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MEMORANDUM Housing Division - Council Memo No. HD07-19

DATE: NOVEMBER 26, 2007

TO: MAYOR AND CITY COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER 
DOUG BALLARD, PLANNING AND DEVELOPMENT DIRECTOR

FROM: KURT KNUTSON, HOUSING AND REDEVELOPMENT MANAGER 

SUBJECT: ORDINANCE NO. 3994 AUTHORIZING AND APPROVING A LEASE, BETWEEN THE CITY OF CHANDLER, HOUSING DIVISION, AND MAC-GRAY SERVICES, INC. (WEB INTELLIGENT LAUNDRY SYSTEMS), FOR LAUNDRY EQUIPMENT AND USE OF 120 SQUARE FEET PORTION OF A BUILDING KNOWN AS THE COMMUNITY BUILDING, AT 127 NORTH KINGSTON STREET, FOR A LAUNDRY ROOM.

RECOMMENDATION:

Staff recommends to City Council and the Public Housing Authority Commission the introduction and tentative adoption of Ordinance No. 3992 authorizing the lease of new laundry equipment and a portion of the Community Building known as the "Laundry Room" at our senior apartments located at 127 North Kingston Street.

BACKGROUND:

Washers and dryers, or washer and dryer hook-ups are not available in the thirty- seven (37) individual apartments at our senior complex known as Kingston Arms Apartments. Instead, there is a small 120 square foot, coin operated laundry facility on the site located in the senior Community Building.

The Housing and Redevelopment Division has leased two coin operated washers and dryers from Mac-Gray Services, doing business as Web Intelligent Laundry Systems since 1983. The current lease agreement stipulates that the Housing Authority supply the space and utilities for the laundry equipment. WEB supplies

and services the washer and dryer units. The revenue generated by the washers and dryers is split fifty-fifty (50-50).

Senior residents requested staff look into getting new, larger washers and dryers for the site. Staff was also interested in getting new, more energy efficient models to minimize the utility costs associated with operating the units and aid in becoming more energy conscious in this area.

DISCUSSION:

WEB has proposed to supply two new high efficiency, front load, coin operated, commercial Maytag washers and dryers. Under the terms of the new seven-year lease, the conditions of the lease remain largely unchanged, and very similar to the last lease executed with WEB. The most significant difference in the new lease is the Housing Authority will now receive fifty-five percent of the revenue generated from the laundry equipment, less applicable fees, and/or taxes instead of the fifty percent share of the prior lease.

The new fee to do a load of laundry will be \$1.25 for the wash and \$.75 for the dry. This is a 50-cent increase over the current cost of a doing a wash and dry load of laundry (\$.25 wash, \$.25 dry). While staff understands that this is a significant increase in laundry cost for a senior living on a limited income, the cost is still approximately 50 cents less than doing a load of laundry at most commercial laundry facilities. In addition, the new laundry equipment will do larger loads, is gentler on clothing and a load will dry more quickly than the previous models.

FINANCIAL IMPLICATIONS:

The anticipated revenue from this lease agreement is estimated to be approximately \$300 per month, before deducting the utility costs associated with operating the laundry equipment and room. While this lease venture generates revenue for the Housing Authority, the principle benefit is to provide the senior residents with an option for convenient accessibility to coin operated laundry services.

PROPOSED MOTION:

Move to introduce and tentatively approve Ordinance No. 3994 authorizing and approving a lease, between the City of Chandler, Housing Division, and Mac-Gray Services, Inc. (Web Intelligent Laundry Systems), for laundry equipment and use of 120 square feet portion of a building known as the Community Building, at 127 North Kingston Street, for a laundry room and authorizing the Planning and Development Director to execute the lease.

ORDINANCE NO. 3994

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING AND APPROVING A LEASE BETWEEN THE CITY OF CHANDLER, HOUSING DIVISION, AND MAC-GRAY SERVICES, INC. (WEB INTELLIGENT LAUNDRY SYSTEMS), FOR LAUNDRY EQUIPMENT AND USE OF 120 SQUARE FEET PORTION OF A BUILDING KNOWN AS THE COMMUNITY BUILDING, AT 127 NORTH KINGSTON STREET, FOR A LAUNDRY ROOM.

BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

SECTION 1. The City Council of the City of Chandler, Arizona, does hereby authorize and approve a lease in the form attached as Exhibit "A" for 120 square feet portion of a building known as the Community Building at 127 N. Kingston Street for a laundry facility and laundry equipment. This is a seven-year lease with an automatic renewal option.

SECTION 2. The lease will provide the Housing Division an income from the rental equipment an amount equal to approximately fifty-five percent (55%) of the income, less refunds, applicable fees and/or taxes and the Planning and Development Director is hereby authorized to execute the lease.

INTRODUCED AND TENTATIVELY approved by City Council of the City of Chandler, Arizona, this ___ day of _____, 2007.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this ___ day of _____, 2007.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on ___ day of _____, 2007 and that a quorum was present thereat.

APPROVED AS TO FORM:

CITY ATTORNEY



CITY CLERK

EXHIBIT A

LAUNDRY ROOM LEASE AGREEMENT

THIS LAUNDRY ROOM LEASE AGREEMENT (the "Lease") made as of **DECEMBER 10, 2007** by and between **CITY OF CHANDLER – HOUSING & REDEVELOPMENT DIVISION** as Lessor ("Lessor"), located at **265 EAST BUFFALO STREET, CHANDLER, ARIZONA 85225** and Mac-Gray Services, Inc., d/b/a WEB Intelligent Laundry Systems, a Delaware corporation having its corporate headquarters at 404 Wyman Street, Waltham MA 02451 as Lessee ("Lessee"). In consideration of the mutual covenants, duties and obligations set forth herein, Lessor and Lessee hereby agree as follows:

1. Lessor warrants and represents that Lessor is the owner, or authorized agent of the owner, of a certain property located at **KINGSTON ARMS APARTMENTS, 127 N. KINGSTON STREET, CHANDLER, AZ 85225** containing **37** apartment or condominium units (the "Premises"). Lessor does hereby lease to the Lessee, and Lessee does hereby accept, exclusive possession of that part of the Premises, as set forth in the attached **SCHEDULE A** (the "Leased Premises"). Lessee shall install, operate and maintain on the Leased Premises the following pay-per-use laundry equipment: **TWO (2)** washing machines and **TWO (2)** dryers (the "Equipment") as well as any other equipment, furniture, wall posters, or media that Lessee deems appropriate for its business purposes. Lessor warrants and represents that **ZERO (0)** units are plumbed with their own washer or dryer connections. During the Term as defined herein, Lessee shall also have the exclusive right to lease any additional laundry space(s) which Lessor designate(s) within the Premises including, without limitation, any expansion of the Leased Premises, upon the same terms and conditions as set forth in this Lease.

2. The term of this Lease (the "Original Term") shall be for a period of **SEVEN (7)** years beginning **JANUARY 14, 2008** or the date of installation of the Equipment, whichever is later (the "Commencement Date"). Lessor and Lessee agree the original term shall be automatically extended for successive seven (7) year terms (each an "extended term"), upon the same terms and conditions as herein contained unless Lessor or Lessee provides at least sixty (60) days prior written notice by certified mail, return receipt requested, of its election not to extend the lease at the end of the term. The Original Term and the Extended Term collectively are referred to as the "Term".

3. Lessee agrees to pay Lessor as rent (the "Rent") from the income of the Equipment, monthly in arrears, an amount equal to **FIFTY-FIVE PERCENT (55%)** of Lessee's gross income from the Leased Premises, less refunds, all applicable fees and/or taxes, including, but not limited to, sales, use, excise, personal property or real estate taxes payable by Lessee in connection with the use and possession of the Leased Premises and the operation of the Equipment.

4. Lessor hereby warrants and represents that the signatories to this Lease have full power and authority to enter into this Lease. Lessor and its representatives or agents further warrant and represent that there is no other lease, license, or other instrument granting to another person the same or similar right in and to the Leased Premises or the Premises.

5. Lessee shall insure against liability for bodily injury or property damage caused by Lessee up to an amount of not less than \$10,000,000. Lessee shall name Lessor as an additional insured under such policy for injuries or damages due to Lessee's negligence occurring in the Leased Premises and shall furnish a certificate of insurance evidencing such coverage upon request by Lessor.

6. This Lease shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto, including, but not limited to, a successor as a result of the sale or conversion of the Premises to any other owner or form of ownership, including condominiums. Lessor also covenants that in the event the Premises is sold or transferred it shall be a condition of any such sale or transfer that the prospective purchaser or transferee take an express assignment of the Lease at the time of transfer of deed and be bound by all of its terms and conditions. Failure of the Lessor to secure said assignment shall, at Lessee's option, constitute a breach of the Lease and shall not serve to relieve Lessor or the purchaser or transferee of any of the obligations under the Lease, which shall continue for the remainder of the Term

7. Lessor agrees to execute an acknowledged and/or notarized Lease, or form of notice of the Lease, as requested by Lessee. Lessor and Lessee shall execute such lease, or notice of lease, in recordable form. Lessee may record it at the appropriate registry. Lessor further agrees that Lessee may post notice labels on its machines in the laundry room(s).

8. This Lease shall be construed according to the laws of the state in which the Premises are located. If any provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision.

9. Lessor and Lessee agree that any court of record in the county in which the Premises are located shall have jurisdiction with respect to any proceedings arising under this Agreement.

10. Any terms and conditions set forth in any duly signed addendum, or schedule, are expressly incorporated by reference. Lessor represents that it understands and agrees to the terms and conditions of this Lease.

GENERAL TERMS AND CONDITIONS OF LEASE

- A. Subject to reasonable security measures, Lessee and residents of the Premises shall have access to the Leased Premises at all times.
- B. Title to the Equipment shall remain with Lessee at all times. Lessor shall not move or remove, disconnect, or tamper with the Equipment for any reason whatsoever unless expressly authorized by Lessee.
- C. Venting. Lessee shall be responsible for cleaning and maintaining, on an as-needed basis, flexible and rigid venting from the back of the dryers to the interior wall and ceiling surfaces of the laundry room(s).
- D. Lessor shall, at its own expense, clean the common areas of the Premises and the Leased Premises and maintain same in good condition and repair. Lessor shall provide to the Lessee, and bear the expense of, electricity, plumbing, water, gas, sewage disposal, drainage, and all other utilities required for the proper and safe use of the Equipment.
- E. If, at any time during the Term, Lessor grants permission to individual units to install laundry equipment, or provides laundry hookups for the installation of laundry equipment, Lessee shall be entitled to (1) reduce the Rent by a proportionate amount and receive a pro-rata refund (directly related to the percentage of units affected) for all initial expenses (including prepaid rent and renovation allowances) incurred by Lessee in excess of the capital cost of the Equipment; or (2) at the sole option of Lessee, terminate this Lease and recover damages for material breach of the Lease. Lessor shall provide Lessee, when requested, with true and accurate information regarding the number of in-unit hook-ups of laundry equipment.
- F. Lessee shall service the Equipment on a regular basis and shall maintain same in good operating condition. If, however, in the sole discretion of the Lessee, service to the Equipment becomes excessive as a result of Lessor's or any user's misuse of the Equipment, unwarranted requests for service, interruption in the supply of any utilities, or vandalism to the Equipment or the Leased Premises, Lessee may terminate this Lease and remove all of the Equipment and all obligations of Lessee under this Agreement shall cease.
- G. In the event of a material breach of the Lease by the Lessor, Lessee shall be entitled to declare the Lease terminated and shall be entitled to recover damages, including but not limited to incidental and consequential damages the Lessee may be entitled to recover. Failure to exercise this provision shall not constitute a waiver of Lessee's causes of action under this Lease or otherwise. The prevailing party shall be entitled to recover all costs and reasonable attorney's fees incurred to enforce the Lease.
- H. Either party may terminate this Agreement if: a) The other party commits any material breach of this Agreement which is not capable of being remedied; or b) The other party commits a breach of this Agreement which is capable of being remedied and fails to remedy the breach within 30 days after receipt of written notice of the default or within such longer period as may be specified in the notice of default. In the event this Lease is terminated, Lessee shall have the right to remove all of the Equipment and leasehold improvements, which may have been installed, furnished or supplied by the Lessee.
- I. Any notices concerning the Lease shall be sent by certified mail, return receipt requested, or via recognized overnight mail service, to the address shown on the first page of this Lease, or such other addresses as specified by the parties in writing. Notice shall be effective upon receipt.
- J. Lessor warrants that Lessee shall be granted peaceable and quiet enjoyment of the Leased Premises free from any eviction or interference by Lessor, provided Lessee pays the Rent and otherwise performs its obligations.
- K. If at any time after the Commencement Date the occupancy rate of the units in the Premises becomes less than eighty percent (80%), or the Lessee's net revenue after rent drops below an average of \$20.00 per machine per month for three consecutive months, Lessee shall be entitled to reduce equipment or to remove the equipment with 30 days notice. Lessor shall provide Lessee, when requested, with true and accurate information regarding the occupancy rate of the Premises.
- L. Lessor is responsible for security, including maintenance and repair of all doors, gates, hinges, frames, and door strikes. Lessor is responsible for any claims of personal injury or property damage arising from lack of appropriate security. Lessor is responsible for any theft or vandalism of the Equipment, including consequential damages and lost revenue to Lessee. Lessee shall repair/replace such stolen/vandalized equipment as needed and invoice Lessor, with the right to set off against future rent due.
- M. Lessor and Lessee expressly agree this Lease contains the entire agreement between the Lessor and Lessee and supersedes all prior or contemporaneous oral or written agreements, and may not be modified, except as provided for herein, unless said modification is contained in writing signed by the Lessor and Lessee.

Executed as a sealed instrument as of the date first appearing above.

LESSOR: CITY OF CHANDLER – HOUSING & REDEVELOPMENT DIVISION

LESSEE: Mac-Gray Services, Inc., d/b/a WEB Intelligent Laundry Systems

Date _____

By: _____
Authorized Agent

By: x _____
Authorized Agent (Signature)

Witness: _____

Printed Name _____

Submitted to Corporate Office for Approval

Witness: x _____
(Signature)

By: _____
Sales Representative (Signature)

Printed Name _____

Printed Name: _____

MEMORANDUM OF LEASE

This MEMORANDUM OF LEASE is entered into as of **DECEMBER 10, 2007**, by and between **CITY OF CHANDLER – HOUSING & REDEVELOPMENT DIVISION**, hereinafter referred to as “Lessor), and **Mac-Gray Services, Inc., d/b/a WEB Intelligent Laundry Systems** (hereinafter referred to as “Lessee”). Lessor hereby does lease to Lessee, and Lessee does hereby accept the exclusive possession of all common laundry room(s), now existing and hereafter created, and located on the real property and improvements consisting of 37 units at **KINGSTON ARMS APARTMENTS, 127 N. KINGSTON STREET, CHANDLER, AZ 85225**, which real property improvements are herein referred to as the “property” and legally described in Exhibit “A” attached hereto, and by this reference, incorporated herein as though fully set forth. Lessor warrants and represents that **ZERO (0)** units are plumbed with their own washer and dryer connections.

1. **Exclusive use and possession of leased premises.** Lessor does hereby grant, convey and transfer to Lessee the exclusive use and possession of all common laundry facilities on the property, which facility (ies) is/are presently described as encompassing approximately 120 square feet, for its use as a laundry facility (ies).
2. **Term.** The term of this Lease is not disclosed herein, but is not less than 1 year nor more than 20 years from the date of the lease.
3. **Assignment or Transfer.** This Lease shall be binding upon the parties hereto, their respective heirs, personal representatives, successors, assigns or transferees.
4. Lessor and Lessee have entered into an unrecorded Lease containing the provisions included herein and certain additional provisions. The provisions of the unrecorded Lease are incorporated herein by this reference. A copy of the unrecorded Lease is available for persons having a legitimate interest in the property, at the home office of the Lessee located at 404 Wyman Street, Suite 400, Waltham, Massachusetts 02451.

LESSOR: CITY OF CHANDLER – HOUSING & REDEVELOPMENT DIVISION

HOME OFFICE (REQUIRES NOTARY)
LESSEE: Mac-Gray Services, Inc.
d/b/a WEB Intelligent Laundry Systems
404 Wyman Street, Suite 400
Waltham, MA 02451

By: x _____
(Signature)

Its: x _____
(Title)

Witness (sign) (print)

By: _____
(sign) (print)

Its: _____

Witness (sign) (print)

(MAC-GRAY/WEB HOME OFFICE USE ONLY)

STATE OF _____ **COUNTY OF** _____

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, who identified himself/herself by _____, and acknowledged to me as the _____ of Mac-Gray Services, Inc., that it is his/her signature on this document and that she/he signed it voluntarily for its stated purpose.

Notary Public

My Commission expires: _____

[SEAL]