



**PROFESSIONAL SERVICES AGREEMENT
Construction Management Services
JACARANDA PARKWAY SEWER REHABILITATION**

Project No. WW2005.452

Council Date: February 24, 2022 Item No.

THIS AGREEMENT ("Agreement") is made and entered into on the ____ day of _____, 2022 ("Effective Date"), by and between City of Chandler, an Arizona municipal corporation, ("City"), and **Dibble CM, LLC**, a Delaware limited liability company, ("Consultant") (City and Consultant may individually be referred to as "Party" and collectively referred to as "Parties").

RECITALS

A. City proposes to engage Consultant to provide Construction Management Services for **JACARANDA PARKWAY SEWER REHABILITATION** project as more fully described in **Exhibit "A"**, which is attached to and made a part of this Agreement by this reference.

B. Consultant is ready, willing, and able to provide the services described in **Exhibit "A"** for the compensation and fees set forth and as described in **Exhibit "B"**, which is attached to and made a part of this Agreement by this reference.

C. City desires to contract with Consultant to provide these services under the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual promises contained in this Agreement, City and Consultant agree as follows:

SECTION I--CONSULTANT'S SERVICES

Consultant must perform the services described in **Exhibit "A"** to City's satisfaction within the terms and conditions of this Agreement and within the care and skill that a person who provides similar services in Chandler, Arizona exercises under similar conditions. All work or services furnished by Consultant under this Agreement must be performed in a skilled and workmanlike manner. All fixtures, furnishings, and equipment furnished by Consultant as part of the work or services under this Agreement must be new, or the latest model, and of the most suitable grade and quality for the intended purpose of the work or service.

SECTION II--PERIOD OF SERVICE

Consultant must perform the services described in **Exhibit "A"** for the term of this Agreement. Unless amended in writing by the Parties, the Agreement term expires **120** calendar days after the Notice to Proceed (NTP) Date.

SECTION III--PAYMENT OF COMPENSATION AND FEES

Unless amended in writing by the Parties, Consultant's compensation and fees as more fully described in **Exhibit "B"** for performance of the services approved and accepted by City under this Agreement must not exceed **\$148,208** for the full term of the Agreement. Consultant may not increase any compensation or fees under this Agreement without the City's prior written consent. Consultant must submit monthly requests for payment of services approved and accepted during the previous billing period and must include, as applicable, detailed invoices and receipts, a narrative description of the tasks accomplished during the billing period, a list of any deliverables submitted, and any subconsultant's or supplier's actual requests for payment plus similar narrative and listing of their work. Consultant must submit an Application and Certification for Payment Sheet with the monthly request for payment to: CapitalProjects.Payables@chandleraz.gov. Payment for those services negotiated as a lump sum will be made in accordance with the percentage of the work completed during the preceding billing period. Services negotiated as a not-to-exceed fee will be paid in accordance with the work effort expended on the service during the preceding month. All requests for payment must be submitted to City for review and approval. City will make payment for approved and accepted services within 30 calendar days of City's receipt of the request for payment. Consultant bears all responsibility and liability for any and all tax obligations that result from Consultant's performance under this Agreement.

SECTION IV--CITY'S OBLIGATIONS

As part of Consultant's services under this Agreement, City will provide furnished items, services, or obligations as detailed in **Exhibit "D"**.

SECTION V--GENERAL CONDITIONS

5.1 Notices. Unless otherwise provided herein, demands under this Agreement must be in writing and will be deemed to have been duly given and received either (a) on the date of service if personally served on the party to whom notice is to be given, or (b) on the third day after the date of the postmark of deposit by first class United States mail, registered or certified, postage prepaid and properly addressed as follows:

To City:	City of Chandler Public Works & Utilities Department Attn: CIP City Engineer P.O. Box 4008, Mail Stop 407 Chandler, AZ 85244-4008 Phone: 480-782-3343 Email: andrew.goh@chandleraz.gov
With a Copy to:	City of Chandler Public Works & Utilities Department Attn: Project Manager P.O. Box 4008, Mail Stop 407, Chandler, AZ 85244-4008
To Consultant:	Dibble CM, LLC Mailing Address: 7878 N 16 th St Ste 300 Phoenix AZ 85020 Statutory Agent Name: KC Brandon Statutory Agent Mailing Address: 7878 N 16 th St Ste 300 Phoenix AZ 85020 CONSULTANT'S AUTHORIZED PROJECT REPRESENTATIVE Name: KC Brandon Title: President Phone: 602-957-3936 Email: kcbrandon@dibblecm.com

5.2 Records/Audit. Records of Consultant's direct personnel payroll, reimbursable expenses pertaining to this Agreement and records of accounts between City and Consultant must be kept on the basis of generally accepted accounting principles and must be made available to City and its auditors for up to three years following City's final acceptance of the services under this Agreement (this requirement is increased to five years if construction of this project is federally funded). City, its authorized representative, or any federal agency, reserves the right to audit Consultant's records to verify the accuracy and appropriateness of all cost and pricing data, including data used to negotiate this Agreement and any amendments. City reserves the right to decrease the total amount of Agreement price or payments made under this Agreement or request reimbursement from Consultant following final contract payment on this Agreement if, upon audit of Consultant's records, the audit discloses Consultant has provided false, misleading, or inaccurate cost and pricing data. Consultant will include a similar provision in all of its contracts with subconsultants who provide services under the Agreement to ensure that City, its authorized representative, or the appropriate federal agency, has access to the subconsultants' records to verify the accuracy of all cost and pricing data. City reserves the right to decrease Contract price or payments made on this Agreement or request reimbursement from Consultant following final payment on this Agreement if the above provision is not included in subconsultant agreements, and one or more subconsultants refuse to allow City to audit their records to verify the accuracy and appropriateness of all cost and pricing data. If, following an audit of this Agreement, the audit discloses Consultant has provided false, misleading, or inaccurate

cost and pricing data, and the cost discrepancies exceed 1% of the total Agreement billings, Consultant will be liable for reimbursement of the reasonable, actual cost of the audit.

5.3 Alteration in Character of Work. Whenever an alteration in the character of work results in a substantial change in this Agreement, thereby materially increasing or decreasing the scope of services, cost of performance, or Project schedule, the work will be performed as directed by City. However, before any modified work is started, a written amendment must be approved and executed by City and Consultant. Such amendment must not be effective until approved by City. Additions to, modifications, or deletions from this Agreement as provided herein may be made, and the compensation to be paid to Consultant may accordingly be adjusted by mutual agreement of the Parties. It is distinctly understood and agreed that no claim for extra services or materials furnished by Consultant will be allowed by City except as provided herein, nor must Consultant do any work or furnish any materials not covered by this Agreement unless such work is first authorized in writing. Any such work or materials furnished by Consultant without prior written authorization will be at Consultant's own risk, cost, and expense, and Consultant hereby agrees that without written authorization Consultant will make no claim for compensation for such work or materials furnished.

5.4 Termination. City and Consultant hereby agree to the full performance of the covenants contained herein, except that City reserves the right, at its discretion and without cause, to terminate or abandon any service provided for in this Agreement, or abandon any portion of the Project for which services have been performed by Consultant. In the event City abandons or suspends the services, or any part of the services as provided in this Agreement, City will notify Consultant in writing and immediately after receiving such notice, Consultant must discontinue advancing the work specified under this Agreement. Upon such termination, abandonment, or suspension, Consultant must deliver to City all drawings, plans, specifications, special provisions, estimates and other work entirely or partially completed, together with all unused materials supplied by City. Consultant must appraise the work Consultant has completed and submit Consultant's appraisal to City for evaluation. City may inspect Consultant's work to appraise the work completed. Consultant will receive compensation in full for services performed to the date of such termination. The fee will be paid in accordance with Section III of this Agreement, and as mutually agreed upon by Consultant and City. If there is no mutual agreement on payment, the final determination will be made in accordance with the "Disputes" provision in this Agreement. However, in no event may the fee exceed the fee set forth in Section III of this Agreement nor as amended in accordance with Section "Alteration in Character of Work." City will make the final payment within 60 days after Consultant has delivered the last of the partially completed items and the Parties agree on the final fee. If City is found to have improperly terminated the Agreement for cause or default, the termination will be converted to a termination for convenience in accordance with the provisions of this Agreement.

5.5 Indemnification. To the extent permitted by law, the Consultant ("Indemnitor") must indemnify, save and hold harmless City and its officers, officials, agents and employees ("Indemnitee") from any and all claims, actions, liabilities, damages, losses or expenses (including court costs, attorneys' fees and costs of claim processing, investigation and litigation) ("Claims") caused or alleged to be caused, in whole or in part, by the wrongful,

negligent or willful acts, or errors or omissions of Consultant or any of its owners, officers, directors, agents, employees, or subconsultants in connection with this Agreement. This indemnity includes any claim or amount arising out of or recovered under workers' compensation law or on account of the failure of Consultant to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Consultant must indemnify Indemnitee from and against any and all Claims, except those arising solely from Indemnitee's own negligent or willful acts or omissions. Consultant is responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Agreement, Consultant agrees to waive all rights of subrogation against Indemnitee for losses arising from or related to this Agreement. The obligations of Consultant under this provision survive the termination or expiration of this Agreement.

5.6 Insurance Requirements. Consultant must procure insurance under the terms and conditions and for the amounts of coverage set forth in **Exhibit "C"** against claims that may arise from or relate to performance of the work under this Agreement by Consultant and its agents, representatives, employees, and subconsultants. Consultant and any subconsultant must maintain this insurance until all of their obligations have been discharged, including any warranty periods under this Agreement. These insurance requirements are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. City in no way warrants that the minimum limits stated in **Exhibit "C"** are sufficient to protect Consultant from liabilities that might arise out of the performance of the work under this Agreement by Consultant, Consultant's agents, representatives, employees, or subconsultants. Consultant is free to purchase such additional insurance as may be determined necessary.

5.7 Cooperation and Further Documentation. Consultant agrees to provide City such other duly executed documents as may be reasonably requested by City to implement the intent of this Agreement.

5.8 Successors and Assigns. City and Consultant each bind itself, its partners, successors, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, assigns, and legal representatives of such other party in respect to all covenants of this Agreement. Neither City nor Consultant may assign, sublet, or transfer its interest in this Agreement without the written consent of the other party. In no event may any contractual relation be created between any third party and City.

5.9 Disputes. In any dispute arising out of an interpretation of this Agreement or the duties required not disposed of by agreement between Consultant and City, the final determination at the administrative level will be made by City Engineer.

5.10 Completeness and Accuracy of Consultant's Work. Consultant must be responsible for the completeness and accuracy of Consultant's services, data, and other work prepared or compiled under Consultant's obligation under this Agreement and must correct, at Consultant's expense, all willful or negligent errors, omissions, or acts that may be discovered. Correction of errors disclosed and determined to exist during any construction of the project on architectural or engineering drawings and specifications must be accomplished by Consultant.

The cost of the design necessary to correct those errors attributable to Consultant and any damage incurred by City as a result of additional construction costs caused by such engineering or architectural errors will be chargeable to Consultant and will not be considered a cost of the Work. The fact that City has accepted or approved Consultant's work will in no way relieve Consultant of any of Consultant's responsibilities.

5.11 Reporting. Written monthly reports, along with updated work schedules, will be made by Consultant in the format prescribed by City. These reports will be delivered to City per schedule. When requested by City, Consultant will attend Council meetings and provide finished documents including correspondence for Council action, supporting charts, graphs, drawings and colored slides of same.

5.12 Withholding Payment. City reserves the right to withhold funds from Consultant's payments up to the amount equal to the claims City may have against Consultant until such time that a settlement on those claims has been reached.

5.13 City's Right of Cancellation. The Parties acknowledge that this Agreement is subject to cancellation by City under the provisions of Section 38-511, Arizona Revised Statutes (A.R.S.).

5.14 Independent Consultant. For this Agreement Consultant constitutes an independent contractor. Any provisions in this Agreement that may appear to give City the right to direct Consultant as to the details of accomplishing the work or to exercise a measure of control over the work means that Consultant must follow the wishes of City as to the results of the work only. These results must comply with all applicable laws and ordinances.

5.15 Project Staffing. Prior to the start of any work under this Agreement, Consultant must submit to City detailed resumes of key personnel that will be involved in performing services prescribed in the Agreement. City hereby acknowledges its acceptance of such personnel to perform services under this Agreement. At any time hereafter that Consultant desires to change key personnel while performing under the Agreement, Consultant must submit the qualifications of the new personnel to City for prior approval. Key personnel include, but are not limited to, principals-in-charge, project manager, and project Consultant. Consultant will maintain an adequate and competent staff of qualified persons, as may be determined by City, throughout the performance of this Agreement to ensure acceptable and timely completion of the Scope of Services. If City objects, with reasonable cause, to any of Consultant's staff, Consultant must take prompt corrective action acceptable to City and, if required, remove such personnel from the Project and replace with new personnel agreed to by City.

5.16 Consultants or Subconsultants. Prior to beginning the work, Consultant must furnish City for approval the names of consultants or subconsultants to be used under this Agreement. Any subsequent changes are subject to City's written prior approval.

5.17 Force Majeure. If either party is delayed or prevented from the performance of any act required under this Agreement by reason of acts of God or other cause beyond the control and without fault of the Party (financial inability excepted), performance of that act may be excused, but only for the period of the delay, if the Party provides written notice to the other

Party within ten days of such act. The time for performance of the act may be extended for a period equivalent to the period of delay from the date written notice is received by the other Party.

5.18 Compliance with Federal Laws. Consultant understands and acknowledges the applicability of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989 to it. Consultant agrees to comply with these laws in performing this Agreement and to permit City to verify such compliance.

5.19 No Israel Boycott. By entering into this Agreement, Consultant certifies that Consultant is not currently engaged in, and agrees for the duration of the Agreement, not to engage in a boycott of Israel as defined by state statute.

5.20 Legal Worker Requirements. A.R.S. § 41-4401 prohibits City from awarding a contract to any consultant who fails, or whose subconsultants fail, to comply with A.R.S. § 23-214(A). Therefore, Consultant agrees Consultant and each subconsultant it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with § 23-214, subsection A. A breach of this warranty will be deemed a material breach of the Agreement and may be subject to penalties up to and including termination of the Agreement. City retains the legal right to inspect the papers of any Consultant's or subconsultant's employee who provides services under this Agreement to ensure that Consultant and subconsultants comply with the warranty under this provision.

5.21 Lawful Presence Requirement. A.R.S. §§ 1-501 and 1-502 prohibit City from awarding a contract to any natural person who cannot establish that such person is lawfully present in the United States. To establish lawful presence, a person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. This requirement does not apply to business organizations such as corporations, partnerships, or limited liability companies.

5.22 Covenant Against Contingent Fees. Consultant warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, and that no member of the Chandler City Council, or any City employee has any interest, financially, or otherwise, in Consultant's firm. For breach or violation of this warrant, City may annul this Agreement without liability or, at its discretion, to deduct from the Agreement price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

5.23 Non-Waiver Provision. The failure of either Party to enforce any of the provisions of this Agreement or to require performance of the other Party of any of the provisions hereof must not be construed to be a waiver of such provisions, nor must it affect the validity of this Agreement or any part thereof, or the right of either Party to thereafter enforce each and every provision.

5.24 Disclosure of Information Adverse to City's Interests. To evaluate and avoid potential conflicts of interest, Consultant must provide written notice to City, as set forth in this Section,

of any work or services performed by Consultant for third parties that may involve or be associated with any real property or personal property owned or leased by City. Such notice must be given 7 business days prior to commencement of the services by Consultant for a third party, or 7 business days prior to an adverse action as defined below. Written notice and disclosure must be sent in accordance with Section 6.7 above. An adverse action under this Agreement includes, but is not limited to: (a) using data as defined in the Agreement acquired in connection with this Agreement to assist a third party in pursuing administrative or judicial action against City; or (b) testifying or providing evidence on behalf of any person in connection with an administrative or judicial action against City; or (c) using data to produce income for Consultant or its employees independently of performing the services under this Agreement, without the prior written consent of City. Consultant represents that except for those persons, entities, and projects identified to City, the services performed by Consultant under this Agreement are not expected to create an interest with any person, entity, or third party project that is or may be adverse to City's interests. Consultant's failure to provide a written notice and disclosure of the information as set forth in this Section constitute a material breach of this Agreement.

5.25 Data Confidentiality and Data Security. As used in the Agreement, "data" means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by, obtained by, or transmitted to Consultant or its subconsultants in the performance of this Agreement. The Parties agree that all data, regardless of form, including originals, images, and reproductions, prepared by, obtained by, or transmitted to Consultant or its subconsultants in connection with Consultant's or its subconsultant's performance of this Agreement is confidential and proprietary information belonging to City. Except as specifically provided in this Agreement, Consultant or its subconsultants must not divulge data to any third party without City's prior written consent. Consultant or its subconsultants must not use the data for any purposes except to perform the services required under this Agreement. These prohibitions do not apply to the following data provided to Consultant or its subconsultants have first given the required notice to City: (a) data which was known to Consultant or its subconsultants prior to its performance under this Consultant or its subconsultants by a third party, who to the best of Consultant's or its subconsultants' knowledge and belief, had the legal right to make such disclosure and Consultant or its subconsultants are not otherwise required to hold such data in confidence; or (c) data which is required to be disclosed by virtue of law, regulation, or court order, to which Consultant or its subconsultants are subject. In the event Consultant or its subconsultants are required or requested to disclose data to a third party, or any other information to which Consultant or its subconsultants became privy as a result of any other contract with City, Consultant must first notify City as set forth in this Section of the request or demand for the data. Consultant or its subconsultants must give City sufficient facts so that City can be given an opportunity to first give its consent or take such action that City may deem appropriate to protect such data or other information from disclosure. All data must continue to be subject to the confidentiality agreements of this Agreement. Consultant or its subconsultants assume all liability to maintain the confidentiality of the data in its possession and agrees to compensate City if any of the provisions of this Section are violated by Consultant, its employees, agents or subconsultants. Solely for the purposes of seeking

injunctive relief, it is agreed that a breach of this Section must be deemed to cause irreparable harm that justifies injunctive relief in court. Consultant agrees that the requirements of this Section must be incorporated into all subagreements entered into by Consultant. A violation of this Section may result in immediate termination of this Agreement without notice.

5.26 Personal Identifying Information-Data Security. Personal identifying information, financial account information, or restricted City information, whether electronic format or hard copy, must be secured and protected at all times by Consultant or its subconsultants. At a minimum, Consultant or its subconsultants must encrypt or password-protect electronic files. This includes data saved to laptop computers, computerized devices, or removable storage devices. When personal identifying information, financial account information, or restricted City information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed, or reconstructed. In the event that data collected or obtained by Consultant or its subconsultants in connection with this Agreement is believed to have been compromised, Consultant or its subconsultants must immediately notify City contact. Consultant agrees to reimburse City for any costs incurred by City to investigate potential breaches of this data and, where applicable, the cost of notifying individuals who may be impacted by the breach. Consultant agrees that the requirements of this Section must be incorporated into all subcontracts entered into by Consultant. It is further agreed that a violation of this Section must be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice. The obligations of Consultant or its subconsultants under this Section must survive the termination of this Agreement.

5.27 Jurisdiction and Venue. This Agreement is made under, and must be construed in accordance with and governed by the laws of the State of Arizona without regard to the conflicts or choice of law provisions thereof. Any action to enforce any provision of this Agreement or to obtain any remedy with respect hereto must be brought in the courts located in Maricopa County, Arizona, and for this purpose, each Party hereby expressly and irrevocably consents to the jurisdiction and venue of such court.

5.28 Survival. All warranties, representations, and indemnifications by Consultant must survive the completion or termination of this Agreement.

5.29 Modification. Except as expressly provided herein to the contrary, no supplement, modification, or amendment of any term of this Agreement will be deemed binding or effective unless in writing and signed by the Parties.

5.30 Severability. If any provision of this Agreement or the application to any person or circumstance may be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application will not be affected and will be enforceable to the fullest extent permitted by law.

5.31 Integration. This Agreement contains the full agreement of the Parties. Any prior or contemporaneous written or oral agreement between the Parties regarding the subject matter is merged and superseded.

5.32 Time is of the Essence. Time of each of the terms, covenants, and conditions of this Agreement is hereby expressly made of the essence.

5.33 Date of Performance. If the date of performance of any obligation or the last day of any time period provided for should fall on a Saturday, Sunday, or holiday for City, the obligation will be due and owing, and the time period will expire, on the first day after which is not a Saturday, Sunday or legal City holiday. Except as may otherwise be set forth in this Agreement, any performance provided for herein will be timely made if completed no later than 5:00 p.m. (Chandler time) on the day of performance.

5.34 Third Party Beneficiary. Nothing under this Agreement will be construed to give any rights or benefits in the Agreement to anyone other than City and Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of City and Consultant and not for the benefit of any other party.

5.35 Conflict in Language. All work performed must conform to all applicable City of Chandler codes, ordinances, and requirements as outlined in this Agreement. If there is a conflict in interpretation between provisions in this Agreement and those in **Exhibit "A"**, the provisions in this Agreement prevail.

5.36 Document/Information Release. Documents and materials released to Consultant, which are identified by City as sensitive and confidential, are City's property. The document/material must be issued by and returned to City upon completion of the services under this Agreement. Consultant secondary distribution, disclosure, copying, or duplication in any manner is prohibited without City's prior written approval. The document/material must be kept secure at all times. This directive applies to all City documents, whether in photographic, printed, or electronic data format.

5.37 Exhibits. The following exhibits are made a part of this Agreement and are incorporated by reference:

- Exhibit A - Scope of Services / Schedule**
- Exhibit B - Compensation and Fees**
- Exhibit C - Insurance Requirements**
- Exhibit D - Special Conditions**
- Exhibit E - Federal Requirements (if applicable)**

5.38 Special Conditions. As part of the services Consultant provides under this Agreement, Consultant agrees to comply with and fully perform the special terms and conditions set forth in **Exhibit "D"**, which is attached to and made a part of this Agreement.

5.39 Non-Discrimination and Anti-Harassment Laws. Consultant must comply with all applicable City, state, and federal non-discrimination and anti-harassment laws, rules, and regulations.

5.40 Licenses and Permits. Beginning with the Effective Date and for the full term of this

Agreement, Consultant must maintain all applicable City, state, and federal licenses and permits required to fully perform Consultant's services under this Agreement.

5.41 Warranties. Consultant must furnish a one-year warranty on all work and services performed under this Agreement. Consultant must furnish, or cause to be furnished, a two-year warranty on all fixtures, furnishings, and equipment furnished by Consultant, subconsultants or suppliers under this Agreement. Any defects in design, workmanship, or materials that do not comply with this Agreement must be corrected by Consultant (including, but not limited to, all parts and labor) at Consultant's sole cost and expense. All written warranties and redlines for as-built conditions must be delivered to City on or before City's final acceptance of Consultant's services under this Agreement.

5.42 Cooperative Purchasing Agreement (S.A.V.E. - Strategic Alliance for Volume Expenditures). In addition to City of Chandler and with the approval of Consultant, this Agreement may be extended for use by other municipalities, school districts, and government agencies of the State. Any such usage by other entities must be in accordance with the ordinance, charter, or procurement rules and regulations of the respective political entity.

5.43 Budget Approval into Next Fiscal Year. This Agreement will commence on the Effective Date and continue in full force and effect until it is terminated or expires in accordance with the provisions of this Agreement. The Parties recognize that the continuation of this Agreement after the close of the City's fiscal year, which ends on June 30 of each year, is subject to the City Council's approval of a budget that includes an appropriation for this item as an expenditure. The City does not represent that this budget item will be actually adopted. This determination is solely made by the City Council.

SIGNATURE PAGE TO FOLLOW

This Agreement will be in full force and effect only when it has been approved and executed by the duly authorized City officials.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

"CITY"

CITY OF CHANDLER

MAYOR

Recommended By:

Andrew Goh, P.E.
CIP City Engineer

APPROVED AS TO FORM:

City Attorney

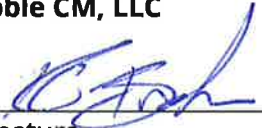
ATTEST:

City Clerk

Seal

"CONSULTANT"

Dibble CM, LLC


Signature

1.30.2022
Date

KC Brandon
Print Name

President
Title

k Brandon@dibblecm.com
Signer Email Address

EXHIBIT "A"
SCOPE OF SERVICES/SCHEDULE



**CONSTRUCTION MANAGEMENT
SCOPE OF SERVICES
WW2005.452
Jacaranda Parkway Sewer Rehabilitation**

PROJECT TASKS

1. PRE-CONSTRUCTION ASSISTANCE –

A. Task 1.1 Preconstruction Assistance

- i. Consultant must attend the pre-construction meeting. **Included**
- ii. Consultant must attend the pre-construction public meeting. **Not Included**
- iii. Consultant must attend coordination meeting with the Public Outreach Consultant to review improvements and properties requiring specific outreach efforts. **Included**

2. CONSTRUCTION MANAGEMENT

A. Task 2.1 Weekly Construction Meetings

- i. Consultant must conduct by-weekly construction meetings. Each meeting includes agenda and minutes; Request for Information (RFI); Shop Drawing; Request for Information (RFI); Field Directive (FD); Material Certification; and Allowance Logs. Consultant assumes 16 weekly meetings will be held.

B. Task 2.2 CPM Schedule

- i. Consultant must review and evaluate Contractor's initial CPM schedule and provide recommendations for acceptance.
- ii. Consultant must review Contractor's monthly CPM schedule updates submitted with each payment application, identify CPM tasks behind schedule that may affect critical path items, project substantial and final completion dates and initiate correspondence to City regarding those tasks. Consultant assumes 5 reviews of updated CPM schedule.

C. Task 2.3 Requests for Information (RFI's)

- i. Consultant must review, evaluate, and respond to Contractor Requests for Information (RFI's); and prepare and maintain a submittal log of all RFI's. Consultant assumes a maximum of 5 RFI responses.

D. Task 2.4 Shop Drawing Submittals

- i. Consultant must review, evaluate, and respond to Contractor shop drawing submittals; and prepare and maintain a submittal log of all shop drawing submittals. Consultant assumes a maximum of 25 reviews.

E. Task 2.5 Requests for Proposal (RFP)

- i. Consultant must prepare Requests for Proposal (RFP) documents detailing requested additional work tasks; review and evaluate Contractor RFP responses (cost derivations) with approval recommendations; and prepare and maintain a submittal log list of all RFP's. Consultant assumes 8 RFPs.

F. Task 2.6 Field Directives (FD's)

- i. Consultant must prepare Field Directive (FD) documents detailing requested additional work tasks; review and evaluate Contractor FD responses with approval recommendations; and prepare and maintain a submittal log list of all FD's. Consultant assumes 8 FD's.

G. Task 2.7 Contractor Payment Applications

- i. Consultant must review and evaluate Contractor monthly payment applications and make recommendation for payment; maintain a weekly record of constructed pay quantities and compile monthly totals; and coordinate payment application with the City quantity report and the inspectors' daily logs. Consultant assumes a maximum of 4 payment applications, with 2 reviews each.

H. Task 2.8 Public Outreach – Included

- i. Consultant must provide public outreach services, whether by Consultant or subconsultant. Tasks will include: create and maintain project website; maintain a 24-hour bilingual project hotline to respond to inquiries, complaints and maintain a call log; public weekly email updates; public interactions with property owners as a liaison between property owners and the City; coordination meetings; project meetings; public meeting coordination; federal funds required partnering process (project team partnering meeting, maintaining status).

3. CONSTRUCTION INSPECTION

A. Task 3.1 Inspection Services

- i. Consultant must provide weekly construction inspection to verify materials and installations conform to construction documents; prepare daily inspection reports documenting Contractor construction activities and progress during field inspection visits; and perform intermittent erosion control inspections. Consultant assumes 1 inspector full time 40hrs. per week for 4 months.

B. Task 3.2 Landscape / Irrigation Inspection Services – Not Included

- i. Consultant must provide Irrigation system layout and installation observations; attend and observe irrigation system pressure tests; and attend a nursery visit to tag and inspect plant material. Consultant assumes site visits.

C. Task 3.3 Project Closeout

- i. Consultant must compile non-conformance list prior to Substantial Completion; schedule and conduct Substantial Completion inspection; prepare Substantial Completion punch list generated from Substantial Completion inspection; track items on punch list and note completed items; and complete and distribute Substantial Completion certificates.
- ii. Consultant must schedule and conduct Final Completion inspection; and complete and distribute Final Completion certificates.

4. UTILITY COORDINATION – Not Included

A. Task 4.1 Utility Coordination

- i. Consultant must complete Acceptance of Construction (AOC) applications and submit to MCESD for reclaimed water booster pump and potable water/sewer improvements.

5. MATERIALS TESTING – Included

A. Task 5.1 Quality Control (QC) Test Program - Not Included

- i. Consultant must review and verify Contractor's Quality Control material test type and frequencies are consistent with City and MAG; review and evaluate Contractor's QC test schedule and provide recommendations on acceptance; and review and evaluate all Contractor sampling, test, and inspection results for conformance with construction documents.

B. Task 5.2 Quality Assurance (QA) Test Program - Included

- i. Consultant must prepare and maintain a materials Quality Assurance plan per City and MAG.
- ii. Consultant must coordinate with Contractor's testing representative to obtain required QA tests and sample; complete sampling and compaction testing of subgrade (including lime-stabilized subgrade base), aggregate base and asphalt concrete materials in new asphalt concrete pavement areas; complete sampling and compaction testing of subgrade, aggregate base (where required) and concrete for new curbs, gutters, sidewalks and concrete pavement and structures; and complete sampling and compaction testing of backfill for new irrigation, sewer, water, storm drain pipe, and dry utilities.

6. RECORD DRAWINGS

A. Task 6.1 Record Drawings

- i. Review and monitor Contractor's weekly updates on red-line drawing set.

ASSUMPTION, CLARIFICATIONS, AND EXCLUSIONS

- 1. Application fees for City reviews and permits will be paid by CITY.
- 2. The Owner's Allowance will only be utilized with prior written approval from the City representative.
- 3. The Direct Expense Allowance will be used for normal reimbursable expenses on the project. Items must be billed at cost and backup must be provided with pay applications.

January 18, 2022

City of Chandler

Attn: Mr. Paul Ahlas – CPII
Construction Project Manager
Public Works and Utilities
Capital Projects Division

Re: Project No. WW2005.452
Jacaranda Parkway Sewer Rehabilitation.
Construction Management and Inspection Services Proposal

Dear Mr. Ahlas,

Dibble CM is pleased to submit our construction management and inspection services proposal for this project. This proposal is based on the overall project duration of **120 calendar days**. Following is a summary of services we will provide:

Construction Administration Activities

- Monitor job progress and document quantities of work completed.
- Review contractor's pay requests and make recommendations to the city.
- Monitor the Contractor's progress in relation to the approved project schedule. Notify the Contractor and City of any deviations from the approved schedule which may cause a delay to the scheduled completion date. Request schedule recovery plans and revised schedules when needed, to show progress in conformance with contract requirements. Review and provide comments to schedule updates submitted by the Contractor.
- Evaluate Contractor requests for extra cost work, or construction contract time extensions and make recommendations to the City regarding approval or rejection. Prepare Change Orders and "Contract Contingency Allowance" approval documents for processing and final contract change order based on approved requests.
- Conduct progress meetings to review the current schedule and work progress and to facilitate resolution of construction issues. Prepare minutes of the meetings and distribute to the attendees and project stakeholders.
- Maintain files and documentation of all information related to the project including correspondence, submittals, RFIs, inspection reports, test reports, pay applications, progress schedules, meeting minutes, change orders, and job photos.

Construction Inspection Activities

- Provide construction inspection and surveillance of the contractor's work.
- Measure and document pay quantities.
- Monitor Contractor's Quality Control field testing, review materials test reports, and notify the Contractor of deficiencies in the work as indicated in the tests and reports.
- Coordinate QA testing of the Contractor's work as required by the City.
- Observe and document unforeseen conditions, changed conditions, and extra work activities performed by the contractor.

DIBBLECM

Fee (T & M Not to Exceed):

Construction Manager	\$125/hr. x 10 hrs./wk. x 16 weeks	= \$20,000
Inspector Dibble CM	\$120/hr. x20 hrs./wk. x 16 weeks	= \$38,400
Subconsultants -	Dibble Engineering (Attached Exhibit A.1 – Scope)	= \$59,808
-	MakPro (Public Outreach)	= \$ 9,500
-	Ninyo & Moore (Attached Exhibit A.3 – Scope)	= \$ 7,500
Contingency (City Pre-Approval Required)		<u>\$13,000</u>
Total -		\$148,208

Dibble CM appreciates this opportunity. Please let me know if you have any questions or comments regarding this proposal.

Respectfully,

Marc Stern

Marc Stern
Construction Manager
Dibble CM

p 602.957.1155 | 7878 North 16th Street, Suite 300
f 602.957.2838 | Phoenix, AZ 85020

dibblecorp.com

January 17, 2022

Dibble CM

Marc Stern
7878 N 16th Street
Phoenix, AZ 85020

**RE: CA&I Services for City of Chandler - Jacaranda Parkway Sewer Rehabilitation
Project No. WW2005.452**

Dear Mr. Stern,

We appreciate the opportunity to work with you and the City of Chandler (City) on the Construction Administration & Inspection (CA&I) Phase Services for the Jacaranda Parkway Sewer Rehabilitation Project No. WW2005.452. The City has requested a proposal to provide CA&I services for the rehabilitation of eleven (11) sanitary sewer access manholes and sanitary sewer pipe as follows: 3,930 linear feet of 27-inch diameter, 459 linear feet of 12-inch diameter, and 1,415 linear feet of 8-inch diameter.

Scope of services will include on-site inspection of work. A detailed scope of services is attached.

The following table indicates Dibble CA&I Services Fee and Additional Service as Directed.

<u>TASK DESCRIPTION</u>	<u>METHOD</u>	<u>AMOUNT</u>
CA&I Services	Hourly not to Exceed	\$59,808.00
	Total Compensation Not to Exceed	\$59,808.00

Contract duration is anticipated to be 120 calendar days from written Notice To Proceed.

Should you have any questions or require additional information please contact me.

Sincerely,



Dibble
Joseph Graham, PE
Vice President



Exhibit A.1



**City of Chandler, Arizona
Project Number: WW2005.452**

Jacaranda Parkway Sewer Rehabilitation

**Dibble as Subconsultant for
Construction Administration & Inspection Services**



TASK SERIES SUMMARY

CONSTRUCTION ADMINISTRATION AND INSPECTION SERVICES

SECTION 100 – Project Administration During Construction

No Tasks

SECTION 200 – General Project Administration

No Tasks

SECTION 300 - Engineering Services During Construction

No Tasks

SECTION 400 - Resident Services During Construction

Task 410 - Field Administration

Task 420 - On-Site Specialty Inspection and Review of Work

Task 430 - Punch List Review

Subconsultant Design and CA&I Services Objectives

This Exhibit describes the scope of services and responsibilities of Dibble as subconsultant to Dibble CM relating to Construction Administration and Inspection (CA&I) for the Jacaranda Parkway Sewer Rehabilitation project consisting of sanitary sewer access manholes and pipe rehabilitation at Jacaranda Parkway, west of Dobson Road. It is anticipated the City of Chandler, Arizona (City) will utilize Job Order Contracting (JOC) methodology for construction.

The tasks identified in the Scope of Services below will be completed on an hourly basis, not to exceed an amount of **\$59,808.00** per Exhibit B – SUBCONSULTANT ENGINEERING FEE PROPOSAL. This scope assumes Construction Phase Services shall be completed within **120 days** from the date of the written Notice to Proceed.

CONSTRUCTION ADMINISTRATION AND INSPECTION SERVICES

SECTION 100 – Project Administration During Construction

No Tasks

SECTION 200 – General Project Administration

No Tasks

SECTION 300 - Engineering Services During Construction

No Tasks

SECTION 400 - Resident Services During Construction

A - General

Dibble's Specialty Inspector will be furnished, when requested, and will act as directed by Dibble, to assist Dibble in inspecting performance of the work of the Contractors. Dibble will endeavor to provide protection for The City against defects and deficiencies in the work of Contractors; but the furnishing of such Inspector will not make Dibble responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions or programs, or for Contractor failure to perform their work in accordance with the Contract Documents.

B – Specialty Inspector's Duties and Responsibilities

Inspector, as Dibble's agent, will act as directed by and under the supervision of Dibble, and will confer with Dibble. Dibble's Specialty Inspector's dealings in matters pertaining to the on-site work shall in general be only with Dibble and Dibble CM and dealings with subcontractors shall only be through or with the full knowledge of Dibble CM and the Contractor. Written communication to the City will be only through Dibble CM or as directed by Dibble when appropriate.

Task 410 - Field Administration

- 1) Meetings: Dibble's Manager and/or Dibble's Specialty Inspector will participate in preconstruction conferences and an anticipated eight (8) periodic construction progress meetings.
- 2) Liaison: Dibble's Specialty Inspector will serve as Dibble's liaison with Dibble CM and Contractor, working principally through Contractor's superintendent and assist the superintendent in understanding the meaning of the Construction Documents. Assist Dibble CM in serving as the City's liaison with Contractor when Contractor's operations affect The City's on-site operation. As directed by Dibble CM, assist in obtaining from the City additional details or information, when required at the job site for proper execution of the work.
- 3) Submittals and Samples: Dibble's Specialty Inspector will advise Dibble CM prior to the commencement of any work requiring a submittal or sample submission if the submission has not been approved by Dibble.
- 4) Interpretation of Construction Contract Documents: Dibble CM will receive and transmit clarifications and interpretations of the Construction Contract Documents to/from the Contractor and the City, if required.
- 5) Changes: Dibble CM will consider and evaluate and Contractor's suggestions for changes in drawings or specifications and report suggestions with recommendations to Dibble. Dibble will notify Dibble CM of changes or alterations believed to be in The City's best interest. Dibble will provide Dibble CM with support information of proposed changes. Dibble will prepare drawing, details, and specifications needed to describe and justify the change.

- 6) **Records:** Dibble's Specialty Inspector will have available at the job site files for correspondence, reports of job conferences, shop drawings and samples submissions, reproductions of original Construction Contract Documents including all addenda, change orders, field orders, additional drawings issued subsequent to the execution of the construction contract, Dibble CM's clarifications and interpretations of the construction documents, progress reports, and other Project related documents.
- a) As requested, prepare daily reports recording Contractor's work performed on the job site, major construction equipment on-site, daily activities, decisions, subcontractors on-site, inspections in general and specific inspections in detail as to inspecting test procedures.
 - b) Maintain notes to be capable of cross referencing the Contractor's Record Drawing information for accuracy and completeness.
 - c) Receive, review and process daily inspection reports.
 - d) Maintain a digital photographic file of the progress of the construction activities, while onsite during the Project. This photographic file will consist of color photographs taken to document specific construction activities where the information may be of future value. The photographs will be incorporated into Daily Reports and labeled as to the subject.

Task 420 - On-Site Specialty Inspection and Review of Work

Dibble's Specialty Inspector will maintain a presence at the Project site, as requested:

- 1) Conduct on-site inspections, as requested, of the work in progress to assist Dibble in determining if the work conforms to the Construction Contract Documents.
- 2) Report to Dibble whenever it is believed that any work is unsatisfactory, faulty, defective, does not conform to the Construction Contract Documents, does not meet the requirements of inspections, tests or approval required to be made, or has been damaged prior to final payment; and advise Dibble when it is believed work should be corrected or rejected or should be uncovered for inspection, or requires special testing, inspection, or approval.
- 3) Verify that tests are conducted as required by the construction documents in presence of the required personnel and that Contractor maintains adequate records thereof; inspect, record and report to Dibble appropriate details relative to the test procedures.

Level of effort assumes Inspector's availability during the project duration, eight (8) hours per day, excluding weekends, and holidays (assuming single Contractor). Actual time inspector is on-site will be coordinated with Contractor's work activities or as directed by Dibble CM.

Task 430 – Punch List Review

Specialty Inspector will assist Dibble CM during the inspection for Substantial Completion as follows:

- 1) Before Dibble CM issues a Certificate of Substantial Completion, submit to Dibble CM a list of inspected items requiring completion or correction in accordance with the requirements of the construction documents.

- 2) After the Contractor has completed the work identified and upon request of the Dibble CM, Inspector will conduct final inspection. If necessary, Dibble's Manager will prepare a Final Punch List of the rehabilitation portion of the work items to be completed or corrected in accordance with the requirements of the Construction Contract Documents.
- 3) After the Contractor has completed the work of the final punch list and upon written notice from the Dibble CM, review and determine that items on the Final Punch List have been completed or corrected and make recommendations to Dibble concerning acceptance.

Exclusions:

The following tasks are not included in this Scope of Work. Fee for services can be negotiated at the request of Dibble CM.

1. Public Notification/Coordination and Outreach Communications: Dibble CM and/or The City shall provide all outreach efforts, notifications, communication, and coordination with the general public throughout the project. Dibble can provide these services as requested by the Dibble CM as agreed to in writing.
2. Additional Construction Management Services and Documentation: Dibble CM shall provide all Construction management services, documentation and coordination not specifically included by Dibble as noted in this Exhibit B. Dibble can provide additional services and documentation requested by the Dibble CM as agreed to in writing.

END OF DOCUMENT

DIBBLE**Exhibit B****DIBBLECM****SUBCONSULTANT ENGINEERING FEE PROPOSAL
CONSTRUCTION ADMINISTRATION AND INSPECTION SERVICES****CITY OF CHANDLER, ARIZONA****Project No. WW2005.452****JACARANDA PARKWAY SEWER REHABILITATION****January 17, 2022**

Staff Classification	Labor Hours	Rate	Cost
<u>CONSTRUCTION ADMINISTRATION AND INSPECTION SERVICES (CA&I)</u>			
Principal Engineer - Joe Graham	0	\$232.00	\$0.00
Construction Project Manager - Steven Siroky	34	\$172.00	\$5,848.00
Project Engineer - Rick Fradenburg	0	\$165.00	\$0.00
Senior Designer - Shawn Fewell	0	\$142.00	\$0.00
Senior Construction Inspector - Clint Bienvenue	380	\$142.00	\$53,960.00
CA&I Labor Subtotal =	414		\$59,808.00
Total Proposal for Construction Administration and Inspection Services			\$59,808.00



Exhibit B - Worksheet / Estimate

DIBBLECM



CONSTRUCTION ADMINISTRATION AND INSPECTION SERVICES

CITY OF CHANDLER, ARIZONA

Project No. WW2005.452

JACARANDA PARKWAY SEWER REHABILITATION

Monday, January 17, 2022	TASK	\$232.00	Principal Engineer - Joe Graham	\$172.00	Construction Project Manager - Steven Siroky	\$165.00	Project Engineer - Rick Fradenburg	\$142.00	Senior Designer - Shawn Fewell	\$142.00	Senior Construction Inspector - Clint Bienvenue	2021 Labor Rates
												TOTAL LABOR HOURS
CONSTRUCTION ADMINISTRATION AND INSPECTION SERVICES												
Total from Labor Plan				34						380		414
SECTION 200 - GENERAL PROJECT ADMINISTRATION												
Task 110 - Invoices		0		0		0		0		0		0
Task 203 - Monitor Progress and Prepare Status Reports		0		0		0		0		0		0
Task 210 - Representation on Behalf of the City		0		0		0		0		0		0
Task 220 - Administer Construction Schedule		0		0		0		0		0		0
Task 230 - Review Contractor Submittals and Test Results		0		0		0		0		0		0
Task 240 - Issue Interpretations and Clarifications of Contractor		0		0		0		0		0		0
Task 250 - Certify Contractor Progress Payments		0		0		0		0		0		0
Task 260 - Substantial and Final Completion Inspection		0		0		0		0		0		0
Subtotal		0		0		0		0		0		0
SECTION 300 - ENGINEERING SERVICES DURING CONSTRUCTION												
Task 310 - Minor Changes, Change Order Requests, and RFI		0		0		0		0		0		0
Task 340 - Record Drawings and Project Documents		0		0		0		0		0		0
Task 350 - Permit Closeout		0		0		0		0		0		0
Subtotal		0		0		0		0		0		0
SECTION 400 - RESIDENT SERVICES DURING CONSTRUCTION												
Task 410 - Field Administration		0		30		0		0		0		30
Task 420 - On-Site Inspection and Review of Work		0		0		0		0		0		0
Task 450 - Punch List Review/ Project Completion		0		4		0		0		380		384
Subtotal		0		34		0		0		380		414
CA&I TOTAL		0		34		0		0		380		414

\$ 59,808.00

EXHIBIT "B"
COMPENSATION AND FEES



EXHIBIT "B"
CONSTRUCTION MANAGEMENT
SCOPE OF SERVICES
FEE SCHEDULE WW2005.452

Task	Description	Cost
1	PRE-CONSTRUCTION ASSISTANCE	
1.1	Pre-Construction Assistance	\$ 1,250.00
SUBTOTAL TASK 1:		\$ 1,250.00
2	CONSTRUCTION MANAGEMENT	
2.1	Weekly Construction Meetings	\$ 4,000.00
2.2	CPM Schedule	\$ 1,500.00
2.3	Requests for Information (RFI) (Logs only, Dibble Engineering reviewing)	\$ 1,500.00
2.4	Shop Drawing Submittals (Logs only Dibble Engineering reviewing)	\$ 2,500.00
2.5	Requests for Proposal (RFP)	\$ 2,500.00
2.6	Field Directive (FD)	\$ 2,500.00
2.7	Contractor Payment Applications	\$ 2,000.00
2.8	Public Outreach (Included under subconsultant)	\$ -
SUBTOTAL TASK 2:		\$ 16,500.00
3	CONSTRUCTION INSPECTION	
3.1	Inspection Services	\$ 38,400.00
3.2	Landscape/Irrigation Inspection Services (IF APPLICABLE)	\$ -
3.3	Project Closeout	\$ 1,250.00
SUBTOTAL TASK 3:		\$ 39,650.00
4	UTILITY COORDINATION	
4.1	Utility Coordination	\$ -
SUBTOTAL TASK 4:		\$ -
5	MATERIALS TESTING	
5.1	QC Test Program	\$ -
5.2	QA Test Program - Ninyo and Moore	\$ 7,500.00
SUBTOTAL TASK 5:		\$ 7,500.00
6	RECORD DRAWINGS	

6.1	Record Drawings	\$	1,000.00
	SUBTOTAL TASK 6:	\$	1,000.00
SUBCONSULTANTS			
	Dibble Engineering (Attached Exhibit A.1)	\$	59,808.00
	Makpro (Public Outreach)	\$	9,500.00
	Subconsultant Name	\$	-
	Subconsultant Name	\$	-
	SUBTOTAL SUBCONSULTANTS:	\$	69,308.00
ALLOWANCES			
	Direct Expense Allowance	\$	-
	Owner's Allowance	\$	13,000.00
	SUBTOTAL ALLOWANCES:	\$	13,000.00
PROJECT TOTAL:		\$	148,208.00

EXHIBIT "C"
INSURANCE REQUIREMENTS

1. General.

- 1.1 At the same time as execution of this Agreement, Consultant must furnish City a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to City. Provided, however, the A.M. Best rating requirement will not be deemed to apply to required Workers' Compensation coverage.
- 1.2 Consultant and any of its subconsultants must procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.
- 1.3 The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.
- 1.4 City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect Consultant from liabilities that might arise out of the performance of the Agreement services under this Agreement by Consultant, its agents, representatives, employees, subconsultants, and Consultant is free to purchase any additional insurance as may be determined necessary.
- 1.5 Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve Consultant from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.
- 1.6 Use of subconsultants: If any work is subcontracted in any way, Consultant must execute a written contract with subconsultant containing the same Indemnification Clause and Insurance Requirements as City requires of Consultant in this Agreement. Consultant is responsible for executing the Agreement with the subconsultant and obtaining Certificates of Insurance and verifying the insurance requirements.

2. Minimum Scope and Limits of Insurance. Consultant must provide coverage with limits of liability not less than those stated below.

- 2.1 *Professional Liability.* If the Agreement is the subject of any professional services or work performed by Consultant, or if Consultant engages in any professional services or work adjunct or residual to performing the work under this Agreement, Consultant must maintain Professional Liability insurance covering errors and omissions arising out of the work or services performed by Consultant, or anyone employed by Consultant, or anyone whose acts, mistakes, errors and omissions Consultant is legally liable, with a liability limit of \$1,000,000 each claim and \$2,000,000 all claims. In the event the Professional Liability

insurance policy is written on a "claims made" basis, coverage must extend for 3 years past completion and acceptance of the work or services, and Consultant, or its selected Design Professional will submit Certificates of Insurance as evidence the required coverage is in effect. The Design Professional must annually submit Certificates of Insurance citing that the applicable coverage is in force and contains the required provisions for a 3 year period.

2.2 *Commercial General Liability-Occurrence Form.* Consultant must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent contractors, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

2.3 *Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles*
Vehicle Liability: Consultant must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on Consultant owned, hired, and non-owned vehicles assigned to or used in the performance of Consultant's work or services under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

2.4 *Workers Compensation and Employers Liability Insurance:* Consultant must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Consultant employees engaged in the performance of work or services under this Agreement and must also maintain Employers' Liability insurance of not less than \$1,000,000 for each accident and \$1,000,000 disease for each employee.

3. Additional Policy Provisions Required.

3.1 *Self-Insured Retentions or Deductibles.* Any self-insured retentions and deductibles must be declared and approved by City. If not approved, City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to City, its officers, officials, agents, employees, and volunteers.

3.1.1. Consultant's insurance must contain broad form contractual liability coverage.

3.1.2. Consultant's insurance coverage must be primary insurance with respect to City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by City, its officers, officials, agents, and employees will be in excess of the coverage provided by Consultant and must not contribute to it.

3.1.3. Consultant's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

- 3.1.4. Coverage provided by Consultant must not be limited to the liability assumed under the indemnification provisions of this Agreement.
- 3.1.5. The policies must contain a severability of interest clause and waiver of subrogation against City, its officers, officials, agents, and employees, for losses arising from Work performed by Consultant for City. (Does not apply to Professional Liability coverage.)
- 3.1.6. Consultant, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of 3 years following completion and acceptance of the Work. Consultant must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this 3-year period containing all the Agreement insurance requirements, including naming City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insured as required.
- 3.1.7. If a Certificate of Insurance is submitted as verification of coverage, City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement.

3.2. *Insurance Cancellation During Term of Contract/Agreement.*

- 3.2.1. If any of the required policies expire during the life of this Agreement, Consultant must forward renewal or replacement Certificates to City within 10 days after the renewal date containing all the required insurance provisions.
- 3.2.2. Each insurance policy required by the insurance provisions of this Agreement must provide the required coverage and must not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to City, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice must be sent directly to Chandler Law-Risk Management Department, Post Office Box 4008, Mailstop 628, Chandler, Arizona 85225. If any insurance company refuses to provide the required notice, Consultant or its insurance broker must notify City of any cancellation, suspension, non-renewal of any insurance within seven (7) days of receipt of insurers' notification to that effect.

3.3 *City as Additional Insured.* The policies are to contain, or be endorsed to contain, the following provisions:

- 3.3.1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, Consultant; Products and Completed operations of Consultant; and automobiles owned, leased, hired, or borrowed by Consultant.
- 3.3.2. City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by Consultant even if those limits of liability are in excess of those required by this Agreement.

EXHIBIT "D"
SPECIAL CONDITIONS

Work within City's Right-of-Way. All work performed within City's Right-of-Way by Consultant and Consultant's subconsultants must comply with City of Chandler requirements.