

March 24, 2009

To: Mayor and City Council

Through: Audit and Finance Committee

From: Gary Ray, City Auditor 

Re: Jim Gardner, Jr. Construction

Since January 23, 2009 I have received various packets of information, a fax, telephone calls, e-mails and a CD from Jim Gardner, Jr. alleging wrongdoing on the part of a city painting contractor, some city employees, and city management for not renewing his contract. Mr. Gardner requested that I investigate the painting contractor for not working within their licenses and contract, the city employees for knowingly going along with this, the city management for not renewing his contract, and other city employees for retaliation against him for reporting this information. Mr. Gardner has addressed the City Council, sent various requests, letters, e-mails, and information packets to city employees, the Mayor, and council members concerning his allegations.

On January 26, 2009 I learned from Bryan Raines, Deputy City Manager, that he had assigned Tom LaVell, Contracts Administrator, to look into the allegations made by Jim Gardner, Jr. I later discussed with Tom his methodology and requested that he also look into the possibility of retaliation by city employees and he agreed. I decided not to proceed with any investigation until I had received Tom's final report. I communicated this intention to Bryan and Tom. I then returned a telephone call to Jim Gardner, Jr. and told him the same thing. Since that time I have received several letters and packets of information from Jim Gardner, Jr. At your direction I have reviewed this information and the allegations.

In a meeting with Chris Brady, City Manager, on February 11, 2009, he told me that he directed Bryan Raines not to renew the Carpentry Services contract. He stated that when Bryan told him about the contract, that there was only one contractor and the city was increasing the annual limit, it was his opinion that there should be a pool of contractors for this service and that the extent of the

contract should be widened to include other services. This direction to Bryan was given the week of January 19 before the contract was due to be renewed on January 31, 2009. Jim Gardner, Jr. completed his part of the renewal on October 30, 2008 but documents show the city was still completing their part of the renewal process which ended with the City Manager's direction.

On February 23, 2009 Bryan Raines gave me Tom LaVell's draft report, dated February 20, 2009. On March 5, 2009 I was given Tom's final report. I have read and evaluated this report in light of the allegations and information provided by Jim Gardner, Jr. along with other information I have received. I have reviewed contracts, invoices, letters, e-mails, and conducted interviews with involved city personnel and contractors in order to provide a basis for my opinion. In my opinion, Tom Lavell's report sufficiently addresses the painting contractor issues, the carpentry contract issues, and the retaliation allegations made by Jim Gardner, Jr. The report also makes reasonable recommendations for correcting deficiencies made by the city in contracting for these services. Bryan also provided me with responses to Tom's report made by Ed Quedens, Business Services Director, and Dennis Ray, Facilities Maintenance Director. I believe these responses are adequate responses to the recommendations made by Tom. I will make one recommendation to Bryan and Tom that they institute a follow up procedure to ensure that these responses have been implemented. No further action will be performed by the City Auditor's Office concerning this matter unless directed by the City Council.

Enclosures: Tom LaVell's report dated March 5, 2009  
Ed Quedens' response dated February 20, 2009  
Dennis Ray's response dated February 20, 2009

## **RECOMMENDATIONS**

Based on these findings the following recommendations can be made:

- 1. Rebid the Carpentry Services contract under new terms and specifications.** The scope of the current contract for Carpentry Services no longer meets the City's needs. In addition, there are a number of changes that should be made to the requirements of the contract that would better reflect the way that the City employs services under this contract. Based on the extent of the changes the best course of action is to re-specify the scope of services and re-bid this contract through a competitive procurement process. In addition, rather than identifying a single vendor to provide service, the City should develop a list of qualified vendors to provide services within multiple skilled trades. By using a qualified vendor list rather than a single provider, the City would be able to contract with more than one vendor providing greater opportunity for other firms to gain experience working with the City as well as providing increased competition and flexibility in bidding, estimating and competing jobs. Solicitations for skilled trades should

also specify the licenses that the City will accept as properly qualified to provide the service.

2. **All work completed on City buildings and facilities using any skilled trades contracts (including painting, carpentry, electrical, plumbing, HVAC, etc.) should be coordinated through the Facilities Maintenance Department.** Identifying a single source to coordinate work on City facilities will lead to greater control over the work completed. Facilities Maintenance should act as the subject experts for all matters related to the maintenance of City facilities and monitor all work done on City facilities. Facilities Maintenance staff should be responsible for ensuring proper scoping of jobs, proper licensing of contractors based on the work being completed, proper permitting of jobs, ensuring that building codes are met, verification of the accuracy and completeness of work and hours billed to the City, final job acceptance of work, and ensuring that proper invoicing and payment procedures are followed.
3. **The Purchasing Division should ensure that services purchased through cooperative purchasing agreements provide the necessary insurance and liability coverage to the City.** As required, Purchasing staff should ensure written documentation is in place that obligates the necessary insurance coverage and liability provisions to the benefit of the City.
4. **The City should request copies of insurance naming City as additional insured and copies of contractor's licenses prior to engaging in any work.** This will ensure that contractors are properly licensed and insured before beginning any work on City facilities.
5. **Estimates and bids for services should be thoroughly reviewed before awarding work to any contractor.** Reviews should verify licensing requirements, contract numbers, hourly rates, and material costs.
6. **Invoices should be thoroughly reviewed prior to approval and payment and should include all required information.** As in the case of reviewing job estimates, reviews of invoices should include verification that an appropriate contract number appears on all invoices, work being billed is adequately documented and specified including unit quantities and prices, and that all charges billed are substantiated through appropriate documentation as required by contract.
7. **The Facilities Maintenance Department should take efforts to maintain complete files related to each service vendor that they use.** Files should contain copies of approved and valid contracts, copies of job estimates and invoices, communications between the City and vendor, as well as any other documentation that may be used to verify contractor performance and history of interactions with the City.

## Parks, Recreation and Commercial Facilities 2008/09 Fees and Charges Review

Program or Service Name: Adaptive Recreation

Mesa	Tempe	Chandler	Gilbert	Peoria
Summer Camp \$300  General Programs – Workshops, Classes, Social Development Activities, Co-Sponsored Trips, Adaptive Sports \$6-\$475	Do not offer a Summer Camp Program  General Programs: \$2-\$20 (No Sponsored Trips)	Summer Camp \$120, 6 weeks M-Thurs 8:30am to 3:30pm  General Programs \$1 to \$255  California Adventure Trip - \$400-\$450	Do not offer Summer Camp Program  General Programs 43 to \$400 (No Sponsored Trips)	Summer Camp 8 weeks, M-F 8:00am to 2:30 pm (DES/DDD funded only no private pay option available)  General Programs \$3 to \$30  Field Trips

Program or Service Name: Aquatics Public Swim

Mesa	Tempe	Chandler	Gilbert	Phoenix
<u>General admission:</u> Non-amenity pool: Under 17 \$1.00 18 and older \$2.00 Amenity Pool: Under 17 \$1.50 18 and older \$3.00 <u>Season Pass:</u> Amenity pool: \$190.00 Non-amenity pool: \$125.00 <u>Punch Ticket:</u> Amenity Pool- \$42.00 Non-amenity pool - \$28.00 17 adult visits/ 34 youth visits	<u>General admission:</u> Outdoor Youth: \$0.75 Adult: \$1.25  <u>Season Pass:</u> Youth: \$19 Adult: \$31 Seniors: \$19 Family: \$57	<u>General admission:</u> Youth: \$0.50 Adult: \$1.50 Seniors: \$0.75  <u>Season Pass:</u> Family of 4: \$75 (each additional family member \$12)  <u>Punch Ticket:</u> Youth: \$8.00 / \$10.50 Adult: \$24 / \$32 20 / 30 visits	<u>General admission:</u> Youth: \$1.00 Adult: \$2.00  <u>Season Pass:</u> Family: \$85 Youth: \$35 Adult: \$45	<u>General admission:</u> Youth: \$0.50 Adult: \$1.50 Seniors: \$0.50 Evening swim: \$0.25  <u>Season Pass:</u> Youth: \$15 Adult: \$20 Senior: \$15 Family of 4: \$45
Scottsdale	Glendale	Apache Junction		
<u>General admission:</u> Youth: \$1.00 & \$4.00 Adult: \$2.00 & \$6.00  <u>Season Pass:</u> Unlimited use: \$120 & \$400 <u>Punch Ticket:</u> \$10 & \$30 10 or 30 visits	<u>General admission:</u> Youth: \$0.50 - \$3.00 Adult: \$1.00 - \$6.00  <u>Punch Ticket</u> \$7 - \$43 15 or 30 punches	<u>General admission:</u> Youth: 1.00 Adult: \$1.50  <u>Season Pass:</u> Unlimited use: \$80 Youth: \$ 45 Adult: \$55		

Program or Service Name: Sports Field Use – Softball Facilities

Mesa	Tempe	Chandler	Gilbert	Peoria
<b>Field Use - 2 hour minimum</b> before 6pm - \$8/hr After 6pm - \$20/hr  <b>Commercial Use</b> Same  <b>Tournament/Game Use</b> Same	<b>Field Use 2 hr minimum</b> Standard - \$5/hr Kiwanis - \$7/hr  <b>Use Light 2 hr minimum</b> Standard - \$20/hr Summer Rate - \$15/hr  <b>Tournament/Game Use</b> Standard - \$10/hr w/ Lights \$20/hr	<b>Field Use</b> \$7/hr  <b>Use Light</b> \$15/hr  <b>Tournament/Game Use</b> n/a	<b>Field Use</b> Resident - \$10/hr Commercial - \$12/hr Res Non-Profit - \$7/hr  <b>Use Light</b> Resident - \$18/hr Commercial - \$24/hr Res Non-Profit - \$12/hr <b>Tournament/Game Use</b> Use – use comm'l rate	<b>Field Use – 2 hr minimum</b> Standard - \$10/hr Non-Resident - \$15/hr  <b>Use Light – 2 hr minimum</b> \$10/hr Non Resident - \$20/hr <b>Tournament/Game Use</b> Youth - \$20/hr Adult - \$40/hr Non Res Youth - \$25/hr Non Profit - \$20/hr

Program or Service Name: Sports Field Use – Baseball Facilities

Mesa	Tempe	Chandler	Gilbert	Glendale
<b>Practice Use</b> 8am - 6pm - \$20/hr 6pm -10 pm - \$25/hr  <b>Commercial Use</b> 8am -6pm \$30/hr 6pm-10pm \$35/hr  <b>Tournament/Game Use</b> Youth May – Oct \$90/gm Nov – Apr \$100/gm Adult \$180/gm all year	<b>Field Use 2 hr minimum</b> Standard - \$5/hr Kiwanis - \$7/hr  <b>Use Light 2 hr minimum</b> Standard - \$20/hr Summer Rate - \$15/hr  <b>Tournament/Game Use</b> Standard - \$10/hr w/ Lights \$20/hr	<b>Field Use</b> \$7/hr  <b>Use Light</b> \$15/hr  <b>Tournament/Game Use</b> n/a	<b>Field Use</b> Resident - \$10/hr Commercial - \$12/hr Res Non-Profit - \$7/hr  <b>Use Light</b> Resident - \$18/hr Commercial - \$24/hr Res Non-Profit - \$12/hr  <b>Tournament/Game Use</b> Use – use comm'l rate	<b>Field Use</b> Youth \$5 Adult \$9 <b>Comm'l Use</b> Youth \$8 Adult \$14  <b>Premier Field Use</b> Youth \$7 Adult \$14 <b>Comm'l Use</b> Youth \$11 Adult \$21  <b>Non-Res Use</b> Youth \$8 Adult \$14 <b>Premier Use</b> Youth \$11 hr Adult \$21 hr  <b>Tournament/Game Use</b> Youth - \$11/hr Adult - \$21/hr

## Market Comparison of Utility Service Fees

### Cost of Service (Option 4)

	ESTABLISH SERVICE				DISCONNECT / RECONNECT NON-PAY			
	Next Day		Same Day		Next Day		Same Day	
	Fee	Rank (HL)	Fee	Rank (HL)	Fee	Rank (HL)	Fee	Rank (HL)
<b>WATER</b>								
Chandler	\$ 15	3	\$ 27	5	\$ 20	4	\$ 20	5
Gilbert	\$ 15	3	\$ 35	3	\$ 25	3	\$ 25	4
Phoenix	\$ 33	1	\$ 33	4	\$ 33	2	\$ 33	3
Scottsdale	\$ 15	3	\$ 75	1	\$ 25	3	\$ 68	2
Tempe	\$ 15	3	\$ 35	3	\$ 15	5	\$ 15	6
Average	\$ 19	0	\$ 41	0	\$ 24	0	\$ 32	0
<b>Mesa</b>								
FY 2009/2010	\$ 19	2	\$ 64	2	\$ 36	1	\$ 81	1
FY 2008/2009	\$ 20	2	\$ 65	2	\$ 37	1	\$ 82	1
<b>ENERGY</b>								
<b>Electric</b>								
APS	\$ 25	2	\$ 100	1	\$ 25	3	\$ 25	3
SRP	\$ 28	1	\$ 48	3	\$ 65	1	\$ 85	1
Average	\$ 27	0	\$ 74	0	\$ 45	0	\$ 55	0
<b>Mesa</b>								
FY 2009/2010	\$ 19	3	\$ 64	2	\$ 36	2	\$ 81	2
FY 2008/2009	\$ 20	3	\$ 65	2	\$ 37	2	\$ 82	2
<b>Natural Gas</b>								
Southwest Gas	\$ 35	1	\$ 50	2	\$ 35	2	\$ 50	2
<b>Mesa</b>								
FY 2009/2010	\$ 35	1	\$ 80	1	\$ 52	1	\$ 97	1
FY 2008/2009	\$ 38	1	\$ 83	1	\$ 55	1	\$ 100	1
<b>MESA - FY 2009/2010</b>								
Water	Equal to Average		Higher than Average		Higher than Average		Higher than Average	
Electric	Lower than SRP		Higher than SRP		Lower than SRP		Lower than SRP	
Natural Gas	Equal to SWG		Higher than SWG		Higher than SWG		Higher than SWG	

<sup>(1)</sup> The market survey was conducted in December 2008.

<sup>(2)</sup> Rank is from the highest to lowest sales price (HL). For example, the highest fee is ranked first (e.g., one).

AVERAGE HOMEOWNER'S CHARGES SURVEY								
	CITY PROPERTY TAXES (1, 6, 8)		CITY SALES TAXES (2, 7)	SOLID WASTE CHARGES (3)	WATER CHARGES (4)	WASTEWATER CHARGE (5)	ANNUAL TOTAL	PERCENTAGE OF MESA'S PROPOSED
	PRIMARY	SECONDARY						
<b>MESA - Proposed</b>								
Rate (9)	\$0.00	\$0.00	1.75%	\$23.88	\$35.10	\$20.36		
Annual Cost	\$0.00	\$0.00	\$523.58	\$286.56	\$421.23	\$244.26	\$1,475.63	100.0%
<b>MESA - Current</b>								
Rate	\$0.0000	\$0.0000	1.75%	\$23.88	\$33.95	\$19.11		
Annual Cost	\$0.00	\$0.00	\$523.58	\$286.56	\$407.38	\$229.36	\$1,446.87	98.1%
<b>CHANDLER</b>								
Rate	\$0.3414	\$0.8400	1.50%	\$15.07	\$20.37	\$17.67		
Annual Cost	\$67.77	\$166.74	\$610.46	\$180.84	\$244.39	\$212.04	\$1,482.24	100.4%
<b>GILBERT</b>								
Rate	\$0.0000	\$1.1500	1.50%	\$14.05	\$24.32	\$20.95		
Annual Cost	\$0.00	\$228.28	\$535.77	\$168.60	\$291.78	\$251.46	\$1,475.88	100.0%
<b>GLENDALE</b>								
Rate	\$0.2432	\$1.3519	2.20%	\$16.30	\$28.71	\$26.19		
Annual Cost	\$48.28	\$268.35	\$856.30	\$195.60	\$344.52	\$314.30	\$2,027.36	137.4%
<b>PHOENIX</b>								
Rate	\$0.7608	\$1.0592	2.00%	\$26.85	\$28.46	\$21.87		
Annual Cost	\$151.02	\$210.25	\$628.36	\$322.20	\$341.47	\$262.43	\$1,915.72	129.8%
<b>SCOTTSDALE</b>								
Rate	\$0.3537	\$0.4327	1.65%	\$15.69	\$37.98	\$31.40		
Annual Cost	\$70.21	\$85.89	\$589.34	\$188.28	\$455.75	\$376.77	\$1,766.25	119.7%
<b>TEMPE</b>								
Rate	\$0.5070	\$0.8930	1.80%	\$19.02	\$25.35	\$16.54		
Annual Cost	\$100.64	\$177.26	\$642.92	\$228.24	\$304.15	\$198.53	\$1,651.74	111.9%

## Notes:

- Single family home with median value of: \$ 198,500  
2008 Median FCV X 10% / 100 X the tax rate. Source: Maricopa County Assessor's Office, (Median LPV by city not available)
- Annual Maricopa County income of: \$65,900 Source: 2009 Median Family Income, Phoenix-Mesa-Scottsdale MSA - HUD User website
- Charge for biweekly garbage (and recyclables where applicable) collection using 90 gallon barrels. The Solid Waste residential charges include a \$0.54 Green and Clean fee for Mesa. Other city's environmental fees are also included as applicable.
- Based on Mesa's average monthly residential water use for the most recent twelve months.
- Winter Water Average formulas are applied in cities where known. Changes in fees are due to both rate and formula changes.
- Primary and Secondary Tax Rates reflect the 2008 Tax Rates as listed on the County Treasurer's website, which corresponds to the effective tax rates.
- Sales Tax Rate listed is for retail sales. Annual cost is calculated using a weighted average rate, based on the City of Mesa tax base as of 01/2008 for the last 12 months. The cities of Phoenix and Mesa do not collect sales tax on the sale of food for consumption at home.
- The City of Mesa does not currently have a property tax, but with the passage of Proposition 1 & 2 in the Nov. 2008 general election a secondary property tax will be added to each Mesa property holder in Nov. 2009. No tax rate has been calculated at this time. Rates will be made available as they are calculated.
- The City of Mesa proposed rate includes a 3.4% increase for Water and a 6.5% increase for Wastewater, all other rates are unchanged.