

**CITY CLERK
ORIGINAL
City of Glendale
Facilities Use License**

**C-10634
02/09/2016**

This Facilities Use License ("License") is entered into as of February 9th, 2015 (the "Effective Date"), between the City of Glendale ("City") and Global Spectrum, L.P. ("Global"), a Delaware limited partnership, for the use by Global of an area of the Glendale Municipal Landfill property ("Facilities") to store non-toxic "fill dirt," the exact location of which is set forth on Exhibit "A" attached to this License.

RECITALS

WHEREAS, Global wishes to obtain from the City a license to use certain City-owned Facilities to store piles of non-toxic fill dirt; and

WHEREAS, the City approval of such use is contingent upon Global's adherence to all policies established by the City for such uses.

LICENSE

NOW THEREFORE, it is agreed as follows:

1. Facilities. Subject to the terms of this License and the City policies, the City agrees that Global may use the following Facilities: A portion of the Facilities more fully described and illustrated in detail in the attached Exhibit "A".

2. Use. Global may use the Facilities for the following purpose or purposes only: Storage of non-toxic fill dirt used in promoting events and performances in various arenas and stadiums throughout the Phoenix-Glendale metropolitan area. The fill dirt shall be placed in an area of the Facilities that will not hamper or impede City landfill operations.

3. Conditions of Use. The City reserves the right to prohibit Global from storing its equipment at the Facilities. Global must also comply with the following:

a) Global must conduct its activities in the Facilities in a careful and safe manner and in accordance with the terms of this License;

b) Global is responsible for any and all dust issues relating to the fill dirt and must provide its own water truck to manage any dust issues for proper and satisfactory compliance with all federal, state, and local laws, including all

Maricopa County air quality requirements, as those requirements may be determined by the regulating agencies;

c) Global must pay all fines for any violations of the air quality laws, rules, or regulations (currently administered by Maricopa County) caused by Global;

d) During the transfer or removal of the fill dirt to and from the Facilities, Global must provide its own equipment and personnel to safely accomplish the transfer of the fill dirt, including sufficient water and water truck(s) to manage any and all dust issues during transfers;

e) During all transfers of fill dirt, Global and its subcontractors must contact the Landfill to identify the best access point. When the Northern Avenue entrance/exit on the north side of the Facilities has been identified as the access point, flagmen must be provided at the gate at all times during any transfer of fill dirt. Global is responsible for all clean up to the City's satisfaction on Northern Avenue for any spillage or mud/dirt tracking while entering and exiting the Facilities;

f) Global must comply with all federal, state, and local laws and regulations, including City policies and regulations governing the use and occupancy of the Facilities;

g) Global must exercise due caution and apply good and diligent care in the use of the Facilities and in maintaining the Facilities in as good order and condition as they were before Global's use;

h) Global must not use or allow the Facilities to be used for any unlawful purposes and must not commit or allow to be committed any waste or nuisance in or about the Facilities, or subject the Facilities to any use that would damage the Facilities or raise or violate the City's or Global's insurance coverage;

i) Global agrees that the City may terminate or preclude any use immediately upon the City's determination, at its sole discretion and consistent with its police powers, that such use would endanger the public or be inconsistent with the health, safety and general welfare of the public;

j) Global agrees that nothing within this License shall be construed to have created a tenancy of any type or manner;

k) Global agrees that before removing any of the dirt piles, Global will give City a minimum of fourteen (14) days written notice to the following:

Bill Stout
Landfill Supervisor
6210 West Myrtle Avenue
Glendale, Arizona 85301
623-930-4737

Ernie Ruiz
LF-MRF Superintendent
6210 West Myrtle Avenue
Glendale, Arizona 85301
623-930-4722

l) The initial term of this License shall be for three years and commence upon the Effective Date and expire three (3) years thereafter, unless sooner terminated pursuant to the provisions contained herein. This License may be renewed only by the mutual written consent of the parties for a renewal term not to exceed two (2) additional years; and

m) Any water used at the Facilities and obtained from the City shall be charged at the rate normally charged for landfill costs.

4. Fee. Global agrees to pay City a use fee of Nine Hundred Dollars (\$900) per year, paid each year, in advance.

5. Additional Usage Fees. Should Global desire to access or use other portions of the Facility, or should Global require the use of City equipment to move or haul the fill dirt, Global agrees to pay City the current market rate for the hourly use of the equipment and pay additional use fees at the market for the storage of additional fill dirt.

6. Condition of Facilities. The City will make reasonable efforts to maintain the Facilities consistent with their intended uses. Notwithstanding this intention, the City makes no specific representations or warranties that the Facilities are in a condition consistent with Global's safe use. Global, therefore, assumes sole and full responsibility to inspect and investigate the Facilities to assure its proper. Any deficiency perceived by Global shall be immediately brought to the City's attention. The City may, at its sole option, address the perceived deficiency or cancel this License. Should the City elect not to correct the condition and Global decides to proceed with the use, Global assumes full responsibility for the Facilities' condition and indemnifies the City as set forth below.

7. Insurance. Global shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with Global's operation and use of the premises including his agents, representatives, employees and any sub-licensees. The cost of such insurance shall be borne by Global.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

Workers' Compensation as required by the State of Arizona, with Statutory Limits and Employer's Liability Insurance with limits no less than \$1,000,000 per accident for bodily injury or disease. Include waiver of subrogation in favor of the City of Glendale.

Commercial General Liability (CGL). Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including property damage, bodily injury and personal injury with limits no less than \$1,000,000 per occurrence, \$2,000,000 aggregate.

Automobile Liability covering any auto, hired and non-owned autos with no less than \$1,000,000 per accident for bodily injury and property damage.

If the Global maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Global.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. For CGL and Automobile Liability insurance shall include a separate endorsement naming the City of Glendale, its officers, officials, employees and volunteers as additional insureds with respect to liability arising out of ownership, maintenance and/or use of on the licensed areas.
2. Global's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of Global's insurance and shall not contribute with it.
3. Each insurance policy required above shall contain, or be endorsed to contain, a waiver of all rights of subrogation in favor of the City
4. Insurance coverage's shall not be canceled except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the City.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.

Verification of Coverage

Global shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language providing the insurance coverage required above. All certificates and endorsements are to be received and approved by the City Department before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Global's obligation to provide them. All certificates required by this Contract shall be sent directly to the Department contact as stated herein.

Waiver of Subrogation

Global hereby grants to City a waiver of any right to subrogation which any insurer of Global may acquire against the City by virtue of the payment of any loss under such insurance. This provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Special Risks or Circumstances

City reserves the right to modify these requirements at any time, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

8. Indemnification. Global shall indemnify, defend, and save harmless the City from any and all claims, demands, suits, actions, proceedings, losses, costs and damages of every kind and description, including attorneys' fees and litigation expenses, which may be brought or made against or incurred by the City as the result of: (i) any injuries to or death of a person, (ii) any loss or damage to property and/or equipment owned by Global or stored at the Facilities, or (iii) any breach or default in the performance of any obligation on Global's part, including any claims of a purported third-party beneficiary of this License, and which are, or asserted to be, or have been caused by, arising out of, or contributed to, in whole or in part, by reason of any act, omission, professional error, fault, mistake, or negligence of Global, its agents, employees, representatives, subcontractors or invitees, in connection with or incidental to any use, authorized or unauthorized, or any occupancy of the Facilities. Global's obligation hereunder shall not extend to any liability that is the sole negligence of the City (such negligence shall exclude liability arising as a result of a non-delegable duty). Global's obligation under this provision shall survive the termination or expiration of this License regardless of the purpose of the termination.

9. Prohibitions.

a) Global shall not permit any advertising to be displayed in or upon the Facilities without the prior approval of the City, which consent may be granted or withheld at City's sole discretion;

b) Global shall not permit any alcohol to be sold, consumed, stored or transported in, upon or through the Facilities;

c) Global shall not permit any firearms, other weapons, or dangerous objects to be possessed in or upon the Facilities;

d) Global shall not use City's equipment, tools or furnishings, located in or about the Facilities, without the prior approval of the City;

e) Global shall not produce or allow amplified sound, live or recorded music or any other unamplified noise (including equipment noise) that might disturb the neighborhoods surrounding or near the Facilities before 6:00 a.m. or after 10:00 p.m.; and

f) Global will not permit any hazardous substance, pollutant or contaminant, including any hazardous substances, pollutant or contaminants which may be found in the fill dirt, to be used, stored, generated or disposed of on, in, or about, or transported to or from, the Facilities, by Global, Global's agents, employees, contractors, invitees, subtenants, or concessionaires without first obtaining City's written consent, which City may give or withhold at its sole discretion, or revoke at any time. If City consents, all hazardous substances, pollutant or contaminants, must be handled at Global's sole cost and expense, in compliance with all applicable state, federal or local governmental requirements, using all necessary and appropriate precautions. Without limitation, if Global causes or permits the presence of any hazardous substance, pollutant or contaminant, on, in or about the Facilities and this results in contamination of any part of the Facilities, Global will promptly, at its sole cost and expense, take all appropriate actions as determined by the City or any regulatory authority to return the Facilities and any adjacent facility to the condition existing prior to the presence of any hazardous substance, pollutant or contaminant; provided, however, Global shall first obtain City's approval for any such remedial action.

"Hazardous substance, pollutant or contaminant" shall be given their general meaning as defined in any applicable state, federal or local government law. Hazardous substance includes, but is not restricted to, asbestos, polychlorobiphenyls and petroleum products or fractions thereof.

10. Immigration Law Compliance.

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

b) Any breach of warranty of Immigration Law Compliance is considered a material breach of this License and is subject to penalties up to and including termination of this License.

c) City retains the legal right to inspect the papers of any Global or subcontract employee who performs work under this License to ensure that the Global or any subcontractor is compliant under A.R.S. § 41-4401.

d) City may conduct random inspections, and upon request of City, Global shall provide copies of papers and records of Global demonstrating continued compliance with the warranty under A.R.S. § 41-4401. Global agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of A.R.S. § 41-4401.

e) Global agrees to incorporate into any subcontracts under this License the same obligations imposed upon Global and expressly accrue those obligations directly to the benefit of the City. Global also agrees to require any subcontractor to incorporate into each of its own subcontracts under this License the same obligations above and expressly accrue those obligations to the benefit of the City.

f) Global's warranty and obligations under this section to the City is continuing throughout the term of this License or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.

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

11. Additional Users. Global understands and agrees that during the term of this License there may be other events taking place in other parts of the Facilities not covered by this License. Global shall conduct its activities so as not to interfere with other events or otherwise hamper the operation of the landfill.

12. Termination. If at any time the use of the Facilities by Global violates any term of this License or, any applicable laws, rules or regulations of the City of Glendale, County of Maricopa, State of Arizona or the United States of America, Global shall either cease and desist from any activity causing such violation and take whatever corrective action the City or regulatory agency deems appropriate. The City may also require Global to surrender the use of the Facilities and terminate this license..

13. Control of Facilities. In permitting the use of the Facilities described herein, the City does not relinquish control or custody thereof and does hereby specifically retain the right to enforce any and all laws, rules and regulations applicable thereto. Employees, officials, agents or other authorized representatives of the City may enter upon the Facilities at any and all times to make inspections to ensure compliance with this License.

14. Assignment. Global does not have the right to assign this License or allow any other person or entity to use or occupy any of the Facilities without the prior written consent of City, which consent may be granted or withheld at City's sole discretion.

15. Interpretation. This License constitutes the entire License and understanding of the parties with respect to the use of the Facilities. No prior or contemporaneous License or understanding will be effective. This License may not be modified or amended except by written instrument signed by both parties. This License shall be governed by the laws of Arizona and enforced by the courts of competence jurisdiction therein..

16. Relationship. Global is an independent contractor and not the agent or employee of the City. Neither Global nor any personnel of Global will for any purpose be considered employees or agents of City. Global assumes full responsibility for the actions of Global's personnel, and is solely responsible for their supervision, daily direction and control, payment of salary (including withholding income taxes and social security), worker's compensation, health and disability benefits.

17. Authority. The individual signing below on behalf of Global hereby represents and warrants that s/he is duly authorized to execute and deliver this License on behalf of Global and that this License is binding upon Global in accordance with its terms.

18. Miscellaneous.

a) Global agrees to comply with all federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, nondiscrimination, including the Americans with Disabilities Act, and affirmative action.

b) Non-Discrimination. Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status, or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, on behalf of any subcontractors, warrants compliance with this section.

c) This License is subject to A.R.S. § 38-511. This License may be canceled if any person significantly involved in initiating, negotiating, securing, drafting or creating this License on behalf of City is an employee, consultant, or agent of any other party to this License.

"GLOBAL":

GLOBAL SPECTRUM, L.P.,
a Delaware limited partnership

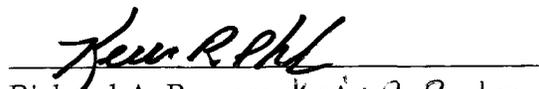


By: Fred Corsi

Its: Executive Director of Operations

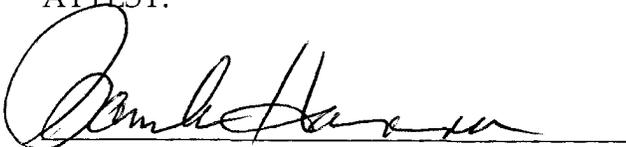
"CITY::

CITY OF GLENDALE,
an Arizona municipal corporation



~~Richard A. Bowers~~, Kevin R. Phelps
Acting City Manager

ATTEST:



Pamela Hanna, City Clerk
ATTEST:

(SEAL)

City Clerk
APPROVED AS TO FORM:



Michael D. Bailey, City Attorney