



PROFESSIONAL SERVICES AGREEMENT

Construction Management Services

TUMBLEWEED RECREATION CENTER EXPANSION MULTI-GENERATIONAL FACILITY (EAST)

Project No. PR2201.452

Council Date: December 7, 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 **Marc Taylor, Inc.**, an Arizona 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 **Construction Management Services** for **TUMBLEWEED RECREATION CENTER EXPANSION MULTI-GENERATIONAL FACILITY (EAST)** 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 **462** 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 **\$1,453,055** 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: Warren White, P.E. P.O. Box 4008, Mail Stop 407 Chandler, AZ 85244-4008 Phone: 480-782-3337 Email: warren.white@chandleraz.gov	
With a copy to:	City of Chandler - Public Works & Utilities Department Attn: Russ Slotnick, Project Manager P.O. Box 4008, Mail Stop 407, Chandler, AZ 85244-4008 Phone: 480-782-3411 Email: russ.slotnick@chandleraz.gov	
To Consultant:	LEGAL COMPANY NAME:	Marc Taylor, Inc.
	Mailing Address:	15396 North 83rd Ave. Ste C103 Peoria, AZ 85381
	Physical Address:	Same as above
	Statutory Agent Name:	Marc Taylor
	Statutory Agent Mailing Address:	15396 North 83rd Ave. Ste C103 Peoria, AZ 85381
	Statutory Agent Physical Address:	Same as above
	CONSULTANT'S AUTHORIZED PROJECT REPRESENTATIVE	
	Name:	Marc Taylor
	Title:	President/CEO
	Phone:	602-799-8032
	Email:	mtaylor@marc-taylor.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"
Marc Taylor, Inc.

MAYOR

RECOMMENDED BY:

J. Warren White
Warren White, P.E.
Acting CIP City Engineer

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Seal

[Signature]

11/15/2023

Signature

Date

Marc Taylor

Print Name

President

Title

Mtaylor@marc-taylor.com

Signer Email Address

EXHIBIT "A"
SCOPE OF SERVICES/SCHEDULE

MARC TAYLOR INC.

EXHIBIT "A"

CONSTRUCTION MANAGEMENT SCOPE OF SERVICES

PROJECT TASKS

1. PRE-CONSTRUCTION ASSISTANCE

A. Task 1.1 Pre-Construction Assistance

- i. Attend the pre-construction meeting with contractor and provide Meeting minutes.
- ii. Attend the pre-construction public meeting.
- iii. Attend contractor's pre-construction site walk video.
- iv. Establish mutually acceptable communication and project management plan with project team for the administration of the project. Provide meeting minutes.

2. CONSTRUCTION ADMINISTRATION

A. Task 2.1 Weekly Construction Meetings

- i. Prepare Owner Architect Contractor meeting agenda, facilitate weekly construction meeting, and provide meeting minutes within 72 hours of the meeting.
- ii. Update logs (Request for Information (RFI); Shop Drawing; Field Directive (FD); Outstanding Issues Log, and Allowance Logs and be prepared to review them in the meeting.
- iii. Be prepared to answer any questions that arise during the meeting.
- iv. Assign responsible party to outstanding issues and track progress.

B. Task 2.2 Critical Path Method (CPM) Schedule

- i. Review and evaluate Contractor's initial Baseline CPM schedule and provide recommendations for acceptance.
- ii. Review Contractor's monthly CPM schedule updates submitted with each payment application
 1. Compare monthly updates to Baseline CPM Schedule.
 2. Compare monthly updates to the 3-week look ahead schedule.
 3. Identify tasks that changed.
 4. Review contractors schedule for furnishings, fixtures, and equipment.
 5. Review and comment on schedule for substantial completion and final completion. Issue delay notices.
 6. Review the narrative to verify any impacts to the current schedule.

7. Recommend approval of CMP schedule to Construction Manager.

C. Task 2.3 Requests for Information (RFI)

- i. Review, evaluate, and disburse RFI that the contractor submits.
 1. Distribute to the Designer of Record and or city staff to review RFI's that impact the contract documents.
 2. Provide a deadline to respond that is in accordance with the projects current schedule.
 3. Receive RFI Response from Designer of Record
- ii. Review RFI and Architects Response for coordination.
- iii. Verify City Construction Manager and Owner group are in concurrence with RFI Response
- iv. Evaluate RFI to see impacts on cost and time.
- v. Respond to Contractor with RFI response.
- vi. Update project log.

D. Task 2.4 Shop Drawing Submittals

- i. Review, evaluate, and disburse the Shop Drawing submittal that the contractor submits.
 1. In cooperation with the Contractor and the A&E, prepare a list of Shop Drawings and identify who the responsible party (Designer of Record, Project Owner, and/or Technical Advisor) will be for review.
 2. Distribute the Shop Drawings to the responsible party for review and approval.
 3. Receive Shop Drawing Response and send to the contractor.
 4. Evaluate proposed material substitutions and present to City.
- ii. Update project log.

E. Task 2.5 Requests for Proposal (RFP) / Architectural Supplemental Instruction (ASI)

- i. Prepare RFP documents detailing additional requested work for Construction Manager.
- ii. Send RFQ to contractor once Construction Manager approves the RFP.
- iii. Evaluate the contractor's RFP response (Change Order) verifying the correct formulas are used, labor costs are correct, Equipment rates are correct, and Material costs are correct.
- iv. Review how additional work will impact the current CPM schedule.
- v. Provide recommendations to the Construction Manager
- vi. Update project log.

F. Task 2.6 Field Directives (FD)

- i. Prepare FD documents detailing requested additional work.
- ii. Evaluate the contractor's FD response (Change Order) verifying the correct formulas are used, labor costs are correct, Equipment rates are correct, and Material costs are correct.
- iii. Review impacts of additional work to contract time.

- iv. Provide recommendations to the Construction Manager
- v. Update project log.

G. Task 2.7 Contractor Payment Applications

- i. Review and Evaluate Contractor's Monthly Payment Applications.
 - 1. Review Payment Application and verify everything on the CM Services Checklist is completed.
 - a. CPM Schedule is Updated
 - b. Photos are uploaded
 - c. CM services Quantity report matches contractor's request.
 - d. Allowance Draws are recorded
 - e. Time and Materials requests have proper back up.
 - f. Payments are made to agreed Lump sum schedule.
 - g. Submit checklist to City.
 - 2. Review Contractor's Red Lines are up to date.
 - 3. Review last month's Payment Application is accurately shown.
 - 4. Sign Payment Application if you agree to Contractors Costs.

H. Task 2.8 Review Inspection Daily Reports.

- i. Construction Manager to review inspector's Daily report. Note potential inconsistencies.

3. CONSTRUCTION INSPECTION / OBSERVATIONS

A. Task 3.1 Inspection / OBSERVATION Services

- i. Verify materials and installation conforms to contract documents.
- ii. Issue Non-Conformance Reports in coordination with A&E.
- iii. Prepare inspection and or observation daily reports for on-site o
- iv. Perform erosion control inspections
- v. Attend OAC meetings.
- vi. Review the 3-Week look ahead schedule against CPM schedule, crew availability, and traffic control schedule.
- vii. Monitor Time and Material work
- viii. Provide an outstanding work list on items that were not installed per contract documents.

B. Task 3.2 Special Inspections (Under Allowances)

- i. Provide special inspections. These include but are not limited to steel, soil, concrete, etc)
- ii. Coordinate with contractor and commissioning agent for required testing.
- iii. Provide Irrigation system layout and installation observations; attend and observe irrigation system pressure tests; and attend a nursery visit to tag and inspect plant material.

4. UTILITY/AGENCY COORDINATION

A. Task 4.1 Coordination with Utilities

- i. Coordinate or verify the contractor has coordinated inspections with utilities.
- ii. Monitor Approval to Construct (ATC) expiration date.
- iii. Complete Acceptance of Construction (AOC) applications and submit to MCESD for reclaimed water booster pump and potable water/sewer improvements.

5. MATERIALS TESTING

A. Task 5.1 Quality Control (QC) Test Program

- i. Review and approve Contractors Quality Control plan for testing type and frequencies making sure they are consistence with City, MAG, and ADOT requirements.
- ii. Review and evaluate all Contractor sampling, test, and inspection results for conformance with construction documents.
- iii. Perform Quality Assurance (Under Allowances)

6. SUBSTANTIAL COMPLETION

A. Task 6.1 Substantial Completion

- i. Convert the outstanding work list into a punch list.
- ii. Walk the project with City staff and add any items that are not installed per the contract documents to the punch list.
- iii. Issue the Punch List to the contractor.
- iv. Review contractors punch list schedule to verify he can complete all of the work by Final Completion Date.
- v. Provide inspection on contractor performing items on Punch List.

7. FINAL COMPLETION

A. Task 7.1 Final Completion

- i. Track and Verify all items on the substantial completion list have been signed off.
- ii. Schedule final Walk Through
- iii. Monitor the Close out all Permits.
- iv. Review O & M Manuals and set up any training that City staff needs for new equipment.
- v. Confirm spare parts are all received.
- vi. Confirm warranty documents are received identified in the contract documents
- vii. Collect and submit to the city all Resident sign-off sheets.
- viii. Provide City with all documents in an electrical version that matches City's filing system, so it can be imported into City files.

8. RECORD DRAWINGS

A. Task 8.1 Record Drawings

- i. Review red lines submitted by the contractor

- ii. Verify all items are addressed on Red Lines.
- iii. Prior to sealing the plans, submit to the Construction Manager to review for accuracy. Sealing of plans will be provided by the Designer of Record.
- iv. Upon receiving concurrence, approve the red lines noting that they show the work done by the contractor, and provide to the Designer of Record.

9. ALLOWANCES

- A. Procore
- B. Special Inspections
- C. Travel Expenses

10. OWNERS ALLOWANCE

- A. The Purpose of this allowance is to provide a funding source to pay for City requested out of scope services. Reimbursement from this allowance (in whole or in part) is not ensured.

ASSUMPTION, CLARIFICATIONS, AND EXCLUSIONS

- 1. Application fees for City reviews and permits will be paid by CITY.
- 2. The Owner's Allowance will only be utilized with prior written approval from the City representative.
- 3. The Travel Expense Allowance will be used for normal reimbursable expenses on the project. Items must be billed at cost and backup must be provided with pay applications.
- 4. Third Party Testing will be completed by the Contractor.
- 5. MTI will use Procore as its Project Management software in coordination with CMAR. This PM software will store the documents required by this contract. Access will be provided to the City of Chandler as mutually agreed.
- 6. Cost for public outreach is not included or assumed per the City of Chandler.
- 7. Nothing in this Contract shall be construed as an assumption by MTI or City of Chandler of the responsibilities or duties of the Contractor or the Design or Engineering Professionals. The Contractor shall be solely responsible for the construction means, methods, techniques, sequences and procedures, the Contractor's schedules, and for safety precautions and programs in connection with the Project.
- 8. Cost for printing and documentation is excluded assume this cost will be picked up by City of Chandler, CMAR or the design team.

9. Excludes office trailer or office space (assumes this will be picked up by CMAR/City of Chandler). Assumes CMAR/City of Chandler will provide office equipment, chairs, conference tables, etc. in the GMP.
10. Assumes CMAR/City of Chandler will provide necessary power, utilities, telephone data and connections to project trailer. Assumes power and utility bill will be picked up by the CMAR or City of Chandler
11. Invoices will be billed monthly with a net (30) 15-day payment from City of Chandler.
12. Special System-related networks, routers and switches will be managed by City of Chandler.
13. It is assumed normal work hours will be standard Monday – Friday. Extended shift and weekend work are not assumed. It is anticipated that the project schedule to be January 2024 through end of March 30, 2025. MTI has staffed the project during this time.
14. Cost identified (excluding allowances) for this project are assumed to be a not to exceed for the durations outlined in qualification 13 and the Chase GMP. However, if delays are caused through no fault of MTI and equitable adjustment may be required.
15. It is assumed by MTI that the project team will coordinate a mutually acceptable communication protocol and project management plan to administer workflows and sequence of administrative operations to be instituted on the project.
15. The specific staff members identified herein are the primary contacts for the firm. There may be instances where other staff supplement their activities on or off site.
16. In the event there is a change in primary personnel MTI will work to find a suitable replacement approved by the city.

EXHIBIT "B"
COMPENSATION AND FEES

<u>TASK DESCRIPTION</u>		<u>SUBTOTAL</u>
TASK 1.0 PRE-CONSTRUCTION ASSISTANCE		\$ 18,240.00
1.1	Pre-Construction Assistance	\$ 18,240.00
TASK 2.0 CONSTRUCTION ADMINISTRATION		\$ 792,965.00
2.1	Weekly Construction Meetings	\$ 216,540.00
2.2	Critical Path Method (CPM) Schedule	\$ 48,970.00
2.3	Request for Information (RFI)	\$ 138,590.00
2.4	Shop Drawing Submittals	\$ 128,430.00
2.5	Requests for Proposal (RFP)/ (ASI)	\$ 46,500.00
2.6	Field Directives (FD)	\$ 86,410.00
2.7	Contractors Payment Applications	\$ 80,640.00
2.8	Review Inspection Daily Reports	\$ 46,885.00
TASK 3.0 CONSTRUCTION INSPECTION		\$ 255,850.00
3.1	Inspection Services	\$ 189,250.00
3.2	Special Inspections	\$ -
4.1	Coordination with Utilities	\$ 35,150.00
5.1	Quality Control (QC) Test Program	\$ 31,450.00
TASK 6.0 SUBSTANTIAL COMPLETION		\$ 62,425.00
6.1	Substantial Completion	\$ 62,425.00
TASK 7.0 FINAL COMPLETION		\$ 56,675.00
7.1	Final Completion	\$ 56,675.00
TASK 8.0 RECORD DRAWINGS		\$ 46,900.00
8.1	Record Drawings	\$ 46,900.00
ALLOWANCES/LUMP SUM ITEMS		
9.0	Procore Software (Lump Sum)	\$ 15,000.00
9.1	Special Inspections (Allowance)	\$ 30,000.00
9.3	Travel Expenses Mileage, Office, Supplies, etc. (Allowance)	\$ 25,000.00
9.4	Quality Assurance Allowance	\$ 25,000.00
10.0	Owner's Allowance	\$ 150,000.00
SUBCONSULTANTS		
Name of Company and Task Description (Include backup in submittal)		
1	Lloyds Consulting Group	with Above
2	Special Inspections	TBD
3	Quality Assurance Allowance	TBD
4		
TOTAL COST: \$		1,453,055.00

EXHIBIT "C"

INSURANCE REQUIREMENTS

1. General.

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

VULNERABLE PERSON

1. **Consultant and Subconsultant Worker Background Screening.** Consultant agrees that all contract workers and subconsultants (collectively "Contract Worker(s)") that Consultant furnishes to City under this Agreement will be subject to background and security checks and screening as set forth in this Section (collectively "Background Screening") at Consultant's sole cost and expense. As part of the Background Screening, Consultant must provide to a person designated by the City the name(s), address(es), and phone number(s) of all Contract Workers who will provide any services under this Agreement. All Contract Workers must comply with these Background Screening requirements. All Contract Workers must be able to provide proof of the legal right to work in the United States. The Background Screening provided by Consultant must comply with all applicable laws, rules, and regulations. Consultant further agrees that the Background Screening required in this Section is necessary to preserve and protect public health, safety, and welfare. The Background Screening requirements set forth in this Section are the minimum requirements for this Agreement. City in no way warrants that these minimum requirements are sufficient to protect Consultant from any liabilities that may arise out of Consultant's services under this Agreement or Consultant's failure to comply with this Section. Therefore, in addition to the specific measures set forth below, Consultant and its Contract Workers must take such other reasonable, prudent, and necessary measures to further preserve and protect public health, safety, and welfare when providing services under this Agreement.
2. **Background Screening Requirements and Criteria.** Before offering or scheduling any services under this Agreement, Consultant agrees that all Contract Workers, including the Consultant, if the Consultant is an individual or sole proprietorship, must have successfully passed a Background Screening in accordance with this Section. Consultant warrants that no person will be permitted to substitute for a Contract Worker who has satisfied the Background Screening requirements until the proposed substitute has also satisfied the Background Screening requirements in this Section. For review and approval, Consultant must submit to a person designated by the City proof of a completed Background Screening for each Contract Worker over the age of 18 performing services under this Agreement no fewer than two (2) weeks before the proposed start date of such Contract Worker's services. The Background Screening must have been completed within the 12-month period preceding the Contract Worker's start date under this Agreement and must include the results of a social security (SSN) trace, a national criminal databased check with source verification, and a sex offender database search.
3. **Additional City Rights Regarding Security Inquiries.** In addition to the foregoing, City reserves the rights but not the obligations to: (1) have a Contract Worker be required to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information pursuant to A.R.S. § 41-1750(G) (4) or Chandler City Code § 4-22; (2) act on newly acquired information whether or not such information should have been previously discovered; (3) unilaterally change its standards and criteria

relative to the acceptability of Contract Workers; and (4) object, at any time and for any reason, to a Contract Worker performing work (including supervision and oversight) under this Agreement.

4. **Consultant Certification.** By executing this Agreement, Consultant certifies that Consultant has read and understands the Background Screening requirements and criteria in this Section and will fully comply with such requirements. Consultant further certifies that any Background Screening information to be furnished to City related to Consultant or its Contract Workers will be complete, current, and accurate. A Contract Worker rejected for work under this Agreement will not be proposed to perform work under other City contracts or engagements without City's prior written approval.
5. **Terms of This Section Applicable to all of Consultant's Contracts and Subcontracts.** Consultant must include the terms of this Section for Contract Worker Background Screening in all contracts and subcontracts for services furnished under this Agreement including, but not limited to, supervision and oversight services.
6. **Materiality of Background Screening Requirements: Indemnity.** The Background Screening requirements of this Section are material to City's entry into this Agreement and any breach of this Section by Consultant will be deemed a material breach of this Agreement. In addition to the indemnity provisions set forth in this Agreement, Consultant must defend, indemnify, and hold harmless City for any and all Claims arising out of this Background Screening Section including, but not limited to, the disqualification of a Contract Worker by Consultant or City for failure to satisfy this Section.
7. **Continuing Duty, Audit.** Consultant's obligations and requirements that Contract Workers satisfy this Background Screening Section will continue throughout the entire term of this Agreement. Consultant must notify City immediately of any change to a Background Screening of a Contract Worker previously accepted by City. Consultant must maintain all records and documents related to all Background Screenings and City reserves the right to audit Consultant's compliance with this Section under the terms of this Agreement.

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.

EXHIBIT "F"
FEDERAL REQUIREMENTS

N/A