in part, to be unenforceable for any reason, the remainder of the provision and of the entire Agreement will be severable and remains in effect.

**ENTIRE AGREEMENT**

This document constitutes the entire Agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This Agreement may be modified, amended or extended only by a written amendment approved by the parties.

**GOVERNING LAW**

This Agreement shall be construed under the laws of the State of Arizona and shall incorporate, by reference, all laws governing mandatory contract provisions required by statute or executive order.

**IN WITNESS WHEREOF**, the Parties hereby enter into this Agreement as of the day and year written above.

**CITY OF WILLCOX, COCHISE COUNTY, ARIZONA**

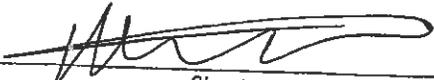
  
Signature

3-26-14  
Date

Oscar Hudson  
Printed Name

Facilities & Parks Supervisor  
Title

**PARTICIPANT**

  
Signature

25 March 14  
Date

Michael Clement  
Printed Name

President  
Title

Attachment "A"  
Quail Sports Park

The City of Willcox Facilities & Maintenance section of Public Services & Works will perform the following:

<p><b>Field # 1</b></p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Drag and Dress</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Set Bases at _____</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Set Pitcher's plate at _____</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Construct pitcher's mound with the following specification: _____ _____</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Discontinue Irrigation on _____</p> <p><b>Field # 2</b></p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Drag and Dress</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Set Bases at _____</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Set Pitcher's plate at _____</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Construct pitcher's mound with the following specification: _____ _____</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Discontinue Irrigation on _____</p>	<p><b>Field #1 &amp; #2</b></p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Provide Key AL2, Concession Stand</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Provide Key AL1, Restrooms</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Provide Key _____, Padlock</p> <p><b>Rotico</b></p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Provide Key AL4, Concession Stand</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Provide Key AL5, Restrooms</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Provide Key IDCO "0", Arena Lights</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Review Operation of Lights</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Provide Key Ace KW1, Ticket Booth</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Provide Key AL7 &amp; Kwikset 5, Announcer Stand</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Provide Key Kwikset &amp; AL6, South Booth</p>
---	---

Unless otherwise specified trash cans are emptied, restrooms are cleaned and restocked on a daily basis during weekdays.

Arrangements for additional tasks may be requested by speaking with the Facilities and Maintenance Supervisor or the Public Services & Works Director.

**Special Arrangements:**

*Please have Tony address the arena*

---

---

---

The "Participant" is responsible for establishing control of the area(s) requested for use. The City of Willcox is not responsible for loss due to acts of God or vandalism or by actions of others not affiliated with the City of Willcox.

Attachment "E"  
**Quail Sports Park Checklist**

The Participant agrees to perform the following tasks:

<p><b>General</b></p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Obtain appropriate keys one business day prior to the event, by 3:30PM.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Return keys within two (2) business days of event conclusion.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Learn how to use ball field lights.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Learn how to use infield irrigation.</p> <p><b>Prepare Ball Fields</b></p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Place Chalk Lines</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Verify Base Placement</p> <p><b>Prepare Arena(s)</b></p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Water Arenas</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Prepare Ground in Arena(s) for Event.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Place Anchors for Barrels Race</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Erect Additional Panels for Stock</p> <p><b>Vendor(s)</b></p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Request to waive requirement for all vendors to have individual permits.</p>
---

<p><b>Cleaning</b></p> <p>Cleaning consists of removing all litter, sweeping and mopping the concession stand and tying up garbage bags and placing them in the dumpster. All areas should be left in the same or better condition as received.</p> <p><input checked="" type="checkbox"/> <input checked="" type="checkbox"/> Clean Restrooms</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Clean Dugouts</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Fill in holes in batter's box</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Fill in holes at all bases</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Fill in holes in front of pitcher's mound</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Clean Ball field Concession</p> <p><input checked="" type="checkbox"/> <input checked="" type="checkbox"/> Clean Rodeo Concession</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Clean South Booth</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Clean Announcer Stand</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Clean Ticket Booth</p> <p><b>If Serving Alcohol</b></p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Obtain Special Event Liquor License with the Arizona Department of Liquor.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Provide Liquor Liability Insurance in the amount of \$1,000,000 naming the City of Willcox as additionally insured.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Provide Security approved by Willcox Public Safety Department.</p>
--

- Participant is responsible for notifying Parks & Facilities Maintenance of items that need special attention or repair.
- All equipment or personal items belonging to the "Participant" shall be removed by 8:00 a.m. on the day following the event.
- Premises shall be left clean and in good repair or deposit will be surrendered. Others charges may be assessed if significant damage occurs.
- City of Willcox officials reserve the right to enter / inspect the premises during the event.
- The "Participant" is responsible for establishing control of the area(s) requested for use. The City of Willcox is not responsible for loss due to acts of God or vandalism or by actions of others not affiliated with the City of Willcox.

**Contact information:**

Public Services & Works -----766-4213  
 Facilities & Park Maintenance-----507-0442  
 On-call -----766-2201

## Quail Sports Park Rodeo Fee Schedule

### Deposit and Rental Fees

All Deposits, Fees, Proof of Insurance & Special Permits or Licenses must be tendered 10 days prior to event date in order to finalize scheduling details.

	Fee Description	Fee Amount	Number of Days	Subtotal	Cash Rec'd.	Check#	Rept. #
X	Reservation Deposit	\$50.00		\$50.00		1457	
X	Rodeo Main Arena	\$100.00	1				
	Bull Riding Main Arena	\$100.00					
	Roping Main Arena	\$100.00					
	Barrel Race Main Arena	\$50.00					
	Gym-Kana Main Arena	\$50.00					
	Horse Show Main Arena	\$50.00					
X	Play Day Main Arena	\$50.00	1	\$50.00			
	Roping Warm-up Arena						
	Barrel Race Warm-up Arena						
	Horse Show Warm-up Arena						
	Play Day Warm-up Arena						
	Concession Stand	\$50.00	1	50			
	Main Arena Lights	\$25.00					
<b>Total Fees Due</b>				<b>\$150</b>			

Request to waive fees through City Council. Please attach event details.

- The City of Willcox reserves the right to refuse reservations.
- Must be at least 21 years of age to reserve facilities.
- Participant may reserve one (1) day prior to the event to set up for event without additional charge for the day providing another event is not already scheduled.
- Under normal circumstances; fees and certificate of insurance must be tendered 10 days prior to the scheduled use.
- All fees must be paid prior to the issuance of keys.
- Cancellation of reservation within five (5) days of the activity will result in a 50% refund and 1/2 of rental fees.
- Returned checks are subject to a twenty-five dollar (\$25.00) fee

CITY OF WILLCOX  
101 SOUTH RAILROAD AVENUE  
SUITE B  
WILLCOX AZ 85643  
Receipt No: 1.172150  
520-384-4271  
May 19, 2014

**Condition Verification**

I have inspected the condition of the facilities specified under this event and it is \_\_\_\_\_ Satisfactory \_\_\_\_\_ Unsatisfactory condition.

I recommend that \_\_\_\_\_ All \_\_\_\_\_ None \_\_\_\_\_ Other \_\_\_\_\_ of the \_\_\_\_\_ Significant damage has occurred directly related to this event.

Damages are estimated to cost \_\_\_\_\_ which must be paid \_\_\_\_\_

\_\_\_\_\_  
City of Willcox Representative Signature

RAD / DEP FOR QP  
Previous Balance: \_\_\_\_\_  
MISCELLANEOUS \_\_\_\_\_  
ALL OTHER REV/CHRGs \_\_\_\_\_  
10-2140900 \_\_\_\_\_  
FACILITIES USE DEPOSITS \_\_\_\_\_  
Total: \_\_\_\_\_  
CHECK \_\_\_\_\_  
Check No: 1457 \_\_\_\_\_  
Payor: \_\_\_\_\_  
REX ALLEN DAYS INC \_\_\_\_\_  
Total Applied: \_\_\_\_\_  
Change Tendered: \_\_\_\_\_  
Duplicate Copy  
05/19/2014 09:27AM

TENANT USERS LIABILITY INSURANCE

CERTIFICATE BINDER

THIS CERTIFICATE/BINDER REPRESENTS A SUMMARY OF THE INSURANCE PROVIDED. INSURANCE PROVIDED IS SUBJECT TO THE TERMS AND CONDITIONS OF THE POLICY.

**Date:** 5/15/2014 7:22 PM  
**Certificate Number:** 56304  
**Broker:** Hub International New England  
**Tenant User:** Rex Allen Days  
**Event Title** Free Ride Event  
**Type of Event** Rodeo and Roping Events - Amature  
**Daily Attendance** 100  
**Period of Insurance:** 06/14/2014 12:01 AM To 06/15/2014 12:01 AM

**Policy #1** **GL00565-05**

Insurance Company: Atlantic Specialty Insurance Company

Coverage Limits

General Agg. None  
Products Completed Ops \$1,000,000  
Personal/Adv. Injury \$1,000,000  
Each Occurance: \$1,000,000  
Fire Damage: \$50,000  
Medical Payments: Excluded

**Policy #2** **PF00493-04**

Insurance Company: Atlantic Specialty Insurance Company

Coverage Limits Deductible

Third Party Property Damage: \$1,000,000 \$1,000

**Premium Computation**

General Liability \$221.00  
Liquor Liability \$0.00  
Third Party Property Damage \$36.00  
Excess Liability \$0.00  
Total Premium \$257.00  
Total Fees \$0.00  
**Total Due** \$257.00

**Certificate Holder/Additional Insured** National League of Cities  
1301 Pennsylvania Ave. NW  
7th Floor  
Washington, DC 20004  
AZ - City of Willcox  
101 S Railroad Ave. Ste B  
Willcox, AZ 85643

To obtain a complete copy of the policy with the terms, conditions and exclusions of the policy, you must contact us at: tulip@ebi-ins.com or (800) 507-8414.



**CITY OF WILLCOX  
Request for Council Action**

**Agenda Item:** 11  
**Tab Number:** 4

<b>Date Submitted:</b> May 28, 2014	<b>Action:</b> <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Formal <input checked="" type="checkbox"/> Other	<b>Subject:</b> Waive Community Center fees for fund raiser for Chiricahua Trails Fire Department
--	---	---

**To:** Mayor and City Council

**From:** Kevin Hagerich, Public Services and Works Director

**Discussion:** The Chiricahua Trails Volunteer Fire Department respectfully request that the Community Center fees be waived for a fundraiser /flea market and yard sale on July 18<sup>th</sup> and 19<sup>th</sup> from 9:00 am until 5 pm. The money raised will be utilized for the purchase of equipment and other expenses incurred (fuel etc.) by the Fire Department.

The fee schedule for all City facilities is currently under review. The gap between the cost of events (administrative costs, maintenance costs, and utilities) and revenues for the "special events" continues to widen and if not addressed in the near term may result in an overall loss of future services.

**Recommendation:** Staff recommends that a \$50 registration fee, a \$150 ballroom fee be accessed. An additional deposit of \$150 for cleaning and damages, which is refundable based upon performance, should also be charged.

**Fiscal Impact:** \$200 fees, \$150 cleaning and damages fees (refundable)

**Prepared By:**   
Kate Schwartz, Public Services and Works

**Recommended By:**   
Kevin Hagerich, Director Public Services and Works

**Approved By:**   
Ted Solfis, City Manager



CITY OF WILLCOX, COCHISE COUNTY, ARIZONA  
Facilities Use Agreement

This Agreement made this 27<sup>th</sup> day of MAY, 20 14  
between Chiricahua Trails Fire Department ("PARTICIPANT") and  
the City of Willcox through the City Public Works Department ("CITY") for the use of the  
City owned facilities by a private organization.

**ARTICLE I -- TERM OF AGREEMENT:**

The term of this agreement shall be July 18<sup>th</sup>, 20 14, through  
July 19<sup>th</sup> 20 14, unless earlier terminated by either party.

Please note starting time and ending time TO INCLUDE set up and tear down.

09:00 Hrs 17:00 Hrs  
start time end time

Notice of termination shall be provided at least ninety (90) days prior to the effective  
termination date.

**ARTICLE II -- CITY OWNED FACILITIES:**

This agreement shall be for the use of Willcox Comm. Center  
(facility and area/s)

to be used for FUND RAISER  
(type of event)

to be used by Chiricahua Trails Fire Department  
(example: public, family, friends)

PARTICIPANT wishes to use certain City owned facilities and the CITY is willing to permit  
the PARTICIPANT the primary use of the facilities under the conditions indicated in this  
Agreement and any Exhibit attached hereto during the term of this Agreement.

CITY agrees that it will perform the duties as outlined in Attachment "A".

PARTICIPANT agrees it will perform the duties as outlined in Attachment(s) "B".

PARTICIPANT agrees to pay the fees as are listed on Attachment "C".

**ARTICLE III -- INDEMNIFICATION AND INSURANCE**

PARTICIPANT agrees to secure liability Insurance ten (10) days prior to the event to  
cover the term of this agreement in not less than the amount of one million dollars  
(\$1,000,000.00) which names the City as additionally insured and including required  
endorsement.

**SEVERABILITY**

Each provision of this Agreement stands alone and, if any provision of this Agreement is held, in whole or in part, to be unenforceable for any reason, the remainder of the provision and of the entire Agreement will be severable and remains in effect.

**ENTIRE AGREEMENT**

This document constitutes the entire Agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This Agreement may be modified, amended or extended only by a written amendment approved by the parties.

**GOVERNING LAW**

This Agreement shall be construed under the laws of the State of Arizona and shall incorporate, by reference, all laws governing mandatory contract provisions required by statute or executive order.

**IN WITNESS WHEREOF**, the Parties hereby enter into this Agreement as of the day and year written above.

**CITY OF WILLCOX, COCHISE COUNTY, ARIZONA**

*[Signature]*  
Signature

5-27-14  
Date

Oscar Hudson  
Printed Name

Facilities & Parks Supervisor  
Title

**PARTICIPANT**

*[Signature]*  
Signature

MAY 27, 2014  
Date

Alvin Leuine  
Printed Name

Chief  
Title

**Attachment "B"**  
**Community Center Checklist**

The Participant agrees to perform the following tasks:

<p><b>General</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <input type="checkbox"/> Verify Count of Tables Issued.</li> <li><input checked="" type="checkbox"/> <input type="checkbox"/> Verify Count of Chairs Issued.</li> <li><input checked="" type="checkbox"/> <input type="checkbox"/> Obtain appropriate keys one business day prior to the event by 3:30 P.M.</li> <li><input checked="" type="checkbox"/> <input type="checkbox"/> Return keys within two (2) business days of event conclusion.</li> <li><input checked="" type="checkbox"/> <input type="checkbox"/> Fold Tables and Place along N Wall of Ballroom.</li> <li><input checked="" type="checkbox"/> <input type="checkbox"/> Fold Chairs and Place along N wall of Ballroom.</li> <li><input type="checkbox"/> <input type="checkbox"/> Fold Tables and Place on W Wall of Lounge.</li> <li><input type="checkbox"/> <input type="checkbox"/> Fold Chairs and Place on W Wall of Lounge.</li> <li><input type="checkbox"/> <input type="checkbox"/> Fold Tables and Place on N Wall of Dining Room.</li> <li><input type="checkbox"/> <input type="checkbox"/> Fold Chairs and Place on N Wall of Dining Room.</li> </ul>	<p><b>Cleaning</b></p> <p>Cleaning consists of removing decorations, sweeping and mopping and tying up garbage bags and place in dumpster. All areas should be left in the same or better condition as received.</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <input type="checkbox"/> Clean Restrooms</li> <li><input type="checkbox"/> <input checked="" type="checkbox"/> Clean Kitchen</li> <li><input checked="" type="checkbox"/> <input type="checkbox"/> Clean Ballroom</li> <li><input type="checkbox"/> <input type="checkbox"/> Clean Dining Room</li> <li><input type="checkbox"/> <input type="checkbox"/> Clean Lounge</li> <li><input checked="" type="checkbox"/> <input type="checkbox"/> Clean Stage Area</li> </ul> <p><b>If Serving Alcohol</b> <i>N/A</i></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> <input type="checkbox"/> Obtain Special Event Liquor License with the Arizona Department of Liquor.</li> <li><input type="checkbox"/> <input type="checkbox"/> Provide Liquor Liability Insurance in the amount of \$1,000,000 naming the City of Willcox as additionally insured.</li> <li><input type="checkbox"/> <input type="checkbox"/> Provide Security approved by Willcox Public Safety Department.</li> </ul>
---	--

- If your event includes decorating the facility please keep in mind that any damage from placing or removal may result in surrendering fees.
- It is the responsibility of the Participant to verify that all furnishings included in the reservation agreement are in place and in good repair at the conclusion of the event. Replacement cost for missing or damaged items will be based on current replacement cost. Restitution must be made within five (5) business days of the event.
- All equipment or personal items belonging to the "Participant" shall be removed by 8:00 a.m. on the day following the event or additional rental fees may be charged.
- City of Willcox officials reserve the right to enter / inspect the premises during the event.
- The "Participant" is responsible for establishing control of the area(s) requested for use. The City of Willcox is not responsible for loss due to acts of God or vandalism or by actions of others not affiliated with the City of Willcox.

**Contact information:**

Public Services & Works ----- 384-6447  
 Facilities & Park Maintenance ----- 507-0442  
 Police ----- 384-4673  
 On Call----- 507-1989

**Attachment "C"**  
**Community Center Fee Schedule**

**Deposit and Rental Fees**

All Deposits, Fees, Proof of Insurance must be tendered 10 days prior to event date in order to finalize scheduling details.

	Fee Description	Fee Amount	Number of Days	Subtotal	Cash Rec'd.	Check#	Rept. #
X	Reservation Fee (non-refundable)	\$50.00		\$50.00			
X	Cleaning and Damage Deposit	\$150.00		\$150.00			
X	Ballroom	\$150.00		\$150.00			
	Kitchen	\$80.00					
	Ballroom & Fireplace	\$170.00					
	Ballroom & Dining Room	\$170.00					
	Ballroom & Kitchen	\$190.00					
	Ballroom, Fireplace Room & Kitchen	\$210.00					
	Ballroom, Dining Room & Kitchen	\$210.00					
	Ballroom, Fireplace Room & Dining Room	\$190.00					
	Ballroom, Fireplace Room, Dining Room & Kitchen	\$230.00					
	Fireplace Room & Dining Room	\$60.00					
	Fireplace Room & Kitchen	\$100.00					
	Fireplace Room, Dining Room & Kitchen	\$120.00					
	Dining Room & Kitchen	\$100.00					
	Public Event Fees are waived						
	<b>Total Fees Due</b>			\$350.00			

- The City of Willcox reserves the right to refuse reservations.
- Must be at least 21 years of age to reserve facilities.
- Participant may reserve one (1) day prior to the event to set up for event without additional charge for the day providing another event is not already scheduled.
- Under normal circumstances; fees and certificate of insurance must be remitted ten (10) days prior to the scheduled use.
- All fees must be paid prior to the issuance of keys.
- Cancellation of reservation within thirty (30) days of the activity will result in forfeiture of the rental fees.
- Returned checks are subject to a twenty-five dollar (\$25.00) fee.

**Condition Verification**

I have inspected the condition of the facilities specified under this agreement and have found them to be in \_\_\_\_\_ Satisfactory \_\_\_\_\_ Unsatisfactory condition.

I recommend that \_\_\_\_\_ All \_\_\_\_\_ None \_\_\_\_\_ Other \_\_\_\_\_ of the deposit be returned.

\_\_\_\_\_ Significant damage has occurred directly related to this event.

Damages are estimated to cost \_\_\_\_\_ which must be remitted within five (5) days.

\_\_\_\_\_  
 City of Willcox Representative Signature

\_\_\_\_\_  
 Date

**CITY OF WILLCOX  
REQUEST FOR COUNCIL ACTION**

Agenda Item 13  
Tab Number 5  
Date: 6/5/2014

**DATE SUBMITTED:**

May 14, 2013

**ACTION:**

Resolution  
 Ordinance  
 Other

**SUBJECT:**

ESG Corp. Employee  
Benefit Advocate Service  
Application and  
Administration Services  
Renewal Agreement  
FY 2014-2015

TO: MAYOR AND COUNCIL  
FROM: Ruth Graham, Finance Director

**DISCUSSION:**

Staff recommends entering into an Employee Benefit Advocate Service Application and Administration Services Renewal Agreement with ESG Corp, (Employee Services Group) to secure its services as Health Insurance Agent and Administrator of the employee benefit plans offered by the City of Willcox for the 2014-2015 fiscal year. The employee benefits plans offered by the City include a Health Reimbursement Arrangement (HRA) plan, a Flexible Spending Account (FSA) plan, and COBRA administration.

Al Thunberg and Jon Stewart with ESG Corp. have been working with the City's current health insurance carrier, Blue Cross/Blue Shield (BC/BS), to secure a renewal contract for the upcoming year. A renewal has been secured with an 8.69% rate increase over the FY 2013-2014 rates. It is common practice for an agent to be paid a percentage of the premium paid; however, the agent fee is not built into the health premium costs paid to BC/BS by the City. ESG is paid \$1,200.00 per month as an agent fee. That rate has not changed in several years despite increased insurance rates paid by the City.

The City initiated a Health Reimbursement Arrangement plan in FY09-10 to protect its employees from high deductible costs. Prior to FY09-10, the City's HMO plan did not have a requirement for an out-of-pocket deductible. For FY11-12, the plan called for an increase from \$2500 to a \$5,000 deductible. The City has elected each year to hold the employee responsible for the first \$500, and reimburse for costs up to the full deductible if such medical costs were incurred. This year the out of pocket deductible costs are unknown; staff anticipates that it will remain at \$5,000.

The Flexible Spending Account is funded with employee contributions. Each employee can elect an amount to set aside pre-tax to be used for medical expenses including deductibles, dental, eye, chiropractic, prescription drugs or drug co-payments, or other types of allowable expenses under IRS regulations.





**EMPLOYEE BENEFIT ADVOCATE  
SERVICE APPLICATION**

**(1) EMPLOYER / LICENSEE INFORMATION**

Contact Name <b>Ruth Graham   Sherry Lynn Van Allen   Ted Soltis</b>	Business Federal ID # <b>86-6000270</b>	Date of Application <b>05/21/2014</b>
Company Name <b>City of Willcox</b>	Telephone Number <b>( 520)384-4271</b>	
Address (Street – No P.O. Boxes, City, State & Zip Code) <b>101 S. Railroad Ave., Suite B, Willcox, AZ 85643</b>		
Email <b>rgraham@willcoxcity.org</b>	SIC Code	Fax Number <b>( 520)384-2590</b>

Type of entity:  C-Corp  S-Corp  Partnership  Sole Proprietor  Non-Profit  LLC  Other Municipality

Do you own interest in any other business?  No  Yes If yes, Name \_\_\_\_\_

Address if different \_\_\_\_\_ Federal ID # \_\_\_\_\_

Affiliated Co. included in plan?  Yes  No (Please provide a separate sheet for information on additional affiliated companies.)

Number of employee Health Insurance Participants: 54 Total number of employees: 60

Do you currently have an HRA Plan?  Yes  No If yes, original plan effective date \_\_\_\_\_

Do you have a Flexible Spending Plan (FSA)?  Yes  No

Do you have a Premium Only Plan (FSA)?  Yes  No

Do you have a union?  Yes  No

If less than 20, do you offer COBRA benefits?  Yes  No N/A -> 20 EE

Do you have a Employee Web Portal or Intranet?  Yes  No No Web Portal Currently – See Exhibit 1 Attached

Have you filed all Form 5500 Health & Welfare filings?  Yes  No (Please furnish copy of prior year returns) N/A

**(2) AVAILABLE BENEFITS AND QUALIFIED PLANS**

ESG, and its affiliate Insight Risk Advisors, Inc. will provide all brokerage services including but not limited to, selection of carrier, negotiation, employee enrollment support, claims support, employee advocacy and employer advisory services. The current benefit plans include:

**Benefit (Check all in force plans currently):**

- Medical Plan (named health insurance plan): **BCBS**
- Dental Plan (named health insurance plan): **United Health Care | AFLAC**
- Vision Plan (named health insurance plan): **BCBS | VSP**
- EAP Plan (named health insurance plan): **BCBS**
- HRA / FSA / HSA Plan (named administrator): **Employee Solutions Group**
- Discount or Other Rx / Vision / GAP/ ADD Plan (named plan): **AFLAC**
- HR Online (Web Based HR Resource): **See Exhibit 1 Attached - By Agreement**
- ESG | WBD Web Design (employee web portal): **See Exhibit 1 Attached – By Agreement**

**(3) PAYMENT**

ESG, will initiate debit entries from the checking account and financial institution named below (This option must be chosen for ESG administration). Attach a copy of a voided check to this Application.

Bank Name **AGREEMENT ON FILE** Routing Number: **AGREEMENT ON FILE** Account #: **AGREEMENT ON FILE**

Setup Fee: **\$ 0** Minimum Monthly Brokerage Service Fee: **\$1,200** Per Participant Fee Over Current Headcount: **\$20 per month**

**(4) AUTHORIZATION**

I have read, understand and agree to the ESG Terms and Conditions stated on page 2 of this document as attested by the signature below, effective on the date of the signature.

Employer (sign here) \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

Exhibit 1

**PROPOSER COVER SHEET & BUDGET NARRATIVE  
GENERAL INFORMATION**

<b>Vendor Name:</b>	ESG CORP d/b/a Employee Solutions Group		
<b>Mailing Address:</b>	60 E. Rio Salado Parkway - Suite 900		
<b>City:</b>	Tempe	<b>State:</b>	AZ <b>Zip Code:</b> 85281
<b>Name &amp; Title of Contact Person:</b>	Al Thunberg - Managing Director		
<b>Telephone Number:</b>	877.668.8522	<b>Fax Number:</b>	866.668.1592
<b>Email Address:</b>	athunberg@esgcorp.biz		

**BUDGET NARRATIVE**

<b>Service Category:</b>	City of Willcox Insurance Broker Services
<b>Proposed Hourly Rate:</b>	See Discussion in Proposed Remuneration Below
<b>Proposed Monthly Rate:</b>	\$ 1,200.00
<b>Initials:</b>	AT

**Proposed Remuneration Associated With Brokerage Services:**

Employee Solutions Group respectfully submits the proposed cost for all brokerage services at a flat monthly rate of \$1,200. The rate will be honored, without exception for the duration of the stated contract period, running from July 1, 2014 to June 30, 2015.

ESG also proposes establishment of an Employee Benefit Web Site, referred to as the "Employee Advocate" Web Portal at "no additional charge".

ESG includes at "no additional charge", a complete benefit interpretation process designed to coordinate enrollment meetings, one on one counseling sessions, and other publications necessary to deliver the entire employee benefit election process.

## **EMPLOYEE ADVOCATE SERVICE AGREEMENT**

ESG is an organization devoted solely to eliminating the confusion of employee benefits for the employees we serve, while adding financial value to the companies we serve. Employee Benefit Advocate Service (EBAS) is a comprehensive and innovative approach which integrates web tools, human resource advocacy, and benefits information into a unique employee advocate model.

ESG is an industry innovator providing covered employees with fast, personal and unrestricted access to benefit information and provider contact in the delivery of employee benefit solutions. This is because our streamlined and highly experienced program administration team allows us to devote more of our clients' resources directly to program services for covered employees. We have devoted years of experience in training, building and delivering a cost-effective brand of high-touch benefit advocacy program services.

EBAS, will provide clients with the following services, which are generally recognized as the keys for improved employee benefit satisfaction:

1. Provide tools to support information and recommendations of employee benefit plans, designed to motivate and retain best in class employees at all levels of the organization.
2. Secure annual quotes and advise management of industry trends, options and other information needed to make an informed decision regarding employee benefits programs, costs, and limitations.
3. Technical guidance on HIPAA, PHI and tax advisory services, web based tools, direct employee advocate counseling, support information, claims processing, claims support, and resolutions.
4. Employee education of benefit plans, using internet and live-person base enrollment meetings to guide and counsel employees, assisting employees achieve their best benefit solutions.
5. Advise and council management, in the strategies, product options, tax advice, ERISA, and non discriminatory testing of benefit decisions.
6. Quarterly, update management on the feedback of employees regarding benefit plans, and recommend, advise, and plan strategies to consider in future renewals.
7. Offer client a protected status relating to Health Insurance Portability and Accountability Act of 1996 (HIPAA), and Protected Healthcare Information (PHI), the intent to reduce liability and exposure on management while counseling and advising employees of their protected right to unbiased and accurate benefit advice.

ESG, and its assigned service teams, will direct employees to appropriate resources, provide expertise and guidance for medical claims, adjudication, and education / carrier resources. These support tools will be delivered, thru direct employee contact, counseling, benefit advocacy and coaching instructions to reach timely and efficient solutions to employee benefit challenges.

ESG will complete an optimization review to balance size and requirements of the advocacy plan with costs, and recommend the optimal combination of tools, size, experience, responsiveness, efficiency, satisfaction, positive employee outcomes, affordability and return on investment. The EBAS service solution will recommend the right decision for your employees balanced with your financial objectives.

## **EMPLOYER RESPONSIBILITIES**

The Employer shall provide to the EBAS information necessary to administer the Plans in a timely manner. This information should include the employee census data. The Employer agrees to EBAS's procedures related to the operation of the Benefit Plan, including but not limited to enrollment, claims, account maintenance, disputes, error corrections, reporting, eligibility, and any other processes involved in supporting the EBAS.

## **TERMINATION**

This Plan may be terminated by proper notice of one party to the other. The term of this agreement is for 12 months. Following the termination of the Plan, this agreement shall automatically terminate, and all benefits shall be paid and final reports prepared. Terms by which this Plan can be terminated are by written notice sixty (60) days in advance from either party or by written notice fifteen (15) days in advance to the Employer for failure to forward to the EBAS funds service fees. Upon this sooner termination, EBAS shall use any funds in its possession for the payment of benefits, for its own fees and expenses. EBAS has no responsibility to enforce the Employer's funding of benefits required under the Plan. Upon and after the expiration or termination of this Application, the rights granted to the employer pursuant to this Agreement shall revert to EBAS. Within 20 days after termination or expiration of this Application, the employer shall return to all manuals, brochures, computer programs, customer and vendor databases, and any other documents regarding the programs and systems and any copies thereof. In addition, the employer shall refrain from any further direct or indirect use of or reference to the EBAS systems, publications, manuals, brochures, documents, computer programs and computer databases. Finally, the termination of this Application shall not affect the duty of the employer not to infringe on EBAS's trademarks and copyrights and not to disclose and keep confidential all said Confidential Information supplied to the employer by EBAS.

## **LIMITATION OF WARRANTIES AND LIABILITIES**

Except as expressly set forth in this Agreement, EBAS disclaims any and all express warranties, warranties of fitness for a particular purpose and implied warranties of merchantability. EBAS will not be liable for any loss of business or profits, or for any consequential, incidental, punitive, or similar damages, or, other than as set forth in this Agreement, for claims of damages made by any third party for any cause whatsoever, regardless of the form of action, whether in contract or in tort, including negligence, even if it has been advised of the possibility of such damages. Each party acknowledges that this limitation of liability reflects an informed, voluntary allocation between the parties of the risks (known and unknown) that may exist in connection with this Agreement. In no event will the EBAS's liability exceed the payments by Plan Sponsor to EBAS within the previous six months for services provided under this Agreement. This shall be the Plan Sponsor's exclusive remedy. No action, regardless of form, arising out of the services provided under this Agreement, may be brought by the Plan Sponsor more than two years after the date the last services are provided under this Agreement.

## **EMPLOYEE WEB BENEFIT TERMS OF USE AGREEMENT**

### **1. Permitted Use**

Under this Terms and Use Agreement (herein referred to as "the Agreement"), ESG CORP & Web Benefits Design Corporation, (herein referred to as 'ESG or WBD'), agrees to provide an Employee Benefits Internet Service Application (herein referred to as 'EBISA') hosted by WBD, and set up a private employee benefits information system for the exclusive use by the broker/consultant and/or employer (herein referred to as 'Client').

The EBISA is to be used only by the Client and users authorized by the Client. The Client will have the ability to assign user logins and passwords to selected individuals. The Client will have full control over who is authorized to access / use this EBISA. All use of the EBISA is provided via the Internet through a standard Internet browser and/or email client. In order to use the EBISA, the Client and Client authorized users (herein referred to as 'Users') are responsible, at their own expense, to acquire access to the Internet and to provide all equipment and software needed.

### **2. Client Responsibilities and Warranty**

By entering data (herein referred to as 'Data') into the employee benefits information system, the Client warrants that: (1) the Client is authorized to submit the Data to the EBISA; and, (2) the storage of such Data by WBD and its affiliates will neither infringe on nor misappropriate the property rights of or otherwise violate the rights of any third party.

### **3. Client Proprietary Data Rights**

The Data submitted to the EBISA is for the exclusive use of the Client. ESG & WBD agrees not to use, distribute or disclose any of the data maintained as a result of the Client using this EBISA. The Client agrees to evaluate and bear all risks associated with the use of any Data, including any reliance on the accuracy and usefulness of such data.

### **4. ESG / WBD Account Information and Data**

ESG & WBD does not own or have any rights to any Data that the Client submits as a result of using this EBISA. WBD will not monitor, edit, or disclose any information regarding the Client or Client's database without the Client's express written permission except in accordance with this Agreement or as may be required by law. ESG & WBD may access the Client database in order to respond to service or technical problems when requested to do so by the Client.

### **5. ESG / WBD Proprietary Rights**

The Client acknowledges and agrees that the EBISA contains proprietary and confidential methods and information that is protected by applicable intellectual property and other laws, and agrees not to disclose such information to any third party without ESG & WBD's prior permission. The Client agrees not to copy, sell, rent, license or to redistribute any portion of the EBISA, use of the EBISA, or access to the EBISA to any individual or group. Standard ESG & WBD website Terms and Conditions for unauthorized use and access penalties apply to this EBISA.

### **6. Availability of EBISA**

WBD will make commercially reasonable efforts to ensure that the quality of the service we provide is of at least prevailing industry standards, and that access to the EBISA is available 24 hours a day, 7 days a week. However, although ESG & WBD will use all reasonable efforts in good faith to avoid interruption of the EBISA, the Client acknowledges and agrees that access to the EBISA may be unavailable from time to time for any reason, including without limitation, interruption of major network connectivity, network and server outages, and backup and regular maintenance by WBD and any operators of our servers.

## 7. Client Assigned Administrator(s)

The Client will select one or more WBD primary Administrators to manage the Client's use of the EBISA, to authorize users to access the EBISA, to access employee data records, and to serve as the primary technical interface with ESG & WBD Client Service Representatives.

## 8. Client Support Services

ESG & WBD will provide quality technical support to the Client. ESG / WBD's Client Support Representatives will be available to assist Clients Monday through Friday on a best efforts basis. While it is often our business practice to assist, support and resolve client requirements, often times technical support is required available on normal business hours Monday thru Friday. We will make every effort to resolve these matters in a timely and normal business response timeline.

## 9. User Conduct

The Client agrees not to use the EBISA or information from the EBISA to (a) transmit any material that may infringe the intellectual property rights or other proprietary rights of third parties, including trademark, copyright or right of publicity; (b) interfere with or disrupt the integrity of any data or computer-based information or any servers or networks connected to the EBISA or violate the regulations, policies or procedures of such networks; (c) attempt to gain unauthorized access to the EBISA, other accounts, computer systems or networks connected to the EBISA, through password mining or any other means.

## 10. Employee Information Confidentiality

ESG & WBD follows and agrees to continue to follow as set forth herein policies and procedures to protect the confidentiality of member information. It is important to note that all records containing confidential medical and insurance data are handled and discarded in a way that is designed to protect the privacy and security of the information. ESG & WBD respects the need for security regarding your personal information. Whenever you provide personal information, your information will be protected using Secure Sockets Layer (SSL) technology. SSL is an industry standard that encrypts the information you provide, to avoid the decoding of that information by anyone other than ESG & WBD. Information you submit directly to us will remain on our servers, secured by various industry approved technologies to prevent unauthorized access to your personal information.

## 11. Information Security, Integrity, and Reliability Disclosure

ESG & WBD uses and agrees to continue to use as set forth herein multi-layered security architecture to prevent unauthorized access to the building and data center. Formal security measures are in place to protect access to WBD systems and the corporate network. Users of networks and applications are provided a unique use name, and the use of a password is required for both network and application access. ESG & WBD employs a firewall, which control and limits access to the internal network. Logical access to the firewall is limited to authorized system administrators. All network access to WBD internal network is restricted to only specific ports that are necessary for application usage. Outbound access is also managed via the firewall. All Client data is stored behind the firewall on protected network segments.

ESG & WBD uses a multi-tiered approach for information Back-up and Recovery. Full server backups occur weekly with differential backups occurring nightly between each weekly backup session. Full backups of critical databases containing client data are executed on a nightly basis. Database transaction logs are backed up hourly to facilitate targeted rollback in the event of processing or database errors.

ESG & WBD uses McAfee VirusScan Enterprise protection as the corporate standard for protection against viruses, worms and Trojan software. Updates are acquired nightly and are distributed across the network with no interaction from our end users. Authorized personnel monitor potential virus outbreaks and have monitoring software in place to accommodate any virus or security threat. ESG & WBD employs regular desktop operating systems updates and security patches at regular intervals to ensure all systems are protected.

## 12. Service Fees

The Client agrees to pay all applicable fees as specified in the Client's signed Service Agreement. Fees are invoiced on the first of the month for the current month use. ESG & WBD reserves the right to suspend the EBISA of Clients who fail to make timely payments for their customized EBISA package. Payments will be considered past due if not received within thirty (30) days from the day the payment is due.

## 13. Renewal / Termination of EBISA

The Agreement and invoicing will remain in place unless ESG & WBD is notified by Client to terminate the EBISA. Unless terminated for cause by ESG & WBD or Client pursuant to Section 14. of the Agreement. This Agreement will continue for the duration of the

annual term as set forth in the Agreement. The Term of Service shall continue on an annual basis, renewing a new 12 month contract on the annual renewal date, unless a thirty (30) day written notification of intent to terminate service is given by either party, or until terminated as specified.

The Client acknowledges and agrees that ESG & WBD, in its sole discretion, may suspend or terminate the EBISA and/or deny the Client access to, use of, or submission of Data for all or part of the EBISA, without prior written notice for the following reasons: (a) violation of the letter or spirit of any term or provision of the AGREEMENT; or (b) violation of the rights of ESG, WBD or third parties. Upon termination, WBD will allow Client's files to be downloaded and, after this point, will bar any further access to the EBISA. Furthermore, the Client agrees that ESG & WBD shall not be liable to the Client or any third party for any termination of the Client's access to the EBISA pursuant to this section.

#### 14. Termination for Cause

Any unauthorized access, copying, disclosure, distribution, or sublicensing by Client or with Client's aid or consent of the EBISA or Data or any related methods, techniques, or processes will be deemed a material breach of this Agreement. ESG & WBD in its sole discretion may terminate the password, account or use of the EBISA if Client breaches or otherwise fails to comply with this Agreement.

ESG & WBD will not share, rent, sell, or trade personal information (including email addresses) that identifies our Clients or users to third parties. Any disclosure or distribution of the Data outside of the above exceptions to a third party by ESG & WBD will be deemed a material breach of this contract and constitute grounds for Client to terminate the Agreement for cause.

#### 15. Warranties, Disclaimers, and Representations

Subject to the terms set forth in the "Availability of EBISA" section, the Client expressly agrees that: (a) The use of the EBISA is at the sole risk of the Client and is provided on an 'as is' and 'as available' basis. ESG, WBD and its affiliates expressly disclaim all warranties of any kind, whether express or implied, including, but not limited to the implied warranties of merchantability, fitness for a particular purpose and non-infringement, (b) ESG & WBD makes no warranty that:

(1) the EBISA will meet the Client's requirements or result in revenues or profits; (2) the EBISA will be uninterrupted or error-free; and (3) the results that may be obtained from the use of the EBISA will be accurate or reliable. While ESG & WBD will use commercially reasonable efforts to prevent unauthorized access to data entered into the EBISA, ESG & WBD makes no warranty that such fields will be secure against such unauthorized access or other security breaches. ESG & WBD makes no representations or warranties of any kind whatsoever, express or implied, in connection with the Agreement or the EBISA, including but not limited to, warranties of merchantability, fitness for a particular purpose and non-infringement.

#### 16. Indemnity

The Client agrees to indemnify and hold harmless ESG & WBD, its subsidiaries and affiliates, and its and their directors, officers, agents, and employees ("Indemnitees") from any claim or demand, including reasonable attorneys' fees, made by any third party to whom the Client has allowed access (either inadvertently or wittingly) to the EBISA due to or arising out of the Data; the Client's use of the EBISA; the Client's connection to the EBISA; the Client's violation of the Agreement; or, the Client's violation of any proprietary or other rights of another. The Client further agrees and acknowledges that the Indemnitees are not liable or responsible in any way for any errors, omissions or any other action arising out of or related to the use of the EBISA. The Client further agrees to indemnify, defend and hold harmless the Indemnitees from and against any and all claims, damages liabilities, costs and expenses (including reasonable legal expenses) arising out of, or related to, the Client's use of the EBISA or the placement or transmission of any message, information, software, or other materials through the EBISA by the Client or user of the Client's account or related to any violation of any term of the Agreement by the Client or users of the Client's account.

ESG & WBD agrees to indemnify and hold harmless Client, its subsidiaries and affiliates, and its and their directors, officers, agents and employees from any claim or demand, including reasonable attorneys' fees, made by any third party arising out of any disclosure or distribution of the Data as described in Section 14 of the Agreement.

#### 17. Limitation of Liability

In no event shall ESG or WBD be liable for any direct and/or indirect, incidental, special, consequential or exemplary damages, including but not limited to damages for loss of profits, goodwill, use, data or other intangible losses incurred resulting from: (a) the use or the inability to use the EBISA; (b) transactions entered into through or from the EBISA; (c) unauthorized access to or alteration of the Client's transmissions or data; (d) statements or conduct of any third party on the EBISA; or, (e) any other matter relating to the EBISA.

The Client agrees that ESG & WBD will not be liable for any: (a) interruption of business; (b) access delays or access interruptions to the EBISA; (c) data non-delivery, corruption, destruction or other modification; (d) unauthorized access to data entered in, or breach of any security mechanisms utilized in, the EBISA or in any field or file therein; or, (e) events beyond ESG & WBD's reasonable control. ESG & WBD's aggregate liability for damages hereunder shall in no event exceed the amount of fees paid by the

Client under this Agreement for the relevant service, up to a maximum amount equal to service charges for six (6) months of the EBISA.

#### 18. Nondisclosure

By virtue of this Agreement, Client, ESG and WBD may have access to information that is confidential ("Confidential Information"). Client, ESG and WBD agree not to make each other's Confidential Information available in any form to any third party or to use each other's Confidential Information for any purpose other than the implementation of the EBISA. Client, ESG and WBD agree to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents in violation of the provision of this Agreement.

#### 19. Governing Law

Except as otherwise provided herein, this Agreement shall be governed by the laws of the State of Arizona.

#### 20. Notices

Notices to the Client may be made either via email, regular mail, overnight courier or facsimile at the contact address of record for the EBISA. If the Client provides notice to ESG & WBD, such notice should be sent to: ESG CORP, 60 E. Rio Salado Parkway, #900, Tempe, AZ 85281 and Web Benefit Design Corporation, P.O. Box 1568, Windermere, FL 34786.

#### 21. Entire Agreement

This Agreement constitutes the complete Agreement between the parties and, except as provided, supersedes all previous agreements or representations, written or oral, with respect to the Services described herein.

#### 22. General

The Agreement does not limit any rights that ESG & WBD may have under trade secret, copyright, patent, trademark, or other laws. The failure of ESG & WBD to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give meaning to the parties' intentions as reflected in the provision, and the other provisions of the Agreement shall remain in full force and effect. The Client agrees that any claim or cause of action arising out of or related to the use of the EBISA or the Agreement must be filed within three months after such claim or cause of action became known or should have become known or be forever barred. The Agreement will inure to the benefit of ESG & WBD and its successors and assigns. All representations, warranties, terms, disclaimers, and limitations in the Agreement shall survive the termination of the Client's account or access to the EBISA.

### HR GENIUS TERMS OF USE AGREEMENT

HR Genius is designed to provide business managers, employees, and their advisors—attorneys, accountants, insurance agents, consultants and others—with the practical and legal information they need to effectively and efficiently deal with the many compliance and other issues they encounter on a day-to-day basis, in their business and personal lives. ***By using HR Genius, you agree to respect all Copyrights and abide by these Terms of Use.***

#### Terms & Conditions

By using this website, you acknowledge your agreement to the following conditions of use without limitation or qualification. Please read these conditions carefully before using this website. These terms and conditions may be revised at any time by updating this posting. You are bound by any such revisions and should therefore periodically visit this page to review the then current terms and conditions to which you are bound.

All articles and other information and materials on this site and through the 'Ask the Experts' service (collectively, "Information") are provided for general information purposes only and are not intended to constitute legal, accounting or tax advice or opinions on any specific matters. Transmission of the materials and information contained herein is not intended to create, and receipt thereof does not constitute formation of, an attorney-client relationship. Laws and regulations change frequently and their application can vary widely based upon the specific facts and circumstances involved; accordingly, information on this website and, responses to questions provided through the 'Ask the Experts' service, are not promised or guaranteed to be correct or complete. All information provided through the 'Ask the Experts' does not represent an official position of the publisher. If legal advice or other expert assistance is required, the services of a competent professional should be sought. The opinions expressed in information are those of the author(s) and not necessarily those of HR Genius & ESG.

## Disclaimer

HR Genius & ESG assumes no liability for the use or interpretation of information contained herein. HR Genius & ESG expressly disclaims all liability in respect to actions taken or not taken based on any or all the contents of this website. HR Genius will not be liable, under the terms of this disclaimer or otherwise, for any loss of profit, loss of revenue, loss of contract, or any other indirect or consequential loss you may suffer as a result of the use of any of the information contained in the web site. The materials presented on this site are provided "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

You, and not HR Genius or ESG, are responsible for the applicability and accuracy of Information as it relates to your company, employees or clients. Your use of Information does not relieve you of responsibility, including those to any third party, for matters involving your company, employees or clients (e.g., preparation of tax returns, etc.) and you may not rely upon HR Genius or ESG for advice regarding same. The provision of Information by HR Genius and ESG is not intended to create, and your use does not constitute, any form of relationship between HR Genius, ESG or the author(s) and you.

The parties hereby agree as follows:

## License

1. Licensor hereby grants, and Licensee hereby accepts, a non-exclusive and nontransferable license to access and use Licensed Content. Licensee acknowledges that Licensed Content may be used only by clients and prospects that have been provided a unique username and password by Licensee to access the Licensed Content.
2. Licensor agrees to and grants to the Licensee a license to access the Licensed Content on the terms and conditions set forth in this Agreement.
3. If Licensee requires more than one Admin System due to multiple branches or separate databases, additional costs will be incurred.
4. Licensee may not resell the licensor's content without the express written permission of Licensor.
5. Licensee shall not distribute subscriptions to any company which is not a part of the Licensee's business units or branches.
6. Licensee shall not distribute subscriptions to General Agents, Brokers or Benefits Consultants.
7. Licensee shall submit to Licensor an approximate number of clients and prospects who will access the Licensed Content within two weeks of signing this Agreement.
8. Licensee shall have the right to make available Licensed Content as part of its normal business process. Licensee agrees that its use of the Licensed Content will be of such style, appearance and quality as to protect the Licensed Content and the goodwill pertaining thereto. Licensee shall not modify or otherwise create derivative works of the Licensed Content, except with the express written permission of Licensor.
9. Licensor maintains the copyright in and to the Licensed Content at all times.
10. Licensee shall be permitted to display the Licensed Content with a button on the Home Page.
11. Licensor may, from time to time, develop enhancements to Licensed Content. Any new product or service offerings and/or product modules that may be developed, may be made available to Licensee for additional fee(s).
12. Licensed Content Price. The "Ask an Expert" service is limited to 3 free requests per subscription per year. Each additional "Ask an Expert" question is billed at \$125.00.

## Term and Termination.

1. This Agreement shall commence on the Effective Date and shall continue in full force and effect for 12 months, unless terminated earlier in accordance with this Agreement. This Agreement will be automatically renewed for successive one year periods. This Agreement may be terminated by either party upon 60 days notice to the other party.
2. If either party materially breaches any provision of this Agreement, the other party may give written notice to the breaching party that if the default is not cured within 30 days of the date of such notice, the Agreement may be terminated. If the non-breaching party gives such notice and the breach is not cured during such 30-day period, then this Agreement may be terminated by such other party immediately upon written notice.
3. Upon the termination of this Agreement and any extension beyond termination, all rights to the Licensed Content granted to Licensee under this Agreement will cease.
4. Termination of this Agreement, for any cause whatsoever, will in no manner interfere with, affect or prevent the collection by Licensor of any and all sums of money due to it under this Agreement. Upon termination, any unpaid amounts become due and payable immediately.

## Title.

Licensee recognizes that Licensor retains all right, title and interest in the Licensed Content, as well as any and all tangible and intangible rights, copyrights, moral rights, trademark, trade secret rights, patents, industrial property rights, and all other proprietary rights of every kind as well as all registrations, applications, renewals, extensions, continuations, divisions, or reissues of the foregoing now or hereafter in force with respect thereto. Licensee agrees that it shall not claim any title to or right to the

Licensed Content except pursuant to this Agreement, and it shall not at any time attack or challenge the right of Licensor or its licensor(s) in and to the Licensed Content. Licensor shall display the copyright information where it currently exists now at the bottom of the page.

### **Confidentiality.**

1. Licensee acknowledges that Licensed Content is valuable intellectual property of Licensor containing trade secrets and proprietary information developed by Licensor. Licensee will not modify or attempt to modify Licensed Content in any manner.
2. Licensor acknowledges that Licensee intends to use Licensed Content services. Except as necessary to conduct such efforts, Licensee agrees to serve confidentially with regard to all non-public aspects of Licensed Content. Licensee agrees that it will not download, decompile, disassemble or reverse engineer Licensed Content or any of its component parts unless with the express permission of the Licensor.
3. Licensee acknowledges that the breach by it of any provision of this Section will give rise to irreparable injury to Licensor, that the remedy at law for such breach will be inadequate and that monetary damages resulting from such breach will not be readily susceptible to measurement. Licensee acknowledges that, upon Licensee's violation of any provision of this Section Licensor will be entitled to immediate injunctive relief and a temporary order restraining any threatened or future breach of this Section. Nothing in this Section will be deemed to limit Licensor's remedy at law or in equity for any breach by Licensee of any provision of this Section.
4. Licensor acknowledges that all information created as a result of Licensee's use of Licensed Content including all names and all related information of individual companies in Licensee's customer base who are using Licensed Content (and the names of any associated participants, beneficiaries or trustees) is confidential and Licensor will not disclose such information to any party or organization other than Licensee.
5. The obligations of Licensor and Licensee under this Section will survive the termination of this Agreement.

### **Warranty.**

1. Subject to the limitations set forth in this Section, Licensor warrants that it has the full right and authority to grant the license as provided in this Agreement.
2. Parties stipulate and agree that the information and materials provided on this site and the information provided through the 'Ask the Experts' service are for general information purposes only and are not intended to constitute legal or other advice or opinions on any specific matters. A competent attorney or other appropriate professional should be consulted on all legal compliance matters. The information provided and the opinions expressed are not necessarily those of HR & Benefits Essentials, its officers, partners or owners. Laws and regulations change frequently and their application can vary widely based upon the specific facts and circumstances involved. A particular reader, subscriber or member's situation may involve Federal, State or local laws, and/or application of company Plan documents, Employee Handbook or other company policies. As such, Licensor does not warrant or guarantee the accuracy of any statement or other information and materials provided in the Licensed Content or through the 'Ask the Experts' service. We provide references and links to websites not affiliated with HR & Benefits Essentials as a service to our readers. While we believe these sites to contain valuable information, we cannot guarantee their accuracy. All site visitors are cautioned to refer to the Terms of Use, Privacy, Copyright and other information on this and all sites visited.
3. This warranty (a) constitutes the sole and exclusive warranty of Licensor with respect to Licensed Content. Except for such warranty, Licensor makes no express or implied warranties or representations with respect to any software or services to be provided to Licensee under this Agreement, including, without limitation, any express or implied warranty of merchantability or fitness for a particular purpose or intended use. The remedies set forth in this Section, subject to the limitations set forth in this Section, are the sole remedies available to Licensee in the event that Licensed Content does not perform in accordance with specifications.
4. In no event, other than for trademark or copyright infringement, will Licensor be liable for any consequential, exemplary, incidental or punitive damages, including, without limitation, lost profits, even if Licensee has been advised of the possibility of such damages. In no event will the cumulative liability of Licensor for any breach of this Agreement exceed the Annual Licensing Fee paid to Licensor by Licensee under this Agreement.
5. Licensee further acknowledges that any Internet encryption technology employed in connection with Licensed Content may be defeatable. Licensor assumes no liability under this Agreement to Licensee or any third party as a result of a violation or failure, for any reason, of any such encryption.
6. Licensee further acknowledges that any Internet encryption, anti-spam, anti-virus technology, and the like, employed in connection with Licensed Content may be defeatable. Licensor assumes no liability under this Agreement to Licensee or any third party as a result of a violation or failure, for any reason, of any such encryption.

### **Indemnity.**

Each party agrees to indemnify, save and hold harmless the other from and against any and all loss, claim, liability; cost, damage or expense, including, without limitation, costs of litigation and reasonable attorney's fees, arising out of or by reason of any breach of warranty, representation or agreement made to the other party hereunder. If either party asserts a claim with respect to which it is

entitled to indemnification hereunder, the indemnified party shall promptly notify the indemnifying party and the indemnifying party shall be entitled at its expense to participate in the defense of any claim, lawsuit or proceeding. No claim asserted by a third party for which indemnification is sought shall be settled without first obtaining the written consent of the indemnifying party, which consent shall not be unreasonably withheld.

### **Miscellaneous.**

Neither this Agreement nor the license granted hereunder may be assigned (by operation of law or otherwise), sublicensed or otherwise transferred by Licensee without the prior written consent successors and permitted assigns.

**Complete Agreement.** This Agreement constitutes the complete and exclusive statement of the agreement between Licensee and Licensor with respect to a license to use Licensed Content and supersedes all proposals, oral or written, and all other communications or agreements between the parties relating to the subject matter of this Agreement.

**Amendments.** This Agreement may not be altered, amended or modified except in a writing signed by both parties.

**Notices.** Any notice or other communication required under this Agreement will be given in writing by certified or registered mail, return receipt requested, by personal delivery, or by facsimile transmission (with confirmation of receipt) to such addresses and facsimile numbers as are provided by each party to the other in writing. Any notice will be deemed given upon receipt, if personally delivered or delivered by facsimile, or three days after mailing, if delivered by certified or registered mail.

**Governing Law; Venue.** This Agreement will be governed by and interpreted in accordance with the laws of the State of Arizona without regard to principles of conflicts of law. The Licensee agrees and consents to the exclusive jurisdiction of the courts of the State of Arizona for all purposes regarding this Contract and further agrees and consents that venue of any action brought hereunder shall be exclusively in the State of Arizona.

**Severability.** If any term of this Agreement is invalid or unenforceable under any statute, regulation, ordinance or other rule of law, such term will be deemed reformed or deleted and the remaining provisions will remain in full force and effect.

**No Implied Waiver.** The failure of either party at any time to require performance by the other party of any provision, or to deliver notice of a default by the other party of any provision, of this Agreement will in no way affect the right to require such performance or deliver such notice of default at any time thereafter, nor will the waiver by either party of a breach of any provision of this Agreement constitute a waiver of any succeeding breach of the same or any other provision.



**City Of Willcox  
Administration Services Renewal Agreement**

**ESG offers City of Willcox a rate pass – No Increases in Fees for Fiscal 2014 | 2015**

**Administration of Selected Benefit Plans HRA, FSA and COBRA**

The renewal of services and related charges are presented, which serves to amend our service fee agreement for Fiscal year 2013 / 2014. Fees reflect the appropriate suite pricing discount (23%), representing three administration engagements summarized below.

The undersigned authorized representatives agree to provide for the City of Willcox, and the City of Willcox agrees to compensate ESG CORP, based on the following list of solutions, billed on a monthly basis:

- A. HRA Administration: \$6.50 per participant per month  
Annual Renewal Fee: \$ Waived  
Manual Check Disbursement Fee: \$ 1.00 per participant per month
- B. FSA Administration: \$6.60 per participant per month  
One Time Renewal Fee: \$ Waived
- C. COBRA Administration: \$ 1.50 per participant per month  
One Time Renewal Fee: \$ 0  
Additional Costs: \$ 0 per occurrence.  
Flat Fee Charges: \$ 0 per month.

**Other COBRA Fee Information:**

The law requires annual "notification of rights" under COBRA. ESG charges a flat \$125 to offer a customized letter for City of Willcox distribution internally. The client will be responsible for distribution and proof of process. A second option, ESG processes all activity, the letter preparation, mailing and distribution for \$3.00 per Employee. This notification covers the required annual documentation requirement, preparation, mail cost, materials and handling.

**Any additional charges and/or options or features not listed above:**

New Employees joining the any plan midyear incur a one-time \$25 setup fee in the month in which they join the plan. This fee covers the cost of the system setup, new employee kit preparation and postage cost, personal coaching as required, Summary Plan Description (required by ERISA), and handling to complete this requirement.

From time to time, HRA, FSA and/or COBRA plan designs are mandated by law. Events causing plan design changes may require IRS or ERISA compliance updates. This does not require a complete drafting of a new plan document, but an amendment of Adoption Agreement (IRS requirement); Summary Plan Description (ERISA requirement); or Summary of Material Modification (ERISA requirement). While these are rare occurrences, each change in these compliance documents incurs a one-time charge of \$250. This may occur this year, the pending PPACA reforms may impose a limit on FSA plans, which may require formal amendment.



Business Services Provider: **ESG CORP**  
**Employee Solutions Group**  
Address: 60 E. Rio Salado Parkway  
Suite 900  
Tempe, AZ 85281  
Business Telephone: 877.668.8522  
Business Fax: 866.668.1592  
Email Address: [athunberg@esgcorp.biz](mailto:athunberg@esgcorp.biz)

Alan W. Thunberg  
Alan W. Thunberg  
Practice Manager  
ESG CORP

May 30, 2014  
Date

---

City of Willcox - Signature / Title

---

Date

**CITY OF WILLCOX**  
**Request for Council Action**

Agenda Item: 15  
Tab Number: 6

---

**Date Submitted:**

May 27, 2014

**Date Requested:**

June 5, 2014

---

---

**Action:**

Resolution

Ordinance

Formal

Other

---

---

**Subject:** Request to submit

proposal to the Gila River Indian Community for Gaming Distribution Funds for \$500,000.00 for a Class A Pumper for WFD.

---

**To:** Mayor and City Council

**From:** Glenn Childers, Director

**Discussion:** The Willcox Department of Public Safety has received a notice of "Request for Proposal" for the Arizona Revised Statute 5-601-02 12% Gaming Distribution through the Gila River Indian Community. The Willcox Fire Department would like Council approval to submit a proposal for the 2014 revenue sharing to purchase a new pumper truck for the fire department. The proposed estimate budget for the emergency response vehicle is \$500,000.00. The Class A Pumper would allow our department to arrive on scene and reliably provide us with the capability to effectively attack the fire without fear of the numerous problems we have been encountering with our current units. In addition, this unit will increase the ability to save lives and property for citizens we serve as well as our surrounding mutual aid departments.

**Recommendation:** Approval to submit the attached proposal to the Gila River Indian Community for the 2014 Gaming Distribution Funds to purchase a Class A Pumper for the Willcox Fire Department.

**Fiscal Impact:** \$500,000.00 Potential Revenue

**Prepared By:** Julie Zozaya, Administrative Assistant



Glenn Childers, Director

---

Ted Soltis, City Manager

Home	News Gila River Indian News	Government Our Three Tribes	Departments Tribal Departments	About Tribe Community Profile	Employees Our People	Employers	Employees Jobs
------	--------------------------------	--------------------------------	-----------------------------------	----------------------------------	-------------------------	-----------	-------------------

## Office of Special Funding Menu

Overview | Recent Awards | How to File | Project Updates | FAQs | Proposal Review Process

# Office of Special Funding

## State Shared Revenue Program

The passage of Proposition 202 by the voters of Arizona in November 2002 set the stage for new gaming compacts between the State and the respective tribes. An important provision of Proposition 202 was the sharing of gaming revenues with the State. A portion of the revenue to be shared can be retained by an Indian tribe and distributed itself. Proposition 202 allows an Indian tribe to make twelve percent (12%) of its total annual contribution in the following form: "Distributions to cities, towns, or counties for government services that benefit the general public, including public safety, mitigation of the impacts of gaming, or promotion of commerce and economic development."

The Gila River Indian Community (the "Community") has decided to exercise its option to retain and administer the 12 percent of State-shared revenue itself. The Community Council has adopted guidelines and procedures for this new program. Highlights of the program follow.

### Geographic Scope

The Community's policy is to generally limit the distributions to nearby cities, towns, and counties (i.e., Maricopa and Pinal Counties, Phoenix, Avondale, Coolidge, Casa Grande, Chandler, Gilbert, Queen Creek, Mesa, and Tempe) but retain some flexibility to consider more distant but special situations.

### Priority Funding Areas

The priority areas that the Community will initially concentrate funding on are:

- + Public Safety (police, fire, etc.)
- + Transportation
- + Health Care Services
- + Economic Development
- + Education



In addition to these Priority Areas, the Community reserves the right to utilize its discretion in funding special programs and projects not included in the above listing, for example, the Community could also invite a particular city, town, or county to submit an application for a mutually negotiated project.

## How to File

### Review Dates & Deadlines

Grant applications are reviewed one or more times a year dependent on available funding. There is a STRICT deadline which serves as the cut-off date for the current grant cycle. Incomplete applications and all new applications received after this date will be held until the next scheduled grant review.

The next grant application deadline is **June 6, 2014 at 5:00 P.M.** (Postmarks on or before this date will be observed as on time.)

Grant awards will be announced in **October 2014.**

[click here for more information](#)

## GRIC Grants Contact

Name: Cheryl Pablo, Program Administrator  
 Address: P.O. Box 2172, Sacaton, AZ 85147  
 Phone Number: (520) 502-9690 ext. 258 or 259  
 E-Mail: [cheryl.pablo@gric.nsn.us](mailto:cheryl.pablo@gric.nsn.us)

<p><b>CITY OF WILLCOX</b></p> <p><b>CONTRACT: CITY ATTORNEY</b></p> <p><b>APPOINTEE: ANN P. ROBERTS</b></p> <p><b>AMOUNT: \$60,000.00 per year</b></p> <p><b>CONTRACT PERIOD: 7/01/14 – 6/30/</b></p>	<p>(STAMP HERE)</p>
---	---------------------

**EMPLOYMENT AGREEMENT**

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between the **CITY OF WILLCOX**, an Arizona body politic, hereinafter referred to as “**CITY**,” and **ANN P. ROBERTS**, hereinafter referred to as “**ROBERTS**”.

**RECITALS:**

WHEREAS, **CITY** is empowered pursuant to the Willcox City Code, Title 1, Chapter 7, Section 310 to appoint a person to serve as City Attorney and to compensate such appointee for the services.

WHEREAS, **CITY** requires certain legal services on a continuing basis and **ROBERTS** is willing and licensed by the State of Arizona to provide legal services to **CITY** in the position of City Attorney and **ROBERTS** accepts employment to serve as City Attorney.

WHEREAS, **CITY** and **ROBERTS** desire to set forth the conditions of employment, compensation, term, and benefits in this Agreement.

**NOW, THEREFORE, the parties hereto agree as follows:**

**ARTICLE I — TERM AND EXTENSION/RENEWAL/CHANGES**

This Contract, as approved by the Mayor and City Council of the City of Willcox, shall commence on July 1, 2014 and shall terminate on June 30, 20\_\_ in accordance with the appointment of **ROBERTS** to serve as City Attorney or unless sooner terminated or further extended pursuant to the provisions of this Agreement. The parties may renew this Agreement upon mutual consent or may terminate the Agreement without any expectation of required renewal.

**ROBERTS** understands that she is an employee at will and nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the **CITY** to terminate the services of the **ROBERTS**, subject to the provisions set forth in this Agreement.

In the event the **ROBERTS** voluntarily resigns her position with the **CITY** at any time during the term of this Agreement, then **ROBERTS** shall provide the **CITY** with sixty (60) days written notice in advance, unless the parties otherwise agree.

Any modification, or extension of the Agreement and/or renewal, shall be with formal approval of Mayor and City Council and upon written amendment executed by the parties hereto.

## **ARTICLE II — SCOPE OF WORK**

**ROBERTS** shall serve as City Attorney as provided by Title 1, Chapter 7, Section 310 wherein, under the terms of this Agreement, the City Attorney will provide **CITY** with Municipal Legal Services to include, but not be limited to:

- Drafting all ordinances, resolutions and legal documents required;
- Reviewing, revising and approving as to form all contracts, memorandums of understandings, intergovernmental agreements, resolutions and ordinances as required by law and city policies;
- Drafting reviewing and approving as to form all revisions to the City Code and Personnel Policies;
- Prosecutorial responsibilities for all City Code Notice of Violations and citations issued by the Building Official/Code Enforcement Officer;
- Litigation support to assigned Arizona Municipal Risk Retention Pool (AMRRP) legal counsel retained to represent the City in litigation covered by Arizona Municipal Risk Retention Pool (AMRRP) policy;
- In-service training for city staff/elected officials/appointed officials and advisory committees on open meeting laws and other legal matters;
- Attendance and advise to Mayor and Council at council meetings and executive sessions;
- Preparation of agenda items as authorized by the City Code and state statutes;
- Preparation of legal opinions and auditor opinions;
- Any other regular legal assignments or required legal work that arises while acting in the official capacity as City Attorney.

**ROBERTS** shall be responsible for the designation of another attorney to cover her scope of work duties in her absence as City Attorney.

**ROBERTS** shall render services as the City Attorney in a professional manner and shall perform the functions and duties as directed by Mayor and Council and existing City Code and Ordinances or as they may be amended from time to time.

**ROBERTS** will serve the CITY diligently and faithfully according to her best ability in all respects and will use her utmost endeavors to promote the best interests of the CITY.

The annual salary rate as set forth hereinabove for **ROBERTS** shall not apply to any matter requiring a trial or appeal in the Superior Court of the State of Arizona or an appeal to a higher court and the hourly rate for all such matters shall be undertaken at an hourly rate of not less than FIFTY PERCENT (50%) of the then current hourly rate charged non-municipal clients of **ROBERTS**, presently Two Hundred Fifty Dollars (\$250.00) per hour. Any matters to be billed in accordance with this paragraph shall be preapproved by the Mayor and City Council prior to **ROBERTS** beginning any work on such matter and **ROBERTS** shall provide detailed documentation in support of the requested payment such documentation shall be submitted monthly to the Mayor and City Manager by the fifth (5<sup>th</sup>) day of each month.

### **ARTICLE III — COMPENSATION/PAYMENT/OTHER BENEFITS**

In consideration for the City Attorney Services specified in this Agreement, the CITY agrees to pay **ROBERTS**, as an employee of the CITY, at an annual rate of \$60,000.00 payable in installments pursuant to regular payroll schedules used by the CITY.

The annual salary set forth hereinabove for **ROBERTS** shall automatically be amended to reflect any cost of living salary adjustments granted annually to other employees.

**ROBERTS'** employment classification as an employee of CITY commenced July 1, 2013, and **ROBERTS** will be available to perform legal work on behalf of CITY for twenty (20) hours per week and as such, **ROBERTS** will be entitled to participate in the Arizona State Retirement System in the same manner as any other employee of the CITY.

Although **ROBERTS** will be entitled to participate in the Arizona State Retirement System in the same manner as any other employee of the CITY, **ROBERTS'** employment classification as an employee shall not entitle her to receive holiday pay, vacation and sick leave, and health insurance benefits.

### **ARTICLE IV — PERFORMANCE EVALUATION**

**ROBERTS'** performance shall be evaluated during the month of May of each year unless the parties mutually agree to some other time frame. After each evaluation, the parties shall schedule a meeting to review the evaluation and determine, if necessary, any adjustments in compensation, benefits, terms and/or conditions of the continued employment of **ROBERTS**.

### **ARTICLE V — INSURANCE AND INDEMNIFICATION**

CITY shall provide liability insurance coverage through the Arizona Municipal Risk Retention Pool (AMRRP) or another carrier to cover City Attorney in litigation arising out of carrying out the contracted scope of work that is related to the performance of the services provided by **ROBERTS**.

The **CITY** shall defend, save harmless and indemnify **ROBERTS** against any tort, professional liability claim or other legal action, arising out of an alleged act or omission occurring in the course and scope of the performance of her duties as City Attorney on the same basis as other employees of the **CITY** and to the extent permitted by law and the City's insurance carrier coverage.

**ROBERTS** shall indemnify, defend, and hold harmless **CITY**, its officers, employees and agents from and against any and all malpractice suits, actions, legal administrative proceedings, claims and costs attended thereto, arising out of any willful act, omission, fault or gross negligence by **ROBERTS** in connection with performance of this Agreement.

#### **ARTICLE VI — "AT WILL" STATUS**

The status of **ROBERTS** shall be that of an "at will employee" pursuant to the terms and conditions enumerated in this Agreement.

#### **ARTICLE VII — ASSIGNMENT**

**ROBERTS** shall not assign her rights to this Agreement, in whole or in part.

#### **ARTICLE VIII — AUTHORITY TO CONTRACT**

**ROBERTS** warrants her right and power to enter into this Agreement. If any Court or Administrative Agency determines that **CITY** does not have authority to enter into this Agreement, **CITY** shall not be liable to **ROBERTS** or any third party by reason of such determination or by reason of Contract.

#### **ARTICLE IX — TERMINATION AND SEVERANCE PAY**

**ROBERTS** reserves the right to voluntarily terminate her employment in compliance with the notice requirement enumerated in Article I above. In the event of such action, **ROBERTS** shall not be entitled to severance payment.

In the event that **ROBERTS** is terminated by a majority of votes of the governing body at a duly authorized public meeting, **CITY** shall provide a severance payment equal to three (3) months' salary at the current rate of pay.

#### **ARTICLE X — NOTICE**

Any Notice required or permitted to be given under this Agreement shall be in writing and shall be served by personal delivery or by certified mail upon the other party as follows:

**CITY:**  
Willcox City Clerk  
101 S. Railroad Ave., Suite B  
Willcox, Arizona 85643

**ROBERTS:**  
Ann P. Roberts  
P.O. Box 2315  
Benson, Arizona 85602

**ARTICLE XI — REMEDIES**

Either party may pursue any remedies provided by law for breach of this Agreement. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract. This Agreement will be governed by the laws of the State of Arizona.

**ARTICLE XII — SEVERABILITY**

Each provision of this Agreement stands alone, and if any provision of this Agreement is held, in whole or in part, to be unenforceable for any reason, the remainder of the provision and of the entire Agreement will be severable and remain in effect.

**ARTICLE XIII — ENTIRE AGREEMENT**

This document constitutes the entire Agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This Agreement may be modified, amended or extended only by a written amendment approved by Mayor and Council and executed thereby.

**IN WITNESS THEREOF**, the parties have affixed their signatures to this Contract on this \_\_\_\_ day of \_\_\_\_\_, 2014.

**CITY OF WILLCOX:**

**ROBERTS:**

\_\_\_\_\_  
**ROBERT A. IRVIN, MAYOR**  
Authorized City Official

\_\_\_\_\_  
**ANN P. ROBERTS**

**ATTESTED:**

\_\_\_\_\_  
**VIRGINIA A. MEFFORD, City Clerk**

