



PROFESSIONAL SERVICES AGREEMENT
Design Services
OCOTILLO BRINE REDUCTION FACILITY
ION EXCHANGE OUTLET WASTE & WASH WATER RETURN PUMP
CAPACITY IMPROVEMENTS

Project No. WW2001.204

Council Date: April 13, 2023 Item No.

This Agreement ("Agreement") is made and entered into on the ____ day of _____, 2023 ("Effective Date"), by and between City of Chandler, an Arizona municipal corporation, ("City"), and **Carollo Engineers, Inc.**, a Delaware 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 Design Services for **Ocotillo Brine Reduction Facility Ion Exchange Outlet Waste & Wash Water Return Pump Capacity Improvements** 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 **180** 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 **\$159,892** 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: Kimberly Moon, P.E. 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: Sandra Story, Project Manager P.O. Box 4008, Mail Stop 407, Chandler, AZ 85244-4008 Phone: 480-782-3588 Email: sandra.story@chandleraz.gov																							
To Consultant:	<table border="1"> <tr> <td>LEGAL COMPANY NAME:</td> <td>Carollo Engineers, Inc.</td> </tr> <tr> <td>Mailing Address:</td> <td>4600 E. Washington Street, Suite 500, Phoenix, AZ 85034</td> </tr> <tr> <td>Physical Address:</td> <td>4600 E. Washington Street, Suite 500, Phoenix, AZ 85034</td> </tr> <tr> <td>Statutory Agent Name:</td> <td>Robert A. Ardizzone</td> </tr> <tr> <td>Statutory Agent Mailing Address:</td> <td>4600 E. Washington Street, Suite 500, Phoenix, AZ 85034</td> </tr> <tr> <td>Statutory Agent Physical Address:</td> <td>4600 E. Washington Street, Suite 500, Phoenix, AZ 85034</td> </tr> <tr> <td colspan="2">CONSULTANT'S AUTHORIZED PROJECT REPRESENTATIVE</td> </tr> <tr> <td>Name:</td> <td>Jessica Dresang</td> </tr> <tr> <td>Title:</td> <td>Vice President</td> </tr> <tr> <td>Phone:</td> <td>480-243-5904</td> </tr> <tr> <td>Email:</td> <td>jdresang@carollo.com</td> </tr> </table>		LEGAL COMPANY NAME:	Carollo Engineers, Inc.	Mailing Address:	4600 E. Washington Street, Suite 500, Phoenix, AZ 85034	Physical Address:	4600 E. Washington Street, Suite 500, Phoenix, AZ 85034	Statutory Agent Name:	Robert A. Ardizzone	Statutory Agent Mailing Address:	4600 E. Washington Street, Suite 500, Phoenix, AZ 85034	Statutory Agent Physical Address:	4600 E. Washington Street, Suite 500, Phoenix, AZ 85034	CONSULTANT'S AUTHORIZED PROJECT REPRESENTATIVE		Name:	Jessica Dresang	Title:	Vice President	Phone:	480-243-5904	Email:	jdresang@carollo.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"
CAROLLO ENGINEERS, INC.**

MAYOR

RECOMMENDED BY:



Kimberly Moon, P.E.
CIP City Engineer

APPROVED AS TO FORM:

City Attorney



ATTEST:

City Clerk

Seal





03/17/2023

Signature

Date

Ms. Jessica Dresang Lisa Freestone

Print Name

Vice President

Vice President

Title

jdresang@carollo.com

Lfreestone@Carollo.com

Signer Email Address

EXHIBIT "A"
SCOPE OF SERVICES/SCHEDULE



**EXHIBIT A
City of Chandler**

**Professional Engineering Services
for the
Ocotillo Brine Reduction Facility Minor Improvements Project**

March 14, 2023

BACKGROUND/PURPOSE

The City of Chandler (CITY) has requested Carollo Engineers, Inc. (ENGINEER) perform engineering and design services to develop Construction Documents for JOC project delivery of the following minor facility upgrades at the Ocotillo Brine Reduction Facility (OBRF):

- Update the ion exchange outlet waste to permeate recycle
- Increase the wash water return pump capacity

SCOPE OF WORK

This scope of services is intended to outline the primary tasks in support of the project including:

- Task 100 – Project Management and Meetings
- Task 200 – Long Lead Equipment Package and Preliminary Design Development
- Task 300 – Detailed Design Package Development
- Task 400 – Permitting and Regulatory Compliance Support
- Task 500 – JOC Coordination
- Owner's Allowance for Supplemental Services

PROJECT SCHEDULE

The tentative completion schedule for the Scope of Work is summarized below with the following milestones:

Long Lead Equipment Package & Preliminary Design	9 weeks from NTP
Agency Review Design	16 weeks from NTP
Final Design (including permitting review)	20 weeks from NTP

TASK 100 - PROJECT MANAGEMENT AND MEETINGS

Task 101 – Project Management

ENGINEER will manage professional services to provide efficient completion of the project. ENGINEER will prepare and deliver monthly invoices to the CITY that summarize project progress and communicate any issues.

Task 102 – Meetings

ENGINEER will conduct project meetings to confirm the project approach, obtain critical input and decisions from the CITY and Intel Corporation (Intel), and determine appropriate mechanisms to minimize disruption to operations during the work. ENGINEER will develop a meeting agenda and provide suggested scheduling of work activities, based on CITY and Intel input. ENGINEER will prepare necessary material for the evaluation and analysis of the scheduled project elements, as well as materials needed to build consensus of these project elements.

Following the meeting, ENGINEER will prepare meeting minutes that will be distributed to the project team. Minutes will include a brief decision log and action item list. The following meetings are anticipated as part of this task:

- Project Kick-Off Meeting: Introduce project team, set project expectations, review project schedule, and discuss recommended design upgrades in further detail. Meeting includes project site walk. Meeting preparations will include development, review, and/or summary of the following project components:
 - Key project goals/objectives.
 - ENGINEER team, CITY staff, and Intel staff roles and responsibilities.
 - Contact information for ENGINEER, CITY, and Intel project team members.
 - Communication protocols.
 - List of deliverables.
 - Document management.
 - Project schedule (Gantt chart), including time required for CITY and Intel review of deliverables.
- Long Lead Equipment Package and Preliminary Design Review: One meeting to review and solicit feedback from the CITY and Intel regarding the 90% Long Lead Specification Package, as well as the Preliminary Design Package. Meeting will be held via teleconference.
- Agency Review (90%) Design Review: One meeting to review and solicit feedback from the CITY and Intel regarding the 90% design drawings and specifications and coordinate permitting activities, as applicable. Meeting will be held via teleconference.
- Project Status Meetings: Up to three one-hour meetings to discuss project status and coordination.
- Permitting and JOC Coordination related meetings are described in their respective tasks.

Task 103 – Quality Management Review

ENGINEER will provide quality management reviews of all work product and deliverables throughout the duration of the Project. ENGINEER will also identify and integrate relevant codes, standards and legal requirements that may be applicable to the Project, such as design standards and agency review



requirements. These standards will be established early in the Project to facilitate effective implementation. The standards will be referenced while performing Project work to promote a quality product.

Specifically, each of the design deliverables outlined in this scope will undergo a formal internal quality review prior to issuance. The review will be completed by senior staff members with specific knowledge relevant to the Project. The technical review team will provide feedback in accordance with the established standards to maintain the quality of the deliverables.

Task 100 Deliverables:

- Project schedule (electronic PDF)
- Meeting agenda, minutes, and exhibits
- Monthly invoices and progress reports

TASK 200 – LONG LEAD EQUIPMENT PACKAGE AND PRELIMINARY DESIGN DEVELOPMENT

Task 201: Long Lead Equipment Package

Long Lead Equipment, including new pumps and VFDs, will be integrated in a Long Lead Equipment Package to expedite procurement and minimize the overall project schedule. The ENGINEER shall prepare a 90% set of project specifications, applicable one line diagrams, and P&IDs for the associated equipment for review by the OWNER. Following receipt of comments as part of the 90% Long Lead Review Workshop, the ENGINEER will finalize the Long Lead Equipment Package. The ENGINEER will utilize the EJCDC based MF 14 (50 divisions) specifications developed during the design and construction of the OBRF as a baseline template for the work.

Task 202: Preliminary Design Report

The ENGINEER will summarize the design criteria and design concepts in a preliminary design report. A draft report will be submitted to the CITY, Intel, and JOC for review and comment. Comments will be incorporated into a final report.

The contents of the report will be presented at the preliminary engineering workshop, as defined in Task 100. In addition to aiding in the development of the detailed design, the report will also be used as part of the permitting process with the Maricopa County Environmental Services Department (MCESD) to obtain an Approval to Construct permit.

Task 203: Preliminary Design

ENGINEER will prepare design documents (drawings and specifications) for the project, including the following disciplines:

- General
- Demolition
- Site/Civil
- Structural (as required)
- Process/Mechanical
- Electrical
- Instrumentation & Controls

The ENGINEER will develop the preliminary design concepts and provide design drawings at the 30-percent level of completion for review by the CITY and Intel. In addition, the submittal will include a complete table of

March 14, 2023



contents for the future specifications package. The preliminary design will focus on establishing the design criteria, equipment selection, and spatial configurations.

Task 200 Deliverables:

- 90% Long Lead Equipment Specifications (5 hard copies, half size and electronic PDF)
- 90% Long Lead Equipment Drawings in the following format:
 - Half-size: 11 x 17 inches
 - PDF files formatted for printing at 11 x 17 inches
- Final Long Lead Equipment Specifications Issued for Bid (IFB), signed and sealed by a Professional Engineer licensed in the State of Arizona (5 hard copies, half size and electronic PDF)
- Final Long Lead Equipment Issued for Bid (IFB) Drawings, signed and sealed by a Professional Engineer licensed in the State of Arizona one lines and P&IDs in the following format:
 - Half-size: 11 x 17 inches
 - PDF files formatted for printing at 11 x 17 inches
- Preliminary Design Report (PDR) draft and final (3 copies hard copy and an electronic PDF)
- Preliminary drawings will be provided in the following format:
 - Half-size: 11 x 17 inches
 - PDF files formatted for printing at 11 x 17 inches

TASK 300 – DETAILED DESIGN PACKAGE DEVELOPMENT

Task 302 – Agency Review Design

ENGINEER will prepare a detailed design submittal for Agency Review. The submittal package will include drawings and specifications and will be sealed by a professional engineer to facilitate permitting reviews. Additionally, the design will include supporting calculations prepared for permitting review. The design will be reviewed with the CITY, Intel, and JOC as part of the Agency Review Workshop and comments received will be incorporated into the Final Design.

Task 303 – Final Design

The ENGINEER will prepare final design documents which incorporate comments by the CITY, Intel, JOC, and permitting agencies (including MCESD and the City of Chandler). The documents will be sealed by a professional engineer, and issued for construction.

Task 300 Deliverables

- Agency Review drawings will be provided in the following format:
 - Half-size: 11 x 17 inches
 - PDF files formatted for printing at 11 x 17 inches
 - Documents will be sealed by AZ Professional Engineers to facilitate permitting review.
- Pre-final specifications will be provided electronically in MS Word format to allow CITY and Intel review by adding comments using Track Changes function.
- Final Submittal drawings will be provided in the following format:
 - Half-size: 11 x 17 inches
 - PDF files formatted for printing at 11 x 17 inches
 - Documents will be sealed by AZ Professional Engineers to facilitate permitting review.
- In addition to the hard copies noted above, the final submittal will also include:



- One electronic set of final specifications in PDF format
- One electronic set of final design drawings (AutoCAD) with seals and signatures removed
- Two electronic sets of final design drawings with seals and signatures (PDF): one each formatted for printing at 22 x 34 inches and at 11 x 17 inches
- One full size 22x34 inches bond paper hard copy of final design drawings, as required for permitting review purposes.
- One electronic set of technical specifications (PDF)

TASK 400 SERIES - PERMITTING AND REGULATORY COMPLIANCE SUPPORT

Task 401 - Permitting Assistance

ENGINEER will conduct the following permitting and regulatory compliance support activities to secure project permits. Activities include submitting Agency Review and Final Design contract documents, and serving as a liaison and coordinating pre-submittal communications, applications, and documenting response/resolution of review comments. The following permits will be required from the following agencies as part of the project:

- Maricopa County Environmental Services Department (MCESD) - Approval-to-Construct drinking water facilities
- City of Chandler Building Safety and Engineering Departments

ENGINEER will attend one (1) meeting each with MCESD and the City of Chandler to review the project and permitting details. ENGINEER assumes no meetings or associated permitting are required with ADEQ as part of the project.

Task 402 — Permitting Fees

The ENGINEER will pay for anticipated expedited MCESD review fees on behalf of the CITY. The ENGINEER assumes any CITY building safety permit fees will be paid by the CITY.

Task 400 Deliverables:

- Permit applications for MCESD and City of Chandler
- Compiled project calculations, preliminary design report, associated project design documents
- Comment response/resolutions letters and associated logs
- Meeting minutes
- MCESD Expedited permit fees

TASK 500 – JOC COORDINATION

Task 501 – JOC Coordination

The CITY will be delivering the project through a Job Order Contractor (JOC). As part of this task, the ENGINEER will assist the CITY and JOC in reviewing the JOC Guaranteed Maximum Price (GMP) documents and provide comments.

It is assumed that the CITY intends to construct the project based on one long lead equipment package and one contract documents package. ENGINEER assumes JOC will attend review milestone meetings and will provide comments based on the schedule outlined in this scope. ENGINEER will attend one Guaranteed Maximum Price negotiation meeting.



Task 502 – Long Lead Equipment Review

The ENGINEER will review the long lead equipment package submittals in effort to facilitate early procurement ahead of completion of the complete contract documents package.

Task 500 Deliverables:

- Comments on GMP documents
- Comments on Long Lead Equipment Submittal

OWNER'S ALLOWANCE FOR SUPPLEMENTAL SERVICES

Upon written approval of the CITY, the ENGINEER will provide additional services that may be required during completion of the project. Prior to beginning work on any Supplemental Services tasks, ENGINEER will review the scope of work, fee, and time of performance for each task with the CITY. Upon approval of the scope and fee, CITY will issue written approval to proceed.

ASSUMPTIONS AND EXCLUSIONS

This Scope of Services is based on the following assumptions:

- The CITY and Intel will participate in progress meetings and workshops to facilitate the sharing of information, provide guidance, and respond to requests for information.
- CITY and Intel will provide relevant plant operating data, water quality summaries, studies, and any other relevant technical documents to ENGINEER for the project within 5 days of the project Kick-off meeting and ENGINEER shall be entitled to use and reasonably rely upon all such technical documents.
- The project will utilize the CITY's "Front-end" contract documents, per the contract with the JOC.
- ENGINEER will perform QA/QC of deliverables prior to submitting deliverables to the CITY and Intel.
- CITY and Intel will provide timely availability for project workshops, meetings, and review of deliverables in accordance with the project schedule.
- Any City of Chandler permit fees will be payable by the CITY and are not included in this Scope and Fee.
- 2D AutoCAD drawings to be utilized.
- ENGINEER makes no warranty that the CITY's actual project costs, financial aspects, economic feasibility, schedules, and/or quantities or quality realized will not vary from ENGINEER's opinions, analyses, projections, or estimates.



March 10, 2023

Cindy Pries, P.E.
Client Services Manager / Associate Vice President
Carollo
4600 E. Washington St., Suite 500
Phoenix, AZ 85034
Phone: (602) 474-4047
Cell: (563) 543-5618
Email: cpries@carollo.com

Re: CE – Ocotillo Brine Reduction Facility Minor Improvements Project
Proposal No.: 220071R1 [Delivered via E-mail](#)

Ms. Pries:

On behalf of the CEI staff, I would like to thank you for inviting us to participate in the proposal process for this project. In response to your request for quotation for the above-named project, we have attached our professional engineering services proposal.

Please do not hesitate to contact me at anytime if you have questions or concerns regarding this proposal.

Sincerely,

A handwritten signature in blue ink that reads 'R. Ben Canfield'.

R. Ben Canfield, P.E.
Vice President of Engineering

Attachments: Proposal

Cc: File

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CE – Ocotillo Brine Reduction Facility Minor Improvements Project
Proposal No.: 220071

Project Overview:

The general scope of the project consists of Engineering and design services to develop Construction Documents for JOC Project delivery of the following minor facility upgrades at the Ocotillo Brine Reduction Facility (OBRF):

- Update the ion exchange outlet waste to permeate recycle
- Increase the wash water return pump capacity

This proposal is for Carollo Engineering and includes scope for the Project Management, Design and Construction Services.

Scope of Work:

Task 100 Project Management

This project effort is expected to include a (1) kickoff meeting, (8) project meetings and (5) Quality Management (QM)/Page Turn meetings.

Deliverables:

- Attendance at (8) meetings, with meeting preparation and meeting minutes
- Attendance at (5) QM (Page Turn) meetings for each deliverable package
- Progress bill reports
- Invoices

Task 300 Design

CEI will provide the following design packages:

- Long Lead Equipment Package
 - 90% Package
 - IFC Package
 - Early Submittal Equipment Review
 - VFD & Pump
- Detail Design

CE – Ocotillo Brine Reduction Facility Minor Improvements Project
Proposal No.: 220071

- 30% Design Package
- 90% Design Package
- IFC Design Package

Documentation will include single lines and calculations, schematics for installation and future trouble-shooting, site plans with dimensional information for location, layout and routing of cable and conduit.

Services will be provided to work through the permit process with the authority having jurisdiction to gain approval for construction.

Design Deliverables:

- Electrical
 1. Drawings (Updates to Existing Carollo Drawings):
 - 00-E-001 - Electrical Legend
 - 00-E-002 - Electrical Abbreviations
 - 00-E-004 - Luminaire & Disconnect Schedule
 - 00-E-026 - MCC-14 (Bus A) Elevation
 - 00-E-027 - MCC-14 (Bus B) Elevation
 - 00-E-028 - MCC-14 One-Line Diagram - I
 - 00-E-029 - MCC-14 One-Line Diagram - II
 - 3F-E-001 - Waste WW Eq Tank & Return Pump Station Power & Control Plan
 - 3F-E-002 - Waste WW Eq Tank & Return Pump Station Conduit Development
 - 8B-E-001 - Treatment Electrical Building Power and Control Plan
 - 8B-E-002 - Treatment Electrical Building Power Conduit Development
 - 8B-E-003 - Treatment Electrical Building Control Conduit Development
 2. Specifications

CE – Ocotillo Brine Reduction Facility Minor Improvements Project
Proposal No.: 220071

- General Electrical Requirements
- Basic Materials and Methods
- Electrical Demolition
- Conduits
- 600 Volt Class Cable
- Instrumentation Class Cable
- Outlet, Pull, and Junction Boxes
- Control Panels
- Grounding
- Electrical Identification
- Electric Motors
- Disconnect Switches
- Motor Control Equipment (Separately Mounted)
- Low Voltage Circuit Breakers
- Motor Control Centers (MCC)
- Variable Frequency Drives – Low Voltage

3. Master Equipment List

- Equipment list will contain manufacturer data for all major electrical equipment.

• I&C

1. Drawings (Updates to Existing Carollo Drawings):

- 00-N-001 - Symbols and Abbreviations - I
- 00-N-002 - Symbols and Abbreviations - II
- 00-N-003 - Symbols and Abbreviations - III
- 00-N-004 - Symbols and Abbreviations - IV
- 00-N-005 - Symbols and Abbreviations - V
- 00-N-017 - Control Schematics - VII
- 3F-N-002 - Waste Washwater Pumps

2. Specifications

CE – Ocotillo Brine Reduction Facility Minor Improvements Project
Proposal No.: 220071

- 17000 Instrumentation
- 17456 Programming
- 3. Master Equipment List
 - Equipment list will contain manufacturer data for all major instrumentation equipment.
- 4. Sequence of Operations/Control Narrative
 - Updates to existing control narratives. *Note: It is assumed that the larger pumps will be operated with the same methodology as the existing pumps.*
- Special Systems – N/A

Task 400 Bid Services - Excluded

Task 500 Procurement Services - Excluded

Task 600 Construction Services - Excluded

Task 700 System Integration - Excluded

Assumptions, Exceptions and Clarifications:

- *Proposal assumes that existing electrical infrastructure can support increased washwater pump sizes without major equipment changes.*
- *Proposal assumes that existing instrumentation will be reused for new pumps.*
- Per Professional Services Agreement with Carollo
- Shipping excluded
- Programming excluded
- Installation by others
- Procurement of hardware/software excluded
- Fabrication or construction excluded
- Taxes excluded

March 10, 2023

CE – Ocotillo Brine Reduction Facility Minor Improvements Project
Proposal No.: 220071

Project Schedule:

CEI will begin the scope of work upon written NTP.

EXHIBIT "B"
COMPENSATION AND FEES



City of Chandler
PROFESSIONAL ENGINEERING SERVICES FOR THE DESIGN PHASE
OCOTILLO BRINE REDUCTION FACILITY MINOR IMPROVEMENTS
3/14/2023

EXHIBIT "B-1"
Lump Sum Cost Per Task

TASK DESCRIPTION		SUBTOTAL
TASK 100 PROJECT MANAGEMENT AND MEETINGS		\$ 8,140.00
101	Project Management	\$ 2,060.00
102	Meetings	\$ 6,080.00
TASK 200 LONG LEAD EQUIPMENT PACKAGE DEVELOPMENT		\$ 52,984.00
201	Long Lead Equipment Package	\$ 17,900.00
202	Preliminary Design Report	\$ 7,364.00
203	Preliminary Design	\$ 27,720.00
TASK 300 DETAILED DESIGN PACKAGE DEVELOPMENT		\$ 68,051.80
301	Agency Review Design	\$ 48,571.80
302	Final Design	\$ 19,480.00
TASK 400 PERMITTING AND REGULATORY COMPLIANCE		\$ 10,460.00
401	Permitting Assistance	\$ 3,760.00
402	Permitting Fees	\$ 6,700.00
TASK 500 JOC COORDINATION		\$ 5,720.00
501	JOC Coordination	\$ 2,980.00
502	Long Lead Equipment Review	\$ 2,740.00
ALLOWANCES		\$ 14,536.00
1	Allowance for Printing Expenses at Direct Cost	\$ -
2	Allowance for Cost Estimating Services	\$ -
3	Owner's Allowance (10%)	\$ 14,536.00
TOTAL COST:		\$ 159,891.80



City of Chandler
PROFESSIONAL ENGINEERING SERVICES FOR THE DESIGN PHASE
OCOTILLO BRINE REDUCTION FACILITY MINOR IMPROVEMENTS
3/14/2023

EXHIBIT "B-2"
Hours and Rates

		Sr. Technical QM Reviewer Kirk Gardner	Senior PM Cindy Pries	Senior Engineer Brandon Yallaly	Engineer Ty Lukinbeal	Senior Designer Adrian Enriquez	Senior CAD Technician Kyle Chase	Administrative Assistant Lee Ann Hemingway	< PROJECT ROLE < HOURLY RATES	
		\$ 260.00	\$ 230.00	\$ 215.00	\$ 170.00	\$ 180.00	\$ 162.00	\$ 110.00		
TASK DESCRIPTION									TOTAL HOURS PER TASK	
TASK 100 PROJECT MANAGEMENT AND MEETINGS		2	16	8	8	0	0	6	40	
101	Project Management		8					2		
102	Meetings	2	8	8	8			4		
TASK 200 LONG LEAD EQUIPMENT PACKAGE DEVELOPMENT		14	16	36	82	29	42	16	235	
201	Long Lead Equipment Package	4	4	12	16			4		
202	Preliminary Design Report	2	4	8	16	4	2	4		
203	Preliminary Design	8	8	16	50	25	40	8		
TASK 300 DETAILED DESIGN PACKAGE DEVELOPMENT		12	12	36	100	50	60	12	282	
301	Agency Review Design	8	8	20	60	30	40	8		
302	Final Design	4	4	16	40	20	20	4		
TASK 400 PERMITTING AND REGULATORY COMPLIANCE		0	2	8	8	0	0	2	20	
401	Permitting Assistance		2	8	8			2		
402	Permitting Fees									
TASK 500 JOC COORDINATION		4	6	8	8	0	0	2	28	
501	JOC Coordination	2	4	4	4					
502	Long Lead Equipment Review	2	2	4	4			2		

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.
- 2.5 *Cyber Technology Errors and Omissions, Network Security, and Privacy Liability Insurance.* The policy must cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this Agreement with a limit of not less than \$3,000,000 for each occurrence, \$3,000,000 aggregate. In the event that the professional liability insurance required by this Agreement is written on a claims-made basis, Consultant warrants that any retroactive date under the policy must precede the effective date of this Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Agreement is completed. If such insurance is maintained on an occurrence form basis, Consultant must maintain such insurance for an additional period of one (1) year following termination of Agreement. If such insurance is maintained on a claims-made basis, Consultant must maintain such insurance for an additional period of three (3) years following termination of the Agreement. If Consultant contends that any of the insurance it maintains pursuant to other sections of this Exhibit C satisfies this requirement (or otherwise insures the risks described in this section), then Consultant must provide proof of same.
 - 2.5.1. The insurance must provide coverage for the following risks:
 - 2.5.1.1 Liability arising from theft, dissemination, or use of confidential information (a defined term including but not limited to bank account, credit card account, personal information such as name, address, social security

numbers, etc. information) stored or transmitted in electronic form.

2.5.1.2 Network Security Liability arising from the unauthorized access to, use of, or tampering with computer systems including hacker attacks, inability of an authorized third party, to gain access to your services including denial of service, unless caused by a mechanical or electrical failure.

2.5.1.3 Liability arising from the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network, or similar computer related property and the data, software, and programs thereon.

2.5.2. The policy must provide a waiver of subrogation.

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

Standard Details and Specifications. Consultant must be familiar with City's latest revision of the MAG Specifications and MAG Standard Details as amended by City. City's current amendment to the MAG Specifications, part of City's Unified Development Manual, may be found and downloaded from City's website at <http://www.chandleraz.gov/udm>.

City Ownership of Project Documents. All work products (electronically or manually generated) including, but not limited to: plans, specifications, cost estimates, field notes, tracings, studies, investigations, design analyses, original drawings, original mylars, Computer Aided Drafting and Design (CADD) file diskettes which reflect all final drawings, and other related documents which are prepared in the performance of this Agreement (collectively referred to as "Documents") are to be and remain the property of City and are to be delivered to the Project Manager before the final payment is made to Consultant. In the event these Documents are altered, modified or adapted without the written consent of Consultant, which consent Consultant must not unreasonably withhold, City agrees to hold Consultant harmless to the extent permitted by law from the legal liability arising out of City's alteration, modification or adaptation of the Documents.

Re-use of Documents. The parties agree the documents, drawings, specifications and designs, although the property of City, are prepared for this specific project and are not intended nor represented by Consultant to be suitable for re-use for any other project. Any re-use without written verification or adaptation by Consultant for the specific purpose intended will be at City's sole risk and without liability or legal exposure to Consultant.

Documents to Bear Seal. Consultant and its subconsultants must endorse by professional seal all plans, works, and deliverables prepared by each for this Agreement as required by state law.

ACCESS TO SECURED FACILITIES:

1. Contract Worker Access Controls, Badge and Key Access Requirements. A Contract Worker from Consultant's firm must not be allowed to begin work in any City facility without: (A) The prior completion and City's acceptance of the required background screening; and (8) when required, the Contract Worker's receipt of a City issued badge. A badge will be issued to a Contract Worker solely for access to City facility(s) to which the Contract Worker is assigned. Each Contract Worker who enters a City facility must use the badge issued to the Contract Worker.
2. Badges. After receipt of the badge application, the Contract Worker will proceed to the Badging Office for processing of the badge application and issuance of the badge. City will not process the badge application until the Contract Worker satisfies the required Background Screening (as defined herein). The Contract Worker must comply with all requirements and furnish all requested information as requested by the Badging Office. Any and all fees associated with security badging will be assessed in compliance with Chandler City Code §4-22.

3. Key Access Procedures. If the Contract Worker's services require keyed access to enter a City facility(s), a separate key issue/return form must be completed and submitted by Consultant for each key issued.
4. Stolen or Lost Badges or Keys. Consultant must report lost or stolen badges or keys to City immediately. A new badge application or key issue form must be completed and submitted along with payment of the applicable fees prior to issuance of a new badge or key.
5. Return of Badges or Keys. All badges and keys are the property of City and must be returned to City at the Badging Office within one (1) business day of when the Contract Worker's access to a City facility is no longer required to furnish the services under this Agreement. Consultant must collect a Contract Worker's badge and key(s) upon the termination of the Contract Worker's employment; when the Contract Worker's services are no longer required at the particular City facility(s); or upon termination, cancellation or expiration of this Agreement.
6. Consultant's default under this Section must include, but is not limited to the following: (1) Contract Worker gains access to a City facility(s) without the proper badge or key; (2) Contract Worker uses a badge or key of another to gain access to a City facility; (3) Contract Worker commences services under this Agreement without the proper badge, key or Background Screening; (4) Contract Worker or Consultant submits false information or negligently submits wrong information to City to obtain a badge, key or applicable Background Screening; or (5) Consultant fails to collect and timely return Contract Worker's badge or key upon termination of Contract Worker's employment, reassignment of Contract Worker to another City facility or upon the expiration, cancellation or termination of this Agreement. Consultant acknowledges and agrees that the access control, badge and key requirements in this Section are necessary to preserve and protect public health, safety and welfare. Accordingly, Consultant agrees to properly cure any default under this Section within three (3) business days from the date notice of default is sent by City. The parties agree that Consultant's failure to properly cure any default under this Section must constitute a breach of this Section. In addition to any other remedy available to City at law or in equity, Consultant must be liable for and must pay to City the sum of one thousand dollars (\$1,000.00) for each breach by Consultant of this Section. The parties further agree that the sum fixed above is reasonable and approximates the actual or anticipated loss to City at the time and making of this Agreement in the event that Consultant breaches this Section. Further, the parties expressly acknowledge and agree to the fixed sum set forth above because of the difficulty of proving City's actual damages in the event that Consultant breaches this Section. The parties further agree that three (3) breaches by Consultant of this Section arising out of any default within a consecutive period of three (3) months or three (3) breaches by Consultant of this Section arising out of the same default within a period of twelve (12) consecutive months will constitute a material breach of this Agreement by Consultant and City expressly reserves all of its rights, remedies and interests under this Agreement, at law and in equity including, but not limited to, termination of this Agreement.