



PROFESSIONAL SERVICES AGREEMENT
Design Services
PICKLEBALL COURTS AT TUMBLEWEED PARK
Project No. PR2206.201
Council Date: October 19, 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 **Dig Studio, Inc.**, a Colorado 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 **PICKLEBALL COURTS AT TUMBLEWEED PARK** 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 **240** 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 **\$282,226** 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: Rachel Marx, Project Manager P.O. Box 4008, Mail Stop 407, Chandler, AZ 85244-4008 Phone: 480-782-3354 Email: rachel.marx@chandleraz.gov																							
To Consultant:	<table border="1"> <tr> <td>LEGAL COMPANY NAME:</td> <td>Dig Studio, Inc.</td> </tr> <tr> <td>Mailing Address:</td> <td>1521 15th St., Denver, CO 80202</td> </tr> <tr> <td>Physical Address:</td> <td>3003 N. Central Ave., Ste. 800 Phoenix AZ 85012</td> </tr> <tr> <td>Statutory Agent Name:</td> <td>Laurel S. Raines</td> </tr> <tr> <td>Statutory Agent Mailing Address:</td> <td>1521 15th St., Denver, CO 80202</td> </tr> <tr> <td>Statutory Agent Physical Address:</td> <td>1521 15th St., Denver, CO 80202</td> </tr> <tr> <td colspan="2">CONSULTANT'S AUTHORIZED PROJECT REPRESENTATIVE</td> </tr> <tr> <td>Name:</td> <td>Jay Hicks</td> </tr> <tr> <td>Title:</td> <td>Sr. Principal</td> </tr> <tr> <td>Phone:</td> <td>602-363-1890</td> </tr> <tr> <td>Email:</td> <td>jay@digstudio.com</td> </tr> </table>		LEGAL COMPANY NAME:	Dig Studio, Inc.	Mailing Address:	1521 15 th St., Denver, CO 80202	Physical Address:	3003 N. Central Ave., Ste. 800 Phoenix AZ 85012	Statutory Agent Name:	Laurel S. Raines	Statutory Agent Mailing Address:	1521 15 th St., Denver, CO 80202	Statutory Agent Physical Address:	1521 15 th St., Denver, CO 80202	CONSULTANT'S AUTHORIZED PROJECT REPRESENTATIVE		Name:	Jay Hicks	Title:	Sr. Principal	Phone:	602-363-1890	Email:	jay@digstudio.com
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Title:	Sr. Principal																							
Phone:	602-363-1890																							
Email:	jay@digstudio.com																							

5.2 Records/Audit. Records of Consultant's direct personnel payroll, reimbursable expenses pertaining to this Agreement and records of accounts between City and Consultant must be kept on the basis of generally accepted accounting principles and must be made available to City and its auditors for up to three years following City's final acceptance of the services under this Agreement (this requirement is increased to five years if construction of this project is federally funded). City, its authorized representative, or any federal agency, reserves the right to audit Consultant's records to verify the accuracy and appropriateness of all cost and pricing data, including data used to negotiate this Agreement and any amendments. City reserves the right to decrease the total amount of Agreement price or payments made under this Agreement or request reimbursement from Consultant following final 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 Agreement 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 - Subconsultant Documents with Consultant (if applicable)

Exhibit F - 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"
Dig Studio, Inc.

MAYOR

Signature

09/06/2023

Date

RECOMMENDED BY:



Digitally signed by Kimberly Moon
DN: C=US, E=Kimberly.Moon@ChandlerAZ.gov,
O=City of Chandler, OU=Capital Projects Division,
CN=Kimberly Moon
Date: 2023.09.06 13:45:53-07'00'

Kimberly Moon, P.E.
CIP City Engineer

Jay Hicks

Print Name

Sr. Principal

Title

Jay@digstudio.com

Signer Email Address

APPROVED AS TO FORM:

City Attorney



ATTEST:

City Clerk

Seal

EXHIBIT "A"
SCOPE OF SERVICES/SCHEDULE

City of Chandler Tumbleweed Park Pickle Ball Complex

EXHIBIT "A"

SCOPE OF SERVICES/SCHEDULE

1. PROJECT DESCRIPTION & SCOPE OF CONSTRUCTION:

- 1.1 Consultant will provide services for Design Documents for the development of a 5 Ac. Pickle Ball Complex and 3 additional Tennis Courts (@ Tennis Complex), located at Tumbleweed Park, Chandler, Arizona, all as more specifically described herein below.
- 1.2 The facility design may include, but not be limited to, areas for activities such as: Pickleball, Tennis Courts, Ramadas, Restrooms, and other associated functions] The exterior improvements may include: A more detailed description of City's concept is included herein as part of Exhibit A.
- 1.3 The project design, construction, furnishing and equipping budget is \$4,042,887.00. All design, construction and furnishing of the project will be completed within this budget. The project design budget as identified in this scope of services will be \$282,226.00 as shown in Exhibit B-1.
- 1.4 Consultant will provide all design services for the Project including, but not limited to, normal landscape, architecture, civil, mechanical and electrical engineering services.

2. ASSIGNMENT:

- 2.1 The design Agreement has been awarded to a landscape architect based on their proposed personnel and specified consultants. Any deviations or substitutions of these team members must be pre-approved in writing by City. Those persons listed in Exhibit B will perform those portions of the work listed therein.

3. PROJECT SCHEDULE:

- 3.1 Consultant must perform the services within the times set forth in the Production Schedule included herein and made a part hereof by reference.
- 3.2 Consultant must adhere to the Production Schedule described herein and such schedule may not be modified or deviated from without written consent of City. Consultant must revise and submit for review an updated schedule whenever it is demonstrated that the time for completion of the Project Design or of any of the

partial completion points listed in the schedule is delayed by two weeks or more. Such adjusted schedule will include a written explanation stating the reasons for the change and a plan for getting back on schedule. Consultant must take all reasonable actions necessary to get the project back on schedule and City will cooperate to assist Consultant.

4. QUALITY CONTROL:

- 4.1 Consultant must institute and comply with the Design Quality Control Plan attached hereto and made a part hereof by reference.
- 4.2 As a part of the project design Consultant will develop a quality control plan for the entire construction phase. This Quality Control Plan will establish what elements should and must be seen by each consultant during construction. Identify what is in the project, which will be required to have a UBC "special Inspection" by the design engineer.

5. PRELIMINARY RESEARCH:

- 5.1 As and for preliminary research before preparing the project design, Consultant will:
 - a. Perform a Document Search for utility as-builts.
 - b. Perform a Document search for rights-of-way.
 - c. Perform a Document search for survey ties and benchmarks.
 - d. Perform a Document search for City policies, regulations, standards, design manuals, and requirements, etc. relevant to project.
 - e. Research and/or obtain geotechnical reports and investigations, master plans, computer model data and field surveys.
 - f. Research all utility companies/agencies and acquire all available as-built and utility records.
 - g. Investigate existing conditions, make measured drawings, and verify accuracy of drawings or other information furnished by City.
 - h. Consultant must provide a survey of the project area that includes complete topographical and property data of the immediate site. Design must utilize established City of Chandler benchmarks and reference locations of benchmarks on the plans. Clearly define the benchmark location and elevation that will be utilized for construction of this facility.

6. UTILITY/AGENCY COORDINATION:

- 6.1 Coordination with utility companies and agencies must be in accordance with the latest version of the "Public Improvement Project Guide" (PIPG).

- 6.2 Consultant must identify utility conflicts during the initial stages of the design process.
- 6.3 Consultant must coordinate the design and installation of the utilities, which includes, but is not limited to, services for electric, communications, water, storm drainage, irrigation and sanitary systems, etc.
- 6.4 Easements for these utilities must be identified early in the design stage of the project and necessary information provided to City's Real Estate Department to allow City to complete acquisition during the design phase.
- 6.5 Engineers employed by Consultant must provide the legal descriptions for the natural gas and electrical service easements.
- 6.6 Consultant must submit preliminary plans, specifications, and design calculations to utilities/agencies for review and use during their design for their service improvements or any necessary relocations.
- 6.7 Consultant must conduct utility meetings to coordinate relocations with utility/agency and establish relocation schedules.
- 6.8 Consultant must follow-up with the final design submittal for utility construction and coordination with the bid documents.
- 6.9 Consultant must incorporate the utility/agency private developer construction requirements into the bid documents.

7. GEOTECHNICAL INVESTIGATION:

- 7.1 Consultant must perform all soil and pavement borings necessary to complete their work.
- 7.2 Sub-surface soil conditions, established by the geotechnical investigations, must be incorporated into the bid documents in a manner usable to the excavation and foundation bidding and construction.

8. SCHEMATIC DESIGN (30% Document Review):

- 8.1 When the design is approximately thirty percent complete, Consultant must do the following:

- a. Provide a final concept incorporating the City's comments (and potentially a contractors' comments) and be cleaned up for reference and presentation to City Council if requested.
- b. Attend a City Council meeting and brief City Council, which will include preparing exhibits, rendering(s), computer graphic "fly-around", displaying and explaining such exhibits etc., to City Council and public while documenting meeting information exchange.
- c. Attend any other City Board meeting and brief the Board, which will include preparing exhibits, renderings, computer graphic "fly-around", displaying and explaining such exhibits, etc., to Board members while documenting meeting information exchange.
- d. Prepare plans that advance the design parameters for the project. The design will focus on the development of the site components including: ramadas, restroom, sports court with lighting, shade and seating, parking and general park features.
 - i. Title / Sheet Index
 - ii. Preliminary Hardscape Plan and Details
 - iii. Preliminary Grading Plans
 - iv. Preliminary Landscape Plan, Plant Materials List and Details
 - v. Preliminary Architectural Plans and Elevations
 - vi. Technical Design Narrative
 - vii. Probable Cost Estimate
- e. Prepare single line elevation drawing(s) and a perspective sketch of the exterior.
- f. Complete a drainage analysis and provide solutions to mitigate the runoff in a preliminary Drainage Report.
- g. Identify all necessary offsite improvements such as: streets, utilities, irrigation, etc., and depict the scope in a schematic design plan.
- h. Submit the project to City for a Development Standards review.
- i. Prepare a construction cost estimate for verification with the budget and re-design as necessary to re-align the design with the construction budget.
- j. Submit to City's Project Manager for comment two complete drawing sets with drainage & structural calculations, one of which must be reproducible.
- k. Schedule review meeting with plan check staff to discuss review comments. Clarify with the plan check staff what the design challenges are and decide the method in which they will be resolved.

9. DESIGN DEVELOPMENT (60% Document Review):

9.1 Based on the approved Schematic Design Documents and any adjustments authorized by City in the program, schedule or construction budget, Consultant must

prepare, for approval by City, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate. When the design is approximately sixty percent (60%) complete and again when the design is approximately eighty percent (80%) complete, Consultant must do the following:

- a. Allow and invite the Owner's Representative to attend the regular weekly design coordination meetings.
- b. Develop a site plan. Design must utilize established City of Chandler benchmarks and reference locations of benchmarks on the plans.
- c. Collaborate with City to define their requirements for building systems.
- d. Create an outline specification.
- e. Prepare plans, elevations, sections, schedules and notes as required to further and describe the project as to Landscape, hardscape, civil, architectural, structural, mechanical, electrical, and special systems.
- f. Perform code reviews and implement requirements into the design documents.
- g. Consultant is required to review and complete the City's Constructability Review Checklist. All applicable checklist items are required to be incorporated in the design documents.
- h. Value Engineer the design cooperatively with the entire design team and City's representatives. This effort will occur as early as effectively possible and consist of a focused meeting addressing: relationships of components, construction materials, and building systems.
- i. Prepare a construction cost estimate for verification with the budget. Re-design as necessary to re-align the design with the construction budget.
- j. Present a second briefing to Board that will include preparing exhibits, renderings, computer graphic "fly-around", briefing Board members while documenting meeting information exchange.
- k. Conduct a full document set (plans & specs) review in the presence of all consultants and City's representatives and any other stakeholders.
- l. Submit once to City's Project Manager for comment two complete drawing sets, specifications, drainage & structural calculations, one of which will be reproducible. Include original redline drawings and comments received from previous review along with a review summary indicating action taken.
- m. Schedule review meeting with plan check staff to discuss review comments. Clarify with the plan check staff what the design challenges are and decide the method in which they will be resolved.

10. CONSTRUCTION DOCUMENTS (90% Document Review):

10.1 Based on the approved Design Development Documents and any further

adjustments in the scope or quality of the Project or in the construction budget authorized by City, Consultant must prepare, for approval by City, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project. When the design is approximately ninety eight percent (98%) complete Consultant must do the following:

- a. Prepare plans, elevations, sections, schedules, notes and specifications as required to be able to bid and construct the project in its entirety.
 - i. Hardscape Plans – Dig, in coordination with their design team, will prepare construction documents based on the approved layout of the design and any adjustments to the probable cost. The hardscape plan will utilize horizontal and vertical control coordinate points for staking the location of paving, planting, sport court, etc. The materials and finishes of the hardscape will be identified and detailed on the plan. Dig will provide installation details for all hardscape components. All structural components will be coordinated with the project structural engineer and the hardscape plans will reference the details shown on the structural plans if needed. It is anticipated that structural design will be required for the post-tension sport court and possible modifications to the existing ramada.
 - ii. Landscape Plans – Dig will prepare the landscape construction documents that respond to the hardscape/site plan and any adjustments to the probable cost. The landscape plan will identify the final locations of inert groundcover for dust control and the location of new plant and relocated material. The plan will also include a complete plant key, materials schedule, and quantities. Dig will provide installation details for all landscape components.
 - iii. Irrigation Plans – Dig’s subconsultant will prepare an overall irrigation plan in the area impacted by the new sport court improvements. An Optional Design is included in this proposal that address possible irrigation upgrades to the existing park irrigation system.
 - iv. Grading, Drainage and Utility Plans – Dig’s subconsultant will prepare the grading and drainage plans that work within the parameter of the existing retention basin. It is anticipated that building review will require an engineer’s evaluation of the existing retention basin volume and an evaluation of any new improvements may have on the volume. Note: the addition of the sport court should not impact the retention volume, but building review may require an engineer’s statement of “no impact”.
 - v. Electrical Plans – Digs’ subconsultant will prepare electrical designs for the park and open space improvements. The drawings will

support the new park improvements. Note: The lighting has been replaced with LED's, new lighting would include the sport court and possible new ramada lighting.

- vi. Architectural Plans – Digs' subconsultant will prepare architectural designs for the restroom building. The drawings will support the new building improvements and be will be based on previously approved Tumbleweed Park Restroom Building.
- b. Cover sheet to be provided by City on diskette (AutoCAD 2004).
- c. Provide City of Chandler with a copy of the AutoCAD files. Each building system must be "layered" so as to be able to isolate trades or engineering from architectural components or vice versa.
- d. Conduct a full document set (plans & Specs) review in the presence of all consultants and City's representatives.
- e. Provide document coordination of work performed by separate contractors or by City's own forces (i.e.: systems furniture or exercise equipment provisions & installation, etc.).
- f. Prepare a construction cost estimate for verification with the budget. Re-design as necessary to re-align the design with the construction budget.
- g. Prepare bid alternates as necessary to assure budget can be met.
- h. Submit to City's Project Manager for comment two complete drawing sets, specifications, final drainage report & structural calculations, one of which will be reproducible. Include original redline drawings and comments received from previous review along with a review summary indicating action taken.

11. BID & AWARD (100% Documents):

- 11.1 Submit bid documents to Development Services for building permit. All plans, calculations and specifications will be stamped. The specifications will be 8-1/2" x 11" as an electronic PDF. Plans will be black line prints as well as electronically submitted Auto CAD .dwg files. Include original redline drawings and comments received from previous review along with a review summary indicating action taken.
- 11.2 Pick-up plan review final comments and prepare stamped Mylar documents for reproduction. City will have the bid sets reproduced from these Mylar's.
- 11.3 Assist City in the preparation of the Bid Form.
- 11.4 Attend and participate at the pre-bid conference for the purpose of answering technical questions from potential bidders.
- 11.5 Assist City in the evaluation of "substitutions and or-equals" and make a recommendation to accept or decline.
- 11.6 Prepare addenda for review and approval by City. City will distribute.
- 11.7 If bids are 10% over or under the "engineers estimate", Consultant will be required to provide a detailed evaluation explaining differences. Then the documents will be modified and re-bid at no additional cost to City.

12. PERIOD OF SERVICE (MILESTONES):

- 12.1 Following receipt of a "Notice to Proceed" with the design work, Consultant must complete the design and have all documents ready for bidding within 240 calendar days of the date indicated on the Notice to Proceed.
- 12.2 The Bid and Award period will be approximately 90 days. Following the General Contractors "Notice to Proceed" with construction of the Project, Consultant must perform the construction administration portion of this Agreement for approximately 240 days.
- 12.3 Consultant must prepare and deliver to City record documents within 30 days of the date of receipt of the red line drawings from City.
- 12.4 Consultant must complete all services specified herein in accordance with the Production Schedule and progress milestones included in Exhibit A attached herein. In the event delays are experienced beyond the control of Consultant, the completion date may be extended as mutually agreed upon by City and Consultant.

13. ALLOWANCES:

- 13.1 Owner's Allowance: an owner's allowance is included for additional services not identified or have been excluded in this scope of work but determined by the City to be required for completion of this project. All tasks completed under this allowance shall be identified and authorized by the City's Engineering Project Manager in advance. The Owner's Allowance shall only be used with prior written approval from the City representative (\$18,000.00).
- 13.2 Site lighting structural calculations for pole base/footings, \$1,000.00
- 13.3 Percolation Test, \$2,500.00
- 13.4 Structural not to exceed amount for miscellaneous site related structural design and review, \$4,000.00

EXHIBIT "B"
COMPENSATION AND FEES

DIG STUDIO
Tumbleweed Pickleball
EXHIBIT "B-1"
COST SUMMARY WITH SUBCONSULTANTS



Date: 6/16/2023

TASK DESCRIPTION	DESIGN FEES			Allowances	Comments
	Design	Per Task	Reimbursable Expenses	Optional Services	
Dig Studio					
Task 8.0 Schematic Design	\$ 23,362.00				
Schematic Design (d)		\$ 17,380.00			
Preliminary Cost Estimate (i)		\$ 2,644.00			
City Coordination Meetings (b, c, k)		\$ 3,338.00			
Task 9.0 Design Development (60%)	\$ 35,969.00				
Hardscape Plans / Details (e)		\$ 8,930.00			
Landscape / Tree Inventory Plans (e)		\$ 8,715.00			
Irrigation Plan (e)		\$ 5,270.00			
Grading Plan / GB Coordination (e)		\$ 4,750.00			
Electrical Plan Coordination (e)		\$ 636.00			
Probable Construction Cost (i)		\$ 3,322.00			
Public/Stakeholder Meetings (j)		\$ 2,462.00			
Coordination Meetings (a,c,m)		\$ 1,884.00			
Task 10.0-11.0: Construction Documents (90%-100%)	\$ 56,820.00				
Hardscape Plans / Details (a,i)		\$ 13,110.00			
Landscape Plans (a,ii)		\$ 13,110.00			
Irrigation Plans (a,iii)		\$ 8,880.00			
Grading Plan / Coordination (a, iv See GB)		\$ 9,310.00			
Electrical Plan Coordination (a, vSee WE)		\$ 892.00			
Permit Submittal		\$ 4,750.00			
Probable Construction Cost/Bid Assistance (f)		\$ 3,430.00			
Coordination Meetings		\$ 3,338.00			
Sub-Total	\$ 116,151.00		\$ 500.00	\$ -	Reprographics
Total Dig Studio Fees & Expenses			\$ 116,651.00		
Sub-Consultants and City Contingency					
Gavin & Barker- Survey / Civil / Engineering	\$ 71,220.00				
Rick Engineering - Field Survey	\$ 10,250.00				
Wright Engineering - Electrical Engineering	\$ 32,155.00			\$ 1,500.00	Structural Calculations
Gilliam Architecture - Restroom/MPE/Structural	\$ 21,350.00				
Speedie - Geotech	\$ 4,600.00			\$ 2,500.00	Percolation Test
Structural				\$ 4,000.00	NTE Misc Site
Owner's Allowance (City Contingency ~10% of Design Fee)				\$ 18,000.00	
Sub-Totals Sub-Consultant Fee & Expenses	\$ 139,575.00		\$ -	\$ 26,000.00	
Total Sub-Consultant Fee, contingency & Reimbursable Expenses			\$ 139,575.00	\$ 26,000.00	
FEE & REIMBURSABLE SUB-TOTALS	\$ 255,726.00		\$ 500.00	\$ 26,000.00	
TOTAL FEES, EXPENSES			\$ 256,226.00	\$ 26,000.00	

DIG STUDIO
Tumbleweed Pickleball
EXHIBIT "B-2"
Hours and Rates



Date: 6/16/2023

	P3, Sr Principal	P1, Assoc Principal	Project Mgr. Designer IV	Landscape Designer III	Landscape Designer II	Landscape Designer I	PROJECT ROLE	Comments
	Jay Hicks	Brandon Sobiech	Jeff Lothner	Jenny Robertson	Patrick Kelly / Staff	Staff		
	\$ 215.00	\$ 152.00	\$ 128.00	\$ 117.00	\$ 106.00	\$ 95.00	< HOURLY	
TASK DESCRIPTION							TOTAL HOURS PER TASK	
Task 8.0: Concept / Schematic (30%)	14	0	64	0	0	128	206	
8.1 Schematic Design (d)	4		40			120	164	
8.1 Preliminary Cost Estimate (i)	4		8			8	20	
8.1 City Coordination Meetings (b, c, k)	6		16				22	4 Meetings
							0	
							0	
Task 9.0: Design Development (60%)	17	0	58	0	0	262	337	
9.1 Hardscape Plans / Details (e)	2		10			76	88	
9.1 Landscape / Tree Inventory Plans (e)	1		10			76	87	
9.1 Irrigation Plan (e)			10			42	52	
9.1 Grading Plan / GB Coordination (e)	2		10			32	44	
9.1 Electrical Plan Coordination (e)			2			4	6	
9.1 Probable Construction Cost (i)	6		4			16	26	
9.1 Public/Stakeholder Meetings (j)	2		4			16	22	1 Meeting
9.1 Coordination Meetings (a,c,m)	4		8				12	2-3 Meetings
Task 10.0-11.0: Construction Documents (90%-100%)	24	0	80	0	0	436	540	
10.1 Hardscape Plans / Details (a,i)	2		10			120	132	
10.1 Landscape Plans (a,ii)	2		10			120	132	
10.1 Irrigation Plans (a,iii)			10			80	90	
10.1 Grading Plan / Coordination (a, iv See GB)	2		10			80	92	
10.1 Electrical Plan Coordination (a, vSee WE)			4			4	8	
11.1 Permit Submittal	2		10			32	44	
10.1 Probable Construction Cost/Bid Assistance (f)	10		10				20	
10.0/11 Coordination Meetings	6		16				22	3-4 Meeting
TOTAL HOURS:	55	0	202	0	0	826	1083	

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

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.

EXHIBIT "E"
SUBCONSULTANT DOCUMENTS WITH CONSULTANT

Any subconsultant assumptions, clarifications, exclusions, terms & conditions, signature blocks, etc. included are strictly between the Consultant and their subconsultants, and do not apply to the Agreement between the Consultant and the City.

Revised: May 26, 2023

Jeff Lothner PLA, ASLA
Dig Studio
600 North 4th Street
Suite D
Phoenix, AZ 85004

**RE: Proposal for Geotechnical Investigation
Tumbleweed Park-Pickle Ball Complex
NWC McQueen Road & Celebration Way
Chandler, AZ
Proposal No. 79528 S2**

Mr. Lothner:

Speedie & Associates are pleased to provide our cost estimate to conduct a soil investigation at the above referenced site that will satisfy site development, pavement, post-tensioned court and foundation design requirements. All work on this project will be carried out under the overall supervision of a registered Professional Engineer in the state of Arizona.

We understand that construction will consist of a 3-5 acre pickle ball complex on the east side of the existing park. The complex will consist of a restroom building, ramadas, several post-tensioned concrete courts and parking area. Structural loads are expected to be light to moderate and no special considerations regarding settlement tolerances are known at this time. Adjacent areas will be landscaped or paved to support moderate passenger and occasion heavy truck traffic. Landscaped areas will be utilized for storm water retention and disposal.

Geotechnical Investigation-We will drill and sample sufficient test borings to adequately determine subsoil conditions and provide samples for laboratory testing. Sufficient laboratory tests will be conducted to properly classify the soils encountered and provide data for engineering design. We presently anticipate drilling two to three (2 to 3) structural borings to depths of 10 to 20 feet below existing grade or auger refusal, whichever comes first and two to three (2 to 3) pavement/court subgrade borings to depths of 5 feet. Access to the site by conventional truck-mounted drilling equipment is assumed to be free and unencumbered.

Infiltration/Percolation Tests-An add-alternate fee is included to excavate and conduct shallow percolation tests meeting Chandler requirements. Chandler now requires dual ring percolation tests per ASTM D3385 be conducted, same as Maricopa County. This method requires a backhoe to excavate test pits, installation of large ring devices and a minimum of 6 hours of continuous readings. Due to these requirements, only two tests per day can be conducted by one person. Tests would be conducted at the proposed depths of the retention basins per the Grading and Drainage plans.

We will mark the proposed boring locations in the field with the locations to be approved by the client and owner. Speedie & Associates will take reasonable precautions to avoid damage to subterranean structures, pipelines and utilities including calling AZ811 (Blue Stake) and reviewing all as-built utility plans provided by the client. The client (and owner) agree Speedie & Associates is not responsible for any damages to underground structures, pipelines and utilities that are not traceable, not called to our attention and/or correctly shown on the plans furnished to Speedie & Associates.

We will analyze the data obtained from the previous field and laboratory testing and prepare an updated report presenting all data obtained, together with our conclusions and recommendations regarding:

1. Design data, allowable bearing pressure and depth, for shallow spread footings.
2. Alternate foundation systems and design data, if indicated by soil conditions.
3. Settlement estimate for the foundation system.
4. Post-tensioned concrete court parameters.
5. Lateral pressures on temporary and permanent retaining and foundation walls.
6. Seismic Site Classification based on borings and published ground motion data.
7. Groundwater conditions, if any, to the depths which will influence design and/or construction of the proposed development.
8. Swell potential of in-situ and compacted soils and recommendations for control if highly expansive.
9. On-site pavement design to provide economy and adequate service.
10. Suitability of site soils for use as compacted fill and preferred earthwork methods, including clearing, stripping, excavation and construction of engineered fill.
11. Local excavation and trenching conditions and stability considerations.
12. Add-alternate: Chandler requirements for infiltration/percolation tests.

Charges for our services have been determined on the basis of our standard Fee and Rate Schedule, a copy of which is attached and made a part hereof for any additional design work requested. We propose to provide the design services set forth herein for the following lump sum amount, which includes all testing, engineering, reimbursable expenses and one electronic pdf format file of the report emailed upon completion. Should we be informed that hard copies of the report are needed, there will be an additional charge of \$50.00 per report.

Description	Fee	
Geotechnical Investigation with Report	\$ 4,600.00	Accept ☐ Decline ☐
Add-Alternate: Percolation Tests	\$ 2,500.00 First Test ¹ \$ 700.00 Additional Tests ²	Accept ☐ # ____ Decline ☐
Notes: ¹ The first test incorporates the cost of the backhoe service. ² Conducted on the same mobilization as the initial percolation test.		

We have the staff available to begin work immediately upon notice to proceed. Once we finalize the boring location plan, about 7 working days are required to mark, obtain utility clearances and begin auger borings. Fieldwork for auger borings should take about one day (weather & access permitting) and lab testing about 4 weeks. The complete report will be issued within 7 days of lab testing completion. As always, we stand ready to make reasonable adjustments to this schedule to meet our clients' needs.

We appreciate the opportunity to submit this proposal for your consideration. If the terms set forth are satisfactory, please sign the attached copy and return it for our records.

Respectfully submitted,
SPEEDIE & ASSOCIATES, INC.



Kenneth M. Euge II
Project Coordinator

APPROVED AND ACCEPTED
For: Dig Studio

By: _____
(Printed Name & Position)

(Signature)

(Date)

ENGINEERING SERVICES
2023 Fee and Rate Schedule

Fees for services will be based upon the time worked on the project at the following rates:

Title	Rate Per Hour
Principal	\$ 180.00
Project Manager	140.00
Sr. Geologist/Engineer	140.00
Special Inspector (Architectural)	120.00
Project Engineer/Geologist	120.00
Environmental Specialist	100.00
Special Inspector (Structural/Geotechnical)	100.00
Staff Engineer/Geologist	100.00
Sr. Engineering Technician	80.00
Draftsman	75.00
Materials Testing Technician	70.00
Clerical/Administrative	60.00

REIMBURSABLE EXPENSES

Light Truck Mileage Rate: \$0.50 per mile

The following items are reimbursable to the extent of actual expenses plus 25%:

1. Transportation, lodging and subsistence for out of town travel
2. Special mailings and shipping charges
3. Special materials and equipment unique to the project
4. Duplication or reprinting/copying reports

TEST BORINGS AND FIELD INVESTIGATIONS

On projects requiring test borings, test pits, or other explorations, the services of reputable contractors to perform such work shall be obtained.

SUBCONTRACTORS/SUBCONSULTANTS CHARGES

Any charges for subcontractors/subconsultants are subject to a 25% handling fee if invoiced by Speedie & Associates or such charges can be directly paid by the CLIENT.

SPECIAL RATES

The following rates may be subject to a 35% increase:

- Overtime – time over 8 hours per weekday and on Saturday
- Sunday and Holidays
- Rush orders

MINIMUM CHARGES

A three hour minimum is charged for field testing and inspection services.

EXPERT WITNESS

Deposition and testimony; 4-hour minimum, \$250.00 per hour.

The following Terms and Conditions are included and hereto made a part of this agreement.

TERMS AND CONDITIONS

1. STANDARD OF CARE

In performing our professional engineering services, Speedie & Associates, LLC (S&A) will use the degree of care and skill ordinarily exercised by members of our profession currently practicing in the same locality under similar conditions. No warranty, expressed or implied, is made or intended by our proposal for consulting services, our contract, oral or written reports, or services.

2. SCOPE OF SERVICES

2.1 "ON-CALL" SERVICES

Unless otherwise agreed by both parties in writing, all construction materials testing will be performed on an "on-call" basis. Both parties agree that test results for "on-call" testing, where the CLIENT does not request S&A's continuous construction and field observation, will be based only on the representative sample or limited location tested.

2.2 CONSTRUCTION/FIELD OBSERVATION OR REMEDIATION OBSERVATION

If the CLIENT desires more extensive or full-time project observation to help reduce the risk of problems arising during construction, the CLIENT shall request such services as "Additional Services" in accordance with the terms of this agreement. Should the CLIENT for any reason choose not to have S&A provide construction or field observation during the implementation of S&A's specifications or recommendations, or should the CLIENT unduly restrict S&A's assignment of observation personnel, CLIENT shall, to the fullest extent permitted by law, waive any claim against S&A, and indemnify, defend, and hold S&A harmless from any claim or liability for injury or loss arising from field problems allegedly caused by findings, conclusions, recommendations, plans or specifications developed by S&A. CLIENT also shall compensate S&A for any time spent or expenses incurred by S&A in defense of any such claim. Such compensation shall be based upon S&A's prevailing fee and rate schedule.

3. OWNERSHIP OF DOCUMENTS

All reports, plans, specifications, field data, notes and other documents prepared by S&A shall remain the property of S&A. Any reuse of such documents for other purposes must be with the written consent of S&A.

4. SAFETY

While on a CLIENT'S jobsite, S&A's personnel have no authority to exercise any control over any construction contractor, any other entity, or their employees in connection with their work, health or safety precautions. The CLIENT agrees that the General Contractor is solely responsible for jobsite safety and warrants that this intent shall be made evident in the CLIENT'S agreement with the General Contractor. The CLIENT may be charged for additional work for interruption, downtime required, or safety measures required by hazardous job conditions.

5. INSURANCE

Upon request, S&A will furnish certificates of insurance for Workers Compensation, General and Auto insurance, and Professional Errors or Omissions insurance. S&A is not responsible for damage of any cause beyond the coverage of its insurance.

6. INDEMNIFICATION

6.1 ENVIRONMENTAL SERVICES

It is understood and agreed that should the CLIENT hire S&A in matters involving the actual or potential presence of hazardous substances, the CLIENT will indemnify S&A, and its employees and representatives, from and against claims that are the result of negligent acts or omissions on the part of the CLIENT, its employees or representatives. S&A will indemnify the CLIENT from and against claims that are solely the result of negligent acts or omissions on the part of S&A, its employees or representatives.

A UES Company

6.2 NON-ENVIRONMENTAL SERVICES

Both parties agree that S&A's scope of services will not include asbestos, hazardous or toxic materials. Should it become known in any way that such materials may be present at the jobsite or adjacent area that may affect the performance of S&A's services, S&A may suspend its services without any liability until the CLIENT retains appropriate consultation to identify, abate, and/or remove the asbestos, hazardous or toxic materials and warrants that the jobsite is in compliance with applicable laws and regulations. The CLIENT will indemnify S&A and his employees and representatives from and against claims that are the result of negligent acts or omissions on the part of the CLIENT, his employees and representatives. S&A shall indemnify the CLIENT from and against claims, which are solely the result of negligent acts or omissions on the part of S&A, its employees and representatives.

7. LIMITS OF LIABILITY

The CLIENT agrees that S&A shall not be liable for losses caused by or arising from any acts of the CLIENT, his employees or subcontractors. Should any of S&A's employees be found to have been negligent in the performance of professional services rendered, the CLIENT agrees that the maximum aggregate amount of S&A's liability shall be limited to \$50,000.00 or the amount of the fee paid to S&A for professional services, whichever amount is greater.

8. WAIVER OF LIMITATION OF PROFESSIONAL LIABILITY

In the event the CLIENT is unwilling or unable to limit liability in accordance with the paragraph above, then CLIENT shall agree to pay S&A a sum equivalent to an additional 20% of the total fee to be charged for the professional services. Said sum is to be called "Waiver of Limitation of Liability Charge." This charge will in no way be construed as being a charge for insurance of any type, but will be increased consideration for the greater risk involved in performing the work up to the limit of proceeds available from S&A's professional insurance coverage.

9. SAMPLE DISPOSAL

9.1 NON-HAZARDOUS SAMPLES

Test samples are substantially altered during testing and are disposed of immediately upon completion of tests. Drilling samples are disposed of thirty (30) days after submission of our report. If requested in writing, samples can be held after thirty (30) days for an additional storage fee, or returned to the CLIENT.

9.2 HAZARDOUS SAMPLES

If toxic or hazardous substances are involved, S&A will return such samples to the CLIENT. Or using a manifest signed by the CLIENT, S&A will have such samples transported to a location selected by the CLIENT for final disposal. The CLIENT agrees to pay all costs for storage, transport and disposal of samples. The CLIENT recognizes and agrees that S&A is acting as a bailee and at no time assumes title to samples involving hazardous or toxic materials.

10. PAYMENT

Progress invoices will be submitted to the CLIENT monthly with a final billing at completion of services. Invoices are due and payable upon receipt. The CLIENT agrees to pay a finance charge of 1.5 % per month on all past due accounts over thirty (30) days. The CLIENT'S obligation to pay for all work contracted is in no way dependent upon the CLIENT'S ability to obtain financing, zoning approval, or the CLIENT'S successful completion of the project. S&A reserves the right to suspend work under its agreement if the CLIENT fails to pay invoices as due. The CLIENT agrees to pay all costs for collection of payment, including attorney's fees.

11. LITIGATION

In the event of litigation between parties to this agreement, if S&A is the prevailing party, S&A shall be entitled to recover all related costs, expenses, and reasonable attorney fees.

GILLIAMARCHITECTURE, LLC

ARCHITECTURE + PLANNING + INTERIORS + ILLUSTRATION

40 W. Baseline Rd. #115 | TEMPE | ARIZONA 85283

January 19, 2022 **revised June 14, 2023**

Attn: Mr. Jeff Lothner, PLA, ASLA
Senior Associate
Dig Studio
600 N. 4th St., Suite D
Phoenix, AZ 85004

Re: Proposal for Architectural and Engineering Services
New Restroom at Tumbleweed Park

Jeff: We are pleased to submit this proposal for A/E services for your review and consideration. This proposal is based on the information you provided in our discussion and email correspondence. Scope of services includes Schematic Design, Design Development, Construction Documents, Permitting, and Construction Administration. If requested, Post Construction Phase services will be provided under a separate scope of service.

A. PROJECT SCOPE AND CRITERIA

1. This project includes architectural, structural, mechanical plumbing, and electrical engineering services as required for the addition of the new restroom building at the Tumbleweed Park in Chandler, AZ. For the new restroom, it is the City's request to use the same design and layout, as we recently developed for the Tumbleweed Park in 2020, however modifying the number of stalls from ten (10) stalls to six (6) stalls. As part of this scope we will update the design as needed to reflect the new layout.
2. Civil and Landscape design and drawings will be provided by others, therefore excluded from this scope of service. We will coordinate with Dig Studio as required during the design process. Cad files for the site and building location layout will be provided by Dig Studio prior to the start of the design work.
3. Structural engineering is included for the restroom building. Structural engineer will provide drawings and calculations, and adapt drawings to reflect geotechnical recommendations for the soils condition at this site and prepare drawings and calculations for the City's plan review process. It is anticipated that the building will have conventional spread footings with masonry walls.

Note: Special Structural Inspections will be required for this project. The structural engineer estimates a maximum of 14 site visits and 42 hours for these inspections, but is contingent upon the contractor's scheduling, phasing, weather, and construction methods. We recommend budgeting \$4,000.00 for these inspections.

4. Plumbing engineering is included for the restroom building, and include both water supply and waste water plans to within 5' outside of the building. It is assumed that adequate capacity is available to the project site. Plumbing engineer will evaluate and revise, if needed, locations of the plumbing lines that will connect to the existing site main lines.
5. Same as Tumbleweed Park design; it is assumed that the new building will be open to the exterior and that mechanical HVAC will not be required. If requested, or required this would be provided as an additional service.

6. Electrical engineering and Lighting design is included for the restroom building. The electrical engineer will provide drawings and coordinate connections and feeds to the site electrical services. Electrical power and lighting designs will be same as provided for the Tumbleweed Park facility. It is assumed that adequate power is available to the site.
7. Special Fire Protection and fire alarm systems, if required will be provided by the general contractor or by others as a deferred submittal, therefore excluded from this scope of services.
8. As requested, upon completion of the Construction Documents, we will provide signed and sealed PDF files for submittal to the City of Chandler's plan review process. If required, additional submittals to other agencies having jurisdiction over this project, are excluded.
9. A Geotechnical / Soils will be required for the design of this project. This report will be provided by Dig Studio, therefor excluded from this scope of service.

B. BASIC SERVICES TO BE PROVIDED

I. Schematic Phase:

- a. Modify the previous Tumbleweed Park Restroom plans, and coordinate with new site location. The proposed layout will be based on a similar design as provided in for the Tumbleweed Park, however be adjusted to only six (6) stalls in lieu of ten (10) stalls.
- b. If requested, includes up to two (2) meetings or virtual meetings with the client and owner during this phase.

II. Design Development & Construction Drawings Phases:

- a. Prepare and coordinate final set of Construction Drawings and specifications for construction and for permit review.
- b. Gilliam Architecture's engineering consultants to finalize Structural, Plumbing Engineering, and Electrical Engineering, documents for construction and permit review.
- c. Provide Energy Compliance Calculations as required by code.
- d. Includes up to two (2) meetings or virtual meetings with the client / owner during these phases.

III. Bidding & Permitting

- a. Based on our understanding, Client to provide submittals to the City of Chandler for plan review. If requested, we will assist in providing submittals to the City.
- b. Respond to reasonable City comments as required to obtain permit.
- c. Provide PDF files for a bid Set for Clients or Owner's use in obtaining bids from General Contractors, and respond to general contractor's questions regarding construction documents.

IV. Construction Administration & Post Construction Services

- a. Provide in-house review of shop drawings and submittals.
- b. In-house construction administration, including response to contractor RFI's, questions, and interpretation and clarification of the documents, and perform general communication with Client and Owner.
- c. Architect to attend bi-weekly site visits / observations (every 2 weeks) up to six (6) total based on a three (3) month construction schedule.
- d. If requested, includes one (1) site visit each from the Structural, Mechanical & Electrical engineers during construction.

- e. Includes one (1) site visit for final punch list walk with the Client, Owner and Contractor with the architect and the mechanical and electrical engineers. If requested, architect to attend one (1) punch list follow-up site walk.

C. ADDITIONAL SERVICES The following services are not included under Basic Services, and would be provided for a separate fee or on an hourly basis if requested by the Owner.

1. A change in the project scope or criteria, or making revisions to the design or drawings inconsistent with previously furnished information or approvals.
2. Design of other special systems, equipment, or manufacturing areas, storage systems, foodservice or kitchen equipment, or other special systems or equipment not previously mentioned.
3. Design of other future buildings or remodeling of the existing building. If requested, these can be provided at an additional service fee.
4. Additional meetings or presentations beyond those described in Section B above.
5. Post construction services or preparation of as-built drawings (the contractor will provide a set of as-built drawings, or provided under a separate CA services agreement).
6. Field engineering including site surveys, topographic surveys, construction staking, special structural inspection, or material testing (these services will be provided by the contractor).
7. Civil engineering or landscaping design services, coordination or permitting.
8. Structural engineering design or preparation of separate structural engineering drawings or calculations for other building components other than indicated in sections A & B.
9. As-Built of the project area are assumed to be accurate; any changes in project scope due to inaccuracies will be an additional service.
10. The design of fire sprinkler system, this will be by the Installer or General Contractor.
11. Coordination or Design of special Signage or Sign permitting other than those integral to the overall building design or required by code.
12. Special studies or reports not listed above such as (sound, traffic, environmental, structural, geotechnical, or seismic) these will be provided by the owner or general contractor.
13. Permitting, planning for environmental remediation or cleanup.
14. Test and balance services, these to be provided by the contractor.
15. Special engineering / structural inspections. These will be provided by the contractor or owner.
16. Excludes County, State or Federal Environmental EPA / ADEQ permitting. It is assumed this will be performed by the owner or by others.
17. Plan Review and Permit fees.

18. LEED design, coordination, or LEED certification.
19. Specialty design of 'smart' systems, infection control products, or biophilic design technologies. If requested, these services could be provided as an additional service, or at our typical hourly rate.
20. Design, coordination, or drawings for shade structures, water features, or other site amenities.

D. FEE SUMMARY

Fee is based on averaged anticipated hours for each firm personnel. See rate schedule below.

Project Phase / Discipline	Fee
1. Schematic Design Phase	
a. Architectural (14 hrs. x \$140 / hr.)	\$1,960
2. Design Development & Construction Documents	\$18,270
Includes design development level construction estimate	
a. Architectural (58 hrs. x \$145 / hr. = \$8,410)	
b. Structural (27 hrs. x \$170 / hr. = \$4,590)	
c. MPE (31 hrs. x \$170 / hr. = \$5,270)	
3. Bidding and Permitting Phase	\$1,120
Includes delivery of electronic cad files	
a. Architectural (8 hrs. x \$140 / hr. = \$1,120)	
4. Construction Administration Phase	\$6,980
a. Architectural (20 hrs. x \$145 / hr. = \$2,900)	
b. Structural (16 hrs. x \$170 / hr. = \$2,720)	
c. MEP (8 hrs. x \$170 / hr. = \$1,360)	
<i>**Recommended budget for special structural inspections (\$4,000)</i>	
TOTAL – BASIC SERVICES	\$28,330*
* (Excludes plan review & permit fees, or other reimbursable expenses)	
** (Excludes Special Inspections paid by contractor)	

E. Hourly Rate Schedule

Fees as indicated above are based on our typical hourly rates as indicated below.

PERSONNEL	<u>HOURLY RATE</u>
Principal.....	\$175.00
Senior Engineer / Manager.....	\$175.00
Project Manager/Architect.....	\$145.00
Designer / Interior Designer.....	\$140.00
Job Captain.....	\$135.00
Cad Drafter.....	\$120.00
Clerical.....	\$85.00

REIMBURSABLES

Travel, Subsistence & Misc. Expenses cost + 15%
Permit Fees cost + 15%
Outside Reproduction Services cost + 15%
Overnight mail & Delivery cost + 15%
Subcontracted Services cost + 15%
Mileage.....(\$.655 per mile or as adjusted by the IRS)

E. OTHER CONDITIONS

1. Upon acceptance of this proposal, we will prepare a standard AIA Owner / Architect Agreement or similar contract between Dig Studio and Gilliam Architecture LLC.
2. Our fee would be billed on a monthly basis in proportion to services performed through that date. Billings will be due and payable within 30 days of the invoice date. Invoices that remain unpaid beyond 60 days will accrue a service charge at the rate of 1.5% per month.
3. This proposal is valid for up to thirty (30) days of issuance of this proposal.

We look to the opportunity to work with Dig Studio on this important project. If there are any questions or concerns with this proposal, please let me know, as we are flexible and want to provide the level of service that best meets your needs. Thank you for your consideration.

Sincerely,



Randy J. Gilliam, NCARB, RA
Principal
T. 480-236-1228

Accepted by the Client

Authorized signature

Printed name and title

Date

GILLIAMARCHITECTURE, LLC
Terms and Conditions
Gilliam Architecture, LLC Agreement for Architectural Services

Project Location: Tumbleweed Park Restroom Building for City of Chandler

Dig Studio hereafter referred to as the Client, and Gilliam Architecture, LLC., hereafter referred to as the Architect, agree as follows:

1. **Architect's Basic Services:** The Architect's basic services are as stated on the attached services agreement letter and/or Pricing Worksheet.
2. **Architect's Additional Services:** The Architect's additional services are all services rendered other than those specifically defined as basic services described above. They include but are not limited to, changes in design, whether at the request of the Client, Architect's, Agency or Contractor's request upon prior approval by the Client, Architect shall be paid as set forth in paragraph 3a, unless otherwise agreed in writing.

3. **Compensation:**

a. **PERSONNEL** **HOURLY RATE**

Principal/Sr. Engineer	\$175.00
Engineer.....	\$175.00
Project Manager/Architect	\$145.00
Designer / Interior Designer.....	\$140.00
Job Captain	\$135.00
Cad Drafter.....	\$120.00
Clerical.....	\$85.00

REIMBURSABLES

Travel, Subsistence & Misc. Expenses cost + 15%
Permit Fees cost + 15%
Outside Reproduction Services cost + 15%
Overnight mail & Delivery cost + 15%
Subcontracted Services cost + 15%
Mileage \$.655 (per mile or as adjusted by the IRS)

- b. Architect's invoices which are in excess of any Client retainers are due within 30 (thirty) days from invoice date. A late charge of 1.5% per month shall be charged for invoice(s) not paid within 30 (thirty) days from invoice date. **Failure to pay:** If invoice(s) become past due over 60 (sixty) days, from invoice date, Architect shall have the unilateral and unequivocal right to suspend performance of services under this agreement and withhold its instruments of service without liability for delay or for consequential or other damages which may result therefrom.
- c. No deductions shall be made from Architect's compensation on account of penalties, liquidated damages, or other sums withheld from payments to contractors, or on account of the cost of changes in construction other than those for which the Architect has been found legally liable.
- d. If all or a portion of the project designed by the Architect hereunder is abandoned or suspended or is not completed, Architect nevertheless shall be paid for all work performed prior to written notification by Client of such abandonment or suspension or non- completion; this payment is to include all reimbursable costs accrued to that point in time. Payment of Architect is not in any way conditioned upon the use or incorporation of Architect's designs into the project or project approval by governing agencies (i.e. Local Planning or Building Departments).
- e. Client acknowledges that in the event Client fails to pay Architect in full for services rendered upon completion of the project, Architect has the right to any lien rights it may have pursuant to all applicable provisions of the law. In the event Architect elects to terminate this agreement for failure of payment, Architect has the right and moral responsibility to notify any government agency that the Architect will be removed from the Architect of record which may cause client substantial delays in construction up to and including a cease order for construction, producing new documents and re-permitting the project through government jurisdictions.
- f. Client may terminate this Agreement with seven days prior written notice to Architect for convenience or cause. Architect may terminate the Agreement for cause with seven days prior written notice to Client.

4. **Use of Electronic Media:** Copies of documents that may be relied upon by Client are limited to the printed copies (also known as hard copies) that are signed or sealed by Architect. Files in electronic media format or text, data, graphic or other types that are furnished by Architect to Client are only for convenience of Client. Any conclusions or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, Architect makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems or computer hardware differing from those in use by Architect at the beginning of this assignment.
5. **Limitation of Liability.** The Architect shall be responsible only for its own performance and work product and shall not be responsible for any and all delays, damages or costs to the extent they are caused by others, including but not limited to the Client or its design consultants, contractors or material suppliers. In recognition and equitable allocation of the relative risks and benefits of the project, the Client agrees to limit the liability of Architect and its owners, officers, directors, employees, agents, and sub-consultants to the Client for Architect's negligent acts, errors or omissions, such that the aggregate liability of the Architect and its sub-consultants to the Client shall not exceed the total fees for services rendered by the Architect and its sub-consultants, in the aggregate, on the Project.
6. **Specification of Materials:** The Client understands and agrees that products or building materials which are permissible under current building codes and ordinances may, at some future date, be banned or limited in use in the construction industry because of presently unknown hazardous characteristics. The Client agrees that if any such product or material specified for this project shall, at any future date, be suspected or discovered to be a health or safety hazard, then the Client agrees to waive all claims against the Architect, and to indemnify and hold them harmless from any damage, liability or cost, including reasonable attorney's fees, arising in any way from the specification or use of any such product or material, excepting only those damages, liabilities or costs attributed to the sole negligence or willful misconduct of the Architect.
7. **Construction Observation:** It should be understood that construction observation is strongly advised in order to minimize problems during construction due to changed conditions, conditions not previously known, conflicts among trades, errors or omissions by Contractors, designers or suppliers or others. Should the Architect not be retained to review construction, or should review of construction be unduly restricted, the Client agrees to waive all claims against the Architect, and to indemnify and hold the Architect harmless from any damage, liability or cost, including reasonable attorney's fees, to the extent allowable by law, and resulting in any way from problems during or after construction that allegedly result from work by the Architect. In such case, time expended by the Architect to resolve problems will be billed as additional services.
8. **Indemnity:** Architect will indemnify, defend and hold harmless Client and Client's principals and employees to the extent of Architect's fault from any and all claims and/or liabilities that were caused by Architect's sole negligence or willful misconduct in the performance of the services called for by this Agreement. Should Architect be subjected to claims and/or become involved in litigation concerning the project for any reason other than as a direct result of Architect's sole negligence or willful misconduct, then Client agrees to defend, indemnify and hold harmless Architect and Architect's sub-consultants and their respective principals and employees, to the fullest extent allowed by law, from and against any such claims and/or litigation, including attorneys' fees and costs of litigation.
9. **Ownership of Documents:** All documents prepared or furnished by Architect pursuant to this Agreement are instruments of Architect's professional service, and Architect shall retain an ownership and property interest therein. Architect grants client a license to use instruments of Architect's professional service for the purpose of constructing, occupying and maintaining the Project. Reuse or modification of any such documents by Client, without Architect's written permission, shall be at Client's sole risk, and Client agrees to indemnify and hold Architect harmless from all claims, damages and expenses, including attorney's fees, arising out of such reuse by Client or by other acting through Client.
10. **Mediation Requirement:** Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to the filing of a lawsuit or demand for arbitration. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the County where the Project is located unless another location is mutually agreed upon by the parties. Any agreements reached in the mediation shall be enforceable as a settlement agreement in any court having jurisdiction thereof. A demand for mediation shall be made within a reasonable period of time after the claim; dispute or other matter in question has arisen. In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based on such a claim, dispute or other matter in question would be barred by the applicable statute of limitations.

11. **Standards of Practice:** It is understood and agreed that the nature of the design process is such that the plans, specifications and other documentation prepared by the Architect/Engineer under this Agreement will inevitably contain ambiguities requiring clarification and/or correction during construction. Not only is the production of perfect documents an impossibility, but some design decisions are more efficiently deferred, for the benefit of the Client, to a point during construction at which they can be made in light of a clear understanding of actual field conditions.
12. **Opinions of Cost:** When included in Architect's scope of services, opinions or estimates of probable construction cost are prepared on the basis of Architect's experience and qualifications and represent Architect's judgment as a professional generally familiar with the industry. However, since Architect has no control over the cost of labor, materials, equipment or services furnished by others, over contractor's methods of determining prices, or over competitive bidding or market conditions, Architect cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from Architect's opinions or estimates or probable construction cost.
13. **Successors and Assignments:** The Client and the Architect each binds himself, his partners, successors, legal representative, and assigns to the other party in this agreement. Neither the Client nor the Architect shall assign or transfer his interest in this agreement without the written consent of the other.
14. **Force Majeure:** Neither party shall be deemed in default of the Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

CLIENT APPROVAL		
Approved	Title	Date

August 11, 2023

Mr. Jeff Lothner, PLA, ASLA
DigStudio
600 N. 4th St., Suite D
Phoenix, AZ 85004

Re: Proposal for Engineering Services (*Revision 4*)
Tumbleweed Park Pickleball Complex
Gavan & Barker No. P2201

Dear Jeff:

The following is our revised proposed scope of work and fee to provide civil engineering services for the new pickleball court complex and additional tennis courts at Tumbleweed Park in Chandler.

SCOPE OF WORK

The attached scope of work itemizes the work to be done.

PROPOSED FEE

Our proposed fee for the scope of work is \$71,220, plus our survey subconsultant fee of \$10,250, for a total proposed fee of \$81,470; please refer to the attached Project Estimating Sheet.

Thank you for the opportunity to submit this proposal and please call me if you have any questions.

Sincerely,
Gavan & Barker, Inc.

A handwritten signature in blue ink, reading "Mark T. Gavan".

Mark T. Gavan, P.E.
Project Manager

Enclosures

SCOPE OF WORK
Tumbleweed Park Pickleball Courts
Gavan & Barker No. 2201

PROJECT DESCRIPTION

This project is the addition of a pickleball court complex and additional tennis courts in the northeast corner of the City of Chandler's Tumbleweed Park located at Germann and McQueen Roads. The design elements of this project may include the pickleball court complex; including approximately 18 pickleball courts, restroom, ramada, and parking lot for approximately 75-100 vehicles, and an additional 3 tennis courts to complete the tennis court complex. It is understood that these elements will be developed on 3-5 acres, and planning of future amenities will be provided for the remaining undeveloped corner of the park.

This proposal is for civil engineering design services for the project which include site topographic survey, grading and drainage plans, drainage report, restroom water and sewer, and storm water management plans.

TASKS

1. **General Management/Meetings** – Gavan & Barker will coordinate and attend meetings with client and the City's project manager, as required. Three on-line meetings and one on-site meeting are anticipated for this project. The Consultant will also coordinate with the Planning Department to gain approval of the grading and drainage, and water and sewer plans for the project.
2. **Research/Data Collection** – Gavan & Barker will review the City of Chandler's as-built plans of waterlines, sewer lines, storm drains, irrigation, tennis courts, and rights-of-way, and will gather and review all pertinent utility maps and other project related information. We will review geotechnical report and incorporate recommendations for earthwork and pavement design into the plans.
3. **Topographic Survey and Base Sheets** - A topographic field survey will be conducted, and a CAD base file will be prepared for the entire 20+/- acre undeveloped parcel in the northeast corner of Tumbleweed Park. This base file will incorporate the utilities and rights-of-way of record. (See attached scope of work for the topographic survey prepared by RICK Engineering).
4. ***Schematic Design (30% Documents)***
 - 4.1. **Preliminary drainage calculations** will be prepared based on a schematic layout provided by client to determine the required storm water retention volume for the new facilities, and area required for the storm water storage basins. Coordination will be provided to assist client in the development of the site plan based on grading and drainage requirements.
 - 4.2. **Schematic Plans:** Based on a site layout plan provided by client, Gavan & Barker will prepare schematic plans representing design intent for the site grading, drainage, water, and sewer design. Documents will be provided in electronic format and will include Schematic Grading & Drainage Plans, and Schematic Water & Sewer Plans.
 - 4.3. **Schematic Design Cost Estimate** will be prepared for the restroom water and sewer services, and cost estimating assistance will be provided to client to establish unit costs for grading and drainage pavements and curb items as needed.

5. *Design Development (60% Documents)*

- 5.1. **Preliminary Drainage Report** - A preliminary report will be prepared including documentation of the required storm water retention volume for the new facilities. This report will also document contributing offsite flows which may be conveyed through the project site.
- 5.2. **Preliminary Grading and Drainage Plans** - Grading and drainage plans will be prepared to provide vertical control for curb, pavement and sidewalk elevations, restroom finished floor elevation, court elevations, and stormwater retention areas. Grading and drainage details will be provided for items not covered with MAG or City standard details. The grading plan will be prepared to meet the requirements of City Plan Review.
- 5.3. **Preliminary Site Water and Sewer Plan** – A water and sewer plan will be prepared for the new restroom building. It is assumed the new water and sewer service lines will be connected to the internal park road and that offsite water and sewer plans will not be required in the McQueen Road right-of-way.
- 5.4. **Design Development Cost Estimate** will be prepared for the restroom water and sewer services, and cost estimating assistance will be provided to client to establish unit costs for grading and drainage pavements and curb items as needed.

6. *Construction Documents (90% and 100% Design Submittals)*

- 6.1. **Final Grading, Drainage, Water and Sewer** permit-ready, biddable construction documents shall be prepared for the above referenced civil plans describing in detail the construction requirements for the project. Plans will be prepared per City of Chandler standards. In addition, the following plans/tasks shall be provided for the construction documents:
- 6.2. **Storm Water Management Plans** will be prepared to provide erosion control BMPs for the site construction area as required by City Plan Review.
- 6.3. **Final Technical Specifications** will be prepared for unique items of civil work that are not covered by MAG, or the City of Phoenix Supplements to MAG Standard Specifications.
- 6.4. **Final Drainage Report** will be prepared that incorporates any comments obtained from the City and any revisions to the drainage design.

ASSUMPTIONS AND EXCLUSIONS

- a. The plans produced by Gavan & Barker will be in AutoCAD format and will utilize the site plan digital file(s) provided by client. Any changes to the site plan will also be provided to Gavan & Barker in AutoCAD format.
- b. Adjustments to the existing irrigation system will be provided by client.
- c. **Site Construction Plans** – Site construction plans which call out site features, locations, and project details will be provided by client.

- d. **Geotechnical Engineering** - Soils investigations or testing are not included in the scope of our services. The client shall provide Gavan & Barker with a geotechnical report which shall include infiltration test data and pavement recommendations.
- e. **Off-Site Improvements** - Due to the project's internal park site location, it is understood that there will not be a need for off-site roadway improvements, such as driveway cuts or roadway widening on Germann or McQueen Roads.
- f. **Legal Descriptions** - Due to the project's internal park site location, it is understood that there will not be a need for right-of-way take or abandonments, Therefore, legal descriptions and exhibits for new right-of-way are not included in the scope of our services.
- g. **Utility Coordination** – It is assumed that the client will coordinate with the public and private utility companies for conflict review.
- h. **Agency Fees** - The client will pay all agency review fees and permit fees.
- i. **Reproduction costs** for making plan review sets and bid sets will be paid by the client.
- f. **Structural Engineering** - The client will provide structural design of any required retaining walls, or other features requiring structural engineering design.

PROJECT ESTIMATING SHEET
Tumbleweed Park Pickleball & Tennis Courts - Grading, Drainage, Water & Sewer

Type of Work And Task		Senior Project Manager		Civil Engineer		Senior Designer		Total Direct Labor Fees	
		Hrs	165	Hrs	145	Hrs	115	Hrs	Dollars
1.0 GENERAL									
1.1	Meetings, Mgmt & Coordination	16	2,640.00	8	1,160.00	0	-	24	3,800.00
2.0 RESEARCH / DATA COLLECTION									
2.1	Data Collection	2	330.00	4	580.00	2	230.00	8	1,140.00
2.2	Site Visits	2	330.00	2	290.00	2	230.00	6	850.00
3.0 TOPOGRAPHIC SURVEY									
3.1	Base Sheet Preparation.	2	330.00	6	870.00	56	6,440.00	64	7,640.00
3.2	Field Survey	2	330.00		-	4	460.00	6	790.00
4.0 SCHEMATIC DESIGN / SITE PLAN									
4.1	Preliminary Drainage calculations	2	330.00	16	2,320.00	6	690.00	24	3,340.00
4.2	Schematic G&D Plans	4	660.00	14	2,030.00	40	4,600.00	58	7,290.00
4.2	Schematic Design Cost Estimate	2	330.00	4	580.00	4	460.00	10	1,370.00
5.0 DESIGN DEVELOPMENT									
5.1	Preliminary Drainage Report	4	660.00	28	4,060.00	12	1,380.00	44	6,100.00
5.2	Preliminary Grading and Drainage Plans	8	1,320.00	32	4,640.00	60	6,900.00	100	12,860.00
5.3	Preliminary Water and Sewer Plans	4	660.00	6	870.00	20	2,300.00	30	3,830.00
5.4	Design Development Cost Estimate	2	330.00	4	580.00	6	690.00	12	1,600.00
6.0 CONSTRUCTION DOCUMENTS (90% / 100%)									
6.1	Final Grading, Drainage, Water, Sewer Plans	12	1,980.00	32	4,640.00	56	6,440.00	100	13,060.00
6.2	Storm Water Management Plans	2	330.00	4	580.00	12	1,380.00	18	2,290.00
6.3	Final Technical Specifications	6	990.00	12	1,740.00	0	-	18	2,730.00
6.4	Final Drainage Report	2	330.00	12	1,740.00	4	460.00	18	2,530.00
TOTALS BASIC FEE		72	\$ 11,880.00	184	\$ 26,680.00	284	\$ 32,660.00	540	\$ 71,220.00
7.0 SUBCONSULTANTS									
7.1	Field Survey (Rick Engineering)								10,250.00

TOTAL SUBCONSULTANTS

\$ 10,250.00

TOTAL AMOUNT

\$ 81,470.00



January 12, 2022
Revised August 9, 2023

John Barker, PLA, ASLA
Gavan & Barker, Inc.
3030 North Central Avenue, Suite 700
Phoenix, Arizona 85012
Phone: (602) 200-0031
jbarker@gavanbarker.com

SUBJECT: Tumbleweed Park Pickle Ball Area, Chandler, Arizona

Dear John:

Rick Engineering Company is pleased to submit this proposal to provide professional surveying services for the above referenced property.



Figure 1 - Survey Limits (Red) (See Figure 2 for additional survey limits)



Figure 2 – Additional Survey Limits (Red)

TOPOGRAPHIC SURVEY FOR DESIGN (Figure 1 & Figure 2)

- Location and elevation of existing surface utilities and improvements within the survey limits.
- Plot the approximate locations of the underground utility lines according to the record agency maps available at the time of the survey.
- Full width cross sections at 50-foot intervals of roadways within Survey Limits.
- Elevations at a 50-foot grid (100-foot grid in farm field) and at grade breaks, top and bottom of slopes and other defining features of the ground surface.
- Contours will be provided at 1-foot intervals.
- Locate and show existing trees.
- All elevations will be on City of Chandler Datum tied to 2 Benchmarks.
- Provide topographic base map in electronic format to be used for Design.

FEE

Rick Engineering Company will provide the above services for a fee of **\$10,250.00**. Any printing and miscellaneous processing fees are extra and not a part of this agreement.

TIMELINE

Rick Engineering Company will provide the above services in approximately 25-30 working days from notice to proceed and receipt of title commitment.

PROPOSAL ASSUMPTIONS:

1. Video or in-person meetings requested by the client shall be billed T&M beyond the fee noted above.
2. Any printing and miscellaneous municipal processing fees are extra and not a part of this agreement.
3. This fee assumes there are no additional survey requirements other than what is stated above in this proposal.
4. Authorized overtime will be charged 1.5 times the rates shown on the attached rate sheet.
5. A 15% fee for administration, coordination and handling will be added to all subcontracted services.
6. Legal Descriptions and Exhibits, if necessary, will be drafted at \$700 per occurrence.

Client Initials _____

Sincerely,



Eric Sostrom, RLS
Land Surveyor
Associate, Survey Manager



Ryan Hall,
Survey Manager

August 14, 2023

Dig Studio, Inc.
600 N. 4th St.
Suite D
Phoenix, AZ 85004

Re: Tumbleweed Park Pickleball Courts

Attn: Jeff Lothner

Dear Jeff,

Wright Engineering appreciates this opportunity to submit a proposal for electrical engineering services on the above referenced project. The following services will be performed in a professional manner to meet City of Chandler requirements:

Electrical Design Scope of Services:

1. Coordinate design with owner, power company, civil engineer, and/or architect/landscape architect as required.
2. Visit the site to determine existing conditions and electrical configuration. Up to (1) one visit.
3. Review existing electrical drawings and load calculations for site.
4. Determine existing peak demand loads and coordinate proposed electrical loads.
5. Design the electrical power system to meet local codes and requirements.
6. Prepare 24" X 36" electrical construction drawings including an overall site plan showing all new equipment to include the following:
 - a. Electrical service entrance section and distribution equipment
 - b. Control equipment
 - c. Area lighting
 - d. Ramadas (one light and convenience receptacle)
 - e. Monuments (internal / external illumination)
 - f. Parking lot lighting
 - g. Pickleball court lighting for (18) courts
 - h. Tennis court lighting for (3) courts
 - i. Convenience receptacles
 - j. Power to irrigation controller
 - k. Power to chilled drinking fountain
 - l. Power to restroom/concession building
 - m. Lighting and electrical design for restroom/concession building

7. Prepare photometric calculations showing all lighting averages, uniformities and any spill light at adjacent property lines.
8. All lighting on/off control will be designed per client's requirements. All necessary equipment will be shown on the plans.
9. Prepare necessary elevation view and installation details of the equipment listed above to help determine layout and size.
10. Prepare load calculations and single line diagram.
11. Prepare panel schedule and other electrical installation details as required.
12. Prepare a conduit and wire table showing all power conduits and wire for equipment listed above.
13. Prepare system fault current and voltage drop calculations as required.
14. Prepare an engineer's opinion of probable electrical construction costs upon request.
15. Structural calculations for the light foundations are included below as an allowance if required by the reviewing agency.
16. Perform in-house QAQC review and modifications.
17. The above plans will be provided to client at 60%, 90% and 100% levels for submittal review and comment. Submittals will be made via email in digital PDF format. Client will print, copy and submit to the City and owner as needed.
18. Up to one set of base drawing changes or updates will be included in this engineering cost proposal. Incorporating any additional base drawing changes will incur additional cost at the rates noted under additional services.
19. Municipal review comments will be responded to and addressed.

Responsibilities of Others:

1. Provide Wright Engineering Corp. electronic base files in an AutoCAD format which includes all proposed and existing utilities, all proposed improvements, and any existing conditions that affect this scope.
2. Wright Engineering will submit plans to the civil engineer or landscape architect for submittal to the local government agencies for approval and permits.
3. Designation of electrical service location will be determined by the local utility company. The owner is responsible for coordination of the design of all electrical utility power services during the design process.

Final Deliverables:

1. Upon completion of the design, we will provide final sealed documents bearing the signature of a registered electrical engineer in the State of Arizona.

Engineering Fee:

The above services will be provided as follows:

1. Electrical Design Services: **\$32,155.00** (Billed Hourly, Not to Exceed)
2. Allowance for structural calculations if required: **\$1,500.00** (Lump Sum)

Please Note: Services as stated above can be provided in whole or part to meet client needs.

*Any engineering or services fees requested to be paid by credit card will be charged an additional 4.25% for processing.

Additional Services:

Any services not specifically included in the Scope of Services section shall be additional services payable at an hourly fee at the following rates:

Principal	\$180/hour	Designer	\$115/hour
Senior Engineer	\$160/hour	Drafter	\$105/hour
Engineer	\$135/hour	Admin	\$65/hour

Printing Charges:

Although not anticipated, any printing and delivery requested will be charged as follows:

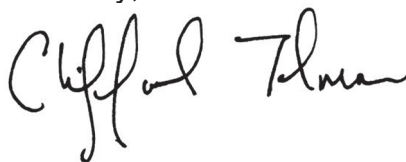
Blacklines	\$ 2.00 each
Mylar Sepia	\$18.00 each
Delivery Cost	cost

Billing:

We will bill you on a monthly basis for these services. Payment terms are Net 30 days. This proposal will be valid for the next 90 days. If you have any questions, please contact us at your earliest convenience.

I look forward to working with you on this project. Please show your acceptance of this proposal by signing below and returning one copy for my records.

Sincerely,



Clifford Tolman, P.E.
Wright Engineering Corporation

I have received and read Appendix 'A' and agree to all terms and conditions as outlined in Appendix 'A' and this proposal. By signing, the proposal becomes the agreement and is executed.

Accepted this _____ day of _____ 2023

(Company Name)

(Signature)

(Print or Type Name)

(Title)

The Client agrees that the technical methods, techniques, and pricing information contained in any proposal submitted by Wright Engineering pertaining to this project or in this Agreement or any addendum thereto, are to be considered confidential and proprietary, and shall not be released or otherwise made available to any third party without the express written consent of Wright Engineering.

Client Billing Information:

Contract/AP Contact Name: _____

Address: _____

Business Phone: _____ Mobile Phone: _____

Email: _____

It is our desire to keep communication flowing freely. To contact us for contract information or accounts payable information, please email Cami Penrod at cpenrod@wrightengineering.us or call us at 480-497-5829.

Appendix 'A'

Terms and Conditions

Certifications

Wright Engineering Corp. shall not be required to execute any document that would result in its certifying, guaranteeing or warranting the existence of conditions whose existence Wright Engineering Corp. cannot ascertain.

Termination of Services

This agreement may be terminated by the Client or Wright Engineering Corp. should the other fail to perform its obligations hereunder. In the event of termination, the Client shall pay Wright Engineering Corp. for all service rendered to the date of termination and all reimbursable expenses.

Ownership of Documents

All documents produced by Wright Engineering Corp. under this agreement shall remain the property of Wright Engineering Corp. and may not be used by the Client for any other endeavor without the written consent of Wright Engineering Corp.

Billings/Payments

Invoices for Wright Engineering Corporation services shall be submitted, at Wright Engineering Corporation's option, either upon completion of such services or on a monthly basis. Invoices shall be payable within 30 days after the invoice date. If the invoice is not paid within 30 days, Wright Engineering Corporation may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, terminate or suspend the performance of the service. Accounts unpaid 60 days after the invoice date may be subject to a monthly service charge of one-and-one-half percent (1.5%) (or the maximum rate allowed by law, whichever is less) on the then unpaid balance. In the event any portion, or all of an account remains unpaid 90 days after billing, the Client shall pay all costs of collection including reasonable attorney's fees.

Unauthorized Changes

In the event the Client, the Client's contractors or subcontractors, or anyone for whom the Client is legally liable makes or permits to be made any changes to any reports, plans, specifications or other construction documents prepared by Wright Engineering Corp. without obtaining Wright Engineering Corporation's prior written consent, the Client shall assume full responsibility for the results of such changes. Therefore, the Client agrees to waive any claim against Wright Engineering Corp. and to release Wright Engineering Corp. from any liability arising directly or indirectly from such changes. In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Wright Engineering Corp. from any damages, liabilities or costs, including reasonable attorneys' fees and costs of defense, arising from such changes. In addition, the Client agrees to include in any contracts for construction appropriate language that prohibits the Contractor or any subcontractors of any tier from making any changes or modifications to Wright Engineering Corporation's construction documents without the prior written approval of Wright Engineering Corp. and that further requires the Contractor to indemnify both Wright Engineering Corp. and the Client from any liability or cost arising from such changes made without such proper authorization.

Permits and Approvals

It is the responsibility of the Client to obtain all permits and approvals normally required by law for projects similar to the one for which Wright Engineering Corporation's services are being engaged. Wright Engineering Corp. may assist the Client as requested in applying for those permits and approvals for an additional fee. This service is not included in the Basic Services of this Agreement.

Construction Supervision

The Consultant shall not supervise, direct or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by the Contractor nor for the Contractor's safety precautions or programs in connection with this Work. These rights and responsibilities are solely those of the Contractor in accordance with the Contract Documents. The Consultant shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. The Consultant does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

Changed Conditions

If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to the Consultant are revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, the Consultant may call for renegotiation of appropriate portions of this Agreement. The Consultant shall notify the Client of the changed conditions necessitating renegotiation, and the Consultant and the Client shall promptly and in good faith enter into renegotiation of this Agreement to address the changed conditions. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement, in accordance with the Termination provision hereof.

Attorneys' Fees

In the event of any litigation arising from or related to this Agreement or the services provided under this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs incurred, including staff time, court costs, attorneys' fees and all other related expenses in such litigation.

Mediation

In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the Client and the Consultant agree that all disputes between them arising out of or relating to this Agreement or the Project shall be submitted to non-binding mediation unless parties mutually agree otherwise.

Proprietary Information

The Client agrees that the technical methods, design details, techniques and pricing data contained in any material submitted by Wright Engineering Corp pertaining to this Project or this Agreement shall be considered confidential and proprietary, and shall not be released or otherwise made available to any third party without the express written consent of Wright Engineering Corp.

Indemnification

The Consultant and the Subconsultant mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from their own negligent acts in the performance of their services under this Agreement, to the extent that each party is responsible for such damages, liabilities and costs on a comparative basis of fault.

Limitation of Liability

Neither the engineer, the engineer's consultants, nor their agents or employees shall be jointly or individually liable to the owner in an amount in excess of our fees.

City of Chandler
Tumbleweed Park Pickleball Courts Site Electrical
Electrical Engineering Services
Wright Engineering Corporation
August 14, 2023

SITE ELECTRICAL DESIGN							
TASK NUMBER	TASK DESCRIPTION	Principal	Senior Engineer	Engineer	Designer	Administrative	TOTAL
	Direct Hourly Rate	\$180.00	\$160.00	\$135.00	\$115.00	\$65.00	
100.0	COORDINATION						
100.1	Project Coordination	0.00	4.00	0.00	0.00	2.00	
100.2	Visit Site	0.00	4.00	0.00	3.00	0.00	
SUB TASK HOURS PER CATEGORY		0.00	8.00	0.00	3.00	2.00	13.00
SUB TASK FEE PER CATEGORY		\$0.00	\$1,280.00	\$0.00	\$345.00	\$130.00	\$1,755.00
101.0	MEETINGS						
101.1	Team Meetings	0.00	8.00	6.00	0.00	0.00	
SUB TASK HOURS PER CATEGORY		0.00	8.00	6.00	0.00	0.00	14.00
SUB TASK FEE PER CATEGORY		\$0.00	\$1,280.00	\$810.00	\$0.00	\$0.00	\$2,090.00
102.0	PLAN DEVELOPMENT AND SUBMITTAL						
102.1	Plan Development	0.00	8.00	20.00	24.00	0.00	
102.2	Details, Photometrics, Power & Voltage Drop Calculations	0.00	16.00	40.00	64.00	0.00	
102.3	Specifications & OPC	0.00	4.00	4.00	6.00	0.00	
102.4	QAQC	0.00	4.00	4.00	6.00	0.00	
102.5	Plan Submittal	0.00	0.00	2.00	4.00	0.00	
102.6	Comment Resolution Meetings/Address Redlines	0.00	2.00	4.00	8.00	0.00	
SUB TASK HOURS PER CATEGORY		0.00	34.00	74.00	112.00	0.00	220.00
SUB TASK FEE PER CATEGORY		\$0.00	\$5,440.00	\$9,990.00	\$12,880.00	\$0.00	\$28,310.00
TOTAL HOURS PER CATEGORY		0.00	50.00	80.00	115.00	2.00	247.00
TOTAL FEE PER CATEGORY		\$0.00	\$8,000.00	\$10,800.00	\$13,225.00	\$130.00	\$32,155.00
			TOTAL DIRECT LABOR				\$32,155.00
			STRUCTURAL CALCULATIONS				\$1,500.00
			TOTAL PROJECT COST				\$33,655.00

EXHIBIT "F"
FEDERAL REQUIREMENTS

N/A

ACORDTM**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

9/11/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER USI Insurance Services, LLC P.O. Box 7050 Englewood, CO 80155 800 873-8500		CONTACT NAME: Leticia Ortiz PHONE (A/C, No, Ext): 800 873-8500 E-MAIL ADDRESS: leticia.ortiz@usi.com FAX (A/C, No):															
INSURED Dig Studio Inc. 1521 15th St Denver, CO 80202		<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Travelers Casualty Ins Co of America</td> <td>19046</td> </tr> <tr> <td>INSURER B : Travelers Casualty and Surety Company</td> <td>19038</td> </tr> <tr> <td>INSURER C : Charter Oak Fire Insurance Company</td> <td>25615</td> </tr> <tr> <td>INSURER D : Berkley Insurance Company</td> <td>32603</td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Travelers Casualty Ins Co of America	19046	INSURER B : Travelers Casualty and Surety Company	19038	INSURER C : Charter Oak Fire Insurance Company	25615	INSURER D : Berkley Insurance Company	32603	INSURER E :		INSURER F :	
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INSURER C : Charter Oak Fire Insurance Company	25615																
INSURER D : Berkley Insurance Company	32603																
INSURER E :																	
INSURER F :																	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:	X	X	6803K783902	11/26/2022	11/26/2023	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
A	AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS NON-OWNED AUTOS ONLY	X	X	156803K783902	11/26/2022	11/26/2023	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☒ UMBRELLA LIAB ☐ EXCESS LIAB ☒ RETENTION \$10000	X	X	CUP3K78438220	11/26/2022	11/26/2023	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☒ Y ☒ N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		X	UB3K50973A	11/26/2022	11/26/2023	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
D	Professional Liability Claims Made			AEC906180505	11/26/2022	11/26/2023	\$2,000,000 per claim \$4,000,000 annl aggr.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

As required by written contract or written agreement, the following provisions apply subject to the policy terms, conditions, limitations and exclusions: The Certificate Holder and owner are included as Automatic Additional Insured's for ongoing and completed operations under General Liability; Designated Insured under Automobile Liability; and Additional Insured under Umbrella / Excess Liability but only with respect to liability arising out of the Named Insured's work performed on behalf of the certificate holder and owner. (See Attached Descriptions)

CERTIFICATE HOLDER**CANCELLATION**

City of Chandler - Public Works & Utilities Department
 P.O. Box 4008, Mail Stop 407
 Chandler, AZ 85244-4008

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



DESCRIPTIONS (Continued from Page 1)

The General Liability, Automobile Liability, Umbrella/Excess insurance policies applies on a primary and non-contributory basis. A Blanket Waiver of Subrogation applies for General Liability, Automobile Liability, Umbrella/Excess Liability and Workers Compensation. The Umbrella / Excess Liability policy provides excess coverage over the General Liability, Automobile Liability and Employers Liability.

Please note that Additional Insured status does not apply to Professional Liability or Workers' Compensation.

Certificate holder continues: Attn: CIP City Engineer: Kimberly Moon, P.E.

RE: Project #PR2206.201, Geotechnical Investigation - Pickleball Courts At Tumbleweed Park, NWC McQueen Road & Celebration Way, Chandler, AZ.

Additional Insured Includes: City of Chandler, its agents, representatives, officers, directors, officials and employees.

Policy contains a Severability of Interest provision

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTO COVERAGE PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|---|--|
| <ul style="list-style-type: none"> A. BLANKET ADDITIONAL INSURED B. EMPLOYEE HIRED AUTO C. EMPLOYEES AS INSURED D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS E. TRAILERS – INCREASED LOAD CAPACITY F. HIRED AUTO PHYSICAL DAMAGE G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT | <ul style="list-style-type: none"> H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT I. WAIVER OF DEDUCTIBLE – GLASS J. PERSONAL EFFECTS K. AIRBAGS L. AUTO LOAN LEASE GAP M. BLANKET WAIVER OF SUBROGATION |
|---|--|

A. BLANKET ADDITIONAL INSURED

The following is added to Paragraph A.1., **Who Is An Insured**, of **SECTION II – LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the **Who Is An Insured** provision contained in Section II.

B. EMPLOYEE HIRED AUTO

1. The following is added to Paragraph A.1., **Who Is An Insured**, of **SECTION II – LIABILITY COVERAGE**:

An "employee" of yours is an "insured" while operating a covered "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while

performing duties related to the conduct of your business.

2. The following replaces Paragraph b. in **B.5., Other Insurance**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

- b. For **Hired Auto Physical Damage Coverage**, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

C. EMPLOYEES AS INSURED

The following is added to Paragraph A.1., **Who Is An Insured**, of **SECTION II – LIABILITY COVERAGE**:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph A.2.a.(2) of **SECTION II – LIABILITY COVERAGE**:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph A.2.a.(4) of **SECTION II – LIABILITY COVERAGE**:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

E. TRAILERS – INCREASED LOAD CAPACITY

The following replaces Paragraph C.1. of **SECTION I – COVERED AUTOS**:

1. "Trailers" with a load capacity of 3,000 pounds or less designed primarily for travel on public roads.

F. HIRED AUTO PHYSICAL DAMAGE

The following is added to Paragraph A.4., **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Hired Auto Physical Damage Coverage

If hired "autos" are covered "autos" for Liability Coverage but not covered "autos" for Physical Damage Coverage, and this policy also provides Physical Damage Coverage for an owned "auto", then the Physical Damage Coverage is extended to "autos" that you hire, rent or borrow subject to the following:

(1) The most we will pay for "loss" in any one "accident" to a hired, rented or borrowed "auto" is the lesser of:

(a) \$50,000;

(b) The actual cash value of the damaged or stolen property as of the time of the "loss"; or

(c) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

(2) An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".

(3) If a repair or replacement results in better than like kind or quality, we will not pay for the amount of betterment.

(4) A deductible equal to the highest Physical Damage deductible applicable to any owned covered "auto".

(5) This Coverage Extension does not apply to:

(a) Any "auto" that is hired, rented or borrowed with a driver; or

(b) Any "auto" that is hired, rented or borrowed from your "employee".

G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph A.4.a., **Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT

Paragraph C.2., **Limit Of Insurance**, of **SECTION III – PHYSICAL DAMAGE COVERAGE** is deleted.

I. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph D., **Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

J. PERSONAL EFFECTS

The following is added to Paragraph A.4., **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Personal Effects Coverage

We will pay up to \$400 for "loss" to wearing apparel and other personal effects which are:

(1) Owned by an "insured"; and

(2) In or on your covered "auto".

This coverage only applies in the event of a total theft of your covered "auto".

No deductibles apply to Personal Effects coverage.

K. AIRBAGS

The following is added to Paragraph B.3., **Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Exclusion 3.a. does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs A.1.b. and A.1.c., but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

L. AUTO LOAN LEASE GAP

The following is added to Paragraph A.4., **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Auto Loan Lease Gap Coverage for Private Passenger Type Vehicles

In the event of a total "loss" to a covered "auto" of the private passenger type shown in the Schedule or Declarations for which Physical Damage Coverage is provided, we will pay any unpaid amount due on the lease or loan for such covered "auto" less the following:

- (1) The amount paid under the Physical Damage Coverage Section of the policy for that "auto"; and

(2) Any:

- (a) Overdue lease or loan payments at the time of the "loss";
- (b) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
- (c) Security deposits not returned by the lessor;
- (d) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
- (e) Carry-over balances from previous loans or leases.

M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph A.5., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ARCHITECTS, ENGINEERS AND SURVEYORS XTEND ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

GENERAL DESCRIPTION OF COVERAGE Provisions **A. – T.** and **V.** of this endorsement broaden coverage. Provisions **U.** and **W.** of this endorsement may limit coverage. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the **PROVISIONS** of this endorsement carefully to determine rights, duties, and what is and is not covered.

- | | |
|---|--|
| <p>A. Broadened Named Insured</p> <p>B. Incidental Medical Malpractice</p> <p>C. Reasonable Force – Bodily Injury Or Property Damage</p> <p>D. Non-Owned Watercraft – Increased To Up To 75 feet</p> <p>E. Aircraft Chartered With Crew</p> <p>F. Extension Of Coverage – Damage To Premises Rented To You</p> <p>G. Malicious Prosecution – Exception To Knowing Violation Of Rights Of Another Exclusion</p> <p>H. Medical Payments Limit</p> <p>I. Increased Supplementary Payments</p> <p>J. Additional Insured – Owner, Manager Or Lessor Of Premises</p> <p>K. Additional Insured – Lessor Of Leased Equipment</p> <p>L. Additional Insured – State Or Political Subdivisions – Permits Relating To Premises</p> <p>M. Additional Insured – State Or Political Subdivisions – Permits Relating To Operations</p> | <p>N. Additional Insured – Architect, Engineer Or Surveyor</p> <p>O. Who Is An Insured – Newly Acquired Or Formed Organizations</p> <p>P. Who Is An Insured – Unnamed Partnership Or Joint Venture – Excess</p> <p>Q. Per Project General Aggregate Limit</p> <p>R. Knowledge And Notice Of Occurrence Or Offense</p> <p>S. Unintentional Omission</p> <p>T. Waiver Of Transfer Of Rights Of Recovery Against Others To Us When Required By Contract Or Agreement</p> <p>U. Amended Bodily Injury Definition</p> <p>V. Amended Insured Contract Definition – Railroad Easement</p> <p>W. Amended Property Damage Definition – Tangible Property</p> <p>X. Additional Definition – Contract or Agreement Requiring Insurance</p> |
|---|--|

PROVISIONS

A. BROADENED NAMED INSURED

1. The Named Insured in Item 1. of the Common Policy Declarations is amended as follows:

The person or organization named in Item 1. of the Common Policy Declarations and any organization, other than a partnership, joint venture, limited liability company or trust, of which you are the sole owner or in which you maintain the majority ownership interest on the effective date of the policy. However,

coverage for any such additional organization will cease as of the date, if any, during the policy period, that you no longer are the sole owner of, or maintain the majority ownership interest in, such organization.

2. This Provision **A.** does not apply to any person or organization for which coverage is excluded by another endorsement to this Coverage Part.

B. INCIDENTAL MEDICAL MALPRACTICE

1. The following is added to Paragraph 1. **Insuring Agreement** of **COVERAGE A BODILY**

INJURY AND PROPERTY DAMAGE LIABILITY in COVERAGES (Section I):

"Bodily injury" arising out of the rendering of, or failure to render, "first aid" or "Good Samaritan services" to a person, other than a co-"employee" or "volunteer worker", will be deemed to be caused by an "occurrence". For the purposes of determining the applicable limits of insurance, any act or omission together with all related acts or omissions in the furnishing of the services to any one person will be deemed one "occurrence".

2. As used in this Provision B.:
 - a. "First aid" means medical or nursing service, treatment, advice or instruction; the related furnishing of food or beverages; the furnishing or dispensing of drugs or medical supplies or appliances;
 - b. "Good Samaritan services" means those medical services rendered or provided in an emergency and for which no remuneration is demanded or received.
3. Paragraph 2.a.(1)(d) of **WHO IS AN INSURED (Section II)** does not apply to any of your "employees", who are not employed as a doctor or nurse by you, but only while performing the services described in Paragraph 1. above and while acting within the scope of their employment by you. Any such "employees" rendering "Good Samaritan services" will be deemed to be acting within the scope of their employment by you.

4. The following exclusion is added to Paragraph 2. **Exclusions of COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY in COVERAGES (Section I):**

Sale of Pharmaceuticals

"Bodily injury" or "property damage" arising out of the willful violation of a penal statute or ordinance relating to the sale of pharmaceuticals committed by or with the knowledge or consent of the insured.

5. The insurance provided by this Provision B. shall be excess over any valid and collectible other insurance available to the insured, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by you to apply in excess of the Limits of Insurance shown in the Declarations for this Coverage Part.

C. REASONABLE FORCE – BODILY INJURY OR PROPERTY DAMAGE

The **Expected Or Intended Injury** Exclusion in Paragraph 2. **Exclusions of COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY in COVERAGES (Section I)** is deleted and replaced by the following:

Expected Or Intended Injury Or Damage

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect any person or property.

D. NON-OWNED WATERCRAFT – INCREASED TO UP TO 75 FEET

1. The exception contained in Subparagraph (2) of the **Aircraft, Auto Or Watercraft** Exclusion in 2. **Exclusions of COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY in COVERAGES (Section I)** is deleted and replaced by the following:

(2) A watercraft you do not own that is:

- (a) Less than 75 feet long; and
- (b) Not being used to carry persons or property for a charge;

2. Only as respects the insurance provided by this Provision D., **WHO IS AN INSURED (Section II)** is amended to include as an insured any person who, with your expressed or implied consent, either uses or is responsible for the use of the watercraft.
3. The insurance provided by this Provision D. shall be excess over any valid and collectible other insurance available to the insured, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by you to apply in excess of the Limits of Insurance shown in the Declarations for this Coverage Part.

E. AIRCRAFT CHARTERED WITH CREW

1. The following is added to the exceptions contained in the **Aircraft, Auto Or Watercraft** Exclusion in Paragraph 2. **Exclusions of COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY in COVERAGES (Section I):**

Aircraft chartered with crew, including a pilot, to any insured.

2. This Provision E. does not apply if the chartered aircraft is owned by any insured.
3. The insurance provided by this Provision E. shall be excess over any valid and collectible other insurance available to the insured, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by you to apply in excess of the Limits of Insurance shown in the Declarations for this Coverage Part.

F. EXTENSION OF COVERAGE – DAMAGE TO PREMISES RENTED TO YOU

1. The last paragraph of **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** in **COVERAGES (Section I)** is deleted and replaced by the following:

Exclusions c. through n. do not apply to damage to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by:

- a. Fire;
- b. Explosion;
- c. Lightning;
- d. Smoke resulting from such fire, explosion, or lightning; or
- e. Water.

A separate limit of insurance applies to this coverage as described in **LIMITS OF INSURANCE (Section III)**.

2. The insurance under this Provision F. does not apply to damage to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by:
 - a. Rupture, bursting, or operation of pressure relief devices;
 - b. Rupture or bursting due to expansion or swelling of the contents of any building or structure, caused by or resulting from water; or
 - c. Explosion of steam boilers, steam pipes, steam engines, or steam turbines.
3. Paragraph 6. of **LIMITS OF INSURANCE (Section III)** is deleted and replaced by the following:

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for the sum of all damages because of "property damage" to

any one premises while rented to you, or temporarily occupied by you with permission of the owner, caused by: fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water. The Damage To Premises Rented To You Limit will apply to all "property damage" proximately caused by the same "occurrence", whether such damage results from: fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water; or any combination of any of these causes.

The Damage To Premises Rented To You Limit will be the higher of:

- a. \$1,000,000; or
- b. The amount shown for the Damage To Premises Rented To You Limit in the Declarations for this Coverage Part.

4. Paragraph a. of the definition of "insured contract" in **DEFINITIONS (Section V)** is deleted and replaced by the following:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by: fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water is not an "insured contract";

5. This Provision F. does not apply if coverage for Damage To Premises Rented To You of **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** in **COVERAGES (Section I)** is excluded by another endorsement to this Coverage Part.

G. MALICIOUS PROSECUTION – EXCEPTION TO KNOWING VIOLATION OF RIGHTS OF ANOTHER EXCLUSION

The following is added to the **Knowing Violation Of Rights Of Another** Exclusion in 2. Exclusions of **COVERAGE B PERSONAL INJURY, ADVERTISING INJURY AND WEB SITE INJURY LIABILITY** of the **WEB XTEND LIABILITY** Endorsement:

This exclusion does not apply to "personal injury" caused by malicious prosecution.

H. MEDICAL PAYMENTS LIMIT

The Medical Expense Limit shown in the Declarations for this Coverage Part is increased to \$10,000.

I. INCREASED SUPPLEMENTARY PAYMENTS

Paragraphs 1.b. and 1.d. of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B in COVERAGES (Section I)** are amended as follows:

1. In Paragraph 1.b., the amount we will pay for the cost of bail bonds is increased to \$2500.
2. In Paragraph 1.d., the amount we will pay for loss of earnings is increased to \$500 a day.

J. ADDITIONAL INSURED – OWNER, MANAGER OR LESSOR OF PREMISES

1. **WHO IS AN INSURED (Section II)** is amended to include as an insured:

Any person or organization that you have agreed in a contract or agreement to include as an additional insured on this Coverage Part, but:

- a. Only with respect to liability for "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after you have entered into that contract or agreement; and
 - b. Only if the "bodily injury", "property damage" or "personal injury" is caused, in whole or in part, by acts or omissions of you or any person or organization performing operations on your behalf, and arises out of the ownership, maintenance or use of that part of any premises leased to you under that contract or agreement.
2. The insurance provided to such additional insured under this Provision J. is subject to the following provisions:
 - a. The limits of insurance afforded to such additional insured shall be the limits which you agreed to provide in the contract or agreement, or the limits shown in the Declarations for this Coverage Part, whichever are less; and
 - b. The insurance afforded to such additional insured does not apply to:
 - (1) Any "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after you cease to be a tenant in that premises;

- (2) Any structural alterations, new construction or demolition operations performed by or on behalf of such additional insured; or

- (3) Any premises for which coverage is excluded by another endorsement to this Coverage Part.

3. This Provision J. does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.

K. ADDITIONAL INSURED – LESSOR OF LEASED EQUIPMENT

1. **WHO IS AN INSURED (Section II)** is amended to include as an insured:

Any person or organization that you have agreed in a contract or agreement to include as an additional insured on this Coverage Part, but:

- a. Only with respect to liability for "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after you have entered into that contract or agreement; and
 - b. Only if the "bodily injury", "property damage" or "personal injury" is caused, in whole or in part, by acts or omissions of you or any person or organization performing operations on your behalf, in the maintenance, operation or use of equipment leased to you by such additional insured.
2. The insurance provided to such additional insured under this Provision K. is subject to the following provisions:
 - a. The limits of insurance afforded to such additional insured shall be the limits which you agreed to provide in the contract or agreement, or the limits shown in the Declarations for this Coverage Part, whichever are less; and
 - b. The insurance afforded to such additional insured does not apply:
 - (1) To any "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after the equipment lease expires; or

- (2) If the equipment is leased with an operator.

3. This Provision K. does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.

L. ADDITIONAL INSURED – STATE OR POLITICAL SUBDIVISIONS – PERMITS RELATING TO PREMISES

The following is added to Paragraph 2. of **WHO IS AN INSURED (Section II)** to include as an insured:

Any state or political subdivision that has issued a permit in connection with premises owned or occupied by, or rented or loaned to, you, but only with respect to "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, elevators, street banners or decorations for which that state or political subdivision has issued such permit.

M. ADDITIONAL INSURED – STATE OR POLITICAL SUBDIVISIONS – PERMITS RELATING TO OPERATIONS

The following is added to Paragraph 2. of **WHO IS AN INSURED (Section II)** to include as an insured:

Any state or political subdivision that has issued a permit, but only with respect to "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of operations performed by you or on your behalf for which that state or political subdivision has issued such permit. However, no such state or political subdivision is an insured for:

1. "Bodily injury", "property damage", "personal injury" or "advertising injury" arising out of operations performed for that state or political subdivision; or
2. "Bodily injury" or "property damage" included within the "products – completed operations hazard".

N. ADDITIONAL INSURED – ARCHITECT, ENGINEER OR SURVEYOR

1. The following is added to Paragraph 2. of **WHO IS AN INSURED (Section II)** to include as an insured:

Any architect, engineer or surveyor engaged by or for you that you agree in a "contract or agreement requiring insurance" to include as an additional insured on this Coverage Part, but only with respect to liability for "bodily injury", "property damage" or "personal injury" that is caused, in whole or in part, by acts or omissions of you or any person or organization acting on your behalf in connection with your premises or "your work".

2. This Provision N. does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.

O. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED ORGANIZATIONS

1. Paragraph 4.a. of **WHO IS AN INSURED (Section II)** is deleted and replaced by the following:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier. Any such newly acquired or formed organization that you report in writing to us within 180 days after you acquire or form the organization will be covered under this provision until the end of the policy period, even if there are more than 180 days remaining until the end of the policy period;

2. This Provision O. does not apply to any organization for which coverage is excluded by another endorsement to this Coverage Part.

P. WHO IS AN INSURED – UNNAMED PARTNERSHIP OR JOINT VENTURE – EXCESS

1. The last paragraph of **WHO IS AN INSURED (Section II)** is deleted and replaced by the following:

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Common Policy Declarations.

However, this exclusion does not apply to your liability with respect to your conduct of the business of any current or past partnership or joint venture:

- a. That is not shown as a Named Insured in the Common Policy Declarations, and
 - b. In which you are a member or partner where each and every one of your co-ventures in that joint venture is an architectural, engineering, or surveying firm.
2. This Provision **P.** does not apply to any person or organization for which coverage is excluded by another endorsement to this Coverage Part.
 3. The insurance provided by this Provision **P.** shall be excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, which is available covering your liability with respect to your conduct of the business of any current or past partnership or joint venture that is not shown as a Named Insured in the Common Policy Declarations and which is issued to such partnership or joint venture.

Q. PER PROJECT GENERAL AGGREGATE LIMIT

1. Paragraph 2. of **LIMITS OF INSURANCE (Section III)** is deleted and replaced by the following:

The General Aggregate Limit is the most we will pay for the sum of:

- a. Damages under Coverage **B**; and
 - b. Damages from "occurrences" under Coverage **A** and for all medical expenses caused by accidents under Coverage **C** which cannot be attributed only to operations at a single "project".
2. The following is added to **LIMITS OF INSURANCE (Section III)**:

A separate Per Project General Aggregate Limit applies to each "project" for all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Coverage **A** and for all medical expenses caused by accidents under Coverage **C** which can be attributed only to operations at a single "project", and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations for this Coverage Part.

Any payments made under Coverage **A** for damages and under Coverage **C** for medical expenses shall reduce the Per Project General Aggregate Limit for that "project", but shall not reduce:

- a. Any other Per Project General Aggregate Limit for any other "project";
- b. The General Aggregate Limit; or
- c. The Products-Completed Operations Aggregate Limit.

The limits shown in the Declarations for this Coverage Part for Each Occurrence, Damage To Premises Rented To You and Medical Expense are also subject to the Per Project General Aggregate Limit when the Per Project General Aggregate Limit applies.

3. As used in the Provision **Q.**:

"Project" means an area away from premises owned by or rented to you at which you are performing operations pursuant to a contract or agreement. For the purposes of determining the applicable aggregate limit of insurance, each "project" that includes premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad shall be considered a single "project".

R. KNOWLEDGE AND NOTICE OF OCCURRENCE OR OFFENSE

The following is added to Paragraph 2. **Duties In The Event of Occurrence, Offense, Claim Or Suit of COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV)**:

Notice of an "occurrence" or of an offense which may result in a claim must be given as soon as practicable after knowledge of the "occurrence" or offense has been reported to you, one of your "executive officers" (if you are a corporation), one of your partners who is an individual (if you are a partnership), one of your managers (if you are a limited liability company), one of your trustees who is an individual (if you are a trust), or an "employee" (such as an insurance, loss control or risk manager or administrator) designated by you to give such notice.

Knowledge by any other "employee" of an "occurrence" or offense does not imply that you also have such knowledge.

Notice of an "occurrence" or of an offense which may result in a claim will be deemed to be given as soon as practicable to us if it is given in good faith as soon as practicable to your workers' compensation, accident, or health insurer. This applies only if you subsequently give notice of the "occurrence" or offense to us as soon as practicable after you, one of your "executive officers" (if you are a corporation), one of your partners who is an individual (if you are a partnership), one of your managers (if you are a limited liability company), one of your trustees who is an individual (if you are a trust), or an "employee" (such as an insurance, loss control or risk manager or administrator) designated by you to give such notice discovers that the "occurrence" or offense may involve this policy.

S. UNINTENTIONAL OMISSION

1. The following is added to Paragraph 6. **Representations of COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV)**:

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy shall not prejudice your rights under this insurance.

2. This Provision S. does not affect our right to collect additional premium or to exercise our right of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

T. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US WHEN REQUIRED BY CONTRACT OR AGREEMENT

The following is added to Paragraph 8. **Transfer of Rights of Recovery Against Others to Us of COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV)**:

We waive any rights of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of:

1. Premises owned by you, temporarily occupied by you with permission of the owner, or leased or rented to you;
2. Ongoing operations performed by you, or on your behalf, under a contract or agreement with that person or organization;
3. "Your work"; or

4. "Your products".

We waive these rights only where you have agreed to do so as part of a contract or agreement entered into by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense or "advertising injury" offense is committed.

U. AMENDED BODILY INJURY DEFINITION

The definition of "bodily injury" in **DEFINITIONS (Section V)** is deleted and replaced by the following:

"Bodily injury" means:

- a. Physical harm, including sickness or disease, sustained by a person;
- b. Mental anguish, injury or illness, or emotional distress, resulting at any time from such physical harm, sickness or disease; or
- c. Care, loss of services or death resulting at any time from such physical harm, sickness or disease.

V. AMENDED INSURED CONTRACT DEFINITION – RAILROAD EASEMENT

1. Subparagraph c. of the definition of "insured contract" in **DEFINITIONS (Section V)** is deleted and replaced by the following:
 - c. Any easement or license agreement;
2. Subparagraph f.(1) of the definition of "insured contract" in **DEFINITIONS (Section V)** is deleted.

W. AMENDED PROPERTY DAMAGE DEFINITION – TANGIBLE PROPERTY

The definition of "property damage" in **DEFINITIONS (Section V)** is deleted and replaced by the following:

"Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, tangible property does not include data.

COMMERCIAL GENERAL LIABILITY

X. The following definition is added to SECTION V – DEFINITIONS:

"Contract or agreement requiring insurance" means that part of any contract or agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury"

and "property damage" occurs, and the "personal injury" is caused by an offense committed:

- a. After you have entered into that contract or agreement;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. The following is added to SECTION II - WHO IS AN INSURED:

Any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:

- a. Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
- b. If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies, or in connection with premises owned by or rented to you.

The person or organization does not qualify as an additional insured:

- c. With respect to the independent acts or omissions of such person or organization; or
- d. For "bodily injury", "property damage" or "personal injury" for which such person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

- e. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.
- f. This insurance does not apply to the rendering of or failure to render any "professional services".
- g. In the event that the Limits of Insurance of the Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement does not increase the lim-

its of insurance described in Section III - Limits Of Insurance.

- h. This insurance does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

2. The following is added to Paragraph 4.a. of SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:

The insurance provided to the additional insured is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover. However, if you specifically agree in the "written contract requiring insurance" that this insurance provided to the additional insured under this Coverage Part must apply on a primary basis or a primary and non-contributory basis, this insurance is primary to other insurance available to the additional insured which covers that person or organizations as a named insured for such loss, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have signed that "written contract requiring insurance". But this insurance provided to the additional insured still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is

COMMERCIAL GENERAL LIABILITY

available to the additional insured when that person or organization is an additional insured under any other insurance.

3. The following is added to Paragraph 8., Transfer Of Rights Of Recovery Against Others To Us, of SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:

We waive any right of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" performed by you, or on your behalf, done under a "written contract requiring insurance" with that person or organization. We waive this right only where you have agreed to do so as part of the "written contract requiring insurance" with such person or organization signed by you be-

fore, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

4. The following definition is added to the DEFINITIONS Section:

"Written contract requiring insurance" means that part of any written contract under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

- a. After you have signed that written contract;
- b. While that part of the written contract is in effect; and
- c. Before the end of the policy period.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

OTHER INSURANCE – ADDITIONAL INSUREDS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

PROVISIONS

COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV), Paragraph 4. (**Other Insurance**), is amended as follows:

1. The following is added to Paragraph **a. Primary Insurance**:

However, if you specifically agree in a written contract or written agreement that the insurance provided to an additional insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with that other insurance, provided that:

- a. The "bodily injury" or "property damage" for which coverage is sought occurs; and

- b. The "personal injury" or "advertising injury" for which coverage is sought arises out of an offense committed

subsequent to the signing and execution of that contract or agreement by you.

2. The first Subparagraph (2) of Paragraph **b. Excess Insurance** regarding any other primary insurance available to you is deleted.
3. The following is added to Paragraph **b. Excess Insurance**, as an additional subparagraph under Subparagraph (1):

That is available to the insured when the insured is added as an additional insured under any other policy, including any umbrella or excess policy.

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WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

SCHEDULE

DESIGNATED PERSON:

DESIGNATED ORGANIZATION:

ANY PERSON OR ORGANIZATION FOR WHICH THE INSURED HAS AGREED
BY WRITTEN CONTRACT EXECUTED PRIOR TO LOSS TO FURNISH THIS
WAIVER.

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