



**PROFESSIONAL SERVICES AGREEMENT
Consultant Services
FORENSIC SERVICES FACILITY - STUDY**

Project No. PD2301.101

Council Date: February 23, 2023

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 **SmithGroup, Inc.**, a Michigan corporation, ("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 Consultant Services for **FORENSIC SERVICES FACILITY - STUDY** 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 enter into an Agreement 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 **154** 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 **\$281,835** 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: 480-782-3349 Email: kimberly.moon@chandleraz.gov																							
With a copy to:	City of Chandler - Public Works & Utilities Department Attn: Ivan Magana, Project Manager P.O. Box 4008, Mail Stop 407, Chandler, AZ 85244-4008 Phone: 480-782-3362 Email: ivan.magana@chandleraz.gov																							
To Consultant:	<table border="1"> <tr> <td>LEGAL COMPANY NAME:</td> <td>SmithGroup, Inc.</td> </tr> <tr> <td>Mailing Address:</td> <td>455 North 3rd Street, Suite 250, Phoenix, AZ, 85004</td> </tr> <tr> <td>Physical Address:</td> <td>455 North 3rd Street, Suite 250, Phoenix, AZ, 85004</td> </tr> <tr> <td>Statutory Agent Name:</td> <td>Corporate Creations Network Inc.</td> </tr> <tr> <td>Statutory Agent Mailing Address:</td> <td>3260 N. Hayden Road #210, Scottsdale, AZ, 85251</td> </tr> <tr> <td>Statutory Agent Physical Address:</td> <td>3260 N. Hayden Road #210, Scottsdale, AZ, 85251</td> </tr> <tr> <td colspan="2">CONSULTANT'S AUTHORIZED PROJECT REPRESENTATIVE</td> </tr> <tr> <td>Name:</td> <td>Stephanie Mitrovic</td> </tr> <tr> <td>Title:</td> <td>Vice President</td> </tr> <tr> <td>Phone:</td> <td>602-824-5381</td> </tr> <tr> <td>Email:</td> <td>Stephanie.mitrovic@smithgroup.com</td> </tr> </table>		LEGAL COMPANY NAME:	SmithGroup, Inc.	Mailing Address:	455 North 3rd Street, Suite 250, Phoenix, AZ, 85004	Physical Address:	455 North 3rd Street, Suite 250, Phoenix, AZ, 85004	Statutory Agent Name:	Corporate Creations Network Inc.	Statutory Agent Mailing Address:	3260 N. Hayden Road #210, Scottsdale, AZ, 85251	Statutory Agent Physical Address:	3260 N. Hayden Road #210, Scottsdale, AZ, 85251	CONSULTANT'S AUTHORIZED PROJECT REPRESENTATIVE		Name:	Stephanie Mitrovic	Title:	Vice President	Phone:	602-824-5381	Email:	Stephanie.mitrovic@smithgroup.com
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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 Agreement 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 Agreements 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 Agreement 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 an Agreement 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 an Agreement 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 Agreement 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 Agreement 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.

5.44 Forced Labor of Ethnic Uyghurs Prohibited. By entering into this Agreement, Contractor certifies and agrees Contractor does not currently use and will not use for the term of this Agreement: (i) the forced labor of ethnic Uyghurs in the People's Republic of China; or (ii) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; or (iii) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

5.45 License to City for Reasonable Use. With this Agreement, Consultant and its subconsultants hereby grant a license to City, its agents, employees, and representatives for an indefinite period of time to reasonably use, make copies, and distribute as appropriate the Documents, works or deliverables developed or created as a result of the Project and this Agreement. This license also includes the making of derivative works.

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

"CONSULTANT"
SmithGroup, Inc.

MAYOR

Signature

Date

RECOMMENDED BY:



Kimberly Moon, P.E.
CIP City Engineer



STEPHANIE A. MITROVIC

Print Name

Vice President

Title

stephanie.mitrovic@smithgroup.com

Signer Email Address

APPROVED AS TO FORM:

City Attorney



ATTEST:

City Clerk

Seal

EXHIBIT "A"
SCOPE OF SERVICES/SCHEDULE

SMITHGROUP

PROFESSIONAL SERVICES PROPOSAL

REV. 5 January 25, 2023
REV. 4 January 09, 2023
REV. 3 December 22, 2022
REV. 2 December 20, 2022
REV. 1 December 15, 2022
Original Proposal November 30, 2022

Transmitted – (Via eMail)

Ivan Magana, PE
Project Manager
City of Chandler | Public Works & Utilities | Capital Projects Div.
O: 480.782.3362 | M: 480.673.6749
Ivan.Magana@chandleraz.gov

RE: CHANDLER POLICE SERVICES FACILITY – PRE-DESIGN SERVICES NEEDS ASSESSMENT

Dear Mr. Magana,

On behalf of SmithGroup, Inc., (“SmithGroup”) we are pleased to submit this proposal for a Needs Assessment for the Chandler Police Services Facility. The following is our understanding of the services that are to be provided.

UNDERSTANDING OF THE PROJECT

The Chandler Police Services Facility requires a Facility and Needs Assessment to accommodate current and future demands. The current facility is aged and not equipped to meet future demands. Per our understanding gained during a *Video Conference Scoping* correspondence between (City of Chandler) and SmithGroup project stakeholders on November 23, 2022.

Facility Demand:

From our collective experience, we have learned that the successful assessment, planning, and design of a crime lab forensic facility relies upon understanding their uniqueness. These facilities are the only type that exist to provide examinations of, often, criminal evidence, using complex and highly technical scientific means. Examiners seek to answer the questions of who, where, what, how, why, and when pertaining to forensic evidence. The facility consists of many unique components housed all under one roof, which has a direct correlation to the benefits of an integrated planning and design approach. Just a few of the elements that impact the physical facility to be considered within a feasibility study include demographics of the population served, crime statistics, anticipated changes in caseloads, workflow, chain of custody, facility infrastructure, and the ever-present interface with outside agencies and the legal system. Working with the Police Department and Forensic Services users, the SmithGroup team will investigate the aforementioned impacts to establish an agreed upon facility demand.

Project Approach:

We believe involved clients make for successful projects. Frequent reviews and work sessions foster direct communication with user group representatives and ensure they have full input, expectations are met, and they fully understand the needs assessment process.

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This Facility & Needs Assessment study will answer three primary questions:

Why? This involves an analysis of the existing section operations and benchmark metrics to justify why an alternative methodology may be beneficial.

What Size? The SmithGroup team will, through a consensus process, prepare a space needs list. This spreadsheet will identify target space sizing and future growth projections. Site requirements will also be addressed, including utility services, parking, vehicular circulation, security and other factors.

How Much? Our task is to determine a probable build-out cost range for the new facilities, based on the elements of the conceptual planning scenario.

The feasibility and programming study effort will provide a plan scenario that is innovative and correctly-sized for the laboratory. The SmithGroup team's experience and the participation of key members from Crime Laboratory Leadership will be the key to its success. Through effective communication and graphic materials, our team will reach consensus and satisfy both internal and external stakeholders. Our planners and designers will convey the result of our research, workshops, and decisions to enable implementation of the best ideas for an appropriate facility to continue and advance the City of Chandler's efforts to support local and surrounding communities throughout the region.

PROCESS

The SmithGroup team will use our proven 3-step process as part of our approach to ensure that the design team is aware of all the important components. This process consists of Data Gathering, Data Synthesis, and Documentation, culminating in the development of a final report.

1. Data Gathering

We believe in the workshop and benchmarking concept of gathering data where user groups are involved in providing planning input. Individual interviews and focus groups can create constructive dialogue in an organized and efficient manner. The collected data will include technical criteria, administrative issues, workflow, adjacencies, staffing, technology and support needs, general equipment needs as well as demographics, trends, and caseloads to assist in the projection of your needs through the planning horizon.

2. Data Synthesis

During this phase, the SmithGroup team will assess, organize, and synthesize the collected data. This will include not only data collected from workshops and interviews, but analysis of applicable building codes, ordinances, space standards, cost data, demographics, trends, and historical data.

3. Documentation

This step involves the actual preparation, writing, drafting, and assembling of the feasibility study and analysis document. This will include draft documentation for review, comments, and additional input from the user and focus groups, and a final documentation for presentation.

Package & Deliver Final Report

SmithGroup will prepare and submit a final report inclusive of a cost estimate and meet with the City of Chandler discussing findings and potential next steps.

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SCOPE OF SERVICES

SmithGroup anticipates the scope of services to be as follows (refer also to the schedule below for additional related information that integrates the weekly undertakings with the proposed 'phases' below):

Phase A – Vision and Data Gathering (3 Weeks)

1. City of Chandler will provide the design team with the latest Project Foresight report for review prior to our initial Programming Kick-off meeting along with a current staff listing.
2. Gathering and synthesizing information related to this project endeavor.
3. VIRTUAL MEETING - (WORKSHOP #1): SmithGroup key personnel to attend one (1) meeting via teleconference with the client and other stakeholders to:
 - i. Discuss Project Vision
 - ii. Define goals and objectives
 - iii. Gather information:
 1. Review existing program, workflow and staffing for the following Sections:
 - a. DNA
 - b. Toxicology – Drugs
 - c. Toxicology – Alcohol*
 - d. Seized Drug*
 - e. Digital Evidence**
 - f. Firearms
 - g. Latent Print*
 - h. Crime Scene*
 - i. Evidence Control
 - j. NIBIN**

**Existing Forensic Services Sections to relocate to the new future lab*

***Existing Police Department Sections to relocate to the new future lab*

2. Existing Scientific Inventory Log – Developed by SmithGroup***

***Note: For the purposes of this Agreement "Equipment/Instrumentation" to be coordinated shall be defined as an unfixed piece of Equipment and or Instrument larger than 2'x2'x2' and has special mechanical, plumbing, vibration, and electrical (other than 120v) requirements.

3. (Quant. 2) Site visits: (1) proposed site (1) existing facility
- iv. Develop a new facility working space program based upon facts, data, and expectations.
- v. Confirm Project Schedule

(Deliverable #1)

1. Team Directory
2. Vision Statement
3. Goals and Objective
4. Benchmarking Analysis
5. Project Schedule

Phase B – Data Synthesis (12 Weeks)

Program Development, Functional Adjacencies and Context Analysis

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Validated and synthesized content from prior workshop

1. VIRTUAL MEETING - (WORKSHOP #2): SmithGroup key personnel to attend one (1) meeting via teleconference to hold virtual meetings with the client and other stakeholders to:
 - i. Define facility size using “Guide plate” Program Elements. Guide plates are three-dimensional models of key spaces in the facility that our team will build to test square footages visually. This will ensure your space works for you. This guide-plate process not only helps users and stakeholders visualize the space but ensures our integrated team of engineers, designers, and specialists is on the same page and is aware of the costs associated with each space.
 - ii. Review the visual program “Squinty View boards” - color-coded graphical representation of all program spaces.
2. IN-PERSON MEETING - (WORKSHOP #3): SmithGroup key personnel to attend one (1) meeting via in-person meeting with the client and other stakeholders to:
 - i. Validate past “Guide Plate” modifications
 - ii. Review Key Program Adjacencies via the interactive “Perfect Diagram” Exercise. This low-tech, interactive exercise is designed to build consensus and allow stakeholders to see, touch, feel, and manipulate scaled color cutouts of the program elements. In this exercise the team gets to discuss their ideas for the project in terms of experience, service, adjacency, and workflow issues unfettered by site constraints and the realities of a floorplan.
 - iii. SmithGroup team members, representing Lab Planning, Architecture, and Engineering disciplines, will meet in person to share preliminary findings and perform an existing facility evaluation & site-walk.
 - iv. Initiate Cost Modeling Review
3. IN-PERSON MEETING – (WORKSHOP #4): SmithGroup key personnel to attend one (1) meeting via in-person meeting with the client and other stakeholders to:
 - i. Review the design based on programmatic adjacencies understood from the “Perfect Diagram” Exercise
 - ii. Evaluate the “Stacker” diagram for multi-level facilities. During the Stacker exercise the design team will use large-scale three-dimensional ‘models’ of the conceptual floor plans to help participants understand vertical building stacking, layout, and functional aspects of programmatic components.
 - iii. Discuss the options for future facility expansion
 - iv. Review the initial design visualization for the facility along with future expansion opportunities
 - v. Present the resulting cost implications of the design along with opportunities to right-size the facility to the anticipated budget

(Deliverable #2)

1. Needs Forecast Summary including staffing and general equipment needs.
2. Codes and Regulation Summary
3. Phasing Analysis & Growth Projections
4. Programmatic “Guideplates”
5. “Squinty View” Visual Program
6. Program Adjacencies “Perfect Diagram Exercise”
7. Site Functional Options

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8. Building Massing and Visualization
9. Preliminary Report Format Review
10. Preliminary Cost Estimate

Phase C – Documentation & DRAFT Report (3 Weeks)

Review and analysis of preceding work

1. VIRTUAL MEETING: SmithGroup key personnel to attend one (1) meeting via teleconference to review the final findings and recommendations.

Phase D – Final Report (4 Weeks)

1. Reflect edits required from written comments, previous meetings, and discussions
2. Discuss next steps

(Deliverable #3) | Format: 8.5 x 11" PDF

1. Executive Summary
2. Current services evaluation
3. Supporting charts, graphs, and diagrams
4. Benchmarking Analysis - Comparative evaluation
5. Space list identifying areas by type
6. Visual Space Program - "Squinty View"
7. Planning requirements
8. Phasing options
9. Site criteria requirements
10. Preliminary Concept Renderings (4 total)
 - a. (3) Proposed New Building
 - b. (1) Proposed Exterior Improvements of Adjacent Property Evidence Building
11. "Guide Plates"
12. Specialized Instrumentation and Equipment Cost Modeling
13. Cost Estimate

*Notwithstanding anything to the contrary, our services and any information provided to address potential pandemics or epidemics are based upon, to the best of our ability, interpreting and understanding recommendations and guidelines promulgated by the Centers for Disease Control and Prevention and other similar local governmental entities.

ASSUMPTIONS

Due to the need for our teams to work together to provide the most comprehensive analysis and recommendations that will ultimately support your mission, there are some expectations of user responsibilities that should be completed in advance of initial on-site meeting:

- SmithGroup to prepare information request for the Forensic Services personnel to gather in support of the building evaluation meetings and process.
- Initial requested information to be gathered by the Laboratory personnel:
 - Client to identify all User Groups / Section & leadership
 - Client to develop chemical inventory list in format provided by SmithGroup
 - Client to provide historical data for each section (staffing counts over time, caseloads, etc.) and/or latest Foresight Report

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- Client to provide existing building Floor Plans with spaces identified. The plans will be used as reference/context.
- Client to identify the site location, in addition to preliminary site boundaries
- Client to provide digital CADD drawing files, if available
- Identify and endeavor to keep the schedules of personnel necessary to specific discussions for on-site and WebEx meetings available for the agreed upon times.
- SmithGroup, in preparing this report, assumes that there will not be presentation of the final report to governing officials. Additional presentations of report findings are an optional additional service.
- Site Location: 576 West Pecos Road Chandler, Arizona 85225. Changes to the proposed site location may result in additional fees
- Presentation of Final Report to Council (Excluded)

SCHEDULE:

SmithGroup assumes a 22-week maximum project duration to complete the Needs Assessment, with the following schedule, as the basis for fees shown.

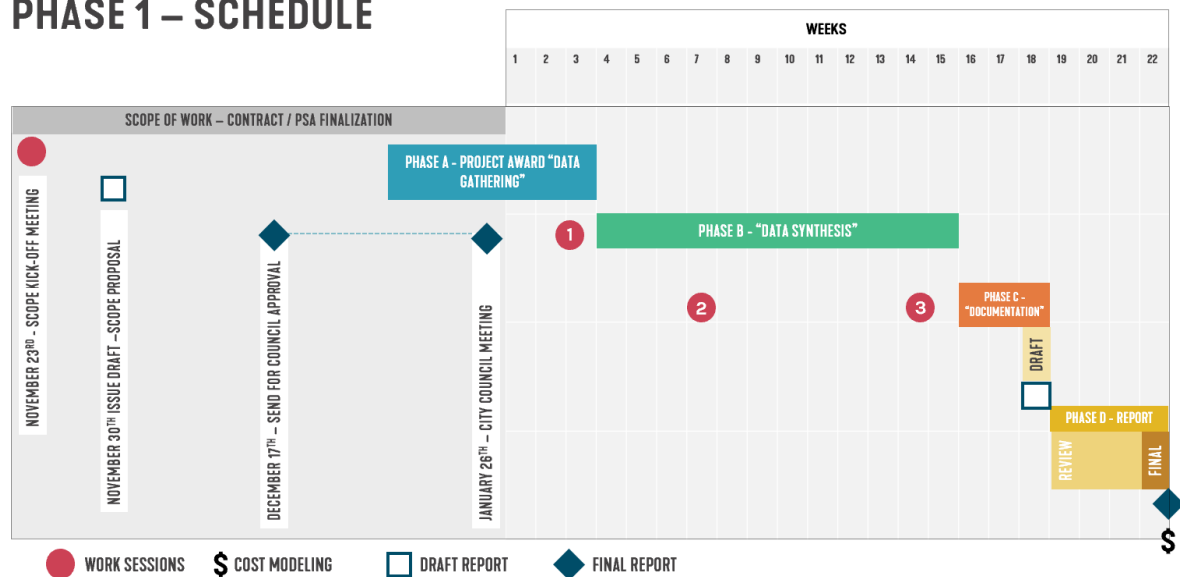
Phase A – Vision and Data Gathering (3 Weeks)

Phase B – Data Synthesis (12 Weeks)

Phase C – Documentation (3 Weeks)

Phase D – Final Report (4 Weeks)

PHASE 1 – SCHEDULE



CONSULTANTS

SmithGroup anticipates using the following consultant(s) for this project and are included in SmithGroup projected fee:

- Civil Engineer (Dibble)
 - Civil Site Narrative
 - Prepare conceptual utility plan using an aerial image from the Maricopa County Assessor GIS site. Illustrate existing public water and sewer lines from City quarter section

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- maps. Illustrate new domestic water service, fire service/loop, and sewer service alignments.
- Prepare retention basin plan. Calculate required retention volume and illustrate proposed retention basin locations/sizes on the proposed site plan using an aerial image from the Maricopa County Assessor GIS site as the background.
- Prepare civil narrative summarizing
 - Existing site conditions
 - Wet utility service (water, fire, sewer)
 - Retention requirements and identify any grading and drainage challenges
- Perform site visit to confirm existing conditions
- Structural Engineer: Advanced Structural Engineering (ASE)
 - Structural Engineering Narrative
 - General Framing Considerations
 - Equipment
 - Vibration Criteria
- Cost Modeler: Project Cost Resources, Inc.
 - Space Criteria Cost Per Square foot
- Specialized Instrumentation Equipment Recommendations & Cost Modeling: (Dr. Gregg LaBerge)
 - Recommendations for specialized instrumentation and equipment to support new sections.
 - A. New programs – include DNA, Tox (Drugs), Firearms w/ NIBIN, and Evidence Control (currently evidence routing is by City staff outside forensic services) and therefore do not have section leads to understand what is needed.
 - 1. Develop an instrumentation/equipment list on what would be required to support the new sections along with a budget for those items.
 - 1. New instrument cost
 - 2. Installation and validation
 - 2. Consumables and non-instrument budget to begin the new programs. Costs for items like reagents and benchtop equipment will be approximated to allow the City to allocate dollars for program development.
 - B. Existing programs – include Seized Drugs, Tox (BAC), Latent Prints, and Crime Scene; SmithGroup will be documenting existing instrumentation and equipment and will work with the users to understand what new items are needed.
 - 1. The design team will review the existing instrumentation/equipment list and provide insight on what would be required to support the existing sections in the new expansion along with a budget for those items.
 - 1. New instrument cost
 - 2. New instrument installation and validation
 - 3. Existing instrument relocation and validation

PROFESSIONAL SERVICES FEE

See attached (Exhibit B – Fee Schedule).

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ALLOWANCES

Allowances shall only be used after written approval from an authorized city representative. The purpose of the allowance is to provide a funding source for the items outlined in the attached (Exhibit B1 – Fee Schedule). Contract reimbursement for an allowance (in whole or in part) is not ensured.

A. SITE SURVEY

B. OUT OF STATE LABORATORY BENCHMARKING TOURS:

- 1 overnight trip to Denver Colorado to tour Unified Metropolitan Forensic Crime Lab & Denver Police Crime Lab. Two SmithGroup team members would attend the tours: \$5,355 estimated per/person*
- 1 overnight trip to tour out-of-state lab. Location (Hamilton County / Johnson County / San Diego) to be confirmed. Two SmithGroup team members would attend the tours: \$5,355 estimated per/person*
 - *Note: Dollar amounts reflect estimated travel expenses & time (16-man hours estimated). Final fee and hours to be negotiated prior to trip.

C. OWNER'S ALLOWANCE

The enclosed Scope of Services shall serve as an Exhibit to the Prime Agreement (PD2301.101).

Regards,



Stephanie A. Mitrovic, AIA, NCARB, IIDA
Science & Technology Studio Leader
480.384.0422 (m)
Stephanie.mitrovic@smithgroup.com

EXHIBIT "B"
COMPENSATION AND FEES

EXHIBIT "B-1"
Lump Sum Cost Per Task

TASK DESCRIPTION		SUBTOTAL
Task 1.0 Phase A Vision and Data Gathering		\$ 28,835.00
1.1	Project Vision	\$ 3,170.00
1.2	Define goals and objectives	\$ 3,095.00
1.3	Gather information: population & staffing analysis	\$ 8,050.00
1.4	Develop a new facility working space program based upon facts, data, and expectations.	\$ 5,885.00
1.5	Confirm Project Schedule	\$ 485.00
1.6	Existing Scientific Log	\$ 8,150.00
Task 2.0 Phase B Data Synthesis <i>(Program Development, Functional Adjacencies and Context Analysis)</i>		\$ 80,275.00
2.1	Define Facility Size "Guide Plates"	\$ 10,450.00
2.2	Develop Visual Program "Squity Boards"	\$ 10,720.00
2.3	Validate past "Guide Plate" modifications	\$ 15,280.00
2.4	Review Key Program Adjacencies via the interactive "Perfect Diagram" Exercise	\$ 15,490.00
2.5	Share preliminary findings and perform an existing facility evaluation & site-walk.	\$ 7,230.00
2.6	Initiate Cost Modeling Review	\$ 1,940.00
2.7	Review the design based on programmatic adjacencies understood from the "Perfect Diagram" Exercise	\$ 6,720.00
2.8	Evaluate the "Stacker" diagram for multi-level facilities	\$ 5,744.00
2.9	Discuss the options for future facility expansion	\$ 1,480.00
2.10	Review the initial design visualization for the facility along with future expansion opportunities	\$ 2,830.00
2.11	Present the resulting cost implications of the design along with opportunities to right-size the facility to the anticipated budget	\$ 1,690.00
Task 3.0 Phase C -Documentation and Draft Report <i>(Review and analysis of preceding work)</i>		\$ 59,970.00
3.1	Documentation & Draft Report Development	\$ 56,530.00
3.2	Draft Review Call	\$ 3,440.00
Task 4.0 Phase D Final Report		\$ 31,035.00
4.1	Package Final Report	\$ 31,035.00
CONSULTANTS		\$ 27,000.00
A.	CIVIL & Structural Engineering Narratives	\$ 11,000.00
B.	COST MODEL	\$ 8,000.00
C.	SPECIALIZED INSTRUMENTATION EQUIPMENT COST MODELING	\$ 8,000.00
ALLOWANCES		\$ 54,720.00
A.	Site Survey Allowance	\$ 8,300.00
B.	Lab Tour Allowance <i>(2 trips w/ 2 SmithGroup reps.) Includes Time and Travel Expenses</i>	\$ 21,420.00
C.	Owner's Allowance	\$ 25,000.00
TOTAL COST:		\$ 281,835.00

EXHIBIT "B-2"

Hours and Rates

		PIC	PM Coord.	Sr. Lab Planner	Design Princ.	Arch II	Arch I	MEP Engineer V	MEP Engineer IV	Interior Design IV	Clearical	< PROJECT ROLE	
		Mitrovic, Stephanie	Gildea, Brad	Knorr, Chris	McCrory, Will	Shimada, Michiko	Wilson, Brock	Thompson, Rob	Jimenez, Bianca	Dezinski, Holly	Romero, Alison		
		\$275.00	\$210.00	\$290.00	\$275.00	\$135.00	\$105.00	\$260.00	\$200.00	\$180.00	\$90.00	< HOURLY RATES	
TASK DESCRIPTION												TOTAL HOURS PER TASK	
Task 1.0 Phase A Vision and Data Gathering (3 weeks)		8	6	32	15	18	12	10	14	16	0		131
1.1	Project Vision	2	0	2	2	0	2	2	2	2	0	14	
1.2	Define goals and objectives	2	2	2	3	0	0	0	0	4	0	13	
1.3	Gather information:	2	2	8	10	0	2	0	0	10	0	34	
1.4	Develop a new facility working space program based upon facts, data, and expectations.	1	1	12	0	8	8	0	0	0	0	30	
1.5	Confirm/Track Project Schedule	1	1	0	0	0	0	0	0	0	0	2	
1.6	Existing Scientific Log	0	0	8	0	10	0	8	12	0	0	38	
Task 2.0 Phase B Data Synthesis (Program Development, Functional Adjacencies and Context Analysis) (12 weeks)		21	15	90	60	12	12	40	40	40	3		333
2.1	Define Facility Size "Guide Plates"	0	0	10	10	4	4	6	6	6	0	46	
2.2	Develop Visual Program "Squity Boards"	0	0	10	10	4	4	6	6	6	3	49	
2.3	Validate past "Guide Plate" modifications	3	1	20	15	2	2	6	6	6	0	61	
2.4	Review Key Program Adjacencies via the interactive "Perfect Diagram" Exercise	3	2	20	15	2	2	6	6	6	0	62	
2.5	Share preliminary findings and perform an existing facility evaluation & site-walk.	2	1	16	2	0	0	2	2	2	0	27	
2.6	Initiate Cost Modeling Review	4	4	0	0	0	0	0	0	0	0	8	
2.7	Review the design based on programmatic adjacencies understood from the "Perfect Diagram" Exercise	4	2	5	2	0	0	5	5	5	0	28	
2.8	Evaluate the "Stacker" diagram for multi-level facilities	2	2	5	3	0	0	5	5	5	0	27	
2.9	Discuss the options for future facility expansion	1	0	1	1	0	0	1	1	1	0	6	
2.10	Review the initial design visualization for the facility along with future expansion opportunities	1	2	2	1	0	0	2	2	2	0	12	
2.11	Present the resulting cost implications of the design along with opportunities to right-size the facility to the anticipated budget	1	1	1	1	0	0	1	1	1	0	7	
Task 3.0 Phase C -Documentation and Draft Report (Review and analysis of preceding work) (3 weeks)		12	0	30	30	80	90	30	30	30	3		335
3.1	Documentation & Draft Report Development	10	0	28	28	78	88	28	28	28	3	319	
3.2	Draft Review Call	2	0	2	2	2	2	2	2	2	0	16	
Task 4.0 Phase D Final Report (4 weeks)		14	0	32	17	6	6	18	18	18	3		132
4.1	Package Final Report	14	0	32	17	6	6	18	18	18	3	132	

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 Agreement 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 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

N/A