



PROFESSIONAL SERVICES AGREEMENT

Design Services

DR. A.J. CHANDLER PARK RENOVATION PHASE 1

Project No. CA2402.201

Council Date: August 15, 2024

This Agreement ("Agreement") is made and entered into on the ____ day of _____, 2024 ("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 **Dr. A.J. Chandler Park Renovation Phase 1** 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 **434** 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 **\$1,478,376** 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: Daniel Haskins, P.E. P.O. Box 4008, Mail Stop 407 Chandler, AZ 85244-4008 Phone: 480-782-3335 Email: daniel.haskins@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 Street, Denver, CO 80202</td> </tr> <tr> <td>Physical Address:</td> <td>1521 15th Street, Denver, CO 80202</td> </tr> <tr> <td>Statutory Agent Name:</td> <td>Jay Hicks, PLA</td> </tr> <tr> <td>Statutory Agent Mailing Address:</td> <td>3003 N. Central Ave., Suite 800 Phoenix, AZ 85012</td> </tr> <tr> <td>Statutory Agent Physical Address:</td> <td>3003 N. Central Ave., Suite 800 Phoenix, AZ 85012</td> </tr> <tr> <td colspan="2">CONSULTANT'S AUTHORIZED PROJECT REPRESENTATIVE</td> </tr> <tr> <td>Name:</td> <td>Brandon Sobiech, PLA</td> </tr> <tr> <td>Title:</td> <td>Principal</td> </tr> <tr> <td>Phone:</td> <td>602-595-4101</td> </tr> <tr> <td>Email:</td> <td>brandon@digstudio.com</td> </tr> </table>		LEGAL COMPANY NAME:	Dig Studio, Inc.	Mailing Address:	1521 15 th Street, Denver, CO 80202	Physical Address:	1521 15 th Street, Denver, CO 80202	Statutory Agent Name:	Jay Hicks, PLA	Statutory Agent Mailing Address:	3003 N. Central Ave., Suite 800 Phoenix, AZ 85012	Statutory Agent Physical Address:	3003 N. Central Ave., Suite 800 Phoenix, AZ 85012	CONSULTANT'S AUTHORIZED PROJECT REPRESENTATIVE		Name:	Brandon Sobiech, PLA	Title:	Principal	Phone:	602-595-4101	Email:	brandon@digstudio.com
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5.2 Records/Audit. Records of Consultant's direct personnel payroll, reimbursable expenses pertaining to this Agreement and records of accounts between City and Consultant must be kept on the basis of generally accepted accounting principles and must be made available to City and its auditors for up to three years following City's final acceptance of the services under this Agreement (this requirement is increased to five years if construction of this project is federally funded). City, its authorized representative, or any federal agency, reserves the right to audit Consultant's records to verify the accuracy and appropriateness of all cost and pricing data, including data used to negotiate this Agreement and any amendments. City reserves the right to decrease the total amount of Agreement price or payments made under this Agreement or request reimbursement from Consultant following final Agreement payment on this Agreement if, upon audit of Consultant's records, the audit discloses Consultant has provided false, misleading, or inaccurate cost and pricing data. Consultant will include a similar provision in all of its Agreements with subconsultants who provide services under the Agreement to ensure that City, its authorized representative, or

the appropriate federal agency, has access to the subconsultants' records to verify the accuracy of all cost and pricing data. City reserves the right to decrease Agreement price or payments made on this Agreement or request reimbursement from Consultant following final payment on this Agreement if the above provision is not included in subconsultant agreements, and one or more subconsultants refuse to allow City to audit their records to verify the accuracy and appropriateness of all cost and pricing data. If, following an audit of this Agreement, the audit discloses Consultant has provided false, misleading, or inaccurate cost and pricing data, and the cost discrepancies exceed 1% of the total Agreement billings, Consultant will be liable for reimbursement of the reasonable, actual cost of the audit.

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

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

5.5 Indemnification. To the extent permitted by law, the Consultant ("Indemnitor") must indemnify, save and hold harmless City and its officers, officials, agents and employees ("Indemnatee") 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 Indemnatee from and against any and all Claims, except those arising solely from Indemnatee'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 Indemnatee 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



7/10/24

Signature

Date

RECOMMENDED BY:

Brandon Sobiech, PLA

Print Name



Principal, Landscape Architect

Title

Daniel Haskins, P.E.
CIP City Engineer

brandon@digstudio.com

Signer Email Address

APPROVED AS TO FORM:



City Attorney



ATTEST:

City Clerk

Seal

EXHIBIT "A"
SCOPE OF SERVICES/SCHEDULE

AJ CHANDLER PARK: DESIGN SERVICES SCOPE OF SERVICES

EXHIBIT "A" SCOPE OF SERVICES/SCHEDULE

1. PROJECT DESCRIPTION & SCOPE OF CONSTRUCTION:

- 1.1 Consultant will provide services for the design, permitting, and development of construction documents for the development of 2.3 Acres, Phase 1, of Dr. A.J. Chandler Park located at 3 S. Arizona Ave., Chandler, Arizona, all as more specifically described herein below.
- 1.2 The park design may include, but not be limited to, demolition of existing pavements, water features, and structures. Design of new decorative hardscape plazas, relocated and new public art, extensive shade tree infrastructure including below ground soil improvements, event lawns, seasonal plazas with social activities, seating and site furniture, park lighting, park power and wifi. The architectural improvements may include: Two innovation canopies (of the same design) flanking the Arizona Avenue crosswalk, storage rooms, (1) new restroom building, two park pavilions (of the same design). A more detailed description of scope area and design components is included herein as part of Exhibit A.
- 1.3 The project design budget is **\$1,478,376**. The construction, furnishing and equipping budget is assumed to be \$12,643,000 (*roughly 17,500,000 Project Costs*) based on discussions with the client team regarding desired limit of work and amenities within scope.
- 1.4 Consultant will provide all design services for the Project including, but not limited to, landscape, civil, mechanical, architectural and electrical engineering services.
- 1.5 Project Scope Diagram: SEE APPENDIX

2. ASSIGNMENT:

- 2.1 The design Agreement has been awarded to an 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 (**Exhibit B**) and made a part hereof by reference:

- a. Task Duration of (62) weeks starting August 19th, 2024 and concluding October 10th, 2025. Subject to change depending on timeliness of City Review periods and response time for decision making.
- 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.

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.

Dr. A.J. Chandler Park

- 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. PROGRAMMING:

- 8.1 Consultant must meet with City staff to ascertain the requirements of the Project and will arrive at a mutual understanding of such requirements.
- 8.2 Consultant must perform a total of three **(3)** Public Information meetings. These will include preparing exhibits, facilitating discussions and documenting meeting information exchange. The exhibits will include a simple site orientation plan, and one line building component plan(s). City will advertise and promote the meetings.
- 8.3 Consultant must facilitate six **(6)** "sub-committee" meetings to gather pertinent information from:
 - a. City Staff
 - b. Adjacent Businesses
 - c. Event Organizers

- 8.4 Consultant must prepare a "Program" which will include:
- Establish construction budget
 - Complete documentation of site survey from preliminary work
 - Define new buildings space needs
 - Define new building space requirements and amenities necessary to accommodate planned activities in each space
 - Define site requirements
 - Create a matrix of spaces, sizes and amenities
- 8.5 Based on the mutually agreed-upon program, schedule and construction budget requirements, Consultant must prepare, for approval by City, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of the Project components.

9. SCHEMATIC DESIGN (30% Document Review):

- 9.1 When the design is approximately thirty percent complete, Consultant must do the following:
- Prepare a design concepts for various components of the phase 1 design, which depict the size and orientation of the project elements in relation to one another.
 - Present initial concepts to City and its representatives (to potentially include a contractor). Staff will collaborate with designers to manipulate the plans and mutually decide on the best scheme.
 - The final scheme must incorporate City's comments (and potentially a contractors' comments) and be cleaned up for reference and presentation to City Council if requested.
 - 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.
 - 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.
 - Prepare vertical sections across the site and through the building.
 - Prepare single line elevation drawing(s) and a perspective sketch of the exterior.
 - Complete a drainage analysis and provide solutions to mitigate the runoff.
 - Identify all necessary offsite improvements such as: streets, utilities, irrigation, etc., and depict the scope in a schematic design plan.
 - Submit the project to City for a Development Standards review.
 - Prepare a construction cost estimate for verification with the budget and re-design as necessary to re-align the design with the construction budget.
 - Submit to City's Project Manager for comment two complete drawing sets with drainage & structural calculations, one of which must be reproducible.

Dig Studio 30% Drawing deliverables will include:

- **Site Plan / Materials Plan:** Provide Schematic Design layout for pedestrian hardscape and planting areas including pool layout and program.
- **Sections/Elevations:** Provide Design Development level sections and elevations to illustrate design intent.
- **3d Study Model:** Dig Studio will coordinate the overall 3d study model and present it for review by the Client.
- **Planting Plan:** Provide Schematic Design level layout for planting areas, identifying plant locations and species.
- **Preliminary Details:** Provide preliminary construction details for all planting and hardscape elements.
- **30% Cost Estimate:** Dig Studio will compile and coordinate the project 30% estimate of probable construction costs. Cost to budget comparison may adjust the program to be included within 60% drawings.

Dig Studio Sheets for Inclusion in Preliminary Site Plan Review Application (24"x36" Sheets):

- Planning Application
- Letter of Explanation (Project Narrative)
- Site Plan (Black and White CAD, In coordination with WP and LF)
- Rendered Site Plan
- Landscape Plan (Black and White CAD)

Preliminary Site Plan Review Application Sheets prepared by Team (24"x36" Sheets):

- Blackline Building Elevations (LF)
- Preliminary Grading and Drainage Plans (WP)

10. DESIGN DEVELOPMENT (60% Document Review):

- 10.1 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, the 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 fix and describe the project as to 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.

Dig Studio 60% Design Document deliverable will include:

- o **Site Plan / Materials Plan:** Provide Design Development level layout for pedestrian hardscape and planting areas.
- o **Sections/Elevations:** Provide Design Development level sections and elevations to illustrate design intent.
- o **3d Study Model:** Dig Studio will coordinate the overall 3d study model and present it for review by the Client.
- o **Planting Plan:** Provide Design Development level layout for planting areas, identifying plant locations and species that conform to City of Chandler Landscape Standards.
- o **Fine Grading Plan:** Provide grading plan for park features and hardscape areas within the park scope of work to be coordinated with Civil Engineer.
- o **Details:** Provide Design Development level construction details for all planting and hardscape elements.
- o **60% Cost Estimate:** Dig Studio will compile and coordinate the overall project 60% estimate of probable construction costs. Cost to budget comparison may adjust the final design documents.

11. CONSTRUCTION DOCUMENTS (90% Document Review):

- 11.1 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 percent (90%) 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.
- 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, 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.

Dig Studio deliverables will include:

- **Demolition Plan:** Provide plan for demolition and removal of existing park of existing park planting, hardscape, and other features as needed to prepare site for new park improvements – coordinated with Civil Engineer.
- **Layout Plan:** Provide dimensioned layout plan for pedestrian hardscape, furniture and planting areas.
- **Planting / Hardscape Materials Plan:** Locate and specify hardscape and plant materials. Include plant schedule for planting areas that conform to City of Chandler Landscape Standards.
- **Fine Grading Plan:** Provide fine grading plan for areas of improvement within the park in coordination with Civil Engineer.
- **Details:** Provide construction details for planting and hardscape elements.
- **Specifications:** Provide specifications for landscape and hardscape elements within Dig Studio scope.
- **90% Cost Estimate:** Dig Studio will compile and coordinate the overall project 90% estimate of probable construction costs. Dig Studio will coordinate with the City of Chandler and the project CMAR to compare probable cost estimates with the project budget. Cost to budget comparison may adjust the final 100% design documents.

12. BID & AWARD (100% Documents):

- 12.1 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" and in electronic format on diskette in Microsoft Word 98. Plans will be black line prints as well as on

- diskette Auto CAD release 14 or R2000. Include original redline drawings and comments received from previous review along with a review summary indicating action taken.
- 12.2 Pick-up plan review final comments and prepare stamped Mylar documents for reproduction. City will have the bid sets reproduced from these Mylar's.
 - 12.3 Assist City in the preparation of the Bid Form.
 - 12.4 Attend and participate at the pre-bid conference for the purpose of answering technical questions from potential bidders.
 - 12.5 Assist City in the evaluation of "substitutions and or-equals" and make a recommendation to accept or decline.
 - 12.6 Prepare addenda for review and approval by City. City will distribute.
 - 12.7 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.

The Design Team Deliverables:

- Prepare Final PS&E addressing City of Chandler 90% review comments.
- 95% 1st Community Services Plan Review Submittal and Comment Response.
- 100% Final Community Services Plan Review Submittal (Permit Drawings)
- Confirm all permits and approvals are completed.

13. PERIOD OF SERVICE (MILESTONES):

- 13.1 Following receipt of a "Notice to Proceed" with the design work, Consultant must complete the design and have all documents ready for bidding within **434** calendar days of the date indicated on the Notice to Proceed.
- 13.2 Consultant must complete all services specified herein in accordance with the Production Schedule and progress milestones included in Exhibit B 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.

Excluded Services (Not Included in Scope of Work)

The following are specific services that are excluded from Dig Studio's Scope of Work. If requested, these tasks shall be identified as such and billed at the current Billing Rate Schedule. Excluded Services shall include, but are not limited to the following:

- A. **ADDITIONAL GRAPHIC EXHIBITS OR DELIVERABLES:** Additional Graphic Exhibits or Deliverables requested and approved by the Client **beyond those indicated in each stage of the Scope of Work above.**
- B. **FEES:** Payment for governmental permits, application fees, processing fees, and plan check fees.
- C. **ADDITIONAL MEETINGS:** Additional Meetings in excess of **those indicated in each stage of the Scope of Work above.**
- D. **THIRD PARTY ILLUSTRATIONS/RENDERINGS:** Professional third-party marketing renderings, beyond Deliverables mentioned above as part of the Final Master Plan, **as requested and approved by Client.** Cost to include Dig Studio vendor cost and Dig Studio's labor for computer modeling and coordination plus administration fee.
- E. **SCALE MODELS:** Scale models **as requested and approved for by Client.** Cost to include Dig Studio cost (either internal or subcontracted) and Dig Studio's labor to prepare model drawings and coordination plus administration fee.
- F. **ADDITIONAL SUBMITTAL REVIEWS** beyond those listed.
- H. **CONSTRUCTION ADMINISTRATION:** Construction Administration and Special Inspections are part of future proposal.
- K. **ENVIRONMENTAL ANALYSIS:** Including hazardous materials identification or abatement

Dig Studio Billing Rate Table:

(See Attached Sub-Consultant proposals for Subconsultant Bill Rates)

Category	Amount
Sr. Principal	\$ 230.00
Principal	\$ 210.00
Sr/ Project Manager	\$ 185.00
Sr. Landscape Architect	\$ 160.00
Landscape Designer IV	\$ 135.00
Landscape Designer III	\$ 125.00
Landscape Designer II	\$ 115.00
Landscape Designer I	\$ 110.00

Dr. A.J. Chandler Park

Attachments:

Attachment A1: AJ Chandler Project Schedule (DRAFT)

Attachment B1: Fee + Task Summary Table

Attachment B2: Dig Studio Detailed Hour Breakdown

Attachment C: Sub-consultant Scope and Fee Proposals as follows:

- a. Lake Flato
- b. Ardurra
- c. BDA Design
- d. Clanton Associates
- e. Henderson
- f. Ninyo Moore
- g. Lokahi
- h. Dry Utility Services
- i. Biederman Redevelopment Ventures
- j. Marc Taylor, Inc.

These fees are based on our current understanding of the project and desired scope of services. The remainder of the scope of work and associated fees to be executed by Dig Studio's sub-consultants are attached.

Sincerely,



Brandon Sobiech, PLA
Principal, Dig Studio, Inc.

Dr. A.J. Chandler Park

Project Scope Diagrams: ~ 2.3 Acres.

Scope excludes Arizona Ave Streetscape and parking areas.

Scope Assumes Innovation Canopies are of the same design.

Scope Assumes Park Pavilions are of the same design.

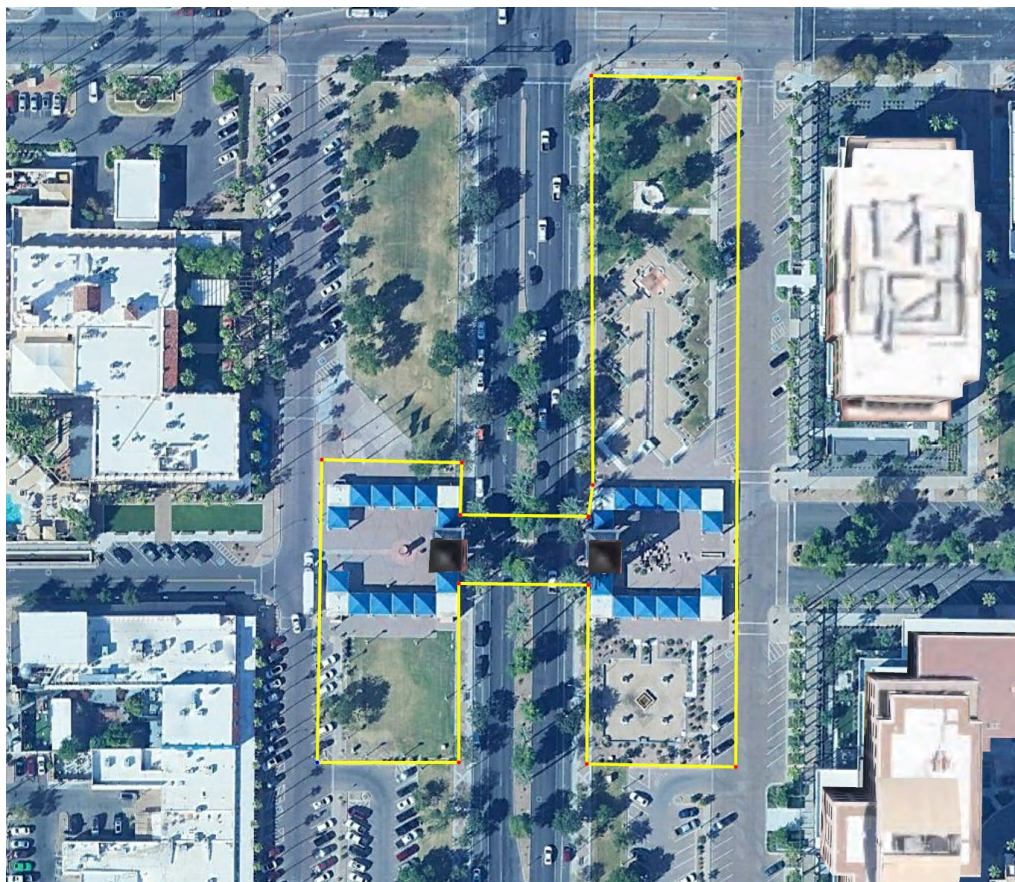


EXHIBIT "B"
COMPENSATION AND FEES

DIG STUDIO DR. A.J. CHANDLER PARK EXHIBIT "B-1" COST SUMMARY WITH SUBCONSULTANTS						Projected Project Costs: \$16,500,000	
Date: 7/5/2024						Projected Construction Costs: \$12,643,000	
TASK DESCRIPTION		DESIGN FEES		Comments			
Dig Studio		Design	Reimbursable Expenses				
Task 9.0: Concept / Schematic (30%)		\$ 95,310.00		PM Incl.		\$ 95,310.00	
Task 10.0: Design Development (60%)		\$ 124,310.00		PM Incl.		\$ 124,310.00	
Task 11.0: Construction Documents (90% / GMP)		\$ 131,560.00		PM Incl.		\$ 131,560.00	
Task 12.0: Permitting Documents (100% / IFC)		\$ 38,980.00		PM Incl.		\$ 38,980.00	
Sub-Total		\$ 390,160.00	\$ 5,000.00	Reduced		\$ 5,000.00	
Total Dig Studio Fees & Expenses		\$ 395,160.00				\$ 395,160.00	
Sub-Consultants - Design Services						\$ -	
	Architecture - Lake Flato	\$ 390,000.00	\$ 7,600.00	Reduced		\$ 397,600.00	
	Civil Engineering - Ardurra	\$ 264,855.00		Reduced		\$ 264,855.00	
	Structural - BDA Design	\$ 41,100.00				\$ 41,100.00	
	Electrical + Lighting Design - Clanton Associates	\$ 119,860.00	\$ 2,500.00	Reduced		\$ 122,360.00	
	Mechancial + Plumbing - Henderson	\$ 20,000.00				\$ 20,000.00	
	Geotechnical - Ninyo Moore	\$ 12,000.00				\$ 12,000.00	
	Design Assist + Ped Crossing Lokahi	\$ 27,420.00		Removed Traffic		\$ 27,420.00	
	Programming - Biederman Redevelopment Ventures	\$ 80,000.00		Reduced		\$ 80,000.00	
	Cost Estimation - Marc Taylor, Inc.	\$ 42,335.00		Reduced		\$ 42,335.00	
	Utility Coordination - DUS	\$ 24,546.00	\$ 1,000.00			\$ 25,546.00	
Sub-Total Sub Consultants Design		\$ 1,022,116.00	\$ 11,100.00				
Sub-Total Design			\$ 1,428,376.00			\$ 1,428,376.00	
Sub-Total Full Team Design Fee						\$ 1,428,376.00	
	Owner Controlled Allowance - Lump Sum	\$ 50,000.00				\$ 50,000.00	
PROJECT TOTALS					\$ 1,478,376.00		

DIG STUDIO Dr. A.J. Chandler Park EXHIBIT "B-2" Hours and Rates										
Date: 7/5/2024										
		P3, Sr Principal	P1, Assoc Principal	Sr. Project Mgr.	Landscape Designer IV	Landscape Designer III	Landscape Designer II	PROJECT ROLE		Comments
		Jay Hicks	Brandon Sobiech	Jeff Lothner	Jose Munoz / Staff	Patrick Kelty / Staff	Staff			
		\$ 230.00	\$ 210.00	\$ 185.00	\$ 135.00	\$ 125.00	\$ 115.00	< HOURLY RATES		
TASK DESCRIPTION								TOTAL HOURS PER TASK		
Task 9.0: Concept / Schematic (30%)		7	122	82	62	130	246	\$ 95,310.00 649		10wk + 4wk review
	Park Programming / Access	0	12	8	0	16	20	\$ 8,300.00 56		Build on MP Phase
	Public/Stakeholder Meetings	0	14	12	0	14	0	\$ 6,910.00 40		1 public + 6 stakeholder
	Schematic Design Set							\$ -		
	Hardscape Plans / Details	2	16	16	16	40	60	\$ 20,840.00 150		
	Landscape Plans / Details	2	16	16	16	40	40	\$ 18,540.00 130		
	Irrigation Plans / Details	2	2	0	2	0	30	\$ 4,600.00 36		
	Site Grading Coordination	0	4	0	4	0	8	\$ 2,300.00 16		
	Site Electrical Coordination	0	4	0	4	0	8	\$ 2,300.00 16		
	City Site Plan Submittal	0	4	0	8	0	8	\$ 2,840.00 20		
	Visualization	0	16	0	0	0	60	\$ 10,260.00 76		
	30% Cost Estimate Coordination	1	8	8	0	8	12	\$ 5,770.00 37		
	City Coordination Meetings (bi-weekly)	0	14	14	0	12	0	\$ 7,030.00 40		7 Meetings
	Project Management / Coordination of Traffic+Drainage Reports + Art	0	12	8	12	0	0	\$ 5,620.00 32		
								\$ - 0		
Task 10.0: Design Development (60%)		13	158	98	96	162	320	\$ 124,310.00 847		10wk + 4wk review
	Public/Stakeholder Meetings	0	8	8	0	8	0	\$ 4,160.00 24		1 public + 3 board
	Design Development Set							\$ -		
	Hardscape Plans / Details	4	34	20	24	48	80	\$ 30,200.00 210		
	Landscape Plans / Details	4	20	20	24	60	48	\$ 25,080.00 176		
	Irrigation Plans / Details	4	2	0	16	0	60	\$ 10,400.00 82		
	Fine Grading Plans	0	24	0	4	4	32	\$ 9,760.00 64		
	Outline Specifications	0	4	12	8	0	0	\$ 4,140.00 24		
	Site Electrical Coordination	0	8	0	8	0	8	\$ 3,680.00 24		
	City Design Review Submittals	0	8	8	0	16	16	\$ 7,000.00 48		
	3D modeling / Visualization Updates	0	16	0	0	0	60	\$ 10,260.00 76		
	60% Cost Estimate / CMAR Coordination	1	8	8	0	12	16	\$ 6,730.00 45		
	City Coordination Meetings (bi-weekly)	0	14	14	0	14	0	\$ 7,280.00 42		7 Meetings
	Project Management / Coordination of Design Team + Art	0	12	8	12	0	0	\$ 5,620.00 32		
Task 11.0: Construction Documents (90% / GMP)		7	156	96	104	214	336	\$ 131,560.00 913		12wk + 6wk review
	Public/Stakeholder Meetings	0	8	8	0	8	0	\$ 4,160.00 24		1 public + 3 board
	90% Construction Document Set							\$ -		
	Hardscape Plans / Details	2	32	18	32	80	120	\$ 38,630.00 284		
	Landscape Plans / Details	2	32	18	16	80	80	\$ 31,870.00 228		
	Irrigation Plans / Details	2	2	0	16	0	80	\$ 12,240.00 100		
	Fine Grading Plans	0	30	0	4	4	24	\$ 10,100.00 62		

	Detailed Specifications	0	8	16	16	0	0	\$ 6,800.00	40	
	Site Electrical Coordination	0	4	0	8	0	8	\$ 2,840.00	20	
	90% Cost Estimate / CMAR GMP Coordination	1	10	10	0	24	24	\$ 9,940.00	69	
	City Coordination Meetings (bi-weekly)	0	18	18	0	18	0	\$ 9,360.00	54	9 Meetings
	Project Management / Coordination of Design Team + Art	0	12	8	12	0	0	\$ 5,620.00	32	
Task 12.0: Permitting Documents (100% / IFC)		4	28	48	60	48	80	\$ 38,980.00	268	4 wks + 4wk rvw + 4 wk
	Public/Stakeholder Meetings	0	0	0	0	0	0	\$ -	0	none
	Permit Set Development							\$ -		
	City Comment Reconciliation + Finalize Plans	2	6	8	16	24	40	\$ 12,960.00	96	
	Cost Reconciliation + Final Plan Adjustments	2	6	8	16	24	40	\$ 12,960.00	96	
	Finalize Specifications	0	6	16	12	0	0	\$ 5,840.00	34	
	City Coordination Meetings (bi-weekly)	0	6	8	0	0	0	\$ 2,740.00	14	4 Meetings
	Project Management / Permit Submittals	0	4	8	16	0	0	\$ 4,480.00	28	
TOTAL HOURS:		31	464	324	322	554	982	\$ 390,160.00	2677	

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.

July 3, 2024

Brandon Sobiech
Dig Studio
3003 N. Central Ave., Suite 800
Phoenix, AZ 85012
brandon@digstudio.com

Brandon,

We are excited to have the opportunity to work with you on the AJ Chandler Park Improvements Project. As discussed, below is an outline of our proposed services, deliverables, and associated fees. Please let us know if you have any questions or need further clarification.

BACKGROUND

Dr. A.J. Chandler Park is a 5.62-acre special use park located in the center of the Downtown core between Buffalo Street, Boston Street, San Marcos Place, and Arizona Place, with South Arizona Avenue running north and south, dividing the park into two areas. Dr. Chandler envisioned a landscaped central park that would be surrounded by businesses. The new Phase One design and construction is planned to include new infrastructure, hardscape, shading, pedestrian crossing across Arizona Avenue, technology features, and other associated amenities.

PROPOSED SCOPE OF WORK DESCRIPTION

Phase One architectural scope will include the following elements:

- (2) Innovation Canopies (of the same design)
- (1) Restroom building with storage space
- (2) Park Pavilions with storage rooms (of the same design)

The following scope pertains to the area indicated in the diagram included herein (Exhibit A). Any additional elements outside of the boundary in this diagram (Exhibit A) are excluded from this scope. Additionally, an aerial photograph overlayed with the same boundary (Exhibit B) shows existing conditions at the area of inquiry. Any elements outside of this boundary are not included in this proposed scope.

Task 1.1 – Preliminary Research

(Others to lead, LF to support as needed)

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.

Task 2.1 – Utility/Agency Coordination *(Others to lead, LF to support as needed)*

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

- a. Consultant must identify utility conflicts during the initial stages of the design process.
- b. 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.
- c. 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.
- d. Engineers employed by Consultant must provide the legal descriptions for the natural gas and electrical service easements.
- e. 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.
- f. Consultant must conduct utility meetings to coordinate relocations with utility/agency and establish relocation schedules.
- g. Consultant must follow-up with the final design submittal for utility construction and coordination with the bid documents.
- h. Consultant must incorporate the utility/agency private developer construction requirements into the bid documents.

Task 3.1 – Geotechnical Investigation *(Others to lead, LF to support as needed)*

- a. Consultant must perform all soil and pavement borings necessary to complete their work.
- b. 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.

Task 4.1 Programming

(Others to lead, LF to support as needed)

- a. Consultant must meet with City staff to ascertain the requirements of the Project and will arrive at a mutual understanding of such requirements.
- b. Consultant must perform a total of 3 Public Information meetings. These will include preparing exhibits, facilitating discussions and documenting meeting information exchange. The exhibits will include a simple site orientation plan, and one line building component plan(s). City will advertise and promote the meetings.
- c. Consultant must facilitate 6 “sub-committee” meetings to gather pertinent information from:
 - City Staff
 - Adjacent Businesses
 - Event Organizers
- d. Consultant must prepare a “Program” which will include:
 - Establish construction budget
 - Complete documentation of site survey from preliminary work
 - Define new buildings space needs
 - Define new building space requirements and amenities necessary to accommodate planned activities in each space
 - Define site requirements
 - Create a matrix of spaces, sizes, and amenities
- e. Based on the mutually agreed-upon program, schedule and construction budget requirements, Consultant must prepare, for approval by City, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of the Project components.

Task 5.1 Schematic Design (30% Document Review)

(Dig Studio to lead, LF to lead architectural scope)

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

- a. Prepare design concepts for various components of the phase 1 design, which depict the size and orientation of the project elements in relation to one another.
- b. Present initial concepts to City and its representatives (to potentially include a contractor). Staff will collaborate with designers to manipulate the plans and mutually decide on the best scheme.
- c. The final scheme must incorporate the City’s comments (and potentially a contractors’ comments) and be cleaned up for reference and presentation to the City Council if requested.
- d. 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.
- e. 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.
- f. Prepare vertical sections across the site and through the buildings.
- g. Prepare single line elevation drawing(s) and a perspective sketch of the exterior.
- h. Complete a drainage analysis and provide solutions to mitigate the runoff. *(Dig Studio to lead)*
- i. Identify all necessary offsite improvements such as: streets, utilities, irrigation, etc., and depict the scope in a schematic design plan. *(Dig Studio to lead)*
- j. Submit the project to City for a Development Standards review.
- k. Prepare a construction cost estimate for verification with the budget and re-design as necessary to re-align the design with the construction budget.
- l. Submit to City’s Project Manager for comment two complete drawing sets with drainage & structural calculations, one of which must be reproducible.

Task 6.1 Design Development (60% Document Review)
(Dig Studio to lead, LF to lead architectural scope)

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, the 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 fix and describe the project as to 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.

Task 7.1 Construction Documents (90% Document Review)
(Dig Studio to lead, LF to lead architectural scope)

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 percent (90%) 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.
- 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, 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.

Task 8.1 Bid & Award (100% Documents)
(Dig Studio to lead, LF to lead architectural scope)

- a. 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" and in electronic format on diskette in Microsoft Word 98. Plans will be black line prints as well as on diskette Auto CAD release 14 or R2000. Include original redline drawings and comments received from previous review along with a review summary indicating action taken.
- b. Pick-up plan review final comments and prepare stamped Mylar documents for reproduction. City will have the bid sets reproduced from these Mylar's.
- c. Assist City in the preparation of the Bid Form.
- d. Attend and participate in the pre-bid conference for the purpose of answering technical questions from potential bidders.
- e. Assist City in the evaluation of "substitutions and or-equals" and make a recommendation to accept or decline.
- f. Prepare addenda for review and approval by City. City will distribute.

PROJECT SCHEDULE*

**(Based on attached Exhibit "C" for pertinent timeline)*

Lake Flato has prepared the proposal and associated fees based on the following schedule. If the owner provides an alternative schedule, Lake Flato will review, comment, and update this proposal as necessary. Lake Flato will perform the services within the times set forth in the Production Schedule included herein **(Exhibit C)** and made a part hereof by reference:

(A.) Task Duration of (62) weeks starting August 19th, 2024, and concluding October 10th, 2025. Subject to change depending on timeliness of City Review periods and response time for decision making.

(B.) Lake Flato will 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.

Schematic Design (30%)

- 30% Design Drawings
- 30% Cost Estimation

14 Weeks

10 Weeks
4 Weeks

Programming + Governance Planning	12 Weeks
Conducted congruently with the Schematic Design Phase	
Design Development	14 Weeks
60% Design Drawings 60% Cost Estimation	10 Weeks 4 Weeks
Construction Documents (90%)	14 Weeks
90% Design Drawings 90% Cost Estimation / Final GMP	10 Weeks 4 Weeks
Construction Documents (100%)	13 Weeks
100% Permit Drawings - City Permit Review 100% Final IFC (2nd review)	4 Weeks 4 Weeks 5 Weeks

SUMMARY	55 Weeks
Note: <i>Schedule dates and details may shift throughout the process as refinements and project coordination take place.</i>	

DESIGN FEES

Based on the above scope provided, Lake|Flato proposes a fee as follows for architectural design services as detailed in this proposal related to the AJ Chandler Park project.

Task 1.1: Preliminary Research	\$ <u> N/A </u>	TOTAL
Task 2.1: Task 2.1 – Utility/Agency Coordination	\$ <u> N/A </u>	TOTAL
Task 3.1 – Geotechnical Investigation	\$ <u> N/A </u>	TOTAL
Task 4.1 Programming	\$ <u> N/A </u>	TOTAL
Task 5.1 Schematic Design (30% Document Review)	\$150,000	TOTAL
Task 6.1 Design Development (60% Document Review)	\$105,000	TOTAL
Task 7.1 Construction Documents (90% Document Review)	\$130,000	TOTAL
Task 8.1 Bid & Award (100% Documents)	\$ 5,000	TOTAL
GRAND TOTAL	*\$390,000	

***Please Note:** Reimbursable expenses are not included in the grand total. No consultants are included in this fee.

REIMBURSABLE EXPENSES

Reimbursable expenses, including printing, modeling materials, telecommunications, travel, lodging, and delivery services (shipping costs and labor to build shipping container) or any other services are billed at an expense of 1.2 times the cost.

2024 HOURLY RATES*

For additional services outside of the scope listed above, fees will be amended to reflect hourly rates below.

Lake Flato's hourly billing rates are as follows:

Partner (Matt Wallace)	\$330
Associate Partner	\$240
Associate	\$230
Project Architect	\$200
Project Director	\$180
Project Designer	\$150
Designer	\$130
Intern	\$80

*Hourly Rates are updated on an annual basis and are subject to change

AGREEMENT

If you agree with the terms above, please consider this a Letter of Agreement. Please sign two copies and return one to Lake|Flato Architects, Inc. Thank you for this opportunity. Please call us if you have any questions about this letter or the process moving forward.



Matt Wallace, AIA, LEED AP BD + C
Partner
Lake|Flato Architects, Inc.

7/03/24
Date

Brandon Sobiech
Dig Studio
Principal

Date



June 24, 2024

Brandon Sobiech
Dig Studio
3003 N. Central Ave., Suite 800
Phoenix, AZ 85012

Sent Via Email: brandon@digstudio

RE: Scope of Work and Fee Proposal for Final Design Services for Dr. AJ Chandler Park Improvements

Dear Mr. Sobiech,

Thank you for allowing Ardurra to provide you with the attached scope and fee proposal for civil engineering design and survey services for the subject project.

Our Scope of Services outlines the tasks and deliverables for the items discussed with Ardurra, including project objectives, explanation of our procedures, identification of responsibilities, and estimated fees. Should you have any questions or need additional information concerning the preparation of this proposal, please contact me (jcatt@ardurra.com).

Ardurra anticipates completing the Project and providing the required deliverables for this project as outlined in the attached documents for a design fee not to exceed \$264,855.00. The design is anticipated to be completed within 310 calendar days from Notice To Proceed.

Ardurra is a multi-disciplined full-service engineering firm, providing broad-based solutions tailored to the specific needs of our clients. We provide water, civil, public works, survey, and transportation services to the region. We appreciate the opportunity to submit this proposal to you and look forward to the success of this project.

Respectfully,

Ardurra

John Catt, P.E.
Practice Director

SCOPE OF WORK

FINAL DESIGN SERVICES FOR DR. AJ CHANDLER PARK IMPROVEMENTS

PROJECT DESCRIPTION

ARDURRA proposes to provide survey and civil engineering services for the design, permitting, and development of construction documents for the development of 2.3 Acres, Phase 1, of Dr. A.J. Chandler Park located at 3 S. Arizona Ave., Chandler, Arizona, all as more specifically described herein below.

The park design may include, but not be limited to, demolition of existing pavements, water features, and structures. Design of new decorative hardscape plazas, relocated and new public art, extensive shade tree infrastructure including below ground soil improvements, event lawns, seasonal plazas with social activities, seating and site furniture, park lighting, park power and Wi-Fi. The architectural improvements may include: Two innovation canopies flanking the Arizona Avenue crosswalk, storage rooms, new restrooms, two park pavilions. Refer to Figure 1 for the master plan concept.

For the project, it is anticipated that the following services are required:

- Topographic Survey, parcel/ROW Base Mapping
- Data Collection, Utility Base Mapping & Utility Meetings
- Programming
- Design Documents (30%, 60%, 90% and Final)

FIGURE 1 – Phase 1 Master Plan Concept



The project scope of work and related tasks are outlined in detail below:

1. SURVEY & TOPOGRAPHIC BASE MAPPING

- 1.1. Survey Control** - Survey control for the project shall be in accordance with City of Chandler requirements NAD83 Arizona State Plane Central Zone Coordinates and NAVD88 elevations. Ardurra shall perform ground survey, tying into at least three MCDOT GDACS benchmarks to establish horizontal control and at least two published City of Chandler benchmarks to adjoin vertical control.
- 1.2. Topographic Field Survey** - Ardurra shall collect field survey data within the yellow outlined area shown in **Figure 2** below. Field crews will collect existing features within the project area including, but not limited to, walls, curb and gutter, striping, median curb, catch basins/curb inlets with inverts, basin high and low points, scuppers, water meter boxes, water valves with top of nuts and gas valves, manholes with inverts, utility poles and guy wires, traffic signal poles, utility boxes, fences, large trees, mailboxes, signs and public & private irrigation. The topographic survey will be performed using GPS RTK and Robotic Total Station if necessary. Nominally, topographic data will be collected on a 50' grid or smaller/tighter as necessary. All grade breaks will be collected as well. **Exclusions:** No Blue-Stake markings will be collected, and no underground marking requests will be made.
- 1.3. Topographic Base Mapping** - Ardurra shall provide a topographic base map including the above-mentioned features. Sectional and centerline control (if any) will be based on monumentation found in the field. Line work will be provided for linear features along with symbols for other features. Topographic survey base map will be produced at an appropriate scale and presented in Civil3D 2022 format. A Digital Terrain Model (DTM) will be produced utilizing the above-mentioned points and break lines.
- 1.4. Parcel and Right-of-Way Base Mapping** - Ardurra shall produce a base map/drawing including existing parcel & ROW line work and any Sectional/centerline monumentation found in the field. Ardurra will utilize any parcel line work from, and as shown on the Maricopa County Assessor GIS web site, with reference to plat and deed information to identify existing ROW and parcels for the project site. Adjustments will be made to make the ROW lines consistent with sectional/centerline information collected/developed and ROW widths as shown on said GIS web site. There are no tasks associated with preparation of a right-of-way strip map as part of this scope of work.

FIGURE 2 – Topographic Survey Limits



2. DATA COLLECTION & UTILITY MAPPING

- 2.1. Data Collection and Bluestake** - Ardurra shall collect and review existing maps, plans, as-builts/record drawings, drainage reports, water reports, and any other information available from the City. Ardurra shall submit a bluestake design ticket to determine existing utilities in the area and submit map requests to those utility providers.
- 2.2. Utility Base Mapping** - Ardurra shall utilize topographic survey, blue stake, utility maps/as-builts and other record information gathered in task 1 above to generate an existing utility base map depicting all known below ground utilities.
- 2.3. Utility Meetings** – Ardurra will attend utility meetings. Meetings will be conducted by and ran by Dry Utilities Services. It is assumed that utility meetings will be held at the 30%, 60%, 90% and 100% design stages and will be two (2) hours in duration.

3. PROGRAMMING & MEETINGS:

- 3.1. Meetings:** Ardurra will attend the following meetings:
- Ardurra will attend a kickoff meeting with Dig Studio and City staff to ascertain the requirements of the Project and will arrive at a mutual understanding of such requirements.
 - Ardurra will attend ten (10) client bi-weekly meetings.
 - Ardurra will attend twenty-four (24) project team meetings
 - Ardurra will assist with the preparation of a "Program" document which will include:
 - Complete documentation of site survey from preliminary work (refer to task 1)
 - Review of new buildings space needs and that civil improvements will work
 - Review new building space requirements and amenities necessary to accommodate new utility services.
 - Define site requirements
 - Based on the mutually agreed-upon program, schedule and construction budget requirements, Ardurra will assist with the preparation, for approval by City, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of the Project components.

4. SCHEMATIC DESIGN (30% PLANS AND COST ESTIMATE)

- 4.1. Preliminary 30% Civil Plans** - Ardurra shall do initial drainage and utility design analysis to prepare a preliminary grading & drainage plan and preliminary utility plan. Preliminary grading & drainage plan will include finished floor elevations, drainage patterns, preliminary elevations and proposed improvements including management of on-site storm water runoff and retention. Preliminary utility plan will include horizontal layout for new on-site water/sewer only.

5. DESIGN DEVELOPMENT (60% PLANS, SPECIFICATIONS AND ESTIMATES)

- 5.1. 60% Grading & Drainage Plan** - Ardurra shall prepare a grading & drainage plan at 60% which includes site elevations, building finished floor elevations, retention design, pavement structural design (based on geotechnical recommendations), earthwork calculations, and site details. Retaining wall calculations and/or plans are not included in this proposal.
- 5.2. 60% On-site Utility Plan** - Ardurra shall prepare an on-site utility plan at 60% which includes on-site domestic water and sewer design (including water and sewer taps to within 5' of buildings). New services for domestic and landscape needs will be provided as needed. There is no offsite water or sewer main design as a part of this task.
- 5.3. 60% Stormwater Management Plan** - Ardurra shall prepare a storm water management plan at 60% in accordance with the City of Phoenix and Arizona Department of Environmental Quality (ADEQ) Construction General Permit. It is the Contractor's responsibility to submit the Notice of Intent (NOI) and is to confirm conformance with, or satisfaction of, analysis regarding this Project's effect on environmental and biological conditions. Contractor will be responsible for filing the Notice of Termination (NOT) upon completion of the project.
- 5.4. 60% Drainage Report** - Ardurra shall prepare a preliminary drainage report to accompany the 60% grading and drainage plan submittal as required by Development Services for their review. As we're in the Denver Basin Drainage Area which has a zero retention requirement and we aren't increasing the net paved areas it is assumed that there will not be any need for any new retention/underground storage basins.
- 5.5. 60% Special Provisions** - Ardurra will prepare and compile the 60% specifications for the proposed project including civil improvements based on CSI format and modified as needed to meet City requirements which will consist of a detailed list of applicable standard specifications and preliminary specials provisions for specialty items.

6. CONSTRUCTION DOCUMENTS (90% PLANS, SPECIFICATIONS AND ESTIMATES)

- 6.1. 90% Grading & Drainage Plan** - Ardurra shall prepare a grading & drainage plan at 90% as described in Task 5.1. Ardurra shall update the design and plans to address any City and internal review comments from the 60% submittal.
- 6.2. 90% On-site Utility Plan** - Ardurra shall prepare an on-site utility plan at 90% as described in Task 5.2. Ardurra shall update the design and plans to address any City and internal review comments from the 60% submittal.
- 6.3. 90% Stormwater Management Plan** - Ardurra shall prepare a storm water management plan at 90% as described in Task 5.3. Ardurra shall update the design and plans to address any City and internal review comments from the 60% submittal.
- 6.4. 90% Drainage Report** - Ardurra shall prepare a drainage report to accompany the 90% grading and drainage plan as described in Task 5.4. Ardurra shall update the report to address any City and internal review comments from the 60% submittal.
- 6.5. 60% Special Provisions** - Ardurra will prepare and compile the 60% specifications for the proposed project including civil improvements based on CSI format and modified as

needed to meet City requirements which will consist of a detailed list of applicable standard specifications and preliminary specials provisions for specialty items.

7. FINAL PLANS, SPECIFICATIONS AND ESTIMATES

- 7.1. Final Grading & Drainage Plan** - Ardurra shall prepare a final grading & drainage plan as described in Task 5.1. Ardurra shall update the design and plans to address any City and internal review comments from the 90% submittal.
- 7.2. Final On-site Utility Plan** - Ardurra shall prepare a final on-site utility plan as described in Task 5.2. Ardurra shall update the design and plans to address any City and internal review comments from the 90% submittal.
- 7.3. Final Stormwater Management Plan** - Ardurra shall prepare a final storm water management plan as described in Task 5.3. Ardurra shall update the design and plans to address any City and internal review comments from the 90% submittal.
- 7.4. Final Drainage Report** - Ardurra shall prepare a final drainage report to accompany the final grading and drainage plan as described in Task 5.4. Ardurra shall update the report to address any City and internal review comments from the 90% submittal.
- 7.5. Final Special Provisions** - Ardurra will prepare and compile the final sealed specifications for the proposed project including civil improvements based on CSI format and modified as needed to meet City requirements which will consist of a detailed list of applicable standard specifications and preliminary specials provisions for specialty items.

FEE BREAKDOWN:

Please see the fee estimate table below:

Task	DESCRIPTION (Ardurra Only)	COST
1	Topographic Survey & Base Mapping	\$ 39,995.00
2	Data Collection & Utility Mapping	\$ 13,940.00
3	Programming & Meetings	\$ 34,190.00
4	Schematic Design (30% Plans, Cost Estimate)	\$ 39,400.00
5	Design Development (60% Plans, Specifications and Cost Estimate)	\$ 59,180.00
6	Construction Documents (90% Plans, Specifications and Cost Estimate)	\$ 45,630.00
7	Final Plans, Specifications and Cost Estimate	\$ 32,520.00
Total Design Fee		\$ 264,855.00

Project is a **Time & Materials (Not to Exceed)** and will be invoiced on a monthly basis.

Exclusions:

1. ALTA surveys, boundary surveys, easement exhibits, legal descriptions, and survey instruments. It is assumed that existing boundary information will be supplied by the City and will be sufficient for design. No new right-of-way is anticipated for this project.
2. No City zoning issues are included for the Project, such as rezoning, use permits, special use permits, or variances.
3. Permit fees, review fees, applications fees.
4. Private dry utility and gas design.
5. Offsite Water and sewer design and/or plans.
6. Subsurface utility investigation, potholing, permits, relocation coordination. To be provided by JOC or CMAR.
7. Utility coordination, conflict review. To be provided by others
8. Design of offsite roadway
9. Complex Modeling and Design for Drainage, Water and Sewer.
10. Design services, modeling, or permitting associated with work within any existing floodplain, floodway, or wetlands is not included.
11. Archaeological, biological, and environmental consulting services are not anticipated nor included.
12. Structural, Electrical, Mechanical, or Plumbing design and engineering (except what is provided above and in attached proposals).
13. Traffic engineering, striping, lighting, signal design.
14. Environmental, right of way, or utility clearances.
15. Geotechnical evaluation or design or pavement design (except what is provided above and in attached proposals).
16. Landscape, hardscape, site irrigation design (except what is provided above and in attached proposals).
17. Retaining wall, wall, fence, or structural design (except what is provided above and in attached proposals).
18. Public meetings or council presentations.
19. Parking Study or Traffic Analysis
20. Cost Estimating. Dig and Marc Taylor will cover that scope.



FEE PROPOSAL SUMMARY

PROJECT NAME:	Dr. AJ Chandler Park (Final Design)
PROJECT NO.:	CA2402.201
FEDERAL PROJECT NO.:	no
TRACS NO.:	no

CLASSIFICATION	MAN HOURS	BILLING RATES	LABOR FEES
Practice Director/Project Director	156	\$ 290.00	\$ 45,240.00
Engineering Dept. Manager	0	\$ 270.00	-
Project Manager - Sr.	0	\$ 245.00	-
Project Manager - Sr./Project Engineer - Sr.	253	\$ 220.00	\$ 55,660.00
Project Engineer - Sr.	0	\$ 175.00	-
Project Engineer	410	\$ 160.00	\$ 65,600.00
EIT III	388	\$ 145.00	\$ 56,260.00
Survey Project Manager/Registered Land Survey	9	\$ 185.00	\$ 1,665.00
Survey Project Manager (Non RLS)	4	\$ 150.00	\$ 600.00
Project Surveyor (LSIT)	103	\$ 140.00	\$ 14,420.00
2-Person Survey Crew	126	\$ 185.00	\$ 23,310.00
Project Coordinator	21	\$ 100.00	\$ 2,100.00
TOTAL DIRECT LABOR			\$ 264,855.00
SUBTOTAL CONTRACT LABOR			\$ 264,855.00

Subtotal Contract Labor	\$ 264,855.00
Subtotal Direct and Outside Expenses	-
Subtotal Subconsultants	-
Total Contract Fee	\$ 264,855.00

Subtotal Allowances	-
Total Contract Fee & Allowances	\$ 264,855.00

DIRECT AND OUTSIDE EXPENSES				
DESCRIPTION	UNIT	UNIT RATE	QUANTITY	TOTAL
1 Personal Vehicle Mileage	Miles	\$ 0.670		\$ -
2				\$ -
3				\$ -
4				\$ -
5				\$ -
REPRODUCTIONS - AT COST (Estimates Only)				
Printing (8-1/2" x 11")	Each	\$ 0.10		\$ -
Printing (11" x 17")	Each	\$ 0.15		\$ -
Bond Large Format	Each	\$ 1.50		\$ -
Mylar Large Format	Each	\$ 12.50		\$ -
Exhibits	Each	\$ 250.00		\$ -
Deliveries/Postage	Each	\$ 50.00		\$ -
SUBTOTAL DIRECT AND OUTSIDE EXPENSES				\$ -

SUBCONSULTANTS FEE		
SUBCONSULTANT	TASK	FEE
1		\$ -
2		\$ -
3		\$ -
4		\$ -
5		\$ -
6		\$ -
7		\$ -
8		\$ -
9		\$ -
10		\$ -
SUBTOTAL SUBCONSULTANTS FEE		\$ -

ALLOWANCES		
CONSULTANT/EXPENSES	TASK	FEE
1		\$ -
2		\$ -
3		\$ -
4		\$ -
5		\$ -
SUBTOTAL ALLOWANCES		\$ -

CONTRACT TERMS		
PAYMENT METHOD	LUMP SUM	2024 Standard Rates
CONTRACT DURATION	TIME AND MATERIALS (CALENDAR DAYS)	(ARDURRA RATE TABLE NAME)
PROCUREMENT METHOD	SOLICITATION / DIRECT SELECT	
	ON-CALL TASK ORDER	no
		(ON-CALL CONTRACT NO.)

DERIVATION OF FEE PROPOSAL SUMMARY

Task	Description	# of Sheets	Practice Director/Project Director	Engineering Dept. Manager	Project Manager - Sr.	Project Manager - Sr./Project Engineer - Sr.	Project Engineer - Sr.	Project Engineer	EIT III	Survey Project Manager/Registered Land Surveyor - Sr.	Survey Project Manager (Non RLS)	Project Surveyor (LSIT)	2-Person Survey Crew	Project Coordinator	Total Hours By Task	Total Fee By Task
		Hourly Rate	\$ 290.00	\$ 270.00	\$ 245.00	\$ 220.00	\$ 175.00	\$ 160.00	\$ 145.00	\$ 185.00	\$ 150.00	\$ 140.00	\$ 185.00	\$ 100.00		
1	Survey and Base Mapping		John		Greg			Zach	McLaine	Ray/Jesse/Troy	Damon	Scott/Jordan	Field Folks	Kristina		
1.1	Prepare field packet including GDACS for Horizontal									1	2	5			8	\$1,185.00
1.2	Control data collection for GDACS and COC control									2	2		6		10	\$1,780.00
1.3	Topo data collection for yellow-outlined area. Include									1		8	120		129	\$23,505.00
1.4	Process topo and produce base map									3		60			63	\$8,955.00
1.5	Parcel/ROW base mapping including Block									2		30			32	\$4,570.00
	SUBTOTAL Survey and Base Mapping		0	0	0	0	0	0	0	9	4	103	126	0	242	\$39,995.00
2	Data Collection & Utility Mapping															
2.1	Data Collection and Bluestake					4		8	8					1	21	\$3,420.00
2.2	Utility Base Mapping		2			4		16	16					1	39	\$6,440.00
2.3	Utility Meetings (assume 4 meetings)		8			8									16	\$4,080.00
	SUBTOTAL Data Collection & Utility Mapping		10	0	0	16	0	24	24	0	0	0	0	2	76	\$13,940.00
3	Programming & Meetings															
3.1	Kickoff Meeting		2			2			2						6	\$1,310.00
3.2	Client Bi-Weekly Meetings (assume 10)		10			10									20	\$5,100.00
3.3	Project Team Meetings (assume 24)		24			24		24							72	\$16,080.00
3.4	Programming Document Preparation		6			12		24	24						66	\$11,700.00
	SUBTOTAL Programming & Meetings		42	0	0	48	0	48	26	0	0	0	0	0	164	\$34,190.00
4	Schematic Design															
4.1	Preliminary 30% Civil Plans		20			40		80	80					4	224	\$39,400.00
	SUBTOTAL Schematic Design		20	0	0	40	0	80	80	0	0	0	0	4	224	\$39,400.00
5	Design Development															
5.1	60% Grading & Drainage Plan		15			30		60	60					1	166	\$29,350.00
5.2	60% On-site Utility Plan		8			16		32	32					1	89	\$15,700.00
5.3	60% Stormwater Management Plan		2			4		8	8					1	23	\$4,000.00
5.4	60% Drainage Report		3			6		12	12					1	34	\$5,950.00
5.5	60% Special Provisions		8			8								1	17	\$4,180.00
	SUBTOTAL Design Development		36	0	0	64	0	112	112	0	0	0	0	5	329	\$59,180.00
6	Construction Documents															
6.1	90% Grading & Drainage Plan		12			24		48	48					1	133	\$23,500.00
6.2	90% On-site Utility Plan		6			12		24	24					1	67	\$11,800.00
6.3	90% Stormwater Management Plan		2			3		6	6					1	18	\$3,170.00
6.4	90% Drainage Report		2			4		8	8					1	23	\$4,000.00
6.5	90% Special Provisions		6			6								1	13	\$3,160.00
	SUBTOTAL Construction Documents		28	0	0	49	0	86	86	0	0	0	0	5	254	\$45,630.00
7	Final Plans															
7.1	Final Grading & Drainage Plan		10			20		40	40					1	111	\$19,600.00
7.2	Final On-site Utility Plan		4			8		12	12					1	37	\$6,680.00
7.3	Final Stormwater Management Plan		1			2		4	4					1	12	\$2,050.00
7.4	Final Drainage Report		1			2		4	4					1	12	\$2,050.00
7.5	Final Special Provisions		4			4								1	9	\$2,140.00
	SUBTOTAL Final Plans		20	0	0	36	0	60	60	0	0	0	0	5	181	\$32,520.00
	Total Hours		156	0	0	253	0	410	388	9	4	103	126	21	1,470	
	Total Dollars		\$ 45,240.00	\$ -	\$ -	\$ 55,660.00	\$ -	\$ 65,600.00	\$ 66,260.00	\$ 1,665.00	\$ 600.00	\$ 14,420.00	\$ 23,310.00	\$ 2,100.00		\$ 264,855.00



May 29, 2024

Mr. Brandon Sobiech, PLA, ASLA
DigStudio
3003 North Central Avenue, Suite 800
Phoenix, AZ 85012

Re: Fee Proposal
AJ Chandler Park – Phase One, Chandler, Arizona

Dear Brandon:

We are pleased to present to you this proposal for consulting design services covering the structural engineering for this project. The scope of the structural work included in the proposal is as described in your email of May 28, 2024. The scope includes:

1. The structural design associated with the new park for the City of Chandler. The scope includes:
 - a. One Restroom Building with storage of 800 square feet.
 - b. Two Innovation Canopy structures of 12,500 square feet total.
 - c. Two Park Pavilions with storage rooms of 9,850 square feet.
 - d. Miscellaneous Park structures including site walls, fences, benches, steps and retaining walls, as required.

As a design-based consulting firm, it is our desire to create structures that work in harmony with the architecture. For this project, we propose to provide the following services as a portion of the basic design contract:

1. Assist in development of appropriate and acceptable structural system.
2. Prepare all required structural drawings and details to be incorporated in the final project set, including General Structural Notes, in conformance with all relevant codes, ordinances and guidelines.
3. Prepare all final Structural design calculations reflecting the final design.
4. Include digital printing as required for necessary coordination. Progress and Final drawings may be submitted via first generation pdfs as agreed upon with Architect. Prepare first generation pdfs of calculations as required by reviewing jurisdiction.

7047 East Greenway Parkway, Suite 250
Scottsdale – Arizona 85254
480-398-7729
www.bdadesign.com

5. Include all necessary documentation for permit submittal as required by reviewing jurisdiction.
6. Review and coordinate between final Architectural drawings, as necessary, for accuracy and correctness.
7. Review and address building department comments for building permit issuance, coordinate revisions with Architect, revise, and digitally re-plot all drawings and calculations affected.

For the scope as defined on page one of this proposal, we propose the following fee as broken out by phase and scope below:

Schematic Design (30% Document Review) – Prepare roof framing and foundation plans, along with more typical details to align with the plans. Plans to be based on first pass framing and foundation designs and structural calculations.

A fixed fee of \$12,300 (Twelve Thousand Three Hundred Dollars).

Design Development (60% Document Review) – Prepare final concept roof framing and foundation plans. Prepare roof framing and foundation details specific to the design development level drawings. Prepare General Structural Notes to reflect the Code and Material requirements and specifications. Prepare lateral system and gravity system design calculations.

A fixed fee of \$12,300 (Twelve Thousand Three Hundred Dollars).

Construction Documents (90% Document Review) – Prepare complete roof framing and foundation documents representing both the final gravity load systems and the lateral load resisting systems. Review Architect provided specification sections. Finalize the structural calculations and the final General Structural Notes. Coordinate detailing with the Architectural Drawings and drawings produced by other consultants that may have an impact on the structure.

A fixed fee of \$12,300 (Twelve Thousand Three Hundred Dollars).

Bid and Award (100% Document Review) – Complete final coordination tasks with the Architect's and other consultant drawings/designs. Complete the structural calculations. Submit the final drawings and calculations for permitting.

A fixed fee of \$4,200 (Four Thousand Two Hundred Dollars).

The total proposed fee is \$41,100 (Forty-One Thousand and One Hundred Dollars).

It is typically the policy that invoices are paid within 15 days of corresponding payment from the owner. A fee of 1.5% per month will be applied to late payments that go uncollected for more than 90 days, calculated from the invoice date.

Limitation of liability: In recognition of the relative risks and benefits of the Project to both the Client and Consultant, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of the Consultant to the Client for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert-witness fees and costs, so that the total aggregate liability of the Consultant to the Client shall not exceed the Consultant's total fee for service rendered on this Project.. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

The standard of care for all professional services performed or furnished by Consultant under this Agreement will be the skill and care used by members of Consultant's profession practicing under similar circumstances at the same time and in the same locality. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant's services.

We have established our reputation for being a different kind of structural design firm - one that is creative, design based, cost-conscious and responsive.

Yours truly,



J. Greg Brickey, SE
Principal
GB/mh

July 3, 2024

Brandon Sobiech

Dig Studio

3003 North Central Ave Suite 800

Phoenix, AZ 85012

602-595-4101 | brandon@digstudio.com

Re: AJ Chandler Park
Lighting and Electrical Design Consulting Proposal
Clanton Project #23073

Clanton and Associates proposes to undertake the lighting and electrical consulting for the AJ Chandler Park in Chandler, AZ.

The total estimated fees will be based on the following breakdown by phase:

Schematic Design	\$ 34,370
Design Development	\$ 36,710
Construction Documents	\$ 40,780
Project Management	\$ 8,000
Total Labor	\$ 119,860
Expenses	\$ 2,500
Total Fee (Labor and Expenses)	\$ 122,360

The scope of work includes:

1. Phase 1 (~2.3 acres)
 - a. Central Plazas
 - b. Innovation Canopies
 - c. Event Lawns
 - d. Park Pavilions
 - e. Central Crosswalk
 - f. Temporary Stage Area
 - g. Public Art
 - h. Restrooms

Fees are billed hourly not to exceed the contract amount without prior approval. Invoicing will occur monthly based on hours worked.

Project deliverables will be issued on agreed upon dates between Clanton & Associates, Inc and the Client. Any model or background update will be provided no fewer than five business days prior to any indicated deliverable.

Design services shall include the following:

Schematic Design (30%)

- Project kick-off meeting via teleconference
- Site visit to observe existing conditions
- Schematic lighting concept development
- Schematic lighting control strategies
- Schematic lighting narrative
- Proposed luminaire types
- Schematic electrical narrative
- Schematic estimate of probable cost
- Up to one (1) submittal (30% set)
- Attendance at 30% Review meeting via teleconference

Design Development (60%)

- Incorporate comments from 30% Review, up to one (1) comment response
- Lighting design
 - Lighting layout
 - Lighting details
 - Luminaire schedule
 - Lighting calculations
- Electrical design
 - Panel schedules
 - Lighting control centers, including feeder sizing
 - Conduit routing
- Coordinate power source locations and capacity with electric utility
- Specifications
- Tabulation of Approximate Quantities
- Opinion of Probable Cost
- Up to one (1) submittal (60% set)
 - Quality Control
 - Submittal IDR
- Value engineering (VE), up to one meeting and up to one round of VE alternates
- Attendance at 60% Review meeting via teleconference

Construction Documents (90% and 100%)

- Incorporate comments from 60% Review, up to one (1) comment response
- Lighting design
 - Final lighting layout
 - Lighting details
 - Luminaire schedule
- Electrical design
 - Panel schedules
 - One-line diagrams
 - Lighting Control Centers, including short circuit calculations and feeder sizing
 - Circuiting and conduit, including voltage drop calculations and conduit sizing
 - Electrical details
- Coordinate power source locations and capacity with electric utility

- Specifications
- Tabulation of Approximate Quantities
- Opinion of Probable Cost
- Up to one (2) submittals (90% and 100% stamped bid set)
 - Quality Control
- Attendance at 90% Review meeting via teleconference
 - Up to one (1) comment response

Project Management

- Team coordination, up to thirty (30) meetings
- Monthly invoices with progress reports

This scope of work is based upon normal project progress and within the time schedule agreed upon, without major redesign or change order work. Additional fees will be required if project timing is extended or project is put on hold and restarted at later date. If the project timing exceeds one year, additional services rates may increase.

The scope is based on documents sent on 5/21/2024 and revised based on comments sent on 07/02/2024 to exclude water features.

Not included in this scope of work but is available for extra services:

- Additional site visits or meetings
- Construction observation and/or services during construction
- Development or issuing of electric utility work order forms, applications, and/or meter address applications
- Temporary Lighting
- Electrical engineering for non-lighting electrical infrastructure (e.g. traffic signals, ITS equipment, security cameras, electrical vehicle (EV) infrastructure, smart city and/or small cell infrastructure).
- Significant lighting and/or electrical redesign three (3) weeks prior to issuing the 90% submittal based on client changes such as: changes in streetlight ownership, addition of new electrical service(s), or a change from resetting existing streetlights to new streetlight installation.
- Location or load changes to electrical infrastructure after the 90% submittal. This shall include, but is not limited to, shifting of ITS equipment, traffic cabinets, power sources, or changes to the electrical load require recalculation of voltage drop and short circuit calculations.
- Any development, design, or detailing of custom luminaires
- Drafting on non-digital backgrounds such as *.pdf or *.jpg files
- Value engineering beyond what is listed in the scope
- Site Development Plan Submittals
- Coordination during bid phase
- Client presentations
- Renderings
- Mock-ups
- Development of light art
- Lighting and electrical for water features

Specific exclusions from this scope are as follows:

- Structural engineering
- Equipment procurement
- Commissioning

- Survey control map or Right-of-Way plans
- Subsurface Utility Engineering
- Communication wiring to Traffic Signals

Client will supply Clanton and Associates with review materials and backgrounds in AutoCAD or Micro Station format. Reimbursable expenses shall include printing costs, overnight delivery and travel expenses associated with the project and shall be charged in addition to the compensation for professional services. Payment for services is expected within 30 days of invoice unless other arrangements are made in writing.

Additional services shall be charged per the rates in the attached Clanton & Associates Rates Table.

Work shall commence upon receipt of a signed copy of this agreement. This agreement is valid for 60 days.



CLANTON & ASSOCIATES

7/3/2024

DATE

DIG STUDIO

DATE

AGREEMENT FOR PROFESSIONAL SERVICES

Date: July 02, 2024

(Proposal is valid for 30 days)

Client

Dig Studio
600 N. Fourth Street, Suite D
Phoenix, AZ 85004

Contact: Brandon Sobiech

Project

AJ Chandler Park - Restroom Building M+P
Chandler, Arizona

Henderson Project Number: 2450002762

Project Description and Scope of Services

Henderson Engineers, Inc. (Henderson) will provide mechanical, and plumbing ("M/P") drawings and specifications. Henderson's specific scope of services is set forth in the following Scope of Services. Henderson can provide third-party commissioning and testing and balancing (TAB) reports through its affiliated, Henderson Building Solutions. This Scope of Services and Fee is based on the scope received from DIG on 5.28.2024.

- The 'remodel' of AJ Chandler Park in downtown Chandler
- removing the current restroom and providing a new restroom facility
- Henderson will provide M+P scope for this remodel only
- Scope: new restroom, probably about 8 stalls, community sink(s) drinking fountain with bottle filler

Services and Fee Detail

Fee Type	Progressively Billed	Fixed Fee
Construction Documents		\$18,000
Construction Administration		\$2,000
Total Henderson Professional Services Fee		\$20,000
Estimated Reimbursable Expenses (Travel, shipping, and production costs)		\$
Reimbursable Expenses Multiplier		1.05

When accepted by Client this Proposal for Engineering Services and its attachments shall become a binding Agreement between the parties and shall make it subject to the Scope of Services and Terms and Conditions, which are incorporated by this reference. Henderson is authorized to begin performance upon its receipt of a copy of this Agreement signed by Client. If Henderson proceeds at the direction of Client and Agreement is not signed, or altered within ten (10) business days, then it is agreed that terms of Agreement are accepted by Client.

Accepted for Client:

By (signature):

Print Name:

Title:

Date:

Accepted for Henderson Engineers, Inc.

By (signature):

Print Name: Omid Mottahed

Title: Practice Director

Date: July 2, 2024

SCOPE OF SERVICES

Only services marked with an "X" are included in the Scope of Services.
Services not marked can be provided as Additional Services if requested. Services not listed are excluded.

Disciplines included in Scope of Services (See following sections for specific tasks):

- ☒ Mechanical
- ☐ Electrical
- ☒ Plumbing
- ☐ Fire/Life Safety
- ☐ Fire Code Consulting
- ☐ Refrigeration
- ☐ Architectural lighting
- ☐ Audio-Video
- ☐ Broadcast
- ☐ Physical Security
- ☐ Telecom
- ☐ Acoustics

Document Submittals:

- ☐ Schematic Design
- ☐ Design Development
- ☐ Construction Documents Review – 50%
- ☒ Construction Documents Review – 90%
- ☒ Issue for Permit
- ☒ Issue for Bid
- ☒ Issue for Construction

Specifications Format:

- ☒ Specifications on drawings
- ☐ MasterFormat book specifications

BIM:

- ☐ Develop BIM Execution Plan
- ☐ Export Clash Detection Views
- ☐ Perform Clash Detection
- ☐ Host BIM Coordination Meetings

Compliance Documentation:

Refer to Energy Modeling section for services relating to performance path energy code compliance.

- ☐ ASHRAE 90.1 or IECC Energy Code compliance form completion for MEP systems (prescriptive path only).
- ☐ Permit application forms
- ☐ Refrigeration energy code calculations

LEED™:

Refer to Energy Modeling section for services relating to building simulation for building certification programs.

- ☐ Design to the requirements of a LEED rating is excluded.

WELL™ Building Standard:

Refer to Acoustics section for services relating to acoustics services relating to WELL rating system requirements.

- ☒ Design to the requirements of a WELL rating system is excluded.

Schematic Design Phase:

Refer to Meetings and Travel Time for additional services included within this phase.

- ☐ Basis of design narratives
- ☐ Construction document sheet index
- ☐ Major equipment sizing and location plan
- ☐ Preliminary equipment room sizing
- ☐ Chase sizing estimates (based on rules of thumb)
- ☐ Plenum space allocation analysis
- ☐ Preliminary site plan showing utility connection points
- ☐ HVAC zoning plan
- ☐ Building controls system integration philosophy
- ☐ Define lighting level criteria
- ☐ Establish preliminary sanitary/storm invert elevation
- ☐ Create as-built drawings of existing conditions

Design Development Phase:

Refer to Meetings and Travel Time for additional services included within this phase.

- ☐ Demolition drawings
- ☐ Electrical single-line Diagrams
- ☐ Mechanical single-line Diagrams
- ☐ Low Voltage Riser
- ☐ HVAC load calculations
- ☐ Ventilation calculations
- ☐ Air balance calculations
- ☐ Incorporate smoke evacuation concept (concept provided by 3rd party code consultant). Excludes rational analysis.
- ☐ Equipment cut sheets
- ☐ Equipment plans
- ☐ Interior lighting design services

Refer to Energy Compliance Documentation section for associated scope.

Refer to Architectural Lighting section for associated scope.

Items not marked will be provided by the architect, owner or other 3rd party consultant and will not be signed/sealed by Henderson.

- ☐ Normal lighting layout

- ☐ Emergency lighting layout
- ☐ Coordinate lighting layout with a separate specialty lighting designer
- ☐ Normal lighting selection/specification
- ☐ Emergency lighting selection/specification
- ☐ Coordinate lighting selection/specification with separate specialty lighting design
- ☐ Lighting controls
- ☐ Lighting circuiting
- ☐ Exterior façade lighting design services
Refer to Energy Compliance Documentation section for associated scope.
Refer to Architectural Lighting section for detailed information on associated scope.
Items not marked will be provided by the architect, owner or other 3rd party consultant and will not be signed/sealed by Henderson.
 - ☐ Normal lighting layout
 - ☐ Emergency lighting layout
 - ☐ Coordinate lighting layout with a separate specialty lighting designer
 - ☐ Normal lighting selection/specification
 - ☐ Emergency lighting selection/specification
 - ☐ Coordinate lighting selection/specification with separate specialty lighting design
 - ☐ Lighting controls
 - ☐ Lighting circuiting
- ☐ Exterior site lighting design services
Refer to Energy Compliance Documentation section for associated scope.
Refer to Architectural Lighting section for detailed information on associated scope.
Items not marked will be provided by the architect, owner or other 3rd party consultant and will not be signed/sealed by Henderson.
 - ☐ Normal lighting layout
 - ☐ Emergency lighting layout
 - ☐ Coordinate lighting layout with a separate specialty lighting designer
 - ☐ Normal lighting selection/specification
 - ☐ Emergency lighting selection/specification
 - ☐ Coordinate lighting selection/specification with separate specialty lighting design
 - ☐ Lighting controls
 - ☐ Lighting circuiting
- ☐ Device layout (for a single typical room)
- ☐ Zone terminal unit layout
- ☐ Preliminary equipment and lighting schedules
- ☐ Two line duct/pipe mains in/out chases
- ☐ Typical floor section
- ☐ Details
- ☐ Specifications table of contents
- ☐ Initial control diagrams and sequence of

operations

- ☐ Control system performance specification only
- ☐ Integrated Automation performance requirements
- ☐ Roof drain riser location and slope height requirement
- ☐ Dust Collection equipment plan
- ☐ Specialized exhaust equipment plan
- ☐ Telecommunications major pathway layout

Construction Document Phase:

Refer to Meetings and Travel Time for additional services included within this phase.

- ☒ HVAC plans
 - ☐ HVAC duct plans
 - ☐ Electrical power plans
 - ☐ Interior lighting plans
 - ☐ Exterior facade lighting plans
 - ☐ Exterior site lighting plans
 - ☒ Plumbing piping plans
 - ☐ Plumbing riser diagram
 - ☒ Final specifications
 - ☒ Final calculations
 - ☒ Final schedules
 - ☒ Final details
 - ☐ Final control diagrams and sequence of operations
 - ☐ Integrated Automation plans and specifications
 - ☐ Drawings for rough-in box and conduit for Voice/Data/POS Outlets.
 - ☐ Layout provided to Henderson by others.
 - ☐ Layout **not** provided to Henderson (see "Telecom" for detailed services)
 - ☐ Drawings for rough-in box and conduit for security and/or audio-visual devices.
 - ☐ Layout provided to Henderson by others.
 - ☐ Layout not provided to Henderson (see "Telecom" for detailed services)
 - ☐ Extension of utility services to area of work
 - ☐ Generator power design
- System Purpose**
- ☐ Healthcare EPSS (NEC Art. 517)
 - ☐ Emergency (NEC Art. 700)
 - ☐ Legally Required (NEC Art. 701)
 - ☐ Standby (NEC Art. 702)
- Installation Type**
- ☐ Permanently installed
 - ☐ Temporary/Portable installation
- ☐ Design for UPS / back-up power
 - ☐ Lightning protection performance specification
 - ☐ Dust Collection plans
 - ☐ Specialized exhaust system plans

Coordination Services:

Consultants' deliverables must be provided to

Henderson at least 5 working days prior to any Henderson deliverable issue date influenced by the consultant content. Refer to Meetings and Travel Time for additional services included within this phase.

- ☐ Coordinate lighting design provided by architect, owner, or 3rd party lighting consultant
- ☐ Coordinate with 3rd party IT, security, audio-video consultant
- ☐ Coordinate with food service consultant
- ☐ Coordinate with 3rd party commissioning agent
- ☐ Coordinate with 3rd party code consultant
- ☐ Coordinate with Door Hardware consultant
- ☐ Coordinate with 3rd party service/DAS provider(s)
- ☐ Coordinate with 3rd party medical equipment consultant
- ☐ Coordinate with Master Systems Integrator

Bid/Negotiation Phase:

Refer to Meetings and Travel Time for additional services included within this phase.

- ☐ Respond to Bidder Questions
- ☐ Bid Review and Analysis

Limited Construction Administration Services:

Refer to Meetings and Travel Time for additional services included within this phase.

- ☐ Participate in weekly construction conference calls. Presuming [#] week(s) in schedule and [#] hour(s) per call.
- ☐ Participate in weekly contractor virtual design and construction (VDC) meetings. Presuming [#] week(s) in schedule and [#] hour(s) per call.
- ☒ Respond to construction RFI's within [5] business day(s) of receiving construction RFI at Henderson.
- ☒ Review submittals within [10] business day(s) of receiving submittals at Henderson. (maximum of [2] review(s) per submittal)
- ☐ Review O&M manual within [#] business day(s) of receiving O&M manual at Henderson. (maximum of [#] review(s)) for general inclusion of all required items.
- ☐ Review Test & Balance report within [#] business day(s) of receiving report at Henderson. (maximum of [#] review(s))
- ☐ Review contractor as-built drawings (including up to [#] review(s) of each system). Reviews limited to adherence to owner required format and general knowledge of the project.
- ☐ Prepare record drawings to include all issued addendums, change orders requiring drawing updates, and construction RFI's requiring drawing updates.
- ☐ Review and comments on [#] cost estimate(s). Reviews limited to comments on quantities and general system level costs based on past experience. Review is contingent on adequate

back-up documentation from contractor/ estimator.

Studies:

- ☐ M/E/P/F/R/IA/T existing conditions analysis
- ☐ Opinion of probable construction cost
- ☐ Opinions of probable luminaire cost
- ☐ Lightning protection risk analysis
- ☐ Infection Control Analysis

Fire and Life Safety:

- ☐ Fire Alarm layout with performance specification
- ☐ Fire Alarm design drawings with wiring, voltage drop and battery calculations
- ☐ Fire Sprinkler performance specification only (No sprinkler layout)
- ☐ Fire Sprinkler drawings with sprinkler layout and performance specification
- ☐ Fire Sprinkler design drawings with sprinkler locations, pipes and hydraulic calculations
- ☐ Fire Pump design
- ☐ Fire tank and pump house design
- ☐ High piled storage plan

Fire Code Consulting:

- ☐ Code approach report
- ☐ Life Safety / Egress drawings
 - ☐ Created by Henderson
 - ☐ Created by Architect, reviewed by Henderson
- ☐ Smoke Control system design (CONTAM)
- ☐ Smoke Control system design (FDS)
- ☐ Life Safety Survey of existing building

Architectural Lighting:

- ☐ Interior architectural lighting design services
- ☐ Exterior façade architectural lighting design services
- ☐ Exterior site architectural lighting design services
- ☐ Coordination Meetings: [#] in-town, [#] out-of-town.
- ☐ Design intent narrative
- ☐ Lighting Concept Design
- ☐ Lighting layout documents
- ☐ Light fixture cut sheets
- ☐ Lighting control intent diagrams
- ☐ Lighting Calculations
- ☐ Development of custom luminaires
- ☐ Full or partial scale lighting mockups
- ☐ Lighting photometric calculations
- ☐ Lighting detail sketches
- ☐ On-site aiming of lighting fixtures: [#] site visit(s)
- ☐ On-site programming: [#] site visit(s)

Audio-Video:

- ☐ Audio-Video system infrastructure design
- ☐ Audio-Video system network design

- ☐ Telecom Converged Network
- ☐ Audio systems design
 - ☐ Distributed systems
 - ☐ Large format systems
 - ☐ Voice evacuation systems
- ☐ Sound masking system design
- ☐ Video systems design
 - ☐ Video-conference system design
 - ☐ Large format digital displays design
 - ☐ Command Center design
- ☐ Control systems design
 - ☐ Environmental
- ☐ Television distribution design
 - ☐ RF Provisions
 - ☐ RF Full
 - ☐ IPTV (internet protocol television) design
- ☐ Digital signage system design
- ☐ Audio-Video Systems Checkout
 - ☐ Observation: [#] site visit(s)
 - ☐ Commissioning: [#] site visit(s)

Broadcast:

- ☐ Venue broadcast prewire
- ☐ Broadcast camera location and TV compound coordination
- ☐ Venue broadcast control rooms design
- ☐ In-House Video Production/Replay system
- ☐ Television studio design
- ☐ Post-production (edit suite) design
- ☐ Broadcast System Commissioning: [#] site visit(s)

Physical Security:

- ☐ Access control system design
- ☐ Door intercom system design
- ☐ Programmable Logic Controller (PLC) detention control system design
- ☐ Emergency/blue light telephone system design
- ☐ Intrusion detection and duress alarm system design
- ☐ Video surveillance system design
- ☐ Physical Security Risk Assessment
- ☐ Command Center Design

Telecom:

- ☐ Interior structured cabling system design
- ☐ Outside plant structured cabling system design
- ☐ Wi-Fi system design
 - ☐ "HEAT" mapping
 - ☐ Grid Layout
 - ☐ WiFi designed by others
- ☐ Network electronics system specification
- ☐ Telephone system specification
- ☐ Distributed Antenna Systems (DAS) design
 - ☐ Cellular - Wireless
 - ☐ Public Safety Radio (First Responders)
 - ☐ DAS designed by others
- ☐ Intercom system design
- ☐ Area-of-Refuge system design or Two-Way Elevator landing communication system
- ☐ Cabling for Audio Video and Security designed by others
- ☐ Pathways for systems designed by others for the following:
 - ☐ Audio-Video
 - ☐ Broadcast
 - ☐ DAS
 - ☐ Security
 - ☐ Wi-Fi

Acoustics:

- ☐ On-site acoustical assessment of existing spaces: [#] site visit(s)
- ☐ Environmental noise assessment: [#] site visit(s)
- ☐ Recommendations for room acoustics and/or reverberation control
- ☐ Recommendations for sound isolation
- ☐ Acoustic modeling and auralization
- ☐ Review architectural documents relating to acoustics
- ☐ Recommendations for sound retarding doors and/or operable partitions
- ☐ MEP systems noise control guidelines
- ☐ Review MEP systems documents relating to noise
- ☐ Building vibration assessment
- ☐ Acoustic commissioning

Meetings and Travel Time

These numbers include the numbers for meetings and observations referenced elsewhere in the document.

- ☐ Perform [#] initial site observation visit(s) with report.
- ☐ Attend [#] design coordination meeting(s).
- ☐ Attend [#] pre-bid meeting(s).
- ☐ Attend [#] bid opening meeting(s).
- ☐ Attend [#] on-site construction meeting(s).
- ☒ Perform [2] construction site observation visits with report.

Additional Services

The services listed under Scope of Services which are not checked may be considered additional services.

Additional services shall be provided only upon authorization by the Client and shall be paid for by the Client as hereinafter provided. Fees will be invoiced on a time and expense basis for any Additional Services authorized in writing by the Client and will be invoiced separately at the following standard hourly rates. Other additional services may include, but are not limited to:

Modifications to base building utilities or utility improvements to space
Evaluation of substitutions
Value engineering
Responses to construction RFIs where such information is available to the contractor
Services made necessary due to default or insufficient work of a contractor
Envelope compliance documentation based on architect's proposed design
BIM Renderings
Design of theatrical/stage lighting
Photorealistic renderings of lighting designs
Under-slab or underground package for submittals or permit
Equipment procurement packages.
Siphonic Storm Systems design
Foundation Drainage design - based on information provided by third party geotechnical engineer
Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Consultant is party thereto
Provent/Sovent Single Stack Sanitary Venting System

Design of broadcast lighting
Storm water design
Documentation of, or modification to, base building utilities within tenant space which services other spaces
Street lighting
Solar hot water system design
Photovoltaic power system design
Lightning protection design
Wind power system design
Mock-ups

- Computational fluid dynamics (CFD) modeling applications not explicitly listed elsewhere

Preparation or modification of BIM model for the purpose of integration into computer maintenance management system (CMMS)
Involvement in Water Management Program

- Fault Current Studies and Reports
- Coordination Studies and Reports
- Arc Flash Studies and Reports

Changes resulting from sponsorships post design

- Selective demolition of construction assemblies for assessment scopes of work.

Assumptions

Basis of Proposal

The Scope of Services above is based on the information provided to Henderson as of the date of this proposal. Changes to the scope, changes in conditions, additional information, or redesigns may necessitate additional services.

Plan documents

Plans are generally coordinated with other disciplines but minor clashes may still exist. It is the expectation of Henderson that an installation contractor will be retained to cross check final equipment and component dimensions once they have completed the submittal process. Specifications and/or details will include some accessories that are not shown on plans due to scale limitations. Plumbing plans cover components within 5'-0" outside of the building and do not include foundation drainage.

BIM Assumptions

Definition of BIM Model

Building Information Model (Model) is a digital representation of physical and functional characteristics of a facility. A Model is a shared knowledge resource for information about a facility forming a reliable basis for decisions during its life-cycle; defined as existing from earliest conception to demolition.

Level of Development (LOD):

In general terms, systems covered by this scope of work are graphically represented within the Model as a specific system, object, or assembly with approximate quantities, size, shape, location, and orientation. Model content is limited to show the routing and installation intent of building systems and is generally coordinated with the architectural design and design of other consultants. Final coordination is the responsibility of the installation contractor.

Authorized Uses are Limited to the Following:

The Model is suitable for general clash detection with other consultants' elements and systems. If the Model is used to generate quantity take offs for cost estimating purposes, there is no guarantee of completeness or accuracy. When conflicts arise, the contract documents take precedence over the Model. The Model may be used to show ordered, time-scaled appearance of majority of detailed architectural and other consultants' elements and systems. The Model and its content may only be used as stated above and only for this Project. It may not be used for any other purpose without first obtaining Henderson's written permission.

Copyright and Distribution:

Henderson is not transferring its copyrights or other rights in the Model or the Model content. The Client will be given a license to use the Model for the Authorized Uses listed above. The recipient may not distribute the Model or the content of the Model, to any other person or entity, including contractors or other consultants on the Project, nor may it be shared with anyone within the Client's organization who does not have a need to access it for the listed uses on this project without the written consent of Henderson.

BIM Execution Plan (BEP)

As soon as is practicable, but in no event later than thirty (30) days after the execution of the Contract between the Owner and the Construction Manager, all Project Participants shall meet, confer and use their best efforts to agree upon the terms of or modifications to a BIM Execution Plan. In the event of a conflict between this contract and the BEP, this contract shall control unless all parties agree in writing to adopt the BEP.

Facility Management Integration Excluded

The Model will be used to represent the design intent for reference on this Project only. The Model is not intended to be used for data integrated into a Computerized Maintenance Management System (CMMS). It is not intended to be used for ongoing operations. This service use can be provided as an additional service.

Level of Assumed Reliability

Unless otherwise stated in the agreed BEP, the reliability of existing objects is assumed to be Level 0 as defined below.

- Level 0 – Object location is based on as-built information. Henderson is not responsible for accuracy of assumed object locations.

- Level 1 – Object location is based on Radar scanning, Lidar scanning, or Photogrammetry identified information. Henderson is entitled to rely on provided information with the assumption that scanned objects are within 6 inches of their indicated location. Properties of and data associated with scanned objects are not verified.
- Level 2 – Object location is based on Level 1 plus physical verification of object properties.

Expert Witness

Expert witness services and other services related to legal proceedings are explicitly excluded from this Agreement.

Hygrothermal Analysis

Hygrothermal Analysis services and other services related to vapor barriers are explicitly excluded from this Agreement.

Fee Details

All Compensation to be in US Dollars net of tax

Reimbursable Expenses

Client shall reimburse Henderson, at the multiplier listed in the Fee Detail, for reimbursable expenses necessarily incurred by Henderson in relation to the Project. Reimbursable expenses include, but are not limited to:

- a. Reproductions, plots, postage, handling, and delivery of Project related documents and electronic media requested by the Client or Owner
- b. Travel expenses including, but not limited to, airfare, lodging, meals, airport parking, and car rental
- c. Overnight delivery, handling, and postage charges
- d. Local delivery, handling, and postage charges
- e. Automobile mileage, required to meet Project meeting requirements and site visit requirements, calculated at the current published IRS standard mileage rate.

Local Tax

Sales, excise, and/or other local tax ("Local Taxes") will be applied when required by law. Any Local Taxes are in addition to, and are not included in, the stated fee. Any necessary Local Taxes will be billed to Client and are payable within thirty days of the invoice.

HOURLY RATE SCHEDULE - \$ per hour

Engineering Rates

Director and Executive	225-240
Practice / Technical Manager	200
Project Manager	185-195
Senior Engineer/Designer	195
Lead Engineer/Designer	170
Engineer / Designer III	155
Engineer / Designer II	140
Engineer / Designer I	125
Site Observation Specialist	125
BIM Technician	100
Project Administration	95-100

Construction Management + Commissioning

Director and Executive	225-240
Construction Management	220
Pre-Construction Management	170
Project Development	165
Commissioning Manager / Agent	175
Technician	140
Estimator	165
Project Administration	95-100

Terms & Conditions

This Agreement is entered into by the Client and Henderson Engineers, Inc. (Henderson). For purposes of this document the term Henderson pertains to all employees, officers, directors, and all divisions of Henderson Engineers, Inc.

Performance of Services: Henderson shall perform the basic services as outlined above, and additional services as required or directed by the Client in consideration of the fee arrangements and payment terms described in this Agreement. Henderson shall perform its services consistent with the professional skill and care ordinarily provided by professionals practicing in the same or similar locality under the same or similar circumstances. Henderson shall perform its services as expeditiously as is consistent with the standard of care.

Verification of Existing Conditions: Because evaluation of the existing structure or site requires that certain assumptions be made regarding existing conditions the Client agrees to indemnify and hold Henderson harmless from and against any and all damage, liability and cost arising or allegedly arising out of any existing conditions which Henderson is unable to verify. Henderson shall not be required to sign any documents that would result in Henderson having to certify, guarantee or warrant the existence of conditions that Henderson cannot ascertain.

Changed Conditions: In light of occurrences or discoveries that were not originally contemplated by or known to Henderson, Henderson may at such time call for Agreement renegotiation. If terms cannot be agreed to through good faith negotiations, the parties agree that either party has the absolute right to terminate this Agreement.

Hazardous Materials: In the event Henderson or any other party learns of asbestos, toxic materials, or other hazardous materials ("Hazardous Materials") at the jobsite, Henderson may, at its option and without liability for any damages, suspend performance of services until the Client identifies, abates and/or removes the Hazardous Materials and warrants that the jobsite is in full compliance with applicable laws and regulations. Henderson is not responsible for any services related to Hazardous Materials or any claims resulting from the existence, discovery, or removal of Hazardous Materials or costs associated therewith.

Client Responsibilities: Client shall provide information in a timely manner regarding requirements for and limitations on the Project, detailed layouts showing the location of connections, tabulations and information on equipment designed, specified, or furnished by others, a copy of the preliminary estimate or

updated estimates of the cost of the work, bidding documents, bid tabulations, negotiated proposals and Agreement documents, including change orders and construction change directives, as well as any information requested by Henderson. Henderson shall be entitled to rely upon the accuracy and completeness of information provided by Client. Client represents that it has obtained all necessary rights, approvals, and consents necessary for Henderson to use, in the course of performing Services hereunder, any information provided by Client. Client shall provide safe access to all areas requiring observations at no cost to Henderson and without further consideration.

Notification of Defects: Client shall promptly report to Henderson any defects or suspected defects in Henderson's services of which Client becomes aware. Failure by Client, or its contractors or subcontractors, to promptly notify Henderson shall relieve Henderson of the costs of remedying the defects above the sum such remedy would have cost had prompt notification been given.

Opinions of Probable Costs: In providing opinions of probable cost, the Client understands that Henderson has no control over costs or the price of labor, equipment or materials, or over the Contractor's method of pricing, and that the opinions of probable construction costs provided herein are to be made on the basis of Henderson's qualifications and experience. Henderson makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual costs. Henderson shall be compensated as Additional Service, as provided for herein, for all time spent to review, redesign and to incorporate revisions due to probable costs.

Substitutions and Value Engineering: Substitutions and value engineering reviews shall be submitted in a timely manner so as to cause no delay. Henderson shall be compensated as an Additional Service for any modification to the Construction Documents required due to Owner approved substitutions or value engineering. If the Client accepts a change that is not recommended in writing by Henderson, the Client agrees to indemnify, defend, and hold Henderson harmless from any claim, damage, liability, or cost which arise in connection with, or as a result of, the incorporation of such changes accepted by the Client.

Ownership of Documents: All documents, including all documents on electronic media, prepared by Henderson under this Agreement are instruments of Henderson's professional service and shall remain the property of Henderson and may be used by Client for purposes of constructing and maintaining this Project, but may not be

modified or used by the Client for any other purpose without the written prior consent of Henderson. Any unauthorized use or modification of Henderson's instruments of services shall be at Client's sole risk and with no exposure to Henderson. Further, to the extent permitted by law, Client agrees to release, indemnify, and hold harmless Henderson and its subconsultants from all costs and expenses, including the cost of defense, related to damages, liabilities, claims and causes of action arising from the Client's reuse or modification of the Instruments of Service.

Interpretation of Documents and Reports: The Client shall confer with Henderson before issuing interpretations or clarifications, or allowing others to issue interpretations or clarifications, of reports or documents prepared by Henderson. Henderson is not responsible for interpretations of its documents by others.

Construction Phase Services: Henderson shall be responsible only for those Construction Phase services expressly required of Henderson in the Scope of Services section of this Agreement. With the exception of such expressly required services, Henderson shall have no other obligations during construction and Client assumes all responsibility for all other necessary Construction Phase professional services. Client waives all claims against Henderson that may be connected in any way to Construction Phase professional services except for those services that are expressly required of Henderson in the Scope of Services. If Henderson's scope of services includes site observation, Henderson shall visit the Project at appropriate intervals during construction to become generally familiar with the progress and quality of the work and to determine if the work is proceeding in general accordance with the Agreement Documents. Henderson is not required to make detailed inspections or to provide exhaustive or continuous project review and observation services. Henderson does not guarantee the performance of, and shall have no responsibility for, the acts or omissions of any contractor, subcontractor, supplier or other entity furnishing materials or performing any work on the Project.

Jobsite Safety: The Client agrees that the contractor is solely responsible for jobsite safety and construction means and methods. Neither Henderson's services nor presence at the site shall relieve the contractor or any other entity of its obligations, duties and responsibilities necessary for performing or coordinating all portions of the work and any health/safety precautions required by regulatory agencies. Henderson and its personnel have no authority to exercise any control over any contractor or other entity or its employees in connection with its work or any health/safety precautions.

Payment: Henderson shall submit invoices for services and reimbursable expenses in accordance with its standard practices, unless otherwise agreed. Client shall review such invoices and, if they are considered incorrect or untimely, Client shall so notify Henderson of its dispute within ten days of its receipt of the invoice. Client must pay all undisputed amounts to Henderson within 30 calendar days of the invoice date. No deductions may be made from Henderson's compensation without the consent of Henderson.

Interest & Collection Costs: If payment is not received by Henderson when due, the Client shall pay as interest an additional charge of one (1.0) percent (or the maximum allowable by law, whichever is lower) of the PAST DUE amount per month. Payment thereafter shall first be applied to accrued interest and then to the unpaid principal. In the event legal action is necessary to enforce the payment provisions of this Agreement, Henderson shall be entitled to collect from the Client, to the fullest extent permitted by law, any judgment or settlement sums due, reasonable attorneys' fees, court costs and expenses incurred by Henderson in connection therewith and the reasonable value of Henderson's time and expenses spent in connection with such collection action, computed at Henderson's prevailing fee schedule and expense policies.

Betterment: If, due to Henderson's error, any required item or component of the Project is omitted from the Construction Documents produced by Henderson, Henderson's liability shall be limited to the difference between the cost of adding the item at the time of discovery of the omission and the cost had the item or component been included in the Construction Documents. In no event will Henderson be responsible for any cost or expense that provides betterment, upgrade or enhancement of the Project.

Mutual Waiver: Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither Client nor Henderson, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this Project.

Dispute Resolution: Any claims or disputes between the Client and Henderson arising out of this Agreement

or the services to be provided hereunder, except for claims related to Client's non-payment of compensation due, shall, as a condition precedent to litigation, be submitted to non-binding mediation in the Kansas City area. The costs of the mediator shall be shared equally between the parties. If a dispute is not resolved after mediation either party may submit such dispute to litigation. Venue for litigation shall be Johnson County, Kansas. If Client is in default of the payment terms of this Agreement, Henderson may begin collections actions, including litigation, at its discretion without attempting mediation. Client and Henderson shall commence all claims and causes of action, whether in Agreement, tort, or otherwise, against the other arising out of or related to this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of substantial completion of the work. Client and Henderson waive all claims and causes of action not commenced in accordance with this Section.

Limitation of Liability: In recognition of the relative risks and benefits of the Project to both the Client and Henderson, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of Henderson and its subconsultants to the Client for any and all injuries, claims, losses, expenses, damages of any nature whatsoever or claims expenses arising out of this Agreement, or the services to be provided hereunder, from any cause or causes, so that the total aggregate liability of Henderson and its subconsultants to the Client shall not exceed Henderson's total fee for services rendered on this Project or \$10,000, whichever is greater. Such claims and causes include, but are not limited to Henderson's, errors, omissions, strict liability, indemnity, breach of Agreement or breach of warranty.

Waiver of Subrogation: Client and Henderson waive against each other and Owner (if different than Client), Henderson's subconsultants, Client's separate contractors and consultants, agents, and employees of each and all of them, all damages covered by insurance provided herein, except such rights as they may have to the proceeds of such insurance. Client and Henderson shall, where appropriate, require similar waivers of subrogation from subconsultants and subcontractors and shall require each of them to include similar waivers in their contracts.

Suspension: If Client fails to make payments when due under this Agreement, Henderson may elect to suspend performance of services upon five (5) calendar days' notice to Client. Henderson shall have no liability whatsoever to Client for any costs or damages as a

result of such suspension caused by any breach of this Agreement by Client. If the Project is suspended, delayed, or abandoned for more than 90 days, Henderson may renegotiate or terminate this Agreement.

Termination: This Agreement may be terminated at any time by either party upon seven (7) days' written notice should the other party fail to perform its obligations hereunder. In the event of termination for any reason whatsoever, Client shall pay Henderson for all services rendered to the date of the termination, and all reimbursable expenses incurred prior to termination.

Construction Before Design Completion: If construction work begins before Henderson's design is complete, the Client agrees to waive all claims against Henderson for design changes and modifications of portions of the work already constructed due to the Client's decision to employ this process. The Client further agrees to compensate Henderson as an additional service where Henderson is required to modify, correct or adjust the Construction Documents and coordinate them because of the Client's decision to construct the Project this manner. If Client elects to solicit bids based on incomplete or schematic drawings Henderson is not responsible for change orders or increased costs that arise from the addition of details in the design process or other changes to the design prior to completion.

Delays: Henderson shall not be responsible for delays which are due to causes beyond its reasonable control, including, but not limited to: (a) acts of God; (b) epidemics, pandemics, and quarantines, (c) flood, fire, earthquake or explosion; (d) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (e) law; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages, or slowdowns or other industrial disturbances; and (i) delays caused by Client or its contractors, consultants, or other parties not under the control of Henderson. In the case of any such delay, the time of completion shall be extended accordingly. If Henderson's services are delayed or extended more than three (3) months beyond the date listed in this Agreement for reasons other than the negligence of Henderson, Henderson reserves the right to modify the fee.

Residential Units: If Henderson's services include design of residential units, such services and construction documents are intended solely for the design and construction of residential rental units under the ownership and control of a single, integrated owner. In the event the Project is changed to any other purpose or use, including, but not limited to, subdivision into

individual units for sale, Henderson shall have no responsibility, and shall be released from all obligations and liabilities for the project, and each and every right, license and/or ownership interest of the Client in the construction documents shall be void. The Client shall be expressly prohibited from making any further use of the construction documents for any purpose, including, but not limited to, the conversion of the project to another purpose. If the Project is converted to condominiums at any time, the Client agrees, to the fullest extent permitted by law, to waive any claims against Henderson, defend Henderson against any claim from a future owner, and indemnify Henderson for any cost, loss, or damage to Henderson resulting from any claim brought by any party against Henderson related to any change in use of the project. Client agrees that this provision and obligations hereunder shall survive the termination of this Agreement.

LEED: If one of the goals of the Project is to achieve certification under the U.S. Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED®) or other green building-rating system, Client understands that the Project cannot achieve LEED certification until after substantial completion of construction and will be subject to the LEED-certification process and procedures as determined by the USGBC, which are outside of the control of Henderson. Further, LEED certification will require input and effort from the Client and other parties associated with the Project that are not parties to this Agreement. Henderson will make reasonable efforts to pursue LEED certification for the Project, subject to scope of services, terms and provisions of this Agreement. Henderson cannot, however, guarantee LEED certification or the actual performance of the building based on Henderson's design drawings, specifications, or resource use or consumption modeling for This Portion of the Project, nor can it guarantee certain performance levels anticipated through the LEED-certification process.

Energy Modeling: If Henderson is to provide energy modeling under this Agreement, the Client understands that any estimate of cost or energy savings represents Henderson's professional opinion. Energy savings and costs may be affected by factors outside of Henderson's control and Henderson does not guarantee or represent that the actual cost or energy consumption will not vary from any such estimates.

Peer Review: If Henderson's scope of services includes review of designs completed by others, Client agrees that Henderson is not responsible for designs completed by others, nor is Henderson responsible for reviewing any design or other component outside of its specific scope of services. Henderson's peer review scope of services does not include reviewing or evaluating

existing conditions or signing and sealing any documents. Henderson's peer review of the design of others does not relieve the original designer of liability for its design. The original designer remains responsible for all documents and for the final design and construction documents. Client agrees to indemnify and hold Henderson harmless from and against any and all claim, damages, liability and cost arising or allegedly arising out the design or any services which are not included in Henderson's scope of services.

Prototype Designs: If prototype design is selected in the Scope of Services and the Client intends to reuse the construction documents produced by Henderson under this Agreement on other sites and on other projects, then the Client acknowledges that the design may need to be modified or adapted for each project site. If Henderson is not retained to provide services in connection with any of these reuses, the Client agrees to waive all claims against Henderson that might be contributed to or caused by Henderson's exclusion from the reuses, and any claims which may, with reasonable certainty, have been avoided or lessened by Henderson's participation in any future project involving the reuse of the construction documents. In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold Henderson harmless from all damage, liability, or cost (including reasonable attorneys' fees and cost of defense) arising from any reuse of the construction documents on any other project or site without the involvement of Henderson in the construction phase services normally associated with such a project

Governing Law: This Agreement shall be governed by the laws of the State of Kansas.

Waiver: A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

Third Party Beneficiaries: Nothing in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Client or Henderson.

Assignment: Henderson and Client bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither party may assign this Agreement without the written consent of the other.

Survival: Any provision or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Client and Henderson, which agree that this Agreement shall be

reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. Any dispute resolution provisions, limitations of liability, and indemnities shall survive termination of this Agreement.

included in this Agreement, Client understands that infection control services are recommendations to mechanical systems to improve infection control based on current knowledge and strategies. Henderson does not guarantee or represent that the services will prevent infection.

Infection Control: If infection control services are

May 30, 2024
Proposal No. 12PHX02-05466

Brandon Sobiech, PLA, ASLA
DIG Studio
3003 North Central Avenue, Suite 800
Phoenix, Arizona 85004

Subject: Proposal to Provide Geotechnical Engineering Services
AJ Chandler Park
3 South Arizona Avenue
Chandler, Arizona

Dear Mr. Sobiech:

Ninyo & Moore is pleased to submit this proposal to provide geotechnical engineering services for the above-mentioned project. This proposal is based on the information that we received from your office and it outlines our scope of services, project assumptions, anticipated schedule, and fee for this phase of work.

SITE/PROJECT DESCRIPTION

We understand the City of Chandler has selected your firm to design improvements to the existing AJ Chandler Park located at 3 South Arizona Avenue in Chandler, Arizona. The park improvements may include decorative hardscape plazas; relocated and new public art; extensive shade tree infrastructure including below ground soil improvements; event lawns; seasonal plazas with social activities; seating and site furniture; park lighting; park power and miscellaneous asphalt and concrete pavement. The architectural improvements may also include two innovation canopies flanking the Arizona Avenue crosswalk, storage rooms, new restrooms, two park pavilions.

SCOPE OF SERVICES

We will conduct the follow scope of services for this project:

- Review pertinent background data including in-house geotechnical and soils data, available geotechnical and as-built data from adjacent projects, available aerial photographs, and published geologic data.
- Prepare an exploration plan for the explorations for review and approval.
- Conduct a field trip to the site for geologic reconnaissance.

- Coordinate with City of Chandler personnel to gain access to the site. While on site, we will avoid / reduce our exposure to pedestrian and park traffic.
- Mark-out the boring locations in the field and arrange for the locating of underground utilities through Arizona 811.
- Drill up to six exploratory test borings within the project footprint. These borings will extend 10 to 20 feet deep and will be advanced with truck-mounted drill rig equipped with hollow-stem auger (HSA) drilling methods. A Ninyo & Moore employee will collect relatively undisturbed samples and bulk samples within these borings for laboratory testing, and will be responsible for preparation of field boring logs.
- Collect soil samples in the borings at 2.5-foot intervals for this first 10 feet and 5.0-foot intervals thereafter using the ASTM International (ASTM) Test Methods D1586 (standard penetration test with split-barrel sampling of soils) and D3550 (ring-lined barrel sampling of soils) for laboratory testing and analysis.
- Perform laboratory tests to evaluate index, strength and chemical properties of the subsurface soils.
- Compile and analyze the accumulated data.
- Prepare a draft geotechnical report to include logs of the exploratory borings and results of the laboratory testing. The report will be reviewed and sealed by a Professional Engineer, registered in the State of Arizona. The report will include the following:
 - Description of work scope, laboratory, and field procedures;
 - Subsurface soil, rock (if encountered) and groundwater conditions;
 - General seismic characteristics;
 - Maps and boring plans; and
 - Boring logs including laboratory test results.

The report will also contain engineering analyses, conclusions, and geotechnical engineering recommendations, including:

- Excavation characteristics of on-site soils;
- Earthwork factors, including rippability;
- Potential for re-use of on-site soils;
- Subgrade preparation measures;
- Side slope stability;
- Vertical shoring guidelines;
- Recommendations for special soil conditions such as expansive, collapsible, or highly compressible soils;

- Recommendations for suitable foundation spread footing;
 - Allowable net bearing pressures for shallow spread foundations and recommended dimensions and depths;
 - Estimated settlements (total and differential settlements) for the recommended foundations;
 - Recommendations relative to site drainage;
 - Light and heavy-duty on-site pavement sections;
 - Off-site pavement section per the City of Chandler standards;
 - Agronomic results; and
 - Potential corrosive attack to steel and concrete.
- Collect one round of review comments associated with the above-mentioned draft report and prepare a final geotechnical report that will be sealed by a Professional Engineer, registered in the State of Arizona.

ASSUMPTIONS

We have made the following assumptions in the preparation of this proposal:

- The field work will be performed during daytime hours.
- The site is accessible to normal, two-wheel drive, truck-mounted drilling equipment, and site access will be granted.
- The work can be accomplished using HSA drilling methods operating at a normal rate of penetration.
- The excavations will be backfilled with the drilling spoils.
- Some ground disturbance should be expected as a result of our field work.
- No traffic control measures will be needed for this project.
- Ninyo & Moore will not need to obtain any environmental clearance as a part of this project.

SCHEDULE

We are prepared to commence this work immediately. The field work could be scheduled within six weeks of receiving right-of-entry and should take about five days to finish. After the field work is done, the laboratory testing should be finished in about four weeks, with the report submitted about three weeks after finishing the laboratory testing. Preliminary recommendations can be provided about one week after the field work is done.

FEE

We propose to perform the work scope described above for a fee of \$12,000 (Twelve Thousand Dollars). Any additional services, not included in the aforementioned scope, will be charged on a time-and-materials basis in accordance with our current Schedule of Fees. If this proposal meets your expectations, please provide formal authorization.

Ninyo & Moore appreciates the opportunity to provide services on this project and we look forward to working with you.

Respectfully submitted,
NINYO & MOORE



Steven D. Nowaczyk, PE
Managing Principal Engineer

SDN/tlp



Brandon Sobiech, PLA, ASLA
Dig Studio
3003 North Central Ave., Suite 800
Phoenix, AZ 85012

May 30, 2024

Re: **AJ Chandler Park**
Traffic Engineering and Landscape Architecture Services
Scope and Fee

24.07.03 REV2

Lōkahi, LLC (Lōkahi) is very excited to submit this scope and fees for work with Dig Studio on the AJ Chandler Park project for the City of Chandler (COC), located on both sides of Arizona Avenue between Boston Street and Buffalo Street, in the City of Chandler, Arizona. The scope of service and fees is based upon our understanding of the project from our conversations with you. Lōkahi will serve as a sub-consultant for the project to Dig Studio providing traffic engineering and landscape architecture services, including a mid-block pedestrian signal design.

Project Understanding

Lōkahi will provide professional traffic engineering services to Dig Studio to complete a traffic signal analysis and design in this scope to analyze the existing mid-block pedestrian signal. Lōkahi will also provide landscape architecture services to support Dig Studio.

for the AJ Chandler Park.

Summary of Fees for AJ Chandler Park:

Mid-block crossing analysis & plans for signal and Landscape Architecture Services	\$26,870.00
<i>Bicycle and Pedestrian Counts (All Traffic Data)</i>	\$ 550.00
Total Lōkahi Fee	\$27,420.00

Please feel free to contact me with any questions that you may have regarding this proposal. We look forward to working with you.

Sincerely,

Jamie Ann K. Blakeman, PE, PTOE
Principal
Lōkahi, LLC

Brandon Sobiech, PLA, ASLA

Date

Accepted Dig Studio:

10555 N. 114th Street, Suite 105
Scottsdale, AZ 85259
480.536.7150
www.lokahigroup.com





Scope of Services

AJ Chandler Park

May 30, 2024

Project Understanding

Lōkahi will provide professional Traffic Engineering and Landscape Architecture Services to Dig Studio complete a mid-block crossing analysis and construction documents per alternative #1.

Scope of Services

Lōkahi understands tasks include:

Traffic Engineering and Landscape Architecture Services

Task 1 - Mid-block Crossing Warrant Study and Design Plans (Optional Item)

Task 1.1 – Background Information and Data Collection

- Obtain Saturday (11:00 AM to 5:00 PM, or as determined by COC) and weekday PM (2:00 to 8:00 PM, or as determined by COC) peak hour bicycle and pedestrian counts for the mid-block location along Arizona Avenue between Boston Street and Buffalo Street.
- Coordinate design with Ardurra (project civil engineer).
 - Obtain survey and base files from Dig Studio.

Task 1.2 – Pedestrian Signal Warrant Evaluation

- Perform pedestrian signal warrant analysis following the methodology and warrants outlined in the Manual on Uniform Traffic Control Devices (MUTCD)

Task 1.3 – Pedestrian Traffic Signal Design Plan Sheets

Task 1.2.1 60% Design Development - Traffic Signal Design

- Provide traffic signal plans for one (1) mid-block traffic signal, located on Arizona Avenue between Buffalo Street and Boston Street. Signal design will be completed utilizing the City of Chandler approved equipment.
- Schematic design traffic signal plans will include the following sheets:
 - General traffic signal notes, one (1) sheet
 - Traffic signal construction plan sheet (1" = 20' scale), one (1) sheet
 - Traffic signal equipment/conductor schedules sheet, one (1) sheet
- All designs will comply with ADA, MUTCD, AASHTO, City of Chandler, and MAG standards, details, and specifications.

Task 1.2.2 – 90% Pre-Final Construction Documents - Traffic Signal Design

- After city review, Lōkahi will modify and provide plans to a 90% plan level of completion.
- Pre-final construction document traffic signal plans will include the following sheets:

Task 1.2.3 – 100% Final Construction Documents - Traffic Signal Design





- Lōkahi will address final comments and provide final plans.
- Final construction document traffic signal plans will include the following sheets:

Task 1.4 – Mid-block Crossing Meetings

Meetings shall include:

- Two (2) Team meetings
- One comment resolution meeting for each 60% and 90% submittals – total two (2)

Task 2 – Landscape Architecture Assistance

Task 2.1 – 30% Schematic Design Assistance

Lokahi shall provide landscape architectural services to Dig Studio during the schematic design task providing project background information, schematic design and design reviews.

No deliverables are expected in this task.

Task 2.2 – Landscape Architecture Meetings

- Three (3) Team meetings / charrettes
- Five (5) meetings with city staff, team or stakeholders.

Lōkahi shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work of each of the Contractors, since these are solely the Contractor's responsibility.

The following tasks are not included in this scope of services:

1. Topographic survey, development of an ALTA, Boundary or Title survey. These items will be provided to Lōkahi in an electronic CAD format
2. All base data, utility information, and property lines and easements will be provided to Lōkahi electronically by Dig Studio
3. Traffic count collection as noted only (All Traffic Data to provide)
4. Roadway designs including curb, gutter, and ramp work
5. Development of creating any new easements
6. Re-platting or rezoning efforts
7. Off-Site roadway improvements
8. Permitting or fees for any permitting or permit reviews
9. Building design or structure elements or features
10. Design of construction sequencing, or traffic control plans
11. Utility potholing is not included in this scope of services
12. Structural Engineering services has not been included as part of this scope of services
13. Electrical Engineering has not been included as part of this scope of services
14. Wayfinding signage design has not been included as part of this scope of services
15. Engineering Cost
16. Additional meetings
17. Post design services
18. Striping and signing plans



Lōkahi staff will attend any additional meetings if requested. Time will be billed at the hourly rates.

If this general understanding is not correct or if additional time is needed beyond this Scope of Work, such services can be provided on an additional time and materials basis using the rates outlined below:

Project Manager	\$320.00/hour
Project Engineer Sr.	\$260.00/hour
Traffic Engineer	\$210.00/hour
Traffic Designer	\$185.00/hour



Derivation of Cost Proposal: Traffic Engineering and Landscape Services

Estimated Direct Labor & Rates

Classification	Man Hours	Total
Project Manager	3	\$960.00
Project Engineer Sr.	38	\$9,120.00
Traffic Engineer	50	\$10,500.00
Traffic Designer	34	\$6,290.00
Total	125	\$26,870.00

Subconsultants

<i>All Traffic Data</i>	<i>Pedestrian and Bicycle data</i>	\$550.00
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Total Direct & Subconsultant Costs **\$27,420.00**

Lokahi, LLC

A handwritten signature in black ink, appearing to read "Jamie Ann K. Blakeman", written over a horizontal line.

Jamie Ann K. Blakeman, Principal



Task	Project Manager	Project Engineer Sr.	Traffic Engineer	Traffic Designer	Total
Traffic Engineering and Landscape Services					
1 Mid-block Crossing Study and Plans					
1.1 Background Info and Data Collection			2		2
1.2 Pedestrian Signal Warrant	1	4	8		13
1.3 Traffic Signal Plan Sheets					
60% Design Development (includes note, plan and detail sheets) (4 sheets)	1	4	10	14	29
90% Pre-final Construction Documents (includes note, plan and detail sheets) (4 sheets)		4	8	12	24
100% Final Construction Documents (includes note, plan and detail sheets) (4 sheets)	1	2	4	8	15
1.4 Meetings					
1.4.1 Two (2) Team meetings (online meeting)		2			2
1.4.2 One comment resolution meeting for each submittal – total two (2)		4			4
2.0 Landscape Architecture Assistance					
2.1 30% Schematic Design Assistance		2	2		4
2.2 Landscape Architecture Team Meetings / Charettes		6	6		12
Additional Meetings with City Staff, Team and/or Stakeholders		10	10		20
Total Project:	3	38	50	34	125

This is an agreement for services to be provided by Dry Utility Services ("Consultant"). Work shall commence upon receipt by Consultant of a signed copy of this Agreement. This Agreement shall not be effective unless signed and returned by Client within 60 days from the date stated below.

AGREEMENT BETWEEN CLIENT AND CONSULTANT

Client Name _____	Date _____
Address _____ _____ _____	Agreement Amount _____
	Consultant Project No. _____
Attention _____	Project Manager _____
Office/Cell _____ / _____	Project Description _____
Fax/Email _____ / _____	_____

In consideration of their mutual promises, Client and Consultant agree as follows:

A. Consultant agrees to perform the following professional services:

B. Client agrees to compensate Consultant for such services as follows:

C. The standard terms and conditions set forth below and on the reverse side are incorporated hereinto and made a part of this agreement.

I. GENERAL

1. All agreements on Consultant's part are contingent upon, and subject to, the provision that Consultant shall not be responsible or liable for any direct, indirect or consequential damages or be in default or to be deemed to be in default by reason of delays in performance by reason of strikes, lockouts, accidents, acts of God, and any other delay unavoidable or beyond Consultant's reasonable control. Consultant shall also not be in default due to shortages or unavailability of labor at established area wage rates or delays caused by failure of Client or Client's agents, to furnish information or to approve or disapprove Consultant's work promptly, or due to late, slow or faulty performance by Client, utility companies, contractors, or government agencies, the performance of whose work is precedent to or concurrent with the performance of Consultant's work. In the event of any such cause of delay, the time of completion shall be extended accordingly.

2. In the event any or all portions of the work prepared or partially prepared by Consultant are suspended, abandoned, terminated or should Client transfer his interest in the project, Consultant shall prepare a closing statement and Client shall pay Consultant for the work performed, not to exceed the maximum contract amount (including amounts due under Payment Section, item 2 below). Client shall notify Consultant of suspension, termination, abandonment or transfer of interest, in writing.

3. Client shall provide at his expense, such existing site plans, improvement plans and other drawings, title reports, governmental permits and other information and materials necessary for Consultant to complete the work contemplated by this Agreement.

4. No other relationship is intended to be created, nor shall it be construed that Consultant has any right to incur any liabilities as a partner or of other status on behalf of Client. Consultant will not have authority or responsibility to sign utility contract documents or permits on behalf of Client. Client agrees to send written authorization to third parties when requested by Consultant.

5. In the event that all of the services required to be performed under this Agreement have not been performed within twelve (12) months from the date hereof, for any reason other than a default by consultant hereunder, consultant shall have the right, upon giving thirty (30) days' prior written notice to Client to advise Client of any changes in its fees charged for services hereunder. If client does not object in writing to a fee increase within such thirty (30) day period, such increased fees shall be in effect for the remainder of the Agreement. Should client object to such fee increase, consultant shall have the option, in its sole discretion, to terminate this Agreement and to be paid to the date of termination for all services rendered and costs incurred to the date of termination.

(TERMS AND CONDITIONS CONTINUED ON REVERSE SIDE)

6. Client agrees to indemnify and hold Consultant harmless from and against all claims, damages, losses and expenses, including but not limited to, attorney's fees arising out of or related to the project or this Agreement, excepting any claims, damages, losses and expenses arising out of or resulting from the gross negligence or willful act of Consultant or its employees. The entire liability of the Consultant and his employees, with the exception of liability for personal injury, shall in no event exceed the total amount actually paid to the Consultant by the Client for services performed hereunder.
7. All drawings, specifications and other work product of Consultant for this project are instruments of service for this project only and shall remain the property of Consultant whether the project is completed or not. Reuse of any of the instruments of service of Consultant by Client on extensions of this project or on any other project without the written permission of Consultant shall be at Client's risk and Client agrees to defend, indemnify, and hold harmless Consultant from all claims, damages and expenses including attorney's fees arising out of such unauthorized reuse of Consultant's instruments of service by Client or by others acting through Client.
8. Consultant makes no warranty, either express or implied, as to his findings, recommendations, specifications, professional advice or other work except that these were prepared in accordance with the generally accepted standards of the profession.
9. Consultant makes no representation concerning the cost figures made in connection with maps, plans, specifications, drawings or estimates of quantity for materials other than that all cost figures and quantities are Consultant's opinion of probable costs made on the basis of Consultant's experience and qualifications and Consultant shall not be responsible for fluctuations in cost factors or figures.
10. Should litigation be necessary to enforce any term or provision of this Agreement, or to collect any portion of the amount payable under this Agreement, then all litigation and collection expenses, witness fees, expert fees, court costs, and attorney's fees shall be paid to the prevailing party.
11. This Agreement binds Consultant and Client and their successors, and assigns. Neither party shall assign, sublet or transfer its interests, rights or obligations in the Agreement without the written consent of the other party hereto.

II. PAYMENT

1. Consultant shall submit invoices to Client from time to time as services are provided.
2. Client shall pay the cost of all reimbursable items such as fees, permits, messenger and/or special delivery charges, blueprints and reproductions, travel, and other out-of-pocket expenses directly related to Client's project. In the event such reimbursable items are paid directly by Consultant, then such charges and expenses shall be invoiced to Client at direct cost plus fifteen (15) percent for handling.
3. Any services agreed to be performed by Consultant at the request of Client in addition to those set forth herein shall be paid for by Client as extra work in accordance with Consultant's prevailing hourly rates. No extra work shall be performed by Consultant without written authorization by Client.
4. Client shall promptly review invoices and notify Consultant of any objection thereto. Absent such objection in writing within ten (10) days of the date of the invoice, the invoice shall be deemed proper and acceptable.
5. In the event any invoice is not paid within thirty (30) days after rendering of the invoice, it shall commence bearing interest on the date the invoice was rendered at the rate of eighteen (18) percent per annum (or such rate as may be maximum interest permissible under applicable law, whichever is lower) and Client agrees to pay all accrued interest, together with the charges for services rendered.
6. In the event any invoice submitted under this Agreement or under any other agreement between Client and Consultant is not paid in full within sixty (60) days after rendering, Client agrees that Consultant shall have the right to consider said default a material breach of this Agreement. Client shall have ten (10) days thereafter in which to cure said default. If said default is not cured by Client, Consultant shall have the right, in addition to all other available rights and remedies, to terminate this Agreement, even if the default is in payment of an invoice submitted under another agreement, and to terminate all other agreements between Client and Consultant, and Client shall then promptly pay Consultant for all of the fees and charges and for all of their services performed by Consultant to the date of termination.

IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this agreement upon the terms, conditions and provisions above stated, the day and year first above written.

Client

By:

Title Date

 **DRY UTILITY SERVICES, INC.**

Consultant

By: 
Ron Watson

President
Title Date

EXHIBIT “A”

“SCOPE OF WORK”

DRY UTILITY MANAGEMENT SERVICES

CLIENT: DIG STUDIO

**PROJECT: AJ CHANDLER PARK PHASES I-III – NEC OF SOUTH ARIZONA
AVENUE AND EAST BOSTON STREET. 3 SOUTH ARIZONA
AVENUE, CHANDLER, AZ 85225 (RRW4121)**

DATE: MAY 29, 2024

I. SCOPE OF SERVICES:

Conduct site investigation and review pertinent dry utility data as made available from the electric, natural gas, telephone and cable television companies.

Meet with each utility to determine or confirm capabilities, specific source locations, estimates of design and contract preparation timeframes.

Assist in the identification of potential utility conflicts with the proposed grading, sewer, water and storm drain systems based on plans provided by Client.

Assist Client in the resolution of onsite and perimeter dry utility conflicts between planned improvements and existing natural gas, electric, telephone and CATV systems. Conflicts covered by this scope of services are:

1. Coordination associated with utility site clearing/removals.
2. Coordination associated with easement abandonments.

If additional conflicts are found during project development process, they will be reviewed and may be considered additional services to be covered by Consultant’s change order.

Review utility design options for advantageous tariff applications.

Prepare one (1) opinion of probable costs, if requested by Client, based on plans provided by Client and utility provided information.

Keep Client advised on coordination progress with direct correspondence and copies of correspondence with utility companies.

Identify potential sources for temporary construction power and communications service, if available, based on information obtained through utility representatives. Client or Client's Contractor to coordinate temporary service installation in the field and to make application for service with utility companies.

NOTE:

Consultant can coordinate utility company temporary power and temporary communications designs and contracts if requested by Client, based on direction and service requirements provided by Client. Since this is a service not frequently provided, Consultant's Compensation can be added by an Addendum to this Agreement.

Assist Client in establishing locations for dry utility onsite infrastructure relating to space requirements, aesthetic treatments and utility company specifications.

Interface with Client, architect, civil engineer, landscape architect, electrical and mechanical engineers and other professionals to obtain information for utilities' design preparation.

Consultant can negotiate and obtain variances from utility representatives, if requested by Client. Since this is a service not frequently provided, variances from standard utility requirements will be reviewed and considered an additional service to be covered by the Miscellaneous Services portion of the Compensation Schedule with prior Client approval or an additional services authorization.

Submit plans, track design process and maintain required interface with utility representatives to obtain preliminary design for Client approval. Negotiate a mutually acceptable schedule.

Fees are based on one (1) utility processing to obtain the designs and construction agreements. Fees are based on one phase for the site development work. If the project is broken into additional phases, the current cost per lot/unit for Consultant's services may increase due to the additional work required to coordinate multiple smaller projects.

Changes in plans are typical and expected as the development process progresses. Plan revisions that require modification to the dry utility designs will be made as part of our basic service coordination through the availability and review of the preliminary electric design. **Revisions after the preliminary electric design approval will be reviewed and may be considered additional services to be covered by Consultant's Change Order.**

Coordinate Client's master plan for sequential development with dry utilities.

Required interface with utility company representatives to establish onsite service points for special service needs of the project. Special service needs normally include pump stations, traffic signals, irrigation controller power and landscape lighting. Examples of special needs covered by this scope of services are:

1. streetlight service points (lighting design by others)
2. irrigation controller electric service points
3. entry monument and common area lighting electric service points, if requested
4. utility services to buildings being constructed with initial development or stubs to pad/future building areas.
5. traffic signal service point (if needed)

If additional needs are determined during the project development process, they will be reviewed and may be considered additional service to be covered by Consultant's change order.

Review and distribute preliminary electric design to the development team.

Attend utility design conference and other related meetings as required to complete the design process. If Participation in "regularly scheduled" team meetings in excess of sixteen (16) hours for the project is required, the additional time will be covered under hourly services portion of this agreement with Client approval.

Prepare one dry utility existing conditions exhibit for Phase I to include natural gas, electric, telephone and CATV as applicable.

Review final designs, contracts and right-of-way documents in preparation for Client's approval and signature.

Submit final utility documents to Client.

Coordinate with Client and utility companies for the acquisition of onsite dry utility easements required by the utility companies. Legal descriptions and exhibits to be prepared by utility companies or Client's Engineer.

Coordinate and attend a pre-construction meeting with utility representatives at Client's direction. The level of effort included in the basic services is four (4) hours of consultation during construction. Work related to the construction phase (such as resolution of field problems, attendance at meetings and other duties as directed by Client) beyond the four (4) hours allocated will be considered an additional service to be billed on a time and material basis at prevailing hourly rates. Prior approval from Client will be obtained.

II. CONSULTANT'S COMPENSATION SCHEDULE:

Consultant proposes its' services on a fixed fee plus hourly basis. The basic coordination services described in the previous section are proposed on a fixed fee basis. Miscellaneous additional services (if requested) and team meeting participation in excess of the allowance will be covered on an hourly basis.

Consultant's fees for services shall be payable during the progress of work as follows:

A. FIXED FEE - EXHIBIT A SERVICES:

1. FIXED FEE – EXHIBIT A PHASE I EXISTING UTILITY ANALYSIS:

\$ 321.00	upon set-up of project.
\$ 964.00	upon completion of initial utility review and planning meetings with utility companies.
\$1,125.00	upon completion of existing conditions exhibit.
<u>\$ 803.00</u>	upon completion of final proposed resolution.
\$3,213.00	TOTAL

FIXED FEE - EXHIBIT A SERVICES: PHASE II – SITE CLEARING/REMOVALS:

\$1,695.00	at submittal to the utilities for the purpose of site clearing/removals.
\$2,712.00	at availability of site clearing/removal preliminary designs.
\$2,373.00	at the completion of the negotiations and the availability of the final site clearing/removal designs and contracts.
\$1,021.00	at initiation of easement abandonment request to utility companies. (as needed).
<u>\$1,247.00</u>	at availability of easement abandonment approval. (as needed).
\$9,048.00	TOTAL

**FIXED FEE - EXHIBIT A SERVICES: PHASE III - NEW BUSINESS
COORDINATION:**

\$3,071.00	at submittal to the utilities for the purpose of an extension of service.
\$4,914.00	at availability of electric preliminary design.
<u>\$4,300.00</u>	at the completion of the negotiations and the availability of the final utility designs and contracts.

\$12,285.00 TOTAL

Fee for each of the stages will be invoiced monthly as the work progresses on the basis of percentage of work actually completed. Fees will not exceed the amounts shown for each stage.

**B. MISCELLANEOUS SERVICES AND TEAM MEETING PARTICIPATION:
beyond the allowance and if applicable and requested by Client**

Consultant's fee associated with hourly services (Exhibit A) shall be on a time and material basis, budgeted not to exceed \$1,000.00. Invoices will be prepared monthly as the work progresses in accordance with Consultant's current fee schedule (attached). The agreement ceiling can only be increased with the written authorization of Client.

C. REIMBURSABLE EXPENSES ALLOWANCE:

An allowance for Consultant's reimbursable expenses is recommended. This will assist all parties with accounting issues. Consultant recommends an allowance in the amount of \$1,000.00. This amount will cover all normal charges described on Consultant's Fee Schedule that is included with this proposal if Client provides full-size hard copies of plans needed by Consultant for submittals and coordination work.

DRY UTILITY SERVICES

STANDARD FEE SCHEDULE 2024 (Prices good through December 31, 2024)

Compensation of Dry Utility Services for work performed on a time and material basis will be computed as follows:

Principal/President	\$189.00/hr.
Vice President/Division Manager	\$165.00/hr.
Senior Project Manager	\$155.00/hr.
Project Manager	\$139.00/hr.
Senior Project Coordinator	\$119.00/hr.
Project Coordinator	\$105.00/hr.
Drafting/Graphics	\$ 71.00/hr.
Administrative Services	\$ 68.00/hr.

Consultation in connection with litigation, testimony as expert witness and presentations to and/or direct advocacy roles on behalf of client before public agencies (Federal, State, County and Municipal Governments) and regulatory bodies (Public Utilities Commissions, Corporations Commissions, Public Service Commissions) are considered special services, and as such, Principal's hourly rate will be \$275.00, and the Division Manager hourly rate will be \$250.00.

MISCELLANEOUS FEES

The following costs are billed at our cost plus 15%:

- o Blueprint services and printing (the customer is encouraged to arrange for printing.) Prints and copies will be contracted directly with an outside blueprint company acceptable to Dry Utility Services if clients' blueprint company/account is not used.
- o Pick-up and delivery services -- \$0.67 per mile plus labor
- o Subcontracted services
- o Transportation, meals and lodging, and incidental travel expenses
- o Commercial delivery services, including UPS, Federal Express, Express Mail and messenger services.

July 3, 2024

Brandon Sobiech
Principal / Co-Founder
3003 North Central Ave, Suite 800
Phoenix, Arizona 85012

Dear Brandon:

I write to confirm the retaining of Biederman Redevelopment Ventures ("BRV") by Dig Studio for continued consulting services for programming and design review for the redevelopment of A.J. Chandler Park in Chandler, Arizona.

BRV will provide the following:

- Evaluate existing information: Review and evaluate existing site information and materials for event logistics and infrastructure including but not limited to load in/load out considerations, accessible electricity and electrical capacity, lighting, and shade/weather protection.
- Perform field investigations and site visits: Analyze the existing public use of AJ Chandler Park, the visitor experience, daily programming feasibility, and event desires/needs of the surrounding community.
- Programming Plan: A plan for programming, amenities, and events that aims to energize Phase 1 of Chandler Park at various times of the day, week, and seasons of the year, that aims to create a safe and welcoming environment, exhibit and exemplify local talent and culture, extend the stays of residents, workers, and visitors to Chandler Park, and will include programming and site programming maps, lists of programming activities, and hypothetical schedules for programs, amenities, and events.
- Design review and support: BRV will work with the design team to analyze and improve aspects of the design so that all elements work in concert with the planned programming and operations, and the design avoids unnecessary capital or operating expenditures. BRV will review design documents and make recommendations so that the design includes the necessary infrastructure to support the planned programming and events, such as power needs, lighting, event loading/unloading, storage, restrooms, and appropriate materials.

This consultancy is for four (4) months and will begin on or about August 19, 2024, pursuant to payment provisions below, and finish on or about December 19, 2024. The fee for this consultancy is eighty thousand (\$80,000) dollars plus expenses.

The fee for this project is payable by four (4) payments of twenty thousand (\$20,000) dollars, and will be invoiced on September 19, 2024, October 19, 2024, November 19, 2024, and December 19, 2024. Payments are due in full ten (10) days after the receipt of funds by Dig Studio. Such payment shall be made by electronic wire bank transfer, to the below account, upon receipt of our electronic fee invoices. Please note that we do not accept payments by check, or any other form of payment other than electronic wire bank transfer.

BRV electronic wire bank transfer account:

Name: BRV Corp
Acct #: 040005299
Routing/ABA: 021000021
Bank: JPMorgan Chase Bank N.A.

We look forward to working with you and your team on the redevelopment A.J. Chandler Park in Chandler, Arizona.

Sincerely,



Dan Biederman, President

For Biederman Redevelopment Ventures Corp.:



Signed

Dan Biederman, President

Print: Name/Title

7/3/2024

Date

With notice where necessary to:
BRV General Counsel

Name: Susan Duke Biederman, Esq.
Address: 13 Turner Drive Chappaqua, NY 10514-1109
Email: sddb4@hotmail.com
Phone (Office and Mobile): 646-866-8652

For Dig Studio:

Signed

Brandon Sobiech, Principal

Print: Name/Title

Date

With notice where necessary to:
Dig Studio General Counsel

Name:
Address:
Email:
Phone (Office and Mobile):

This message contains confidential, privileged, and proprietary information that is, inter alia, the intellectual property of Biederman Redevelopment Ventures and, as such, may not be used, copied, or disseminated in any way, with or by the recipient or any third party, other than for the exclusive purpose of reviewing the proposed scope of this specific proposal.

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MARC TAYLOR INC.

To: Brandon Sobiech, PLA, ASLA
Dig Studio
3003 N. Central Ave., Suite 800
Phoenix, AZ 85012

From: Marc Taylor
Marc Taylor Inc.
15396 N. 83rd Ave., Suite C103
Peoria, AZ 85381

RE: AJ Chandler Park Fee Proposal

July 5, 2024

Dear Brandon –

We appreciate the opportunity to provide Dig Studio with a fee proposal for the **AJ Chandler Park Revitalization** project. We understand we are being asked to provide professional cost estimates at 30% SD and 60% DD.

We understand this to be a \$10M development of the existing 2.3-acre park located in downtown Chandler. **Improvements may include, but not limited to:**

- Demolition of existing pavements, water features and structures
- Design of new decorative hardscape plazas
- Relocated and new public art
- Extensive shade tree infrastructure
- Event lawn(s)
- Seasonal plaza(s) with social activities
- Seating and site furniture
- Park lighting
- Park power and WiFi
- Multiple shade canopies and park pavilions
- Storage rooms
- New restrooms

A. The following is a list of qualifications and services for this effort:

1. **Conceptual Cost Estimate Review** **\$ 6,600**
 - a. Review and comment on qualifications, schedule, general conditions and general requirements.
2. **30% SD Cost Estimates** **\$ 16,800**
 - a. Includes attending (1) Estimate Kickoff Meeting / (1) Presentation of Estimate.
 - b. Includes a summary level detailed cost estimate by area with back up and qualifications.
3. **60% DD Cost Estimates** **\$ 17,000**
 - a. Includes attending (1) Estimate Kickoff Meeting / (1) Presentation of Estimate.
 - b. Includes a summary level detailed cost estimate by area with back up and qualifications.

4. **Project Meetings**

\$ 1,935

- a. Includes consultant meeting attendance at various phases of the project.
- b. Based on three (3) meetings – 3hrs./each @ \$215/hr.

TOTAL

\$ 42,335

This fee is based upon estimating one set of drawings, site and civil plans. **Marc Taylor** requests four (4) weeks to complete each cost estimate.

General Clarifications:

- 1. If total scope of services above is not accepted, **Marc Taylor Inc.** reserves the right to withdraw proposal or modify fee structure. If scope of services is changed, **Marc Taylor Inc.** will need to revisit fee structure and negotiate a mutually acceptable revised proposal.
- 2. Contract terms will be defined/ modified if required to reach an executable, mutually agreeable contract.
- 3. **Marc Taylor Inc.** will invoice upon completion of each estimate at the various design phases identified in this proposal. If at no fault of **Marc Taylor Inc.**, the owner and/or Dig Studio have failed to make the issued progress payments before the subsequent next design phase, **Marc Taylor Inc.** reserves the right to stop work, until payment is received.
- 4. If Dig Studio fails to receive payment from owner, and that failure is in no way due to or caused by the work of **Marc Taylor Inc.**, then Dig Studio shall remit payment to **Marc Taylor Inc.** for services rendered and invoiced.
- 5. Assume the design packages will be issued as one package. If multiple updates are produced during design phases, **Marc Taylor Inc.** reserves the right to adjust fee to account for estimating packages more than once or having to re-estimate quantities that have already been surveyed.
- 6. Does not include pricing multiple building cost options.
- 7. Estimate includes four hours of value engineering (additive or deductive) at each design phase. Pricing of multiple building options is **not** included. Additional value engineering or multiple building options will be priced at \$ 215/hr.
- 8. Special Insurance, errors and omissions or liability requirements beyond MTI's current limitations.

This proposal is accepted by Dig Studio:

Brandon Sobiech, PLA, ASLA / Principal
Dig Studio

Date

EXHIBIT "F"
FEDERAL REQUIREMENTS

N/A

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/23/2024

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 4600 S. Ulster Street, Suite 1200 Denver, CO 80237 800 873-8500	CONTACT NAME: PHONE (A/C, No, Ext): 800 873-8500 FAX (A/C, No): E-MAIL ADDRESS: den.certificate@usi.com INSURER(S) AFFORDING COVERAGE INSURER A : Travelers Casualty Ins Co of America INSURER B : Travelers Casualty and Surety Company INSURER C : Charter Oak Fire Insurance Company INSURER D : Berkley Insurance Company INSURER E : INSURER F :
INSURED Dig Studio Inc. 600 N. 4th Street, Suite D Phoenix, AZ 85004	NAIC # 19046 19038 25615 32603

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	6803K78390223	11/26/2023	11/26/2024	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	6803K78390223	11/26/2023	11/26/2024	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 ☒ OCCUR ☐ CLAIMS-MADE DED ☒ RETENTION \$10000	X	X	CUP3K78438223	11/26/2023	11/26/2024	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	11/26/2023	11/26/2024	☒ 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			AEC907233106	11/26/2023	11/26/2024	\$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 Name Continues: Attn: CIP City Engineer: Daniel Haskins, P.E.
RE: Project No. CA2402.20, Project: DR. A.J. CHANDLER PARK RENOVATION PHASE 1
Additional Insured: City of Chandler

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

A. The following is added to WHO IS AN INSURED (Section II):

Any person or organization 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" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. In the performance of your ongoing operations;
- b. In connection with premises owned by or rented to you; or
- c. In connection with "your work" and included within the "products-completed operations hazard".

Such person or organization does not qualify as an additional insured for "bodily injury", "property damage" or "personal injury" for which that person or organization has assumed liability in a contract or agreement.

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

- d. 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.
- e. This insurance does not apply to the rendering of or failure to render any "professional services".
- f. The limits of insurance afforded to the additional insured shall be the limits which you agreed in that "contract or agreement requiring insurance" to provide for that additional insured, or the limits shown in the Declarations for this Coverage Part, whichever are less. This endorsement does not increase the limits of insurance stated in the **LIMITS OF**

INSURANCE (Section III) for this Coverage Part.

B. The following is added to Paragraph a. of 4. Other Insurance in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):

However, if you specifically agree in a "contract or agreement requiring insurance" 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 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 entered into that "contract or agreement requiring insurance". But this insurance still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured when the insured is an additional insured under any other insurance.

C. The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us in 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" or "personal injury" arising out of "your work" performed by you, or on your behalf, under a "contract or agreement requiring insurance" with that person or organization. We waive these rights only where you have agreed to do so as part of the "contract or agreement requiring insurance" with such person or organization entered into by you before, and in effect when, the "bodily

COMMERCIAL GENERAL LIABILITY

injury" or "property damage" occurs, or the "personal injury" offense is committed.

D. The following definition is added to DEFINITIONS (Section V):

"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 Cov-

erage 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.

OTHER INSURANCE – ADDITIONAL INSURED

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.

This page has been left blank intentionally.

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.

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.

- | | |
|---|---|
| A. BLANKET ADDITIONAL INSURED | H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT |
| B. EMPLOYEE HIRED AUTO | I. WAIVER OF DEDUCTIBLE – GLASS |
| C. EMPLOYEES AS INSURED | J. PERSONAL EFFECTS |
| D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS | K. AIRBAGS |
| E. TRAILERS – INCREASED LOAD CAPACITY | L. AUTO LOAN LEASE GAP |
| F. HIRED AUTO PHYSICAL DAMAGE | M. BLANKET WAIVER OF SUBROGATION |
| G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT | |

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

- 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.

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

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

- Any covered "auto" you lease, hire, rent or borrow; and
- 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**:

COMMERCIAL AUTO

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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**WORKERS COMPENSATION
AND
EMPLOYERS LIABILITY POLICY
ENDORSEMENT WC 00 03 13 (00) - 01**

POLICY NUMBER:

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
COMPLETED A WRITTEN AGREEMENT TO PROVIDE THIS WAIVER.**

DATE OF ISSUE:

ST ASSIGN:

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COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

SECTION I – COVERAGES

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"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 persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided that the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured will be deemed to be damages because of "bodily injury" or "property damage", provided that:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
 - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
 - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that

is used to heat, cool or dehumidify the building, or produced by or originating from equipment that is used to heat water for personal use by the building's occupants or their guests;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) If such "pollutants" are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
 - (i) Any insured; or
 - (ii) Any person or organization for whom you may be legally responsible;
- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
 - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed

to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or
 - (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are or were at any time performing operations to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

- (b) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) 50 feet long or less; and
 - (b) Not being used to carry any person or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (5) "Bodily injury" or "property damage" arising out of:
 - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify as "mobile equipment" under the definition of "mobile equipment" if such land vehicle were not subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged; or

- (b) The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment"; or

(6) An aircraft that is:

- (a) Chartered with a pilot to any insured;
- (b) Not owned by any insured; and
- (c) Not being used to carry any person or property for a charge.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity

i. War

"Bodily injury" or "property damage" arising out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "premises damage". A separate limit of insurance applies to "premises damage" as described in Paragraph 6. of Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and

accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

However, this exclusion does not apply to liability for damages because of "bodily injury".

q. Unsolicited Communication

"Bodily injury" or "property damage" arising out of any actual or alleged violation of any law that restricts or prohibits the sending, transmitting or distributing of "unsolicited communication".

r. Access Or Disclosure Of Confidential Or Personal Information

"Bodily injury" or "property damage" arising out of any access to or disclosure of any person's or organization's confidential or personal information.

s. Asbestos

- (1) "Bodily injury" or "property damage" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of asbestos, asbestos fibers or products containing asbestos, provided that the "bodily injury" or "property damage" is caused or contributed to by the hazardous properties of asbestos.

- (2) "Bodily injury" or "property damage" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and waste, and that are part of any claim or "suit" which also alleges any "bodily injury" or "property damage" described in Paragraph (1) above.

- (3) Any loss, cost or expense arising out of any:

- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, asbestos, asbestos fibers or products containing asbestos; or
- (b) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, asbestos, asbestos fibers or products containing asbestos.

t. Employment-Related Practices

"Bodily injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practice, policy, act or omission, such as coercion, demotion, evaluation, reassignment, discipline, failure to promote or advance, harassment, humiliation, discrimination, libel, slander, violation of the person's right of privacy, malicious prosecution or false arrest, detention or imprisonment applied to or directed at that person, regardless of whether such practice, policy, act or omission occurs, is applied or is committed before, during or after the time of that person's employment; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the

employment-related practices described in Paragraph (a), (b), or (c) above is directed.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the "bodily injury".

Exclusions c. through n. do not apply to "premises damage". A separate limit of insurance applies to "premises damage" as described in Paragraph 6. of Section III – Limits Of Insurance.

COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

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

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication, including publication by electronic means, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Or Used Prior To Policy Period

(1) "Personal and advertising injury" arising out of oral or written publication, including publication by electronic means, of material whose first publication took place before the beginning of the policy period; or

(2) "Advertising injury" arising out of infringement of copyright, "title" or "slogan" in your "advertisement" whose first infringement in your "advertisement" was committed before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages:

(1) That the insured would have in the absence of the contract or agreement; or

(2) Because of "personal injury" assumed by you in a contract or agreement that is an "insured contract", provided that the "personal injury" is caused by an offense committed subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed by you in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured will be deemed to be damages because of "personal injury", provided that:

(a) Liability to such party for, or for the cost of, that party's defense has also been assumed by you in the same "insured contract"; and

(b) Such attorneys' fees and litigation expenses are for defense of that party

against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

f. Breach Of Contract

"Advertising injury" arising out of a breach of contract.

g. Quality Or Performance Of Goods - Failure To Conform To Statements

"Advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Intellectual Property

"Personal and advertising injury" arising out of any actual or alleged infringement or violation of any of the following rights or laws, or any other "personal and advertising injury" alleged in any claim or "suit" that also alleges any such infringement or violation:

(1) Copyright;

(2) Patent;

(3) Trade dress;

(4) Trade name;

(5) Trademark;

(6) Trade secret; or

(7) Other intellectual property rights or laws.

This exclusion does not apply to:

(1) "Advertising injury" arising out of any actual or alleged infringement or violation of another's copyright, "title" or "slogan" in your "advertisement"; or

(2) Any other "personal and advertising injury" alleged in any claim or "suit" that also alleges any such infringement or violation of another's copyright, "title" or "slogan" in your "advertisement".

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" caused by an offense committed by an insured whose business is:

(1) Advertising, "broadcasting" or publishing;

- (2) Designing or determining content of websites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs a.(1), (2) and (3) of the definition of "personal injury".

For the purposes of this exclusion:

- (1) Creating and producing correspondence written in the conduct of your business, bulletins, financial or annual reports, or newsletters about your goods, products or services will not be considered the business of publishing; and
- (2) The placing of frames, borders or links, or advertising, for you or others anywhere on the Internet will not, by itself, be considered the business of advertising, "broadcasting" or publishing.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts or owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-Related

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or

neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

o. War

"Personal and advertising injury" arising out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

p. Unsolicited Communication

"Personal and advertising injury" arising out of any actual or alleged violation of any law that restricts or prohibits the sending, transmitting or distributing of "unsolicited communication".

q. Access Or Disclosure Of Confidential Or Personal Information

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information.

r. Asbestos

- (1) "Personal and advertising injury" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of asbestos, asbestos fibers or products containing asbestos, provided that the "personal and advertising injury" is caused or contributed to by the hazardous properties of asbestos.
- (2) "Personal and advertising injury" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and waste, and that are part of any claim or "suit" which also alleges any "personal and advertising injury" described in Paragraph (1) above.
- (3) Any loss, cost or expense arising out of any:
 - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or

assess the effects of, asbestos, asbestos fibers or products containing asbestos; or

- (b) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, asbestos, asbestos fibers or products containing asbestos.

s. Employment-Related Practices

"Personal injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practice, policy, act or omission, such as coercion, demotion, evaluation, reassignment, discipline, failure to promote or advance, harassment, humiliation, discrimination, libel, slander, violation of the person's right of privacy, malicious prosecution or false arrest, detention or imprisonment applied to or directed at that person, regardless of whether such practice, policy, act or omission occurs, is applied or is committed before, during or after the time of that person's employment; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal injury" to that person at whom any of the employment-related practices described in Paragraph (a), (b), or (c) above is directed.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the "personal injury".

COVERAGE C – MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
 - (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or

- (3) Because of your operations; provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;
- (b) The expenses are incurred and reported to us within one year of the date of the accident; and
- (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

SUPPLEMENTARY PAYMENTS

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
 - a. All expenses we incur.
 - b. Up to \$2,500 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
 - c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
 - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
 - e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
 - f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
 - g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
 - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - b. This insurance applies to such liability assumed by the insured;
 - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been

assumed by the insured in the same "insured contract";

- d. The allegations in the "suit" and the information we know about the "occurrence" or offense are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2) Provides us with written authorization to:
 - (a) Obtain records and other information related to the "suit"; and
 - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **2.b.(2)** of Section **I – Coverages – Coverage A – Bodily Injury And Property Damage Liability** or Paragraph **2.e.** of Section **I – Coverages – Coverage B – Personal And Advertising Injury Liability**, such payments will not be deemed to be damages for "bodily injury", "property damage" or "personal injury", and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer

workers" while performing duties related to the conduct of your business;

- (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

(2) "Property damage" to property:

- (a) Owned, occupied or used by;
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b. Any person (other than your "employee" or "volunteer worker"), or any organization, while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.

- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
 - e. Any person or organization that, with your express or implied consent, either uses or is responsible for the use of a watercraft that you do not own that is:
 - (1) 50 feet long or less; and
 - (2) Not being used to carry any person or property for a charge.
3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- 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;
 - b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

For the purposes of Paragraph 1. of Section II – Who Is An Insured, each such organization will be deemed to be designated in the Declarations as:

- a. An organization, other than a partnership, joint venture or limited liability company; or
 - b. A trust;
- as indicated in its name or the documents that govern its structure.
4. Any person or organization that is a premises owner, manager or lessor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that:
- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement; and

- b. Arises out of the ownership, maintenance or use of that part of any premises leased to you.

The insurance provided to such premises owner, manager or lessor is subject to the following provisions:

- a. The limits of insurance provided to such premises owner, manager or lessor will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
 - b. The insurance provided to such premises owner, manager or lessor does not apply to:
 - (1) Any "bodily injury" or "property damage" that occurs, or "personal and advertising injury" caused by an offense that is committed, after you cease to be a tenant in that premises; or
 - (2) Structural alterations, new construction or demolition operations performed by or on behalf of such premises owner, manager or lessor.
5. Any person or organization that is an equipment lessor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" that:
- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement; and
 - b. Is caused, in whole or in part, by your acts or omissions in the maintenance, operation or use of equipment leased to you by such equipment lessor.

The insurance provided to such equipment lessor is subject to the following provisions:

- a. The limits of insurance provided to such equipment lessor will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such equipment lessor does not apply to any "bodily injury" or "property damage" that occurs, or "personal and advertising injury" caused by an offense that is committed, after the equipment lease expires.

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 Declarations. This paragraph does not apply to any such partnership, joint venture or limited liability company that otherwise qualifies as an insured under Section II – Who Is An Insured.

SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

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

- a. Medical expenses under Coverage C;
- b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage B.

3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

4. Subject to Paragraph 2. above, the Personal And Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal injury" and "advertising injury" sustained by any one person or organization.

5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

- a. Damages under Coverage A; and
- b. Medical expenses under Coverage C; because of all "bodily injury" and "property damage" arising out of any one "occurrence".

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "premises damage" to any one premises. The Damage To Premises Rented To You Limit will be:

a. The amount shown for the Damage To Premises Rented To You Limit in the Declarations of this Coverage Part; or

b. \$300,000 if no amount is shown for the Damage To Premises Rented To You Limit in the Declarations of this Coverage Part.

7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

- (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.
- e. The following provisions apply to Paragraph a. above, but only for purposes of the insurance provided under this Coverage Part to you or any insured listed in Paragraph 1. or 2. of Section II – Who Is An Insured:
- (1) Notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known to you (if you are an individual), any of your partners or members who is an individual (if you are a partnership or joint venture), any of your managers who is an individual (if you are a limited liability company), any of your "executive officers" or directors (if you are an organization other than a partnership, joint venture, or limited liability company), any of your trustees who is an individual (if you are a trust) or any "employee" authorized by you to give notice of an "occurrence" or offense.
 - (2) If you are a partnership, joint venture, limited liability company or trust, and none of your partners, joint venture members, managers or trustees are individuals, notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by:
 - (a) Any individual who is:
 - (i) A partner or member of any partnership or joint venture;
 - (ii) A manager of any limited liability company;
 - (iii) An executive officer or director of any other organization; or
 - (iv) A trustee of any trust;that is your partner, joint venture member, manager or trustee; or
 - (b) Any employee authorized by such partnership, joint venture, limited liability company, trust or other organization to give notice of an "occurrence" or offense.
- (3) Notice to us of such "occurrence" or offense will be deemed to be given as soon as practicable if it is given in good faith as soon as practicable to your workers' compensation insurer. This applies only if you subsequently give notice to us of the "occurrence" or offense as soon as practicable after any of the persons described in Paragraph e.(1) or (2) above discovers that the "occurrence" or offense may result in sums to which the insurance provided under this Coverage Part may apply.
- However, if this policy includes an endorsement that provides limited coverage for "bodily injury" or "property damage" or pollution costs arising out of a discharge, release or escape of "pollutants" which contains a requirement that the discharge, release or escape of "pollutants" must be reported to us within a specific number of days after its abrupt commencement, this Paragraph e. does not affect that requirement.
- 3. Legal Action Against Us**
- No person or organization has a right under this Coverage Part:
- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
 - b. To sue us on this Coverage Part unless all of its terms have been fully complied with.
- A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured, and the claimant or the claimant's legal representative.

4. Other Insurance

If valid and collectible other insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as described in Paragraphs **a.** and **b.** below.

As used anywhere in this Coverage Part, other insurance means insurance, or the funding of losses, that is provided by, through or on behalf of:

- (i) Another insurance company;
- (ii) Us or any of our affiliated insurance companies, except when the Non cumulation of Each Occurrence Limit provision of Paragraph **5.** of Section **III** – Limits Of Insurance or the Non cumulation of Personal and Advertising Injury Limit provision of Paragraph **4.** of Section **III** – Limits of Insurance applies because the Amendment – Non Cumulation Of Each Occurrence Limit Of Liability And Non Cumulation Of Personal And Advertising Injury Limit endorsement is included in this policy;
- (iii) Any risk retention group; or
- (iv) Any self-insurance method or program, in which case the insured will be deemed to be the provider of other insurance.

Other insurance does not include umbrella insurance, or excess insurance, that was bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

As used anywhere in this Coverage Part, other insurer means a provider of other insurance. As used in Paragraph **c.** below, insurer means a provider of insurance.

a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below, except when Paragraph **d.** below applies.

b. Excess Insurance

(1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(ii) That is insurance for "premises damage";

(iii) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to any exclusion in this Coverage Part that applies to aircraft, "autos" or watercraft;

(iv) That is insurance available to a premises owner, manager or lessor that qualifies as an insured under Paragraph **4.** of Section **II** – Who Is An Insured, except when Paragraph **d.** below applies; or

(v) That is insurance available to an equipment lessor that qualifies as an insured under Paragraph **5.** of Section **II** – Who Is An Insured, except when Paragraph **d.** below applies.

(b) Any of the other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured when the insured is an additional insured, or is any other insured that does not qualify as a named insured, under such other insurance.

(2) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(b) The total of all deductible and self-insured amounts under all that other insurance.

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

d. Primary And Non-Contributory Insurance If Required By Written Contract

If you specifically agree in a written contract or agreement that the insurance afforded to an 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 insured which covers such insured as a named insured, and we will not share with that other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal and advertising injury" for which coverage is sought is caused by an offense that is committed;

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

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

2. "Advertising injury":
 - a. Means injury caused by one or more of the following offenses:
 - (1) Oral or written publication, including publication by electronic means, of material in your "advertisement" that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, provided that the claim is made or the "suit" is brought by a person or organization that claims to have been slandered or libeled, or that claims to have had its goods, products or services disparaged;
 - (2) Oral or written publication, including publication by electronic means, of material in your "advertisement" that:
 - (a) Appropriates a person's name, voice, photograph or likeness; or
 - (b) Unreasonably places a person in a false light; or
 - (3) Infringement of copyright, "title" or "slogan" in your "advertisement", provided that the claim is made or the "suit" is brought by a person or organization that claims ownership of such copyright, "title" or "slogan".
 - b. Includes "bodily injury" caused by one or more of the offenses described in Paragraph a. above.
3. "Auto" means:
 - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
 - b. Any other land vehicle that is subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged.However, "auto" does not include "mobile equipment".
4. "Bodily injury" means:
 - a. Physical harm, including sickness or disease, sustained by a person; or
 - b. Mental anguish, injury or illness, or emotional distress, resulting at any time from such physical harm, sickness or disease.
5. "Broadcasting" means transmitting any audio or visual material for any purpose:
 - a. By radio or television; or
 - b. In, by or with any other electronic means of communication, such as the Internet, if that material is part of:
 - (1) Radio or television programming being transmitted;
 - (2) Other entertainment, educational, instructional, music or news programming being transmitted; or
 - (3) Advertising transmitted with any of such programming.
6. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
 - (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;provided the insured's responsibility to pay damages is determined in a "suit" on the merits in the territory described in Paragraph a. above, or in a settlement we agree to.
7. "Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.

10. "Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.

11. "Hostile fire" means a fire which becomes uncontrollable or breaks out from where it was intended to be.

12. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.

13. "Insured contract" means:

- 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 "premises damage" is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury", "property damage" or "personal injury" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle,

tracks, roadbeds, tunnel, underpass or crossing;

(2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph (2) above and supervisory, inspection, architectural or engineering activities.

14. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

15. "Loading or unloading" means the handling of property:

a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";

b. While it is in or on an aircraft, watercraft or "auto"; or

c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

16. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

b. Vehicles maintained for use solely on or next to premises you own or rent;

c. Vehicles that travel on crawler treads;

d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

- (1) Power cranes, shovels, loaders, diggers or drills; or
- (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

e. Vehicles not described in Paragraph a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

- (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
- (2) Cherry pickers and similar devices used to raise or lower workers;

f. Vehicles not described in Paragraph a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicle that is subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged. Such land vehicles are considered "autos".

17. "Occurrence" means:

- a. An accident, including continuous or repeated exposure to substantially the same general harmful conditions; or

b. An act or omission committed in providing or failing to provide first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.

18. "Personal and advertising injury" means "personal injury" or "advertising injury".

19. "Personal injury":

a. Means injury, other than "advertising injury", caused by one or more of the following offenses:

- (1) False arrest, detention or imprisonment;
- (2) Malicious prosecution;
- (3) The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, provided that the wrongful eviction, wrongful entry or invasion of the right of private occupancy is committed by or on behalf of the owner, landlord or lessor of that room, dwelling or premises;
- (4) Oral or written publication, including publication by electronic means, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, provided that the claim is made or the "suit" is brought by a person or organization that claims to have been slandered or libeled, or that claims to have had its goods, products or services disparaged; or
- (5) Oral or written publication, including publication by electronic means, of material that:
 - (a) Appropriates a person's name, voice, photograph or likeness; or
 - (b) Unreasonably places a person in a false light.

b. Includes "bodily injury" caused by one or more of the offenses described in Paragraph a. above.

20. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

21. "Premises damage" means:

- a.** With respect to the first paragraph of the exceptions in Exclusion **j.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability, "property damage" to any premises while rented to you for a period of seven or fewer consecutive days, including the contents of such premises; or
- b.** With respect to the exception to Exclusions **c.** through **n.** in the last paragraph of Paragraph **2.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability, "property damage" to any premises while rented to you for a period of more than seven consecutive days, or while temporarily occupied by you with permission of the owner, caused by:

- (1)** Fire;
- (2)** Explosion;
- (3)** Lightning;
- (4)** Smoke resulting from fire, explosion or lightning; or
- (5)** Water.

But "premises damage" under this Paragraph **b.** does not include "property damage" to any premises caused by:

- (1)** Rupture, bursting, or operation of pressure relief devices;
- (2)** Rupture or bursting due to expansion or swelling of the contents of any building or structure caused by or resulting from water; or
- (3)** Explosion of steam boilers, steam pipes, steam engines or steam turbines.

22. "Products-completed operations hazard":

- a.** Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1)** Products that are still in your physical possession; or
 - (2)** Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a)** When all of the work called for in your contract has been completed.
 - (b)** When all of the work to be done at the job site has been completed if your

contract calls for work at more than one job site.

- (c)** When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- b.** Does not include "bodily injury" or "property damage" arising out of:

- (1)** The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2)** The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3)** Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

23. "Property damage" means:

- a.** Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use will 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 will be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, "electronic data" is not tangible property.

24. "Slogan":

- a.** Means a phrase that others use for the purpose of attracting attention in their advertising.
- b.** Does not include a phrase used as, or in, the name of:
 - (1)** Any person or organization, other than you; or
 - (2)** Any business, or any of the premises, goods, products, services or work, of any person or organization, other than you.

- 25.** "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
- a.** An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
 - b.** Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
- 26.** "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
- 27.** "Title" means a name of a literary or artistic work.
- 28.** "Unsolicited communication" means any communication, in any form, that the recipient of such communication did not specifically request to receive.
- 29.** "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.
- 30.** "Your product":
- a.** Means:
 - (1)** Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a)** You;
 - (b)** Others trading under your name; or
 - (c)** A person or organization whose business or assets you have acquired; and
 - (2)** Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
 - b.** Includes:
 - (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
 - (2)** The providing of or failure to provide warnings or instructions.
 - c.** Does not include vending machines or other property rented to or located for the use of others but not sold.
- 31.** "Your work":
- a.** Means:
 - (1)** Work or operations performed by you or on your behalf; and
 - (2)** Materials, parts or equipment furnished in connection with such work or operations.
 - b.** Includes:
 - (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
 - (2)** The providing of or failure to provide warnings or instructions.