CITY OF GLENDALE, ARIZONA

STANDARD FORM AGREEMENT BETWEEN OWNER AND DESIGN PROFESSIONAL

(CONSTRUCTION MANAGER AT RISK)

May 15, 2023 Edition

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STANDARD FORM AGREEMENT BETWEEN OWNER
AND
DESIGN PROFESSIONAL
(CONSTRUCTION MANAGER AT RISK EDITION)

This Agreement "**DP Agreement**" is made day of in the year 2024, by and between **CITY OF GLENDALE, ARIZONA**, an Arizona municipal corporation ("**OWNER**"), located at 5850 West Glendale Avenue, Glendale, Arizona, 85301 and **ENTELLUS, INC.** ("**Design Professional**" or "**DP**"), located at 3033 N. 44th St., Ste. 250, Pheonix, AZ 85018, for services in connection with the Project listed in Article 1 below.

In consideration for the mutual covenants and obligations contained herein, Owner and DP agree as follows:

Article 1 Project.

1.1 Project Title. Waterline Improvements 59th Avenue

1.2 Project Number. 232404

1.3 Project Location. 59th Avenue - Glendale Ave. to Northern Ave.

1.4 Scope of Service. Defined and described in "Exhibit A – Scope of Services for DP", attached.

1.5 Schedule. Defined and described in "Exhibit A – Scope of Services for DP", attached.

1.6 For Basic Services, the DP's basic compensation shall be computed on the following basis: The Basic Services fee for all subphases is three hundred sixty-four thousand, one hundred sixty-four dollars and 18/100 ($364,164.18). Reimbursable expenses, as defined herein, shall not exceed fifty-three thousand, eight hundred and fifty-five dollars ($53,855.00). Fee is further defined and described in "Exhibit B – Schedule of Payments".

1.7 Representatives of the Parties, Authority.

1.7.1 Owner's Representatives.

1.7.1.1 Owner designates Martin A. Soma PE, Senior Civil Engineer, City of Glendale Engineering Department, 5850 W. Glendale Ave, Glendale Az 85301 as the "Owner's Senior Representative", who has the authority and responsibility set forth in this DP Agreement, including the authority and responsibility for avoiding and resolving disputes under Article 12.

1.7.1.2 Owner designates Martin A. Soma PE, Senior Civil Engineer, City of Glendale Engineering Department, 5850 W. Glendale Ave, Glendale Az 85301 as the "Design Phase

"Representative", who has the authority and responsibility set forth in this DP Agreement.

1.7.1.3 Owner designates Martin A. Soma PE, Senior Civil Engineer, City of Glendale Engineering Department, 5850 W. Glendale Ave, Glendale Az 85301 as the "Construction Phase Representative", who has the authority and responsibility set forth in this DP Agreement.

1.7.2 DP's Representatives.

1.7.2.1 DP designates William Linck, President, Entellus, Inc., 3033 N. 44th St., Ste. 250, Phoenix, AZ 85018 as the "DP's Senior Representative" , who has the authority and responsibility set forth in this DP Agreement, including the authority and responsibility for avoiding and resolving disputes under Article 12.

1.7.2.2 DP designates Martin Weeden, Project Manager, Entellus, Inc., 3033 N. 44th St., Ste. 250, Phoenix, AZ 85018 as the "Project Management "Representative," who has the authority and responsibility set forth in this DP Agreement.

1.7.2.3 DP's Representatives, as approved by the Owner, shall not be replaced without the Owner's prior written approval.

1.7.2.4 DP warrants and shall ensure that only representatives who are authorized to legally bind DP will sign documents associated with this DP Agreement.

Article 2 DP's Services and Responsibilities.

2.1 General.

2.1.1 Intent. In accordance with the City of Glendale Charter, Owner intends to enter into a contract for services by a qualified design professional for the architectural and engineering services and construction administration services set forth in "Exhibit A – Scope of Services for DP" (hereinafter the "Scope of Services"), including the Basic Services and the Additional Services (as defined below) (collectively "Professional Services"). The DP shall render the Professional Services in the phases and subphases described in the Scope of Services and shall be coordinated with the services of the Construction Manager at Risk ("CM@Risk") as described herein and in the "CM@Risk Standard Form Agreement Between Owner CM@Risk" ("CM@Risk Agreement") which is incorporated by reference. The phases and subphases are to be performed in the sequence set forth in the Scope of Services, and DP shall not proceed with the next phase or subphase in the Scope of Services without prior written authorization from the Owner.

2.1.1.1 Essential Conditions. Due in part to the nature of the work DP is to perform, it is understood that the times for commencing and completing the DP's Professional Services as specified herein are ESSENTIAL CONDITIONS of this DP Agreement. It is mutually understood and agreed that the Professional Services by DP set forth in this DP Agreement shall be promptly commenced on a date to be specified in a notice to proceed, and in no event later than the day after the execution of this DP Agreement, whichever first occurs. Consistent with the Standard of Care set forth in this DP Agreement, all Professional Services shall be prosecuted regularly, diligently,

and uninterruptedly at such rate of progress as will assist the CM@Risk to complete the Project within the time set forth in the Scope of Services and pursuant to the "Exhibit B – Schedule of Payments"("Schedule of Payments").

2.1.1.2 DP Agreement Documents. The "DP Agreement" is comprised of the following in order of precedence:

2.1.1.2.1 This DP Agreement including Exhibits, as subsequently modified by Amendments, Addenda, or Supplemental Authorizations. Within the Agreement and its Exhibits the following Order of Precedence applies:

(i) This Agreement

(ii) Exhibit A – Scope of DP Services (Scope of Services)

(iii) Exhibit B – Schedule of Payments (Schedule of Payments)

(iv) Exhibit C – DP Proposal

(v) Exhibit D – Dispute Resolution Procedures

2.1.1.2.2 Owner's Request for Qualifications (RFQ) including all Exhibits, Addenda and Clarifications.

2.1.1.2.3 The DP's qualifications submission as required by the RFQ, including any clarifications and revisions of the submission.

2.1.1.2.4 The following other documents, if any, forming part of the Agreement: N/A.

2.1.1.3 Changes.

2.1.1.3.1 The Owner may at any time, by written notice to DP, make changes within the general scope of this DP Agreement including, without limitation, to any one or more of the following: (i) the Scope of Services, including required drawings, designs, or specifications; (ii) method of delivery; (iii) Schedule of Milestones; and (iv) the time for completion.

2.1.1.3.2 If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of this DP Agreement, whether or not identified in the notice, the Owner shall make equitable adjustments to the DP's Basic Compensation, as defined below, the Milestone Schedule, or the time for completion, or shall otherwise modify this DP Agreement as appropriate.

2.1.1.3.3 The DP must assert its right to an equitable adjustment under this clause within thirty (30) days from the date of receipt of the written notice from the Owner. Owner may, in its sole and absolute discretion, consider and/or deny requests for equitable adjustment

that are made more than thirty (30) days from receipt of the written notice, but in any event before final payment under this DP Agreement.

2.1.2 Definitions. Unless otherwise specified, capitalized terms in this DP Agreement have the same meaning as set forth in the General Conditions to the CM@Risk Agreement for the Project, a copy of which has been provided to DP and is incorporated herein by reference. In addition, the following definitions shall apply:

2.1.2.1 "CM@Risk" means the CM@Risk defined in the CM@Risk Agreement and all persons and entities identified as members of the CM@Risk Team in the CM@Risk's response to the Owner's RFQ which led to the CM@Risk Agreement with all amendments, and any substitutes permitted under the terms of the CM@Risk Agreement. The CM@Risk participates in the Pre-Construction Phase as set forth in the CM@Risk Agreement by, among other things, doing value engineering, evaluating costs and constructability, preparing schedules, and evaluating implications of alternate designs and systems and materials during and after design of the Project. During construction, the CM@Risk assumes all risk for price and schedule under the CM@Risk Agreement and its GMP.

2.1.2.2 "CM@Risk Agreement" means the contract (Standard Form of Agreement Between Owner and CM@Risk, including its Exhibit A – CM@Risk General Conditions) between Owner and the CM@Risk or any replacement CM@Risk or, if the Owner terminates the contract with the CM@Risk and elects to proceed using a different contractor it means the contract and general conditions between the Owner and the final contractor. The CM@Risk Agreement and General Conditions are sometimes referred to individually as the "Construction Contract" and its "General Conditions," respectively.

2.1.2.3 "Construction Costs" (or "Cost of the Work") consists of those items of Work which are paid for by the Owner to the CM@Risk, and consists of those categories of Direct Construction Costs and Indirect Construction Costs set forth as allowable in Exhibit C to the CM@Risk Agreement. It does not include any design or consulting fees, the CM@Risk's fees for Design (Preconstruction) Phase services, survey and testing costs, or readily movable furnishings/equipment, unless agreed to in advance in writing by the Owner.

2.1.2.4 "Construction Documents" are the plans and specifications prepared by the DP for the Project, approved by the Owner, and incorporated into the CM@Risk Agreement by reference after such approval, to be used to construct the Project. All amendments and modifications to the Construction Documents must be approved by the Owner prior to incorporation into the CM@Risk Agreement.

2.1.2.5 "Construction Phase" is defined as including the following subphases: construction administration, closeout, and warranty, and may include some activities that occur after Final Completion.

2.1.2.6 "Consultant" is an entity or person, other than the CM@Risk or the DP, who performs any design or engineering services directly on behalf of the Owner, and shall include all employees, agents and authorized representatives of such entities or persons.

2.1.2.7 "Contract Time" shall mean the time period for DP's performance of the Scope of Services and completion of the Project as set forth in the Scope of Services.

2.1.2.8 "Day" refers to the calendar day unless otherwise denoted.

2.1.2.9 "Design Phase" is defined as including but not limited to the following subphases: Program Development, Conceptual Design, Schematic Design, Design Development, 50% Construction Documents / GMP-Setting, and creation of 100% Construction Documents.

2.1.2.10 "Design Professional" or "DP" refers to the entity set forth in the preamble of this DP Agreement and is a representative of the Owner for the Project as provided in the DP Agreement Documents, whose Agreement is with the Owner, and a) who is a qualified professional properly licensed in the State of Arizona to furnish applicable design and construction administration services, and b) is not the representative of the Owner except for the approval and certification of CM@Risk progress payment applications, and Substantial Completion, if so designated.

2.1.2.11 "Design Professional Basic Services" or "Basic Services" is defined as all services described in the Scope of Services and this DP Agreement.

2.1.2.12 **"**Design Professional Additional Services" or "Additional Services" is defined as all services not described in the Scope of Services and this DP Agreement, but that are otherwise requested and authorized by Owner, in writing.

2.1.2.13 "Design Submission Documents" or "Design Documents" consist of the Drawings and Specifications prepared at specific phases of the design effort by the DP including Programming, Conceptual Design, Schematic Design, Design Development, 50% Construction Documents / GMP Setting, and 100% Construction Documents, as well as cost estimates and other documents prepared by the CM@Risk that are submitted for Owner's approval for each subphase of the Project design services.

2.1.2.14 "Final Completion" is defined as 100% completion of all Work by the CM@Risk described by or reasonably inferred from the Project Criteria and Contract Documents, including but not limited to all a) punch lists, b) Close-Out Documents, c) Owner training/start up activities, and d) third party commissioning (if any).

2.1.2.15 "Partnering" or "Teaming" is a mutual effort by all parties involved in the Project, principally the Owner, the DP and the CM@Risk, to cooperate and coordinate efforts to achieve the final result intended by the Project Criteria. All involved use their expertise for the benefit of all. Partnering requires flexibility and appreciation of the positions of other parties and willingness to make compromises for the benefit of all. Owner has the exclusive right to decide whether or not to use Partnering on the Project and will indicate its decision on this during the Pre-Construction Phase.

2.1.2.16 "Probable Construction Cost" is the estimate of the Construction Costs that is to

be prepared by the DP for presentation to the Owner.

2.1.2.17 "Project Budget" is the total cost to the Owner for the Project, including the payments to DP, CM@Risk's Pre-Construction Phase Fee, the GMP, other Consultants, furniture, fixtures, and equipment, site acquisition, permit fees, management fees, owner-supplied labor, materials and equipment, and other incidentals required to achieve Final Completion of the Project.

2.1.2.18 "Project Criteria" are developed by or for Owner to describe Owner's program, requirements and objectives for the Project, including use, space, price, time, site, utility, parking, and expandability requirements, as well as all submittal requirements and other requirements affecting CM@Risk's performance of its Work. The Project Criteria may include conceptual documents, design criteria, performance requirements, and other Project specific technical materials and requirements prepared by or for Owner.

2.1.2.19 "Punch List" are those minor items of Work identified and listed by DP and agreed to by Owner to be completed by CM@Risk after Substantial Completion and prior to Final Completion, which do not prevent the Project from being fully used for the purpose for which it is intended and which will not prevent the issuance of a certificate of occupancy.

2.1.2.20 "Standard of Care" is the performance standard under which DP shall provide its Professional Services and is defined as: the skill, care and competence exercised by members of the applicable professional discipline currently practicing under similar circumstances. The DP shall perform the Professional Services as expeditiously as is consistent with the Standard of Care and the orderly and timely progress of the Project and Project Schedule.

2.1.2.21 "Subconsultant" is an entity or person who performs any services directly on behalf of the DP, and shall include all employees, agents and authorized representatives of such entities or persons.

2.1.2.22 "Subcontractor" (of any tier) is any entity or person who performs a portion of the Work, on or off site, directly on behalf of the CM@Risk, including any materials, workers and suppliers, and shall include all employees, agents and authorized representatives of such entities or persons.

2.1.2.23 "Substantial Completion" is the date on which CM@Risk's Work, or an agreed upon portion of the Work, is sufficiently complete, as determined by the DP or Owner's issuance of a Certificate of Substantial Completion, so that Owner can fully occupy and utilize the Project, or a portion thereof, for the purposes for which it is intended. In order to achieve Substantial Completion, all Work must be complete except for items included on the approved punch list. As part of Substantial Completion all required inspections, State Fire Marshal and State Elevator certificates, Boiler inspection, ACC inspection for natural gas lines, and preliminary test and balance of the mechanical system must be obtained or completed. (Note – The Owner retains the right to require inspections of the Work past those inspections required for Substantial Completion, and such inspections may be required through the date of Final Completion.)

2.1.3 Cooperation.

2.1.3.1 Pursuant to the Standard of Care, Owner and DP will cooperate with each other and with the CM@Risk and others involved in the Project to the maximum extent possible and to proceed on the basis of trust, confidence, and good faith to permit each party to this DP Agreement and the CM@R to realize the goals sought and benefits afforded under this DP Agreement. Those goals and benefits include the satisfactory and timely completion of the Project and the performance of all obligations described by this DP Agreement.

2.1.3.2 The Owner, DP, and CM@Risk will hold a mandatory Kick-Off Meeting after execution of both this DP Agreement and the CM@Risk Agreement to discuss issues affecting the administration of the Project and to implement procedures to permit the Owner, the DP, and the CM@Risk to promptly and efficiently perform their respective obligations under this DP Agreement and the CM@Risk Agreement. At this meeting, the DP, the Owner and the CM@Risk will establish required meetings to discuss ongoing project issues. Written meeting minutes shall be distributed to all attendees in accordance with the "Meetings and Communication" Section of the Scope of Services within two (2) business days after each meeting. Among other matters to be covered at this meeting, the Owner, the DP and the CM@Risk will work out and agree upon procedures for efficient interaction among them during the Design Phase of the Work so that the DP, the CM@Risk and the Owner can thereafter perform efficiently and in a cooperative and mutually supportive manner the activities, functions and obligations contemplated by this DP Agreement and the CM@Risk Agreement. Among other subjects to be covered are:

(i) Agreeing to a comprehensive and all-inclusive list of goods, materials or equipment that have other than short lead time and arranging to have such items placed on order for timely delivery;

(ii) Arrangements for collaboration between the DP and the CM@Risk in preparing Design Submission Documents for the Program Development (to the extent needed), Conceptual Design, Schematic Design, Design Development, 50% Construction Documents / GMP-Setting, and 100% Construction Documents subphases and in submitting each set of Design Submission Documents to the Owner for its review and comments. Also to be agreed upon are arrangements for group discussions by DP, CM@Risk and Owner of the Design Submission Documents, the Program Development documents, the Conceptual Design documents, the Schematic Design documents, the Design Development documents, the 50% Construction Documents / GMP-Setting documents, and the 100% Construction Documents;

(iii) Arrangements that encourage frequent informal interaction among the DP, the Owner and the CM@Risk during the Design Phase, especially between submissions of Design Submission Documents under item (ii), including among other activities, the DP resolving constructability or other questions with the CM@Risk and otherwise obtaining the benefit of the CM@Risk's construction knowledge and experience and the DP using that information

in its design work on the Project;

(iv) A schedule for all activities of the CM@Risk, the Owner and the DP to be performed during the Pre-Construction Phase; and

(v) A prompt review of key contract provisions, schedule goals and coordination concerns, procedures for paperwork processes, and any other items of importance based on the Project's specific attributes.

At the Kick-Off meeting, the Owner and the CM@Risk (with assistance from the DP) will also develop the procedures for pre-qualification of Subcontractors to bid on the bid packages under Article 2.2.4.6.2 of the General Conditions.

2.1.3.3 The DP shall cooperate with the Owner and the CM@Risk in the design and construction of the Project and must keep the Project within the Owner's Project Budget and the schedule requirements. The CM@Risk, the Owner, and the DP, called the "Project Team", shall cooperatively work together during all phases of the Project in which they are involved to achieve expedited completion of the Project in accordance with Owner's Project Budget and time constraints. While the CM@Risk shall provide leadership to the Project Team during the Design Phase for all cost, schedule, or constructability review and choice of building systems issues and on all matters relating to construction, the DP is to assist and cooperate on these items to the maximum extent possible.

2.1.3.4 The DP shall promptly and reasonably cooperate with the CM@Risk in the CM@Risk's development of its estimates of Construction Costs and Guaranteed Maximum Price ("GMP").

2.1.3.5 The DP shall evaluate the Owner's preliminary Project Budget with the assistance of the CM@Risk. The Owner shall furnish the DP with the dollar amount within the Owner's Project Budget available for the Work. The DP's estimates of probable Construction Costs shall not exceed this amount. The amount within the Owner's Project Budget available for Work may be revised only by an Owner-approved written modification of this DP Agreement.

2.1.4 Personnel. A listing of key employees assigned directly to this Project on a day- to-day basis as well as alternates (replacements) has been furnished to and approved by the Owner prior to execution of this DP Agreement, and is attached as a part of "Exhibit C – DP Proposal". Any substitutions of assigned personnel shall have prior, written approval by the Owner and shall be proposed from the list of acceptable alternates. Any changes of personnel within the DP firm or any listed Subconsultant firms assigned to the project will require advance written approval of the Owner so long as approved personnel remain employees of the DP firm and/or the listed Subconsultant firm and are capable of performing the required services.

2.1.5 Partnering. [OPTIONAL] [NOT USED]

2.1.5.1 The Owner, DP, and CM@Risk will meet promptly after execution of the Construction Contract to discuss issues affecting the administration of the Work and the Professional Services, and to implement the necessary procedures, including submittals and Owner site activity schedules, to permit the Owner, DP, and CM@Risk to perform their respective

obligations under the Contract Documents. These tasks may be implemented by the utilization of a formal "Partnering" or "Teaming" process developed during an initial workshop that will include the CM@Risk, Owner, DP, and their key personnel assigned to the project. Follow up sessions will occur every three months or as otherwise mutually agreed to ensure that all commitments are updated and being followed by all parties. The cost of this "Partnering" or "Teaming" effort, if invoked by Owner, will be an allowable Project Cost.

2.2 Design Phase. During the Design Phase, DP will provide the services set forth in the Scope of Services for the following subphases of the Design Phase: Program Development, Conceptual Design, Schematic Design, Design Development, 50% Construction Documents / GMP-Setting, and 100% Construction Documents.

2.3 Construction Phase. During the Construction Phase, DP will provide the Services set forth in the Scope of Services for the following subphases of the Construction Phase: Construction Administration, Closeout, and Warranty.

2.4 DP's Professional Responsibilities.

2.4.1 DP represents that it and the professional staff and Subconsultants it will assign to the project (registrants with the Arizona Board of Technical Registration and others), are fully qualified by education, technical training, and experience as professionals to perform the Professional Services and contract administration called for by this DP Agreement.

2.4.2 DP agrees that in performing the Professional Services it will exercise the Standard of Care and cause its Subconsultants to exercise the same. DP will also cause all Subconsultants it employs to meet this same Standard of Care.

2.4.3 Notwithstanding the contractual and indemnity remedies provided to Owner under the DP Agreement and notwithstanding any applicable law barring recover for any economic loss caused by DP, DP acknowledges that a violation of the Standard of Care causing injury or damage to Owner is actionable and DP agrees that Owner may pursue as a remedy, in addition to any contractual or indemnity remedy, a tort claim for professional negligence against DP.

2.4.4 Although the Owner has the right to make claims in tort for professional negligence against DP, as the lead registrant of the design team for the negligence, recklessness, or intentional wrongful conduct or errors or omissions of DP or any of its Subconsultants, DP agrees it shall also be responsible for and shall indemnify and hold Owner, City of Glendale, Arizona, harmless from any and all losses, expenses, damages, costs and injuries arising from or resulting from any negligence, recklessness, or intentional wrongful conduct or errors or omissions in the Design Documents prepared by DP or DP's Subconsultants for Owner by the DP or DP's Subconsultants or in the construction administration during the Construction Phase.

2.4.5 Notwithstanding Articles 2.4.1 through 2.4.4, Owner may hold DP responsible or liable for any costs associated with DP's failure to meet the Standard of Care, only to the extent such costs exceed two percent (2%) of the GMP in effect at the time of Final Completion. It is understood and agreed that this 2% share shall apply to the aggregate amount of costs for the failure to meet

the Standard of Care and not to each failure individually. This 2% share shall not apply to claims for property damage, personal injury, or death, whether incurred by Owner, or third parties, including without limitation the indemnity obligations in Article 9.14.
Owner shall deliver to DP a list of errors or omissions amounts that Owner has determined it has absorbed or will absorb in whole or in part.

2.4.6 At all times during this DP Agreement, DP shall comply with, and shall ensure its Professional Services comply with, all applicable laws, statutes, ordinances, regulations, rules or codes.

2.4.7 Owner acceptance of the Design Documents provided to it by the DP and the DP's estimates of Probable Construction Cost shall not relieve the DP from any responsibility for errors or omissions in those regards, nor from any other obligation of the DP under this DP Agreement or applicable laws, statutes, ordinances, building codes, rules and regulations, or operation of law.

The DP acknowledges and agrees that approval by the Owner and the CM@Risk and involvement of the CM@Risk and the Owner during the Design Phase (including, without limitation, recommendations by the CM@Risk or Owner as to the design), in no way relieves the DP of responsibility for the Design Documents. The DP, CM@Risk, and the Owner will cooperate in the resolution of such matters so as to minimize any detrimental impact upon the Project. However, such cooperation shall not be deemed a waiver of any rights the Owner may have relating to the DP.

2.4.8 The DP hereby agrees, subject to the Standard of Care, that it shall have the same legal responsibility to the Owner as the Owner has, or may have, to others arising out of, or resulting from, any errors or omissions of the DP.

2.4.9 All Drawings and Specifications shall bear the signature and seal of the DP or the DP's Subconsultants, or both as appropriate. The DP as lead professional shall be fully responsible for all design and administration provided under this DP Agreement.

2.4.10 The DP shall prepare and provide all documents in a form necessary for Owner to obtain any and all approvals required for approval of design and completed construction by all governmental authorities having jurisdiction over the Project and/or designated by the Owner. The Owner will sign applications and pay applicable fees for such governmental approvals.

2.4.11 The DP shall advise and consult with the Owner, if requested by the Owner, on selection of the CM@Risk. Further, the DP shall actively participate in discussions between the Owner and the CM@Risk regarding negotiations about the GMP and its acceptance by Owner. The DP shall review all GMP deliverables and advise Owner of any deficiencies in any GMP documents or proposals submitted by CM@Risk to Owner.

2.4.12 The DP shall advise the Owner on the acceptability of Subcontractors and material suppliers proposed by the CM@Risk. Among other things, DP shall assist the CM@Risk in the pre-qualification of Subcontractors and in the preparation of drawings, specifications and information for the purpose of preparing the Subcontractor bid packages. The DP shall not be responsible for

the performance of the CM@Risk, the Construction Contract(s), or for any defects, deficiencies or effects resulting solely from any contractor, subcontractor, manufacturer, supplier, and fabricator retained by the Owner, CM@Risk, or any other third party. Nothing in this DP Agreement shall be construed as giving the DP the responsibility for or the authority to control, direct or supervise construction means or methods.

2.4.13 The DP shall prepare complete and useable plans and specifications for the CM@Risk's use for each portion of the Work to be bid separately and, if the Work is done in phases, complete plans and specifications for each phase.

2.4.14 If and to the extent Owner has given its prior approval, DP shall provide written interpretations and clarifications of the Construction Documents requested by the CM@Risk or any potential bidder.

2.4.15 Provide such other reasonable assistance to the CM@Risk as the CM@Risk and Owner request.

2.4.16 All of the above notwithstanding, award of the CM@Risk Contract and approval of the GMP will be made solely by the Owner. Award of the CM@Risk subcontracts will be made solely by the CM@Risk.

2.4.17 If at any time the CM@Risk's estimate of Construction Costs or proposed GMP or the DP's estimate of Probable Construction Costs (after attempted reconciliation between the CM@Risk's Estimate of Construction Costs and the DP's Estimate of Probable Construction Cost, and with the amount within the Owner's Project Budget available for the Cost of the Work) exceeds the amount within Owner's then current Project Budget available for the Cost of the Work, the DP shall promptly and at no cost to the Owner:

2.4.17.1 Revise all or any part of the Project drawings, specifications or both as the Owner may deem advisable for the purpose of reducing the Cost of the Work to be within the allocated line items within the Project Budget.

2.4.17.2 Perform any or all of the services described above as may be necessary to obtain a CM@Risk estimate of Construction Costs and GMP not exceeding the amount within Owner's current Project Budget available for costs of the Work.

2.4.17.3 If at any time the Owner terminates the CM@Risk Contract for convenience or for other reason, the Owner will have the right to continue the Project with whatever project delivery method it selects and the DP will continue to perform the Professional Services under this DP Agreement with the Owner and any substitute contractor for the construction. Owner will make appropriate changes to the DP Agreement if required.

Article 3 Additional Services.

3.1 The following additional services shall be provided by DP only when authorized in writing by Owner before they are performed, and shall be paid for by the Owner in accordance with the

terms of this DP Agreement in addition to the DP's compensation for Basic Services:

(i) Providing financial feasibility or other special studies.

(ii) Providing services relative to future facilities, systems, and equipment, which are not intended to be constructed during the Construction Administration subphase.

(iii) Providing interior design and all other similar services required for or in connection with the selection, procurement or installation of movable furniture, furnishings, and related equipment if not expressly stated in this DP Agreement.

(iv) Providing consultation concerning replacement of any work damaged by fire, natural causes or forces majeure during the course of construction.

(v) Retaining services of a competent surveyor or registered engineer or to provide any special inspections or tests, as required by code or prudent practice, during the Construction Administration subphase.

(vi) Providing additional services arising from the default of the CM@Risk or the default of any of its Subcontractors.

(vii) Providing assistance required by the Owner in any judicial, quasi-judicial, administrative, or legislative hearings or proceedings relating to the Project.

(viii) Providing staff, professional and otherwise, when directed in writing by Owner, to perform tasks and duties assigned as necessary to prevent slippage in progress schedule and/or timely completion of the construction Work.

(ix) Providing other reasonable services.

3.2 If the Owner and the DP agree at the pre-construction meeting on more extensive representation at the site during the Construction Administration phase than is described in Article 2, the DP shall provide one or more full-time Project Representatives. Such full-time Project Representatives shall be selected, employed and directed by the DP, and the DP shall be compensated for such services as mutually agreed in writing between the Owner and the DP.

3.3 Any full-time Project Representatives or replacements shall be subject to prior approval by the Owner. The Owner reserves the absolute right to reject or require replacement of any Project Representatives.

3.4 The DP shall not engage, contract with or use the services of any Subconsultants, without obtaining the prior written approval of the Owner. The DP shall submit to the Owner for approval a report of the scope of services to be provided by each such special Subconsultant, with the

Owner's acknowledgment thereof. No provision of this DP Agreement and no approval by the Owner of the scope of services to be provided by the Subconsultants shall be construed as an agreement between the Owner and any Subconsultant of the DP or in any way affect the responsibilities of the DP hereunder, and, unless otherwise agreed to in writing by the Owner, the fees of any Subconsultants retained by the DP shall be deemed covered by the Basic Compensation to be paid by the Owner to the DP.

Article 4 Reimbursable Expenses.

4.1 The Price for Basic Services includes all expenses that the DP may incur for services, supplies and travel, and as such expenses are not separately reimbursable. DP may request Owner to reimburse DP for any additional expenses for supplies and travel, provided that expenses associated with such additional travel (mileage, lodging and meals) is subject to Owner's current travel policies applicable to Owner's employees, unless Owner specifically authorizes a different reimbursement rate in writing in advance of the incurrence of such expenses by DP. No markups are allowable on Owner-approved reimbursable expenses. All Owner-approved reimbursable expenses shall be invoiced at and paid at actual cost.

In the event the DP is entitled to reimbursement of expenses under this DP Agreement, DP shall submit all receipts and any other reasonably required backup documentation to Owner within sixty (60) days after such expense is incurred. Owner shall not be required to reimburse DP for expenses received by Owner after that time.

Article 5 Owner's Responsibilities.

5.1 The Owner will provide all preliminary information available to Owner regarding the requirements for the Project including budget information and, unless otherwise agreed to in writing, Project Criteria, by the date of the Kick-Off meeting described in Section 2.1.3.2 above. The DP shall notify the Owner in writing if the DP requires additional information and of any information provided by the Owner which the DP believes to be unclear or insufficient for the successful completion of the Project.

5.2 The Owner will designate a representative, as set forth in Section 1.7.1, to act on its behalf with respect to the Project at all relevant times until Final Acceptance. Upon request, the Owner will provide the DP with a copy of the executed CM@Risk Agreement. Upon request, the Owner will provide the CM@Risk with an executed copy of this DP Agreement.

5.3 If the Owner should observe or otherwise become aware of any error or omission in the design of the work or any non-conformity with the Design Documents, Owner will give prompt written notice thereof to the DP and the CM@Risk.

5.4 If required in the Scope of Services or requested in writing by the Owner, Owner will reimburse the DP for the DP's reasonable actual cost for retaining surveyors, engineers, or other Subconsultants in connection with the following items, provided such information is specifically requested by the DP or the Owner and the necessity and cost is approved by the Owner in writing before it is incurred:

5.4.1 Survey of Existing Site Conditions. A complete and accurate survey of the building site and existing improvements including but not limited to the grades and lines of streets, pavements, and adjoining properties, contours of the building site, and full information as to sewer, water, gas, electrical service, telephone lines, or other utilities.

5.4.2 Report on Subsurface Investigations. Professional recommendations regarding local conditions accompanied by test borings, or test pits, soil bearing values, percolation tests, air and water pollution tests, ground corrosion and resistivity tests including necessary operations for determining subsoil, air and water conditions, and chemical, mechanical, laboratory or other tests.

5.4.3 All other tests required by mutual agreement between the Owner and DP. The surveys, reports, tests, and any other information described under this Article shall be obtained by the DP, unless otherwise specified by written amendment to this DP Agreement. In the event such information is furnished by the Owner, the DP, consistent with the Standard of Care and unless otherwise specifically provided herein, shall carefully examine them and advise the Owner of any inadequacies or deficiencies.

5.4.4 Unless otherwise required by the Standard of Care or this DP Agreement, DP shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure to persons of hazardous materials in any form, at the Project Site.

Article 6 Compensation for the DP's Services.

6.1 Payment for Basic Services and Reimbursable Expenses.

6.1.1 Payments for Basic Services and Reimbursable Expenses shall be pursuant to the Schedule of Payments, attached hereto, and incorporated herein. Payments to DP by Owner shall be made monthly to DP, within thirty (30) days after the Owner receives the DP's properly itemized Statement for Basic Services and Reimbursable Expenses in such form and accompanied by such supporting documentation as Owner may direct. If the Owner determines that any amounts requested by the DP are not due or are not sufficiently documented, the Owner will furnish the DP with notice of the reasons for withholding payment along with the Owner's payment on account of the balance of the statement. Amounts withheld will be paid upon proper resubmission.

6.1.2 For Basic Services, the DP's basic compensation shall be as set forth in Article 1.6, Fee.

6.1.3 When DP's basic compensation is based on a stipulated sum, the payments for Basic Services shall be allocated to each phase or subphase in accordance with Contract Time, and the Schedule of Payments.

6.1.4 When any part of the Project is deleted or otherwise not constructed, compensation for such portions of the Project shall be payable to the extent services are performed on such portions in accordance with the schedule set forth in the Schedule of Payments.

6.1.5 If and to the extent that the time initially established for completion of the Construction Administration Subphase of the Project is exceeded or extended beyond the established completion date through no fault of the DP as determined by the Owner, compensation for Basic Services required for such extended period of administration of the CM@Risk Agreement shall be computed and paid as set forth in Article 6.2 "Payment for Additional Services".

6.1.6 DP shall pay to each of its Subconsultants within thirty (30) days of receipt of its monthly payment from Owner, that amount properly due and payable to said Subconsultant for services performed within the payment period. DP shall, by an appropriate agreement with each of its Subconsultants, require each such Subconsultant to make payments to its sub-subconsultants in a similar manner. Upon request of the Owner, DP shall furnish documentary evidence of compliance with these payment provisions.

6.2 Payment for Additional Services.

6.2.1 Payments for Additional Services shall be made monthly, within thirty (30) days after the Owner receives the DP's properly itemized statement for additional services in such form and accompanied by such supporting documentation as Owner may direct and at such rates as have been previously agreed upon. If the Owner determines that any amounts requested by the DP are not due or are not sufficiently documented, the Owner will furnish the DP with notice of the reasons for withholding payment along with the Owner's payment on account of the balance of the statement. Amounts not paid may be resubmitted with proper documentation.

6.2.2 For such Additional Services as are in the nature of project undertakings beyond that specified for Basic Services, as approved in writing by the Owner, the DP's compensation shall be as follows: As per the hourly rates as listed in "Exhibit C – DP Proposal".

6.2.3 Reserved.

6.2.4 For all Additional Services, as approved in writing by the Owner, the DP's compensation will be computed using one or more of the following:

(i) Mutually agreed upon adjustments to the Stipulated Sum computed using the hourly rates as listed in "Exhibit C - DP Proposal";
(ii) A negotiated Fixed Fee amount; or
(iii) Other mutually agreed upon basis.

Article 7 Reserved.

Article 8 DP's Accounting Records.

8.1 The DP's records pertaining to its the Professional Services shall be kept on a generally recognized accounting basis and shall be available to the Owner or his authorized representative upon request for a period of five years from the date of Final Payment to the CM@Risk.

8.2 The DP shall retain and require its Subconsultants to retain, for inspection and audit by the Owner, all books, accounts, reports, files and other records relating to the negotiation and performance of this DP Agreement for a period of five years from the date of Final Payment to the CM@Risk.

8.3 Upon request by the Owner, the original or a legible copy of the originals of all such accounting records shall be produced by the DP or Subconsultants at the address designated by the Owner.

Article 9 Insurance and Indemnity against Liability.

The DP shall not commence any of the Professional Services until it obtains all required insurance and delivers to the Owner the certificates of insurance or other proof required by this DP Agreement. The DP shall not permit Subconsultants to commence Work until Subconsultants have complied with all applicable insurance requirements.

Insurance coverage as required by this DP Agreement shall be maintained until Final Completion of the Project, for the period(s) specified herein, and any longer specific periods set forth in the Contract Documents or available by law.

9.1 Minimum Scope and Limits of Insurance. Without limiting any liabilities or any other obligations of the DP, the DP shall provide and maintain, and cause its Subconsultants to provide and maintain, insurance coverage in such types and amounts as requested by Owner and with duly licensed or approved non-admitted insurers in the state of Arizona and rated at least A-VII in the current A.M. Best Company ratings. DP shall provide Owner with certificates of insurance showing Subconsultant's insurance if requested by Owner. The Owner in no way warrants that the above-required minimum insurer rating is sufficient to protect the DP or any Subconsultant from potential insurer insolvency.

9.2 Worker's Compensation Insurance. DP shall procure and maintain worker's compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over the DP, its employees, or both, engaged in the performance of services under this DP Agreement. DP shall maintain coverage through Final Completion for all employees engaged in the performance of services under this DP Agreement.

Worker's Compensation	Statutory
Employer's Liability	
Each Accident	$ 1,000,000
Disease – Each Employee	$ 1,000,000
Disease – Policy Limit	$ 1,000,000

The policy shall be endorsed to contain a waiver of subrogation against the City of Glendale, Arizona, and its officers, officials, agents, and employees for losses arising from the Professional Services performed by or on behalf of the DP.

This requirement shall not apply to: Separately, each Consultant, Contractor, Subcontractor or

Subconsultant that is exempt under A.R.S. §23-901, and when such Consultant, Contractor, Subcontractor or Subconsultant executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

9.3 Commercial General Liability Insurance. The policy shall be an occurrence form policy and shall include coverage for bodily injury, broad form property damage (including completed operation), personal injury (including coverage for contractual and employee acts), and contractual products. Said policy shall be endorsed to contain a severability of interest provision, and shall not contain any provision which would serve to eliminate third-party action over claims. DP shall maintain coverage through Final Completion for DP and shall require all Subconsultants engaged in the performance of services under this DP Agreement to do the same.

• Each Occurrence	$1,000,000
• General Aggregate	$2,000,000
• Products – Completed Operations Aggregate	$1,000,000
• Personal and Advertising Injury	$1,000,000
• Contractual Liability – Written and Oral	$1,000,000
• Fire Legal Liability	$50,000

The policy shall be endorsed to include the following additional insured language: "City of Glendale, Arizona, and its officers, officials and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the DP".

The policy shall be endorsed to contain a waiver of subrogation against the City of Glendale, Arizona, and its officers, officials, and employees for losses arising from work performed by or on behalf of the DP.

9.4 Business Automobile Liability Insurance.

Each Accident	$1,000,000

DP shall procure and maintain Commercial/Business automobile liability insurance with a minimum, combined single limit for bodily injury and property damage of not less than $1,000,000 each accident with respect to the DP's owned, hired, or non-owned vehicles assigned to or used in performance of the Professional Services.

DP shall maintain coverage through Final Completion for DP and all Subconsultants engaged in the performance of services under this DP Agreement.

The policy shall be endorsed to contain a waiver of subrogation against the City of Glendale, Arizona, and its officers, officials, and employees for losses arising from work performed by or on behalf of the DP.

The policy shall be endorsed to include the following additional insured language: "City of Glendale, Arizona, and its officers, officials and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the DP".

9.5 Professional Liability Insurance.

Limits:	
Each Claim	$3,000,000
Annual Aggregate	$3,000,000

These limits may be lowered for DP's Subconsultants with written approval from Owner.

9.5.1 The policy shall cover negligence, errors and omissions, and lack of ordinary skill for those positions defined in the DP Agreement, including the Scope of Work and, except as set forth in section 9.5.2, shall be an occurrence form policy.

9.5.2 In the event that the professional liability insurance required by this DP Agreement is written on a claims-made basis, DP warrants that any retroactive date under the policy shall be no later than the effective date of this DP Agreement, and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time of Final Completion.

9.5.3 DP is required to maintain unimpaired aggregate limits for this insurance. In the event aggregate limits become impaired by claims or payments during the coverage term required by this DP Agreement, DP shall notify Owner within 30 days of becoming aware of such impairment, and shall procure additional coverage to restore full aggregate limits. Any new coverage procured must have a retroactive date no later than the date the original limits became impaired.

9.5.4 The policy shall be endorsed to contain a waiver of subrogation against the City of Glendale, Arizona, and its officers, officials, and employees for losses arising from work performed by or on behalf of the DP.

9.6 Additional Insurance Requirements.

9.6.1 Reserved.

9.6.2 The DP's insurance coverage shall be primary insurance with respect to all other available sources, except for Worker's Compensation insurance. Any self-insurance or other insurance carried by the City of Glendale, Arizona, and its officers, or employees, if any, shall be excess and not contributory to the insurance provided by the DP.

9.6.3 Coverage provided by the DP shall not be limited to the liability assumed under the indemnification provisions of this DP Agreement.

9.7 Proof of Insurance. DP shall provide to the Owner certificates of insurance (ACORD form or equivalent approved by the Owner) evidencing the coverages and endorsements required herein as proof that the policies providing the required coverages and endorsements are in forceand effect prior to the DP's performing any of the Professional Services on behalf of the Owner. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind

coverage on its behalf. Such certificates shall identify this DP Agreement or be an annual or periodic certificate stating that it covers any and all projects or work performed by the DP during said period. Certificates of insurance should be addressed as follows:

City of Glendale
Risk Management Department
5850 W. Glendale Avenue
Glendale, AZ 85301

Owner has the right to request and to receive, within ten (10) business days, certified copies of any or all of the policies and/or endorsements required in this DP Agreement. Owner shall not be obligated to review same or to advise DP of any deficiencies in such policies and endorsements, and such receipt shall not relieve DP from, or be deemed waiver of, Owner's right to insist on strict fulfillment of DP's obligations under this DP Agreement.

9.8 Cancellation or Failure to Provide or Maintain Insurance. In the event any insurance coverage required in this Article 9 is canceled, reduced, or terminated, DP agrees to provide notice to Owner within 30 days and replace the insurance without any lapse of protection to Owner. Failure on the part of the DP to procure or maintain the required insurance shall constitute a material breach of this DP Agreement upon which the Owner may immediately terminate this DP Agreement, or at its discretion procure new or renew such insurance and pay all premiums in connection therewith, and all monies so paid by the Owner shall be repaid by the DP to the Owner upon demand (with interest), or the Owner may offset the cost of such premiums together with interest at the statutory legal rate against any money due the DP from the Owner. Costs for coverages maintained by the DP in excess of those required hereunder shall not be charged to the Owner.

9.9 Authorization to Obtain Information. The Owner may, and the DP hereby authorizes the Owner to, request and receive directly from insurance companies utilized by the DP in meeting the insurance requirements any and all information reasonably considered necessary in the sole discretion of the Owner.

9.10 Waiver. DP and its insurers providing the coverages required above shall and do hereby waive all rights of recovery against the City of Glendale, Arizona, and its officers and employees.

9.11 Claim Reporting. Any failure to comply with the claim reporting provisions of the policies or any breach of a policy warranty shall not affect coverage afforded under the policy to protect Owner.

9.12 Self-insurance. The policies specified herein may provide coverage which contains deductibles or self-insured retentions. Such deductibles and/or self-insured retentions shall not be applicable with respect to the coverage provided to Owner under such policies. The DP shall be solely responsible for deductible and/or self-insured retention, and Owner, at its option, may require the DP to secure the payment of such deductible or self-insured retention by a surety bond or an irrevocable and unconditional letter of credit.

9.13 Contractual Obligations. The stipulation of insurance coverages in this Article 9 or elsewhere, shall not be construed to limit, qualify, or waive any liabilities or obligations of DP, assumed or otherwise, under this DP Agreement

9.14 Indemnity. To the maximum extent allowed by law, DP shall indemnify, defend, save and hold harmless Owner, the City of Glendale, Arizona, and its respective officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, demands, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property to the extent caused, or alleged to be caused, by the failure to meet the Standard of Care, recklessness, or intentional wrongful conduct or errors or omissions by DP or DP's Subconsultants or any of their respective owners, officers, directors, agents, or employees, arising out of the Professional Services, this DP Agreement, or in connection with the Project or defects in the Professional Services. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such DP or contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is agreed that DP will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this DP Agreement, the DP agrees to waive all rights of subrogation against Owner, the City of Glendale, Arizona, and its respective officers, officials, agents and employees for losses arising from the work performed by the DP for the City of Glendale.

To the maximum extent allowed by law, the DP shall be responsible for and shall indemnify, defend, save and hold harmless Owner, the City of Glendale, Arizona from any and all claims, demands, losses, damages, liabilities, costs and expenses to the extent alleged to arise or result from any failure to meet the Standard of Care, recklessness, or intentional wrongful conduct or errors or omissions by DP or DP's Subconsultants in the performance of the DP's Professional Services ("Errors and Omissions Amounts").

9.14.1 DP shall defend any action or proceeding brought against Owner based on any assertion or claim that the Design Documents, the Professional Services, or any part thereof, constitutes infringement of any third party proprietary rights, trademark, patent or copyright, now or hereafter issued ("Proprietary Rights"). Owner agrees to give prompt notice in writing to DP of any such action or proceeding and to provide authority, information and assistance in the defense of same. DP shall defend, indemnify and hold harmless Owner from and against all damages and costs, including attorney's fees, awarded against Owner or DP in any such action or proceeding. DP further agrees to keep Owner informed of all developments in the defense of such actions or proceedings.

9.14.2 In the event that Owner is enjoined from the use of any Design Documents, DP Professional Services, or any part thereof in connection with any claim of infringed Proprietary Rights, DP shall at its sole expense take reasonable steps to procure the right or license to operate or use same. If DP cannot so procure the aforesaid right within a reasonable time, DP shall then, promptly, at DP's option and at DP's expense and in consultation with Owner (a) modify the Construction Documents, or DP Professional Services, so to avoid infringement of any Proprietary

Rights; or (b) replace said Construction Documents or DP Professional Services, or any part thereof with work that does not infringe or violate any such Proprietary Rights.

9.14.3 Sections 9.14.1 and 9.14.2 above shall not be applicable to any action or proceeding based on infringement or violation of a Proprietary Right (a) relating solely to a particular process or the product of a particular manufacturer specified by Owner and such processes or products are something other than that which has been offered or recommended by DP to Owner; or (b) arising from modifications to the Work by Owner or its agents after acceptance of the Work.

9.14.4 In addition to the other obligations of DP under this section 9.14, DP will be responsible for delays and for increases in the Owner's costs to complete the Project, to the extent caused by allegations that DP infringed proprietary rights of others.

Article 10 Ownership of Documents.

10.1 The plans, drawings, specifications, notes, reports, renderings, final models, design concepts and images, and all other documents and items to be prepared and furnished by the DP pursuant to this DP Agreement shall be the property of the Owner, including the right to use same on Owner's other projects without additional cost to the Owner. The DP shall maintain for its file copies of those documents, drawings and/or other products required by law or the standards of professional practices.

10.2 In the case of reuse or modification of the Design Documents by the Owner, the DP's name and seal shall be removed, and the DP shall not be liable to the Owner or third parties in their reuse.

10.3 By execution of this DP Agreement, the DP transfers and hereby assigns all copyright, ownership, and other intellectual property interest in the Construction Documents and the completed Project to the Owner and further agrees to execute any separate assignment agreement necessary to implement such transfer. DP may use on other projects any standard details and other parts of the Construction Documents not prepared exclusively for Owner.

Article 11 No Assignments.

11.1 The DP shall not assign, sublet or delegate his obligations under this DP Agreement without the prior written consent of the Owner and the Owner may withhold such consent for any reason.

Article 12 Requests for Contractual Adjustments and Dispute Resolution

12.1 Dispute Avoidance and Resolution.

12.1.1 The parties are fully committed to interacting and working with each other through the course of the Project, and agree to communicate regularly with each other at all times, including attending weekly on-site design and construction status meetings, so as to avoid, eliminate, or minimize any disputes, disagreements, claims, or controversies relating to the Project, (hereinafter "Disputes"). To the extent Disputes arise during the course of the Project that are not otherwise

resolved by applicable portions of this DP Agreement, both DP and Owner will attempt to resolve such Disputes in an amicable, professional, and expeditious manner at the lowest possible level so as to avoid unnecessary costs, delays, and disruptions to the Work. To this end, the DP's Representative shall refer the Dispute to the Owner's Design Phase Representative or Construction Phase Representative by written notice of same, not more than seven (7) calendar days from the occurrence of the event which gives rise to the Dispute, or not more than seven (7) calendar days from the date that the DP knew or should have known of the matter.

12.1.2 In the event a Dispute cannot be resolved through DP's Representative and Owner's Representative in accordance with Section 12.1.1, the DP's Senior Representative and Owner's Senior Representative shall meet within 48 hours of such field level failure to attempt to resolve the Dispute. The parties agree that prior to any meetings between the Senior Representatives, they will timely exchange with each other all relevant documents and information that will assist the Senior Representatives in resolving the Dispute. The Senior Representatives shall have seven (7) calendar days from the time they first met to resolve the Dispute. If the Senior Representatives, after meeting in good faith, determine that the Dispute cannot be resolved by them on terms satisfactory to both parties, the parties agree that the sole remedy for DP to pursue the Dispute is to submit the Dispute with Owner to arbitrate in accordance with the Dispute Resolution Procedures in attached Exhibit D.

12.1.3 The parties understand and agree that the process set forth in Section 12.1 and 12.2, provide the sole and exclusive remedy to resolve a Dispute. The Parties further understand and agree that asserting the Dispute in accordance with Section 12.1.1 and 12.1.2 is integral and essential to the Parties' ability to perform their obligations under this DP Agreement. Failure to properly utilize the procedures in Section 12.1.1 and 12.1.2 exposes the non-utilizing party to damages which are difficult to accurately quantify and ascertain. In addition to other available remedies, the Parties agree that failure to properly utilize the procedures in Section 12.1.1 and 12.1.2 will require the non-utilizing party to pay the other party **ten thousand and 00/100 Dollars ($10,000.00)** as liquidated damages, and not as a penalty. The damages awarded pursuant to this section shall be in addition to and not in lieu of other damages provided for under this DP Agreement.

12.2 Administrative Process.

12.2.1 DP and Owner agree that all other parties involved in the Project, including but not limited to the CM@Risk, can be made parties to the administrative process called for by Exhibit D and to this end, both DP and Owner will include appropriate provisions in all contracts they execute with other parties in connection with the Project requiring attendance and participation by those other parties in any such administrative proceeding.

12.2.2 Unless otherwise agreed in writing, the DP shall carry on the Work and maintain its progress during the course of any unresolved Dispute, and the Owner shall continue to make payments of undisputed amounts as they fall due to the DP in accordance with the Contract Documents.

12.3 Decisions of Owner.

Any failure of the Owner to make a decision within the time limits set forth herein shall not be construed as an acquiescence in all or any part of the DP's claim for relief.

Article 13 Termination or Suspension.

13.1 The Owner may suspend or terminate the Project at any time, for any reason, for the convenience of the Owner. Upon written notice of suspension or termination the DP shall immediately cease all work and not incur any further costs or expenses except as expressly permitted by the Owner in writing. If the Project is suspended for more than one calendar year through no fault of the DP, the DP shall be paid for work actually performed and this DP Agreement shall terminate. Otherwise, the DP shall recommence work upon written notice from the Owner and this DP Agreement shall remain in full force and effect.

13.2 The Owner may terminate this DP Agreement without penalty or further obligation pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting or creating the DP Agreement on behalf of the Owner is or becomes, at any time while the DP Agreement or any extension of the DP Agreement is in effect, an employee of or Subconsultant to the DP with respect to the subject matter of the DP Agreement. Such termination shall be effective when written notice from the Owner is received by the DP, unless the notice specifies a later time.

13.3 If Owner's performance under this DP Agreement or funds available for this Project and/or Work are dependent upon (i) the appropriation or allocation of funds by the City of Glendale City Council, and if the Council fails to appropriate or allot funds necessary for performance of the Project and/or Work, (ii) the sale of bonds or other similar instruments, and if such bonds or other instruments are not sold or proceeds are not available, or (iii) third party gifts, donations or grants, and if such gifts, donations or grants are not received in whole or in part by Owner; then Owner may provide notice of this to the DP, and either a) cancel this DP Agreement without further obligation of Owner except as set forth at the end of this paragraph, or b) delay the Project and/or Work for a period of up to six (6) months (without cost to the Owner), after which date if no such funds are legally available for performance of this DP Agreement, Owner may cancel this DP Agreement without further obligation of Owner, except as set forth at the end of this paragraph. If cancellation occurs, Owner shall reimburse DP for all Professional Services authorized and rendered prior to the cancellation.

13.4 The Owner may, by written notice to the DP, terminate this DP Agreement if it is found by the Owner that improper gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the DP or any agent or representative of the DP to any officer or employee of the City of Glendale, Arizona.

13.5 In the event of termination or cancellation of this DP Agreement, which is not the fault of the DP, the Owner shall pay to the DP only the compensation properly due for Professional Services DP properly performed on the Project and which were accepted by the Owner prior to the termination date and Reimbursable Expenses incurred as provided hereunder. Any post-termination wrap-up costs must be approved by the Owner in writing in advance of their

commitment or expenditure or DP specifically waives all rights to claim such post-termination costs not pre-approved hereunder.

13.6 This DP Agreement may be terminated by either party for default upon the defaulting party's failure to cure a material breach within seven (7) days after written notice by the non-defaulting party specifying the nature of the default.

13.7 At or prior to the termination date, all Drawings, Specifications, and other design, bidding or construction administration documents then available shall be provided by the DP to the Owner.

Article 14 Extent of Agreement.

14.1 This DP Agreement constitutes the complete and integrated agreement between the Owner and the DP, and it supersedes all prior negotiations, representations or agreements, either written or oral. This DP Agreement may be amended only by written instrument signed by a duly authorized representative of both parties.

Article 15 Reserved.

Article 16 Project-Specific Provisions.

16.1 Any additional provisions to the foregoing for this Project must be and are described in "Exhibit A – Scope of Services for DP".

Article 17 Compliance and Legal Worker Requirements.

17.1 Compliance.

17.1.1 The parties shall comply with all applicable state and federal statutes and regulations governing equal employment opportunity, non-discrimination, and immigration. In addition, the DP agrees to actively recruit in accordance with any affirmative action programs applicable to DP. The aforesaid provisions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The DP shall post in conspicuous places, available for employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause and shall insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

17.1.2 Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

17.2 Legal Worker Requirements.

17.2.1 The DP warrants that it is in compliance with all federal immigration laws and regulations that relate to its employees. Pursuant to Arizona Revised Statutes § 41-4401, the DP warrants that it is in compliance with the state law requirement that employers in Arizona verify the employment eligibility of employees, hired after December 31, 2007, through the E-verify program or any successor program. DP shall be responsible for all costs associated with compliance with such programs. DP shall flow-down each of the warranty requirements of this Article to all Subconsultants, and the DP shall require each Subconsultant to warrant compliance with the provisions of this Article. This Article is not applicable where the CM@Risk is a governmental entity nor is the DP required to pass this provision through to Subconsultants and sub-subconsultants who are governmental entities.

17.2.2 A breach of any of the warranties required under this Article shall be deemed a material breach of this DP Agreement subject to penalties, including termination for cause.

17.2.3 In addition to other audit provisions contained in this DP Agreement, the Owner retains the right to audit and inspect the papers of any DP or Subconsultant's employees who perform services to ensure that the DP or Subconsultant is complying with the warranty requirements of this Article.

Article 18 Miscellaneous.

18.1 Non-discrimination. The parties will comply with all applicable state and federal laws, rules, regulations, and executive orders governing equal employment opportunity, immigration, and nondiscrimination, including the Americans with Disabilities Act. **If applicable, the parties will abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.**

18.2 Interest. Payments are owed, were properly submitted and that have not been made to the DP within thirty (30) days of the due date, shall thereafter bear interest at the legal rate prevailing in the State of Arizona, as established at A.R.S. § 44-1201, as amended or superseded.

18.3 Reserved.

18.4 Severability. If any provision or any part of a provision of the DP Agreement shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to applicable laws by any authority having jurisdiction, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the DP Agreement, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

18.5 Sexual Harassment. The DP shall comply with the Owner's current policy regarding sexual harassment. The Owner prohibits sexual harassment by any person on the Owner's premises or at any Owner-affiliated functions or facilities.

18.6 Conflict of Interest. In accordance with A.R.S. § 38-511, Owner may cancel this DP Agreement within three years after the execution of this DP Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating this DP Agreement on behalf of Owner, at any time while this DP Agreement or any extension thereof is in effect, is an employee or agent of DP in any capacity or a consultant to DP with respect to the subject matter of this DP Agreement.

18.7 Governing Law. Interpretation of the DP Agreement and any and all disputes arising under or in connection with this DP Agreement shall be governed by Arizona Law. No suit or action shall be commenced hereunder by any claimant other than in the Arizona Superior Court in the County where Owner or the Project are located, and only after all contractual and administrative procedures have been exhausted.

18.8 Notice. Whenever the DP Agreement requires that notice be provided to the other party, notice will be deemed to have been validly given (a) if delivered in person to the individual intended to receive such notice; (b) if delivered or sent by registered or certified mail, postage prepaid to the address indicated in the DP Agreement; (c) if transmitted by facsimile, by the time stated in a machine generated confirmation that notice was received at the number of the intended recipient; or if d) if delivered by other means mutually agreed upon by the parties.

18.9 Headings. The headings used in this DP Agreement are for ease of reference only and shall not be in any way be construed to limit or alter the meaning of any provision.

18.10 No Waiver. The failure of either DP or Owner to insist, in any one or more instances, on the performance or timely performance of any of the obligations required by this DP Agreement, shall not be construed as a waiver or relinquishment of such obligation or right with respect to any other performance or obligation.

18.11 Assignment of Overcharge Claims. The Owner and DP recognize that in actual economic practice overcharges resulting from antitrust violations are in fact borne by Owner. Therefore, the DP hereby assigns to Owner any and all claims for such overcharges that may vest in DP during performance of the Project and for three (3) years after the final acceptance. The DP in all Subconsultant agreements shall require all Subconsultants to likewise assign claims for overcharges to Owner.

18.12 Successorship. The provisions of this DP Agreement shall be binding upon the parties, their employees, agents, heirs, successors and assigns.

18.13 Arbitration in Superior Court. Notice is hereby given, that in the event of litigation, as required by A.R.S. § 12-1518, the parties agree to make use of arbitration in all contracts that are subject to mandatory arbitration pursuant to rules adopted under A.R.S. § 12-133.

18.14 No Boycott of Israel. To the extent A.R.S § 35-393 through § 35-393.03 are applicable, the parties hereby certify that they are not currently engaged in, and agree for the duration of the Agreement to not engage in, a boycott of goods or services from Israel, as that term is defined in A.R.S § 35-393.

18.15 Uyghur Forced Labor Prevention Act (UFLPA). DP certifies that it does not currently, and during the term of this Agreement, will not use:

a) the forced labor of ethnic Uyghurs in the People's Republic of China;

b) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and

c) 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.

18.16 Complete Agreement. This DP Agreement constitutes the complete and integrated agreement between the Owner and the DP, and it supersedes all prior negotiations, representations or agreements, either written or oral. Each party acknowledges that it has had an opportunity to review this DP Agreement with counsel and this document shall be construed fairly and equitably so as to effectuate the intention of the parties irrespective of who is determined to have been the drafter of the document.

Agreement entered into as of the date and year first written above.

(The remainder of this page left blank intentionally. Signatures on following page.)

DP:
Entellus, Inc.
By Its: President

William A Linck
(Signature)

William A. Linck
(Printed Name)

President
(Title)

3/4/2024
(Date)

OWNER:
City of Glendale, Arizona
By its: City Manager

(Signature)

(Printed Name)

(Title)

(Date)

ATTEST:

Julie K. Bower (SEAL)
City Clerk

APPROVED AS TO FORM:

Michael D. Bailey
City Attorney

CITY OF GLENDALE, ARIZONA
EXHIBIT A – SCOPE OF SERVICES FOR DESIGN PROFESSIONAL TO STANDARD FROM AGREEMENT BETWEEN OWNER AND DESIGN PROFESSIONAL (CM@Risk Edition)
May 15, 2023 Edition

Issued for City of Glendale Project No. 232404

Waterline Improvements - 59th Avenue - Glendale Ave. to Northern Ave.
Feburary 26th, 2024

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EXHIBIT A

SCOPE OF SERVICES FOR DESIGN PROFESSIONAL

THIS EXHIBIT A - SCOPE OF SERVICES FOR DESIGN PROFESSIONAL is an exhibit to the City of Glendale Standard Form Agreement Between Owner and Design Professional (Construction Manager at Risk Edition) dated May 15, 2023, for Project No. 232404.

Section 1 General Project.

1.1 Project Description. This project addresses waterline improvements along 59th Avenue from Glendale Ave. to Northern. Ave. Project consists of replacing and upsizing existing 8-inch and 12-inch waterlines in 59th Avenue with new 12-inch waterlines from Glendale Ave. to Northern Ave. for an approximate total length of 5,280LF. Additional tasks include utility,m SRP and ADOT coordination and post design services during construction.

1.2 Construction Budget. The proposed construction budget for this Project is approximately one million, five hundred thousand dollars ($1,500,000). Design Professional fees, land acquisition costs, parking relocation reserve costs and other similar costs are not part of the project construction budget.

Section 2 Construction Manager at Risk Services.

2.1 The services of the Construction Management at Risk (CM@Risk) are anticipated to begin in September of 2025, with a GMP anticipated to be submitted prior to TBD).

Section 3 Project Schedule / Schedule of Milestones.

3.1 Below is a list of preliminary dates for completion of each subphase of this project. Delivery of all documents and services by DP for each subphase are required as follows:

a) Program Development Subphase	June 1st, 2024
b) Conceptual Design Subphase	September 30th, 2024
c) Schematic Design Subphase	December 31, 2024
d) Design Development Subphase	January 31st, 2025
e) 50% Construction Documents/ GMP-Setting Documents Subphase	January 31st, 2025
f) 100% Construction Documents Subphase	May 31st, 2025
g) Construction Administration Subphase	May 31st 2026
h) Closeout Subphase	July 31st, 2026
i) Warranty Subphase	September 30, 2027

3.2 DP shall inform Owner in writing as soon as possible, at any time during the project, of any expected delays to any subphase completion dates.

Section 4 Professional Services Requirements.

4.1 General Information.

4.1.1 The proposal for DP services shall include the requirements for all services described in the Standard Form Agreement Between Owner and Design Professional (Construction Manager at Risk Edition), and this "Exhibit A - Scope of Services for Design Professional".

4.2 Investigation of Existing Conditions.

4.2.1 DP shall review any available record documents / as-built drawings at City of Glendale offices relative to the existing site, building and adjacent utility infrastructure. Copies of pertinent drawings, if available, will be provided by the Owner for the use of and when requested by the DP.

4.2.2 DP shall review any available record documents / as-built drawings at the City, County, other municipalities, utility companies, and other similar agencies relative to existing site conditions.

4.2.3 DP shall perform site visits to verify adequacy of record drawings/as-built drawings for use in site demolition and design documentation.

4.3 Meetings and Communication.

4.3.1 DP shall be responsible for including ample time and travel in their fee proposal to address the meeting requirements described in the Standard Form Agreement Between Owner and Design Professional (Construction Manager at Risk Edition) and this "Exhibit A - Scope of Services for Design Professional" for this project. This project is an important project for City of Glendale and will require a generous amount of meetings for the DP to gain input, and for all stakeholders, as described below, to share information and maintain a clear understanding of project and the process. DP will attend the meetings with the following:

a) Owner Project Management staff and the user department to determine specific user requirements, to review project progress, and to engage in an exchange of ideas for the purpose of developing the project design.

b) Community representatives to continue established inclusive and supportive relationships.

c) Owner Project Management staff, CM@Risk and user representatives for coordination meetings during all project phases, design through construction. Meetings will be held weekly unless waived in writing by the Owner.

4.3.2 All communications on the project shall be with designated Owner Project Manager. Any meetings or communication with other Owner representatives shall be coordinated through the Owner Project Manager. In the event that the Owner Project Manager is not able to attend a meeting between DP and other representatives, the DP shall provide in writing to the Owner Project Manager minutes of the items discussed, actions required, or any other documents reasonably requested by the Owner, to keep the Owner Project Manager informed of any

discussions held.

4.3.3 At a minimum, the following meetings shall have DP involvement. Responsibility to lead the meeting or issue meeting minutes is noted. Additional meetings may be required by Owner, or required as a normal course of business, and shall not be additionally compensated by the Owner to the DP unless agreed to in advance in writing by the Owner, and unless the scope of such meetings could not have reasonably been expected given the scope of the project.

Meeting	Lead	Frequency	Issue Minutes
Kickoff	Owner	Once	DP
Partnering	Facilitator	As Needed	Facilitator
OAC – Design Phase	DP	Weekley	DP
Deliverables Format	DP	Once	DP
Presentation of Subphase Deliverables to User Groups	DP	As Needed	DP
Plan Review	Owner	Minimun Four	DP
Commissioning	Comm. Ag.	As Needed	Comm. Ag.
GMP-Setting	Owner	As Needed	DP
Pre-Construction	Owner	Once	DP
OAC – Construction Phase	CM@Risk	Bi-Weekly	CM@Risk
Pre-installation	CM@Risk	As Needed	CM@Risk
Design Related Subject – Before 100% CD Set	DP	As Needed	DP
Design Related Subject – After 100% CD Set	DP	As Needed	CM@Risk
Closeout	Owner	Once	CM@Risk
Others as required by Owner	TBD	One	TBD

4.4 Design Responsibilities.

4.4.1 The design of this Project should create an appropriate identity for the City of Glendale that uplift and enhance while respecting the context of the adjacent buildings and the surrounding vocabulary of architectural language.

Project design intent consists of replacing and upsizing existing 8-inch and 12-inch waterlines in 59th Avenue with new 12-inch waterlines from Glendale Ave. to Northern Ave. for an approximate total length of 5,280LF.

4.4.2 The DP shall consult with the Owner on all aspects of the design through the Owner Project Manager, as well as with other Owner entities.

4.4.2.1 It is the DP's responsibility to schedule, lead, present, document, and otherwise manage all meetings associated with the design of the project.

4.4.2.2 The design of the project is the responsibility of the DP, based upon its professional expertise, augmented by direction and input received from Owner personnel and the CM@Risk under contract to the Owner.

4.4.2.3 Reserved.

4.4.2.4 DP shall prepare and provide all documents in a form necessary for Owner to obtain any and all approvals required for approval of design and completed construction by all governmental authorities having jurisdiction over the Project and/or designated by the Owner. DP shall be responsible for coordination with the governing jurisdiction as follows:

1) The project utilities will serve by the Project.
2) The City Building & Safety Department and Fire Department will be responsible for building permitting, and fire sprinkler and fire alarm systems.
   a) The Owner's Project Manager will submit documentation to the departments for Building Permits.
   b) The CM@Risk will submit Fire Alarm and Fire Sprinkler Shop Drawings to the appropriate City Departments (Building & Safety Department and Fire Department) for installation permits.
3) The Owner will provide design review and construction inspection.
4) Local zoning and ordinances will apply. The Owner will provide site development guidelines specific to this project.

Owner will coordinate submittal and payment for City utilities connection fees

4.4.2.5 DP shall design the project in such a manner that the completion of project is in compliance with the City of Glendale Building and Fire Codes.

4.4.2.6 Accessibility Guidelines: In addition to any requirements in the City Codes, incorporate the guidelines listed below:

Governing Regulation: Department of Justice Regulations for Title II (28 CFR 35) and Title III (28 CFR 36) of the Americans with Disabilities Act of 1990, and the Americans with Disabilities Act Amendments of 2008.

Governing Regulation: Arizona Civil Rights Act, ARS Title 41, Article 41-1401 *et. seq.*

Americans with Disabilities Act Standards for Accessible Design (ADASAD), dated September 15, 2010.

If a conflict arises between City Code and regulation references, Owner will make a determination in consultation with the Project Team.

4.4.2.1 Occupational Safety Guidelines: In addition to any requirements in the City Code incorporate the guidelines listed below:

Occupational Safety and Health Administration (OSHA) Regulations 29 CFR 1910 (General Industry Regulations) and 29 CFR 1926 (Construction Regulations)

4.4.3 DP is responsible for obtaining coordination of design by all applicable professional disciplines including, but not limited to:

a) Complete civil (including surveying & drainage analysis)
b) Architectural
c) Acoustical
d) Landscaping (including irrigation)
e) Structural
f) Mechanical
g) Plumbing (including the performance design and specification of the addressable fire sprinkler system along with the architectural control of fire sprinkler head locations)
h) Electrical engineering (including telecommunications, fire alarm, and audio/visual systems)
i) Interior design (including FF&E)
j) Cost estimating

4.4.4 DP is responsible for incorporating accessible design principles to ensure that the completed facility provides full, equal, and unrestricted access to all users.

4.4.5 DP is responsible for sustainable and environmentally responsible design.

1) Design shall be responsive to the climate and environment in a way that minimizes energy consumption, yet creates a comfortable environment for staff and visitors.
2) Design shall demonstrate an understanding of the setting, both environmentally and as part of a campus fabric.
3) Facility shall be an exhibit of sustainability achievement in this climate.
    a) Minimum USGBC LEED Silver certification.
        i) DP shall provide LEED application processing through USGBC. The Owner shall be listed as the "Applicant" under the USGBC website application, and shall have access to the entire submittal form to ensure ownership and access to documentation at all times (including archived documentation).

4.4.6 DP is responsible for preparing a Life Cycle Cost Analysis.
a) Base and alternate design building envelope systems.
b) Base and alternate design Mechanical, Plumbing, and Electrical systems.
c) Total Cost of Ownership based on Statement of Probable Construction Cost and Life Cycle Cost Analyses.
d) Provide Life Cycle Cost Analysis with Program, Conceptual Design, Schematic Design, and Design Development Phase submittals

4.4.7 DP is responsible for preparing an Energy Model.
a) One as required for LEED certification.
b) Additional energy model that demonstrates anticipated performance in energy unit measures, and as compared to DSS system requirements.
c) Provide Energy Model with Program, Schematic Design, and Design Development Phase submittals

4.4.8 DP is responsible for preparing a Hydrology Report.

a) Provide hydrology report / stormwater mitigation report with Program, Schematic Design, Design Development, and Construction Documents Phase submittals

4.4.9 DP shall coordinate with the Arizona SHPO for projects in buildings listed on the National Register of Historic Places.

4.4.10 DP shall provide a Geotechnical Investigation Report , including professional recommendations regarding local conditions, accompanied by test borings or test pits, soil bearing values, percolation tests, air and water pollution tests, ground corrosion and resistivity tests including necessary operations for determining subsoil, air and water conditions, and chemical, mechanical, laboratory or other tests.

4.4.11 DP shall provide a Project Survey to meet the requirements outlined below. Provide the survey as part of the Deliverables package, and as a stand-alone AutoCAD file.

a) The City of Glendale's goal is to allow conventional ground surveys to proceed in a way that does not confuse the resulting measurements with State Plane values, while at the same time allowing an easy method for drawings/surveys to be translated back into their state plane position.

b) The surveyor's drawing layer containing survey monuments should be maintained as a layer within the architectural site plan (or whichever drawing is used as the common base plan to which all other design drawings are referenced)

4.5 Furniture, Fixtures and Equipment Design.

NOT INCLUDED

DESIGN OF FF&E BY DP:

4.5.1 The DP shall provide interior design services and documentation at each phase of the project for Owner review and approval. Unless otherwise indicated, FF&E will be procured and installed under a separate contract independent of the contract for construction.

4.5.2 FF&E may be selected within cost categories given the standard office and modular furniture categories (office system workstation/chairs/files, waiting area furniture, etc.). Within these categories, appropriate selections will be made for the project, in collaboration with the Owner Project Manager with input from a representative of the City Facilities Management Department. The only competitively bid, performance specification-based FF&E will be that which the DP recommends, and that may be determined appropriate for specific functions not covered by Agreement. In such case, the DP shall prepare a complete Bid Package set that will be used by Owner to request proposals from FF&E vendors.

4.5.3 Reserved.

4.5.4 During the Conceptual Design Phase, the DP shall meet with Owner Project Manager and appropriate user groups to define the project's FF&E requirements and budgetary goals, including assessment of existing FF&E to be relocated and new FF&E to be procured. The

DP shall, in collaboration with Owner Project Manager, coordinate with vendors on FF&E selections, availability and pricing. The DP shall provide a conceptual FF&E Budget inclusive of all items required to furnish the building and allow it to be functional (items identified as OPCI (Owner Provided Contractor Installed) or OPOI (Owner Provided Owner Installed). Conceptual level floor plans will be developed reflecting decisions reached with the Owner on relocated and new FF&E, and reflecting the approved FF&E budget.

4.5.5 At the Schematic Design Phase, the DP shall coordinate with vendors on FF&E selections, availability and pricing, and shall provide for Owner's approval preliminary FF&E layout plans, individual FF&E item selection and a Schematic FF&E Budget.

4.5.6 During the Design Development Phase, the DP shall coordinate with vendors on FF&E selections, availability and pricing, and shall be responsible for producing final FF&E layout plans, final FF&E selections, and final FF&E Budget.

4.5.7 During the 100% Construction Documents Phase, the DP shall coordinate with vendors on FF&E selections, availability and pricing. DP shall prepare final FF&E documents for Owner review and approval, as follows:

a) FF&E plans graphically shall show: the scaled relationship of all FF&E for all rooms, room numbers, and individual FF&E Item reference numbers.

b) FF&E Item List and Budget Spreadsheet shall reference: Department, Room Name, Room Number, Item Reference Number, Item Description, Item Specification Sheet, Vendor, Quantity, Net Price, and Extension of pricing for Items and subtotals for each Room. Provide separate spreadsheets sorting FF&E Item List and Budget by Vendor. Each spreadsheet shall include lines for freight, delivery, installation and tax.

c) Item Specification Sheet (for each category of item) shall list: Vendor, Manufacturer, Description, Model Number, Size, Quantity, Location(s), Special Notes, List Price, Discount, Net Price, Material Finish, and graphic representation of item.

d) Approved material finish samples in acetate sleeves shall list the following information: FF&E Item reference number(s), Vendor, Manufacturer and color or material name or number.

e) Vendor Data Sheet shall list: company names, addresses, phone/fax numbers, and primary contact.

The DP shall ensure that final FF&E layouts are fully coordinated with architectural, structural, mechanical (HVAC devices locations), telecommunication (data jacks), fire alarm and electrical (light fixtures, receptacles and light switches) design to assure the compatibility of the FF&E with the building power, lighting and other systems, prevent conflicts and ensure that all power and telecommunications outlets are provided as appropriate.

4.5.8 During the Construction Administration phase, DP shall prepare final FF&E documents as follows:

a) DP shall review FF&E shop drawings and submittals for conformance with final FF&E Documents.

b) DP shall coordinate with selected vendors to establish a delivery and installation schedule, and DP shall monitor and verify that the CM@Risk is on schedule to reach Substantial Completion as identified in the Contract Documents.

c) DP shall observe, as required, the installation of the FF&E and develop a punch list of incomplete or incorrect work requiring the Vendor's attention.

d) DP shall review the completion of all punch list items to establish the Date of Final Completion.

DESIGN OF FF&E BY DP & OUTSIDE VENDORS:

4.5.1 The DP shall provide interior design services and documentation at each phase of the project for Owner review and approval. Unless otherwise indicated, FF&E will be procured and installed under a separate contract independent of the contract for construction.

4.5.2 Furniture system will be selected within the available cost categories (linking agreement) given the standard office and modular furniture categories (office system workstation/chairs/files, waiting area furniture, etc.). Within these categories, appropriate selections will be made for the project, in collaboration with the Owner Project Manager, and coordination with such selected vendors shall be started as early as possible during design. Outside FF&E vendors will be selected through a formal RFP process. In such case, the DP shall prepare a complete Bid Package set that will be used by Owner to request proposals from Furnishing and Equipment vendors.

4.5.3 Reserved.

4.5.4 During the Conceptual Design Phase, the DP shall meet with Owner Project Manager (and as appropriate, the City's Facilities Management Representative) and appropriate user groups to define the project's FF&E requirements and budgetary goals, including assessment of existing FF&E to be relocated and new FF&E to be procured. The DP shall, in collaboration with Owner Project Manager, coordinate with vendors on FF&E selections, availability and pricing. Conceptual level floor plans will be developed reflecting decisions reached with the Owner on relocated and new FF&E, and reflecting the approved FF&E budget.

4.5.5 At the Schematic Design Phase, the DP shall provide for Owner approval preliminary FF&E layout plans, individual FF&E item selection and pricing, and shall coordinate with vendors on FF&E selections, availability and pricing.

4.5.6 During the Design Development Phase, the DP shall coordinate with vendors on FF&E selections, availability and pricing and shall be responsible for producing final FF&E layout

plans, final FF&E selections, and final FF&E budget.

4.5.7 During the 100% Construction Documents Phase, the DP shall submit the final FF&E documents for Owner review and approval, and shall coordinate with vendors on FF&E selections, availability and pricing. During the Construction Documents phase, DP shall prepare final FF&E documents as follows:

a) FF&E plans graphically shall show: the scaled relationship of all FF&E for all rooms, room numbers, and individual FF&E Item Reference Numbers.

b) FF&E Item List and Budget Spreadsheet shall reference: Department, Room Name, Room Number, Item Reference Number, Item Description, Item Specification Sheet, Vendor, Quantity, Net Price, and Extension of pricing for Items and subtotals for each Room. Provide separate spreadsheets sorting FF&E Item List and Budget by Vendor. Each spreadsheet shall include lines for freight, delivery, installation and tax.

c) Item Specification Sheet (for each category of item) shall list: Vendor, Manufacturer, Description, Model Number, Size, Quantity, Location(s), Special Notes, List Price, Discount, Net Price, Material Finish, and graphic representation of item.

d) Approved material finish samples in acetate sleeves shall list the following information: FF&E Item reference number(s), Vendor, Manufacturer and color or material name or number.

e) Vendor Data Sheet shall list: company names, addresses, phone/fax numbers, and primary contact.

The DP shall ensure that final FF&E layouts are fully coordinated with architectural, structural, mechanical (HVAC devices locations), telecommunication (data jacks), fire alarm and electrical (light fixtures, receptacles and light switches) design to assure the compatibility of the FF&E with the building power, lighting and other systems, prevent conflicts and ensure that all power and telecommunications outlets are provided as appropriate.

4.5.8 During the Construction Administration phase, DP shall prepare final FF&E documents as follows:

a) DP shall review FF&E shop drawings and submittals for conformance with final FF&E Documents.

b) DP shall coordinate with selected vendors to establish a delivery and installation schedule, and DP shall monitor and verify that the CM@Risk is on schedule to reach Substantial Completion as identified in the Contract Documents.

c) DP shall observe, as required, the installation of the FF&E and develop a punch list of incomplete or incorrect work requiring the Vendor's attention.

d) DP shall review the completion of all punch list items to establish the Date of Final Completion.

4.5.9 Owner FF&E purchasing requirements are as follows:

The City's Engineering Department, in conjunction with the Purchasing Department, will write and issue all Purchase Orders. The Vendor will be responsible for coordinating all orders with the manufacturer and the City, including product tracking, delivery, offloading, inspecting, installation, and service.

During the Construction Phase, the DP will be responsible for coordinating with the Owner, FF&E Vendor, and CM@Risk, the scheduled delivery of FF&E, the off- loading and inspection of delivered FF&E. The actual offloading and installation of FF&E will be by the Vendor. Following installation of FF&E, the consultant will be responsible for inspecting and punch-list of final installation and in securing all FF&E close-out documentation, including any applicable warranty, maintenance, and product guarantee material.

4.6 Design Review Submittals.

4.6.1 The DP shall provide submittals for the following project phases for review by the Owner:

a) Program Development Submittal
b) Conceptual Design Submittal
c) Schematic Design Submittal
d) Design Development Submittal
e) 50% Construction Documents / GMP Setting Submittal
f) 100% Construction Documents Submittal

Refer to "Attachment No. 1 - Design Professional Deliverables" at the end of the Scope of Services for detailed descriptions of Design Phase Submittals.

4.6.2 The Owner will prepare written Plan Review comments, which can be written comments on DP-provided review documents. As part of each project subphase submittal, the DP shall prepare written responses to these comments. To ensure that all issues are fully understood and resolved, responses shall be submitted to the Owner as soon as possible after receipt by the DP. The DP will not be authorized to proceed into the next subphase of the project until all comment responses have been reviewed and accepted by the Owner. Specific Owner review processes are as follows:

4.6.3 Reserved.

4.6.4 Reserved.

4.7 Design Phase Services and Documents.

4.7.1 General Information.

4.7.1.1 DP shall provide thorough coordination and review, and place professional seal on all documents.

4.7.1.2 DP is responsible for production of complete Drawings and Specifications, and assembly of the Project Manual, including a cover for each. Document covers shall include the Owner project name and number and date.

4.7.1.3 Drawings shall be prepared on the DP's own sheets, with Owner Project Number on all sheets. DP shall conform to the Owner drawing requirements listed in "Attachment 1 - Design Professional Deliverables". Specifications shall be prepared by the DP using CSI format, with City Project Number on all pages.

4.7.1.4 Reserved.

4.7.1.5 As part of Basic Services, project documents will be produced using computer aided design and drafting (CADD) software. Refer to "Attachment 1 - Design Professional Deliverables" in this "Exhibit A - Scope of Services for Design Professional" for drawing format, plotting requirements and submittal requirements.

4.7.1.6 The DP and CM@Risk shall coordinate the format to be used for each subphase estimating effort (Probable Construction Cost by DP and Estimate of Construction Cost by CM@Risk) to ensure that comparable formats are being used, and to ensure that differences between the two estimates are reconcilable. Differences between the DP and CM@Risk estimates must be reconcilable to the lowest level of detail of the estimate.

4.7.1.7 [OPTIONAL BUT RECOMMENDED] DP shall coordinate LEED application processing through USGBC. The Owner shall be listed as the "Applicant" under the USGBC website application, and shall have access to the entire submittal form to ensure ownership and access to documentation at all times (including archived documentation).

4.7.1.8 If applicable DP shall cooperate with Mechanical, Electrical and Plumbing ("MEP") testing and balancing (commissioning) consultant.

4.7.1.9 Reserved.

4.7.1.10 Reserved

4.7.2 Program Development Subphase Submittal - The DP shall provide services / deliverables as follows:

4.7.2.1 Reserved.

4.7.2.2 After reviewing the Project Criteria, the DP shall meet with the Owner and identified facilities users to gain an in depth understanding of Project needs and provide initial feedback to all attendees.

4.7.2.3 The Project Program shall consist of a detailed written report on the following subject matter:

a) Required size, use, occupancy, and furnishings/equipment requirements of all spaces.
b) Required relationships of spaces to other spaces.
c) Required utility services for all spaces and investigations into available utilities.
d) Environmental requirements of all spaces.
e) Traffic/circulation requirements within and without the building. Building service requirements.
f) Tabulation of all net assignable areas.
g) Explanation of probable non-assignable required areas.
h) Calculation of probable gross buildings area(s).
i) Code analysis. Describe all area separations, occupancy separations, compartmentation, fire-rated construction requirements, hazard classifications, exiting requirements, general code provisions, and project-specific provisions. Include diagrams describing these issues as applied to the specific project design.
j) Site analysis, including utilities, circulation, service, orientation adjacent structures, etc.
k) Energy Model for base and alternate building orientation and building envelope materials.
l) Storm Water Management Analysis and Plan.
m) Proposed LEED Score card for the Design (LEED Silver minimum requirement).
n) Life Cycle Cost Analysis for base and alternate design building envelope materials.
o) Life Cycle Cost Analysis for base and alternate design Mechanical / Electrical / Plumbing Systems.
p) Total Cost of Ownership Analysis, based on the Statement of Probable Construction Cost and Life Cycle Cost Analyses;
q) Review of CM@Risk Value Analysis, Constructability and Bidability submissions.
r) Provide budget estimates of FF&E.

4.7.2.4 Provide an estimate of Probable Construction Cost, "Level One". Assist the Owner in the analysis of the probable cost of the Project, based upon unit costs and/or systems involved, and make mutually agreed changes to the design concept to maintain the cost of the Project within the established budget. The DP shall reconcile the estimate of Probable Construction Cost for the work defined above with the estimate of Construction Costs as developed by the CM@Risk for the work defined above and with the amount within Owner's Project Budget available for costs of construction Work. This reconciliation shall provide an estimate within Owner's Project Budget available for costs of construction Work before the Conceptual Design Subphase as defined below may begin. Design Professional and CM@Risk shall reconcile their Cost estimates with each other and the Owner not later than (7) days after the completion of CM@Risk's estimate or receipt of Design Professional's estimate to assure the Owner that the

project cost is within the designated budget.

4.7.3 Conceptual Design Subphase Submittal - The DP shall provide services / deliverables as follows:

N/A.

4.7.3.1 A minimum of three distinctly different concepts shall be presented to the Owner before proceeding with final schematic documents. These concepts are to communicate site, functional and massing relationships. The concepts may be presented in diagrammatic form.

4.7.3.2 Include with each concept the approximate net assignable to gross area efficiency factors.

4.7.3.3 Include with each concept a code analysis. Describe all area separations, occupancy separations, compartmentation, fire-rated construction requirements, hazard classifications, exiting requirements, general code provisions, and project-specific provisions. Include diagrams describing these issues as applied to the specific project design.

4.7.3.4 Include with each concept a Probable Construction Cost estimate, "Level Two". The DP shall reconcile the estimate of Probable Construction Cost for the work defined above with the estimate of Construction Costs as developed by the CM@Risk for the work defined above and with the amount within Owner's Project Budget available for costs of construction Work. This reconciliation shall provide an estimate within Owner's Project Budget available for costs of construction Work before the Schematic Design Subphase as defined below may begin. DP and CM@Risk shall reconcile their Cost estimates with each other and the Owner not later than (7) days after the completion of CM@Risk's estimate or receipt of DP's estimate to assure the Owner that the project cost is within the designated budget.

4.7.3.5 Include with each concept a Total Cost of Ownership Analysis.

4.7.4 Schematic Design Subphase Submittal - The DP shall provide services / deliverables as follows:

N/A.

4.7.4.1 The DP shall review the Project Program and the approved Conceptual Design with the Owner and the CM@Risk, solicit and receive comments and recommendations from the CM@Risk and the Owner, confirm the Owner's and the CM@Risk's understanding of the subject matter, determine any additional, modified or alternative requirements, and obtain the Owner's approval.

4.7.4.2 The DP shall provide the Owner with a preliminary evaluation of the requirements of the Project based on the Owner's budget.

4.7.4.3 The DP shall review with the Owner and the CM@Risk alternate methods

and approaches to the design and construction of the Project and recommend the approach and jointly decide with the Owner and the CM@Risk the method best suited to the Owner's requirements and the Project.

4.7.4.4 Based upon the Project Program, the approved Conceptual Design, the discussions with the Owner and the CM@Risk, the amount within the Owner's Program Budget available for costs of the construction Work, the surveys, and the soils reports, the DP shall prepare Schematic Design Documents which will consist of drawings and other documents depicting the scale and relationship of Project components, for review with the Owner and the CM@Risk and for the Owner's approval.

4.7.4.5 Reserved.

4.7.4.6 The Schematic Design Documents shall consist of at least the following.

a) Preliminary site plan (1"=20'-0") showing walks, parking drives, landscaped areas, drainage, retention and detention areas.
b) Project survey. BY DP.
c) Geotechnical Report including soil boring data & consultant's foundation recommendations. BY DP, if needed.
d) Schematic floor plans, 1/4" = 1'-0".
    1) New work, all floor levels including walls, doors, windows equipment, furniture, location of plumbing fixtures, and structural grid.
    2) Remodeled areas of existing buildings, if any, including demolition.
    3) Existing building drawings for remodeled areas.
e) Reflected ceiling plan (if any special or unique features).
f) Exterior elevations, showing mechanical equipment.
g) Diagrammatic building sections, each direction through building with structure indicated.
h) Typical wall sections to show materials, relationships, and construction intent, including structure.
i) Room materials list and equipment outline.
j) Narrative of design rationale, code analysis, design load assumptions, and proposed structural systems together with justification of selected system.
k) Narrative of design rationale and demand assumptions, and descriptions of proposed mechanical system(s), electrical system(s), landscape irrigation system(s), and special system(s).
l) Preliminary mechanical equipment room layouts (major equipment only).
m) Preliminary one-line HVAC duct layouts and/or preliminary mechanical piping diagram including preliminary size and location of connection to utility supply.
n) Plumbing water and sewer main sizing with point of connection to public systems.
o) Fire protection hazard classification of system and preliminary size of supply main and identification of source location.
p) Preliminary one-line electrical distribution diagrams with preliminary load

and service sources identified.

q) Preliminary Draft of Project Manual including outline specifications.

r) Code analysis. Describe all area separations, occupancy separations, compartmentation, fire-rated construction requirements, hazard classifications, exiting requirements, general code provisions, and project-specific provisions. Include diagrams describing these issues as applied to the specific project design.

s) Structural, mechanical, electrical, and other calculations used by the DP as a basis for design, appropriate to the Schematic Design level.

t) Net assignable and gross area calculations, in conformance with Owner definitions for each category and functional group of space.

u) Schematic presentation shall include a rough model, and sketch perspectives of both the exterior and major interior features.

v) Communications and data transmission system infrastructure.

w) Energy Model for base and alternate building orientation and building envelope materials.

x) Storm Water Management Analysis and Plan.

y) Proposed LEED Score card for the Design (LEED Silver minimum requirement) – shall include checklist and strategy.

z) Life Cycle Cost Analysis for base and alternate design building envelop materials.

aa) Life Cycle Cost Analysis for base and alternate designs, for Mechanical / Electrical / Plumbing Systems.

bb) Total Cost of Ownership Analysis, based on the Statement of Probable Construction Cost and Life Cycle Cost Analyses.

cc) Review of CM@Risk Value Analysis, Constructability and Bidability submission.

dd) Provide budget estimates of FF&E.

4.7.4.7 Provide an estimate of Probable Construction Cost, "Level Three" based on the foregoing, with area breakdowns (net and gross) and analysis. The DP shall reconcile the estimate of Probable Construction Cost for the work defined above with the estimate of Construction Costs as developed by the CM@Risk for the work defined above and with the amount within Owner's Project Budget available for costs of construction Work. This reconciliation shall provide an estimate within Owner's Project Budget available for costs of construction Work before the Design Development Subphase as defined below may begin. DP and CM@Risk shall reconcile their Cost estimates with each other and the Owner not later than (7) days after the completion of CM@Risk's estimate or receipt of DP's estimate to assure the Owner that the project cost is within the designated budget.

4.7.5 Design Development Subphase Submittal - The DP shall provide services / deliverables as follows:

N/A.

4.7.5.1 Based on the Schematic Design Documents and any amendments approved

by the Owner in the Program or the Project Budget, the DP shall prepare Design Development Documents for review with the Owner and the CM@Risk and for the Owner's approval, consisting of drawings and other documents to delineate, and define the general design of the entire Project, including size and character as to architectural, structural, mechanical and electrical systems, materials, and any other Project elements as may be appropriate.

4.7.5.2 The Design Development Subphase Documents shall consist of at least the following:

a) Site survey and annotated site survey showing items for demolition, removal or relocation.
b) Site Plan:
   1) Contours/grading
   2) Paving, sidewalk, curb, fence, parking, and other site improvements (showing location and overall dimensions)
   3) Retaining walls
   4) Notation of existing memorial trees, plaques and any other marked items
c) Landscape plan:
   1) Planting plan
   2) Plant materials schedule
   3) Point of connection for power and water, and demand for each
d) Seismic Analysis based on IBC Code Requirements.
e) Foundation plans
   1) Footing and foundation sizes, reinforcing, elevations
   2) Below grade concrete wall thickness
   3) Waterproofing, dampproofing, and drainage
f) Structural framing plans:
   1) Horizontal and vertical member size, sample reinforcing
   2) Typical floor and roof details, thickness
   3) Typical exterior wall supports, bracing, ties, reinforcing
   4) Lateral bracing methods, location
   5) Fireproofing - NFPA designation
   6) Vibration isolation or other special details
   7) Design live and dead loads tabulated for all floors, areas, roofs
g) Exterior wall elevations, all planes.
h) Typical wall sections.
i) Typical roofing and flashing details.
j) Floor plans, all levels and roofs:
   1) Partition type identification
   2) Smoke and fire compartmentation
   3) Built-ins and fixed equipment shown and noted
   4) 1/4" scale furniture and movable equipment layouts, for ALL spaces
k) Reflected ceiling plan:
   1) Lights, diffusers, grilles, sprinkler heads and unusual conditions

l) Stair and elevator details and types.
m) Room finish and door schedules for all areas/spaces.
n) Miscellaneous specialties and equipment schedule.
o) Fixed equipment schedule, locations, and service requirements.
p) Plumbing systems:
    1) Fixture schedule, locations
    2) Equipment schedule, locations
    3) Water piping, locations (sizes for pipes larger than 1")
    4) Waste piping, locations (sizes for pipes larger than 4")
q) Roof drainage system, locations, and key sizes.
r) Fire protection systems:
    1) Location of check valves, building entrance, riser and drain
    2) Provide system performance design criteria
s) Mechanical systems:
    1) Equipment schedule, locations, sizes, types
    2) Chilled, condenser, hot water, steam, and condensate piping systems, locations, riser diagrams
    3) Supply, return, and exhaust duct layout
t) HVAC piping, locations, and sizes for pipes larger than 1"
u) Power distribution diagram:
    1) Power distribution equipment schedule, locations
    2) Feeder sizes
    3) Emergency generator size, location
    4) Uninterruptible power supply equipment size and location, if required
    5) Grounding, standard details
    6) Load calculations
v) Interior electrical plans:
    1) Fixture and switch locations with identification
    2) Typical receptacle and power outlet locations
    3) Special requirements noted
w) Motor control schedule with starter and circuit sizing.
x) Communication, data transmission and alarm systems.
y) Current update of Project Manual including Project specifications.
z) Code analysis. Describe all area separations, occupancy separations, compartmentation, fire-rated construction requirements, hazard classifications, exiting requirements, general code provisions, and project-specific provisions. Include diagrams describing these issues as applied to the specific project design.
aa) Structural, mechanical, electrical, and other calculations used by the DP as a basis for design, appropriate to the Design Development level.
bb) Net assignable and gross area calculations, in conformance with Owner definitions for each category and functional group of space.
cc) Materials and color boards, exterior and interior.

dd) Cut sheets of all plumbing, mechanical, electrical, and other special fixtures and equipment.
ee) Energy Model for base and alternate building orientation and building envelope materials.
ff) Storm Water Management Analysis and Plan.
gg) Proposed LEED Score card for the Design (LEED Silver minimum requirement) – shall include checklist and strategy.
hh) Life Cycle Cost Analysis for base and alternate design building envelope materials.
ii) Life Cycle Cost Analysis for base and alternate design Mechanical / Electrical / Plumbing Systems.
jj) Total Cost of Ownership Analysis, based on the Statement of Probable Construction Cost and Life Cycle Cost Analyses.
kk) Preliminary SWPPP, regardless of site size.
ll) Review of CM@Risk Value Analysis, Constructability and Bidability submissions.
mm) Provide budget estimates of FF&E.

4.7.5.3 The DP shall work in a collaborative manner with the CM@Risk in developing items defined above.

4.7.5.4 Provide an estimate of Probable Construction Cost, "Level Four", for the Design Development Subphase, including all proposed optional price items and cash allowances. The DP shall reconcile the DP's estimate of Probable Construction Cost for the work defined above with the estimate of Construction Costs as developed by the CM@Risk for the work defined above and with the amount within Owner's Project Budget available for costs of the construction Work. This reconciliation shall provide an estimate within Owner's Project Budget available for construction Work before the Construction Documents Subphase as defined below may begin. DP and CM@Risk shall reconcile their Cost estimates with each other and the Owner not later than (7) days after the completion of CM@Risk's estimate or receipt of DP's estimate to assure the Owner that the project cost is within the designated budget. No additional services expenses will be charged to the Owner by the DP to reconcile the CM@Risk's estimate and DP's estimate to within a difference of less than 5%. Efforts to reconcile the CM@Risk's estimate and DP's estimate to within a difference of less than 5% shall not be considered an acceptable Project delay by the Owner.

4.7.6 50% Construction Documents / GMP-Setting Subphase Submittal - The DP shall provide services / deliverables as follows:

N/A.

4.7.6.1 The Owner, with advice from the DP and CM@R, will establish the point in the development of the design and the corresponding Probable Construction Cost that the GMP will be established. The DP will provide a set of Design Documents and specifications that represent the current state of design for the project and that the CM@Risk will use to establish the GMP. This 50% Construction Documents / GMP-Setting Subphase Submittal shall address the

list of deliverables described in the Design Development Subphase Submittal. It is anticipated that the 50% Construction Documents / GMP-Setting Subphase Submittal will be delivered during the Design Development Subphase.

4.7.6.2 The DP shall respond to questions and provide design document clarification to the Owner and the CM@Risk as required to ensure accurate GMP assumptions. The DP shall participate in a GMP-Setting coordination meeting with the CM@Risk, and shall validate or identify inconsistencies within the CM@Risk's set of GMP Assumptions.

4.7.6.3 The DP shall prepare additional supplementary instructions (ASIs) as required. The DP shall provide original sealed copy to Martin A. Soma, PE, Senior Civil Engineer and copy to CM@Risk.

4.7.6.4 Provide an estimate of Probable Construction Cost, "Level Five", for the 50% Construction Documents / GMP Setting Subphase Submittal, including all proposed optional price items and cash allowances. The DP shall reconcile the DP's estimate of Probable Construction Cost for the work defined above with the Guaranteed Maximum Price (GMP) as developed by the CM@Risk for the work defined in the GMP-Setting Documents and with the amount within Owner's Project Budget available for costs of the construction Work. No additional services expenses will be charged to the Owner by the DP to reconcile the CM@Risk's estimate and DP's estimate to within a difference of less than 5%. Efforts to reconcile the CM@Risk's estimate and DP's estimate to within a difference of less than 5% shall not be considered an acceptable Project delay by the Owner.

4.7.6.5 If the Work is intended to be done in Phases with Multiple Bid Packages and some Phases are intended to start after the GMP is established but before all of the Construction Documents are complete, the DP's stamp shall be affixed to the documents for those initial Phases of the Work only after Owner review and incorporation of all final comments.

4.7.6.6 Permits are required as follows: Any permits required shall be submitted through the City of Glendale.

4.7.7 Construction Documents Subphase Submittal - The DP shall provide services / deliverables as follows:

N/A.

4.7.7.1 Based upon the approved Design Development Documents (DDs) and any further amendments of any kind approved by the Owner, the DP shall prepare detailed Construction Documents (CDs) setting forth the requirements for the construction of the entire Project, including complete Bid Documents, Drawings, Specifications and a revised estimate of Probable Construction Cost. The DP must be aware of, and conform with, the order of precedence provisions contained in the CM@Risk Agreement except as provided in this Paragraph. The Construction Documents are subject to review and approval by the Owner. The Construction Documents shall consist of at least the following:

4.7.7.2 The DP shall provide fully updated versions of the deliverable documents listed in the Design Development Subphase Submittal list, reflecting 100% complete drawings, checked and coordinated with all sub-consultants and Owner consultants.

4.7.7.3 Specifications.

a) All sections complete and edited project specific.
b) Written descriptions of all options (alternates), allowances, unit prices, and special construction scheduling requirements.
c) Table of contents for technical sections.
d) Schedule of drawing.

4.7.7.4 Final code analysis. Describe all area separations, occupancy separations, compartmentation, fire-rated construction requirements, hazard classifications, exiting requirements, general code provisions, and project-specific provisions. Include diagrams describing these issues as applied to the specific project design.

4.7.7.5 Final structural, mechanical, electrical, acoustical, vibration, lighting and other calculations used by the Design Professional as a basis for design.

4.7.7.6 Cut sheets for final selection of all equipment.

4.7.7.7 Final material and color boards.

4.7.7.8 Net assignable and gross area calculations, in conformance with Owner definitions for each category and functional group of space.

4.7.7.9 Final Submittal shall include all bidding documents, ready for reproduction, with all final comments from the Construction Documents submittal resolved.

4.7.7.10 DP's stamp shall be affixed to documents only after Owner review of the Construction Documents submittal and incorporation of all final comments.

4.7.7.11 Master plan/expansion information to inform future project planning teams.

4.7.7.12 Provide an estimate of Probable Construction Cost, "Level Five", for the Construction Documents phase, including all proposed optional price items and cash allowances. The DP shall reconcile the DP's estimate of Probable Construction Cost for the work defined above with the Guaranteed Maximum Price (GMP) as developed by the CM@Risk for the work defined above and with the amount within Owner's Project Budget available for costs of the construction Work.

4.7.7.13 Permits are required as follows: All design documentation and associated coordination required for governmental agency and utility providers plan review, approval, permitting and determination of the amount of fees to be paid are the responsibility of the DP. Permits required, associated agency coordination, and fees assessed to the project specifically

associated with means and methods of construction phase work are the responsibility of the CM@R. Plan review and permit fees paid to governmental agencies by Owner through DP or CM@Risk will be the actual amount assessed by the agency and without DP or CM@Risk mark-up.

4.8 Construction Phase Services and Documents.

4.8.1 Construction Administration Subphase.

4.8.1.1 Although activities in the Design Phase will not be complete and although the Design Phase will not end until the Design Phase activities are complete, the Construction Administration subphase (CA) shall commence with the Owner's acceptance of the final GMP and issuance of a Notice-to-Proceed with Construction or, if the Owner elects to proceed on a different delivery method determined by the Owner, award of the construction contract.

4.8.1.2 The DP shall review the CM@Risk project schedule submittal which reflects Project completion. CM@Risk shall continue to revise and submit said schedule until it is satisfactory in form to DP and acceptable to Owner.

4.8.1.3 Reserved.

4.8.1.4 The DP shall have authority to act on behalf of the Owner only to the extent provided in this DP Agreement and the CM@Risk Agreement, unless otherwise agreed in writing. The DP shall not have control 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, for the acts and/or omissions of the CM@Risk, any Contractor, any Subcontractor, or any other persons performing any of the Work.

4.8.1.5 At or near the commencement of the Construction Administration subphase, the Owner, CM@Risk and the DP will promptly schedule a Pre-Construction meeting to establish procedures for the Construction Phase of the Work, including, among other matters, expected handling of submittals and Owner Site activities schedules. In addition, the meeting shall include, but not be limited to, discussions of key contract provisions, unresolved schedule coordination concerns, procedures for paperwork processes, inspections, and acceleration of work and any other items of importance based on the Project's specific attributes and goals.

4.8.1.6 The DP shall attend progress meetings, to address and resolve such matters as procedures, scheduling problems, work deficiencies, submittals, Requests For Information (RFI's), and/or other matters relating to the completion of the Project in accordance with the Construction Documents and the Section 4.8.1.2 progress schedule. Special meetings shall be held as requested by the Owner or deemed necessary by the DP. Written minutes shall be distributed to all attendees within two (2) business days after each regular meeting and any special meeting in accordance with the "Meetings and Communication" section of "Exhibit A - Scope of Services for Design Professional".

4.8.1.7 Upon receipt, the DP shall review the proposed Schedule of Values submitted by the CM@Risk, and promptly provide a written evaluation to the Owner with appropriate comments.

4.8.1.8 The DP shall make visits to the site at least once a week to be knowledgeable about the progress and quality of the Work and to determine if the Work is proceeding in accordance with the construction schedule and particularly the Project schedule set forth in section 2.3.1.2. On the basis of these on-site observations, the DP shall keep the Owner informed of the progress of the Work. Field administration and observation of the Work shall include the DP's Subconsultants. The DP shall require each Subconsultant to provide such field administration and observation as required.

4.8.1.9 Weekly Progress Reports, including an analysis of the quality, and progress of the Work and anticipated delays, shall be submitted by the DP to the Owner during the Construction Administration subphase. DP shall immediately advise the CM@Risk of any anticipated delays reported to Owner. All reports shall be based on the personal first hand observations by DP, its staff, and its Subconsultants. DP shall also review the CM@Risk's Monthly Status Reports to further inform the DP's Weekly Progress Reports to the Owner.

4.8.1.10 Using the Schedule of Values and based on the CM@Risk's progress payment applications in hand, the DP shall determine the progress amounts payable to the CM@Risk and shall certify progress for payments within seven (7) days after receipt of the CM@Risk's Payment Applications. Certificates for Payment will be issued only for Work that has actually been performed in accordance with the Construction Documents. Within seven (7) days after receipt of the CM@Risk's Payment Applications, the DP shall specify in writing to Owner any reasons for withholding Certificates for Payment, in full or in part, as set forth in the CM@Risk Agreement. Owner, along with the DP, will concurrently review CM@Risk's Payment Application and make final determination on withholding Certificates for Payment, in full or in part of Payment Applications.

4.8.1.11 The DP shall interpret the requirements of the Construction Documents. The DP shall render written interpretations within seven (7) calendar days of receipt of any written request from the Owner or the CM@Risk. The interpretations shall be consistent with the intent of and reasonably inferable from the Construction Documents. The DP shall review RFIs submitted by the CM@Risk. Submissions of RFIs by the CM@Risk shall be acted on and returned to CM@Risk within seven (7) calendar days of receipt.

4.8.1.12 Within fourteen (14) calendar days following receipt of written notice of a claim or controversy between the Owner and the CM@Risk, the DP shall either request additional information from the Owner and/or CM@Risk regarding their position on the claim or issue an initial written determination. If the DP requests additional information as set forth herein, the DP shall issue an initial written determination within seven (7) calendar days after the DP receipt of such information.

4.8.1.13 The DP shall review and approve submittals, shop drawings, product data, samples, and other required submissions of the CM@Risk. Such submissions shall be approved only if they are in conformance with the design concept of the Project and in full compliance with Construction Documents. Submissions of CM@Risk shall be acted on and returned to CM@Risk within seven (7) days of receipt. If review and approval are not timely, the

DP shall immediately notify the CM@Risk and the Owner in writing stating the reason for the delay. Resubmittal shall be acted on and returned to the CM@Risk within four (4) days, except on complex submittals with significant deficiencies, wherein the submittal turnaround time shall be within seven (7) days.

Each Submittal and Shop Drawing from the CM@Risk must be accompanied by a transmittal letter containing a list of the titles and numbers of the Shop Drawings. Each series shall be numbered consecutively for ready reference. Each Submittal and Shop Drawing shall be marked with the following information:

a) Date of Submission
b) Name of Project
c) Location of Project
d) Branch of Work (Specification Section)
e) Project Number
f) Name of Submitting CM@Risk
g) Name of Subcontractors
h) Revision Number

Submittals identified by Owner shall be submitted to Owner for its review concurrent with review of same by DP. During Construction Phase, CM@Risk shall promptly provide Owner with an electronic copy of all approved submittals.

4.8.1.14 The DP shall promptly review and analyze all requests for Change Orders or Amendments including any documents offered to substantiate such requests. The DP shall fully evaluate the merit and requested costs related to each Change Order Request, submit timely written recommendations to the Owner, and assist the Owner in negotiations of those Change Orders. DP shall indicate concurrence within seven (7) days by written signature on all final Change Orders or Amendments to CM@Risk Agreement. DP shall perform the foregoing for Contingency Use Authorizations and Allowance Use Authorizations, if requested by Owner.

4.8.1.15 The DP shall not direct changes to the Work without prior written consent of the Owner. The DP may approve and direct minor changes in the Work provided those changes do not affect the project schedule or the GMP, and shall inform the Owner in writing in advance of such approvals or directions. Only the Owner may modify project schedule or make any changes that financially affect the Project.

4.8.1.16 The DP shall reject Work which, in the DP's opinion, does not conform to the Construction Documents, including applicable codes, statutes, or local or national standards, and shall notify the Owner and CM@Risk of the reasons for rejection. Prior to ordering or directing any special inspections or testing to confirm conformity of Work to the Construction Documents, the DP must obtain prior written approval of the Owner. The DP has authority to direct the CM@Risk to uncover portions of the Work, as provided in the General Conditions to the CM@Risk Agreement.

4.8.1.17 The DP shall notify the Owner if the CM@Risk refuses or fails to

prosecute Work, or any part thereof, with such diligence as will ensure its completion within the project schedule, or fails to complete the Work within the project schedule, or refuses to correct defective Work. The DP shall immediately notify the Owner upon the DP becoming aware of the situation, and the DP shall promptly consult with the Owner to resolve design issues, if any, involved in the situation reported on.

4.8.1.18 The DP shall perform all other responsibilities necessary to carry out the general intent and specific provisions of this DP Agreement and to fulfill the DP's role under the CM@Risk Agreement or to obtain the full compliance by the CM@Risk with the CM@Risk Agreement.

4.8.1.19 The extent of the duties, responsibilities and limitations of authority of the DP as a representative of the Owner as defined herein shall not be modified or extended after the date of this DP Agreement without the written consent of the Owner.

4.8.2 Closeout Subphase.

4.8.2.1 DP shall give Owner its best advice as to scheduling of a date for a pre-closeout meeting and participate in such pre-closeout meeting.

4.8.2.2 DP shall promptly review all closeout documents provided by CM@Risk and will advise Owner within seven (7) days of deficiencies ascertained, if any.

4.8.2.3 DP shall promptly review As-Builts provided by CM@Risk for accuracy and will note any changes required in writing. With respect to any changes or corrections in the Work which are made subsequent to Substantial Completion, such revisions shall be submitted to the DP for approval prior to Final Payment to CM@Risk taking place. DP shall deliver Record Drawings to Owner as soon as possible upon completion of construction. Final payment will be withheld until final documentation has been received, reviewed and approved by the Owner.

4.8.2.4 When the CM@Risk determines the Work, or a portion or segment of the Work, which the Owner wants to accept separately and make use of, and agrees in writing to do so, is Substantially Complete, the CM@Risk shall notify the Owner and the DP, and submit to the Owner and DP a comprehensive list of items to be completed or corrected as to the Work. Within five (5) business days of receipt of the CM@Risk's notice and list, the Owner, the DP and CM@Risk will jointly make an inspection of the Project to determine whether Substantial Completion has in fact occurred. If it is determined by the Owner that the Work, or the relevant portion thereof, is Substantially Complete, the Owner with the assistance of the DP shall issue the Certificate of Substantial Completion, with attached Punch List generated by the DP, stating the date of Substantial Completion. The Certificate of Substantial Completion shall be executed by the Owner, the DP and the CM@Risk. The CM@Risk shall thereupon proceed promptly to complete or correct Punch List items.

4.8.2.5 DP shall promptly review CM@Risk Operation and Maintenance manual(s) for completeness.

4.8.2.6 DP shall promptly provide a Record Drawings set incorporating CM@Risk's "As-Builts". DP shall provide professional services to transfer the CM@Risk-supplied As-Built information to the original Construction Documents for a final set of Record Drawings. Refer to "Attachment 1 - Design Professional Deliverables" at the end of this Scope of Services for detailed descriptions of Closeout Subphase Submittals.

4.8.2.7 Upon notification by the Owner, the DP shall conduct inspections to determine the dates of Substantial Completion and Final Completion, and issue the Certificate for Final Payment, if and as appropriate. The DP shall also assemble and transmit to the Owner a submittal consisting of all manuals, warranties, "As-Built" drawings, "Record Drawings", spares, and other items to be furnished by the CM@Risk under the Contract Documents, and certify to the Owner that the submitted package is complete, correct, and appropriate for the items therein represented.

4.8.2.8 Prior to Final Payment to the CM@Risk, the DP shall review all outstanding claims which have not been settled and shall prepare a written report outlining the background and status of all such claims, including the details of DP's analysis to date, and making recommendations as to the ultimate disposition of each such claim.

4.8.2.9 If the Owner furnishes keys to the DP to provide access to Owner's property, the DP shall assure that no such keys are duplicated, and shall return all such keys upon request of the Owner or prior to receipt of final payment, whichever is earlier. If the DP fails to return all keys furnished to it, the DP shall be responsible for and shall pay all costs (including materials and labor of Owner's personnel or others) associated with rekeying (removal of tumblers and insertion of new tumblers) or replacement of old locks which could be opened with keys furnished to the DP, and the parties agree that such cost may be deducted in full or in part from any funds remaining to be paid under the terms of this DP Agreement with any balance due immediately from the DP to the Owner.

4.8.3 CM@Risk Warranty Subphase.

4.8.3.1 The DP shall participate in a Warranty-Walk-through with the CM@Risk and the Owner at a date 24 months after the Date of Substantial Completion.

4.8.3.2 The DP shall coordinate with the MEP Testing and Balancing contractor and Commissioning Consultant.

4.8.3.3 The DP shall participate in a Warranty-Walk-through with the CM@Risk and the Owner at a date twenty-two (22) months after the Date of Substantial Completion.

Section 5 Fee Proposal and Contract Management.

5.1 Professional Fees.

5.1.1 See Standard Form Agreement Between Owner and Design Professional (Construction Manager at Risk Edition) - Article 6 and "Exhibit B – Schedule of Payments" for specific information.

5.1.1.1 The proposal for DP services includes the requirements for all services described in the Standard Form Agreement Between Owner and Design Professional (Construction Manager at Risk Edition), and this "Exhibit A - Scope of Services for Design Professional". The DP shall provide individual fees for the following Subphases: Program Development, Conceptual Design, Schematic Design, Design Development, 50% Construction Documents / GMP-Setting, Construction Documents, Construction Administration, Closeout, and Warranty Subphases as required in "Exhibit B – Schedule of Payments".

5.1.1.2 The DP proposal shall be provided in a format acceptable to the Owner.

5.1.1.3 "Exhibit C – DP Proposal" shall include a fee schedule to list hourly rates for prime and sub consultants, for principals and staff, as a basis for additional services, if required. (Note: Additional services must have prior written approval by the City of Glendale Engineering and Budget and Finance Department.)

5.1.2 DP shall clearly identify all Subconsultants performing work for this Project in the Fee Proposal. Any Subconsultants not originally identified in the Statement of Qualifications submittal resulting from the Owner's RFQ shall be submitted to the Owner for review and will be included in the project team only upon written approval of the Owner.

5.1.3 Reimbursable Expenses. See Standard Form Agreement Between Owner and Design Professional (Construction Manager at Risk Edition) - Article 4.

5.1.4 Invoices. All Invoices must be submitted on the City of Glendale approved forms and must be accompanied by back-up summarizing the payment status of the project. Reimbursable Invoices must also include copies of receipts for outside services, or a log documenting the specific nature of any inside services. Separate Invoices will be required for Fees and for Reimbursables.

Attachment No. 1
Design Professional Deliverables

Program Phase
- Report - PDF

Conceptual Design Phase
- Drawings - PDF

Schematic Design Phase
- Drawings - PDF
- Specifications - PDF
- Security Design - AutoCAD
- Geotechnical Investigation Report - PDF
- Project Survey - AutoCAD

Design Development Phase
- Drawings - PDF
- Specifications - PDF
- Site Plan - AutoCAD
- Room Numbering - PDF
- Security Design - AutoCAD
- Wi-Fi Design - AutoCAD

50% Construction Documents / GMP-Setting Phase
- Drawings - PDF
- Specifications - PDF

100% Construction Documents Phase
- Drawings - PDF
- Specifications - PDF
- GeoDatabase – AutoCAD
- Key Plans - AutoCAD
- TeleCom Bid - PDF

Closeout Phase
- Record Drawings - PDFs
- Record Drawings - Bound AutoCAD
- GeoDatabase Drawings - AutoCAD
- Key Plan Drawings - AutoCAD
- BIM Model

Detailed Deliverables Criteria

Package Requirements

- Total Path Name of Folders, Sub-Folders, and Documents, is limited to **130 characters**

Drawings / Specifications / Other Documents - PDFs

Printed/Plotted PDFs are preferred

- files must contain searchable text
- secure approval from the Project Manager for scanned PDFs

Combine all individual Documents contained in each submittal into a single PDF, in order

- PDF file size is not a consideration
- files should be consistent with printed submittals
  - for example: if a drawing set is two volumes, the PDFs should be two files
- name each item as the original item is titled
  - include date issued in the file name (YYYY/MM/DD)
- bookmark each individual item
  - bookmark drawings with Sheet Number and Title
  - bookmark specifications with CSI Division and Section
  - bookmark reports with Chapters and Sections
- create expanded bookmarks to simplify finding a specific item
  - for example: Architectural / Structural / Etc.
    Division 02 / Division 03 / Etc.
    Chapter 1 / Chapter 2 / Etc.
- combine multiple PDFs into a single ZIP folder

Photos, Videos, Etc.

- group similar photos / videos into folders and sub-folders
- group by date, topic, etc.
- combine all folders into a single ZIP Folder

ZIP Folders

- contain multiple PDFs, Folders, etc.

Room Numbering PDFs Provide Floor Plans **only**

Printed/Plotted or Scanned PDFs are acceptable

Combine all individual Floor Plans into a single PDF, in order

- number and name each Floor Plan as the original Sheet is titled
- bookmark each individual Floor Plan

TeleCom Bid PDFs

Provide **all** TeleCom Sheets and all Electrical Sheets, **only**

Printed/Plotted or Scanned PDFs are acceptable

Combine all Drawings into a single PDF, in order

- number and name each Drawing as the original Sheet is titled
- bookmark each individual Sheet
- create expanded bookmarks to simplify finding a specific sheet
  - for example: TeleCom / Electrical
    Lighting Plans / Power Plans / Etc

Bound AutoCAD Drawings

Deliver Project Record Drawings to the Owner electronically.

1. The intent of these guidelines is to enable the Owner to collect, archive, and use at a later date digital copies of Record Drawings for any construction project. These projects include (but are not limited to) new construction, renovations, additions, utility work, and interiors work. The Owner considers it important to maintain accurate records of new work for several reasons:
   - Accurate information (e.g. underground utilities and tunnels) for future projects.
   - Accurate base drawings for future projects, enabling consultants to modify existing drawings instead of creating new drawings from field measurements.
   - Accurate data for the Enterprise Geographic Information System (EGIS).
2. The D-B is responsible for verifying the accuracy of all drawings. Appropriate notation should be attached (Record Drawings) or detached (official seals and signatures) from each drawing. There should be an overall consistency in the format of the Record Drawings as further described below.
3. The Transmittal for the Record Drawings Submittal should contain the following information:
   - Project Name
   - Firm name and contact information
   - Discipline (Architectural, Mechanical, Landscape, etc.)
   - *RECORD DRAWINGS*
   - Date of the Record Drawings Submittal

Format:

Drawings: All drawings shall be submitted in an AutoCAD *.dwg* format

Graphics: Preferred formats for graphics (photos, sketches, renderings, etc.) include: *.jpg* and *.pdf*

Content of Record Drawings Digital Submittal:

Submit a digital copy of each sheet in the set, and a list of each sheet by page number with the contents of the sheet and the name of any raster images that are attached.

Record Drawings Label:

- Revision dates should be updated for each submission in the title block (with the last date being the date of the Record Drawings submission).
- *Record Drawings* should be clearly seen in bold letters along the bottom of the sheet or near the title block on the right side of the sheet.

Digital Record Drawings:

- The electronic copies of the Record Drawings should be usable in AutoCAD Release 2013, however the drawings themselves don't need to be drawn in this release. Usable is defined as being able to easily identify the file needed, open it, select the appropriate layout tab (representing one sheet from the hardcopy set), and send it to the plotter without have to assign proxy graphics, reconnect (and find) External References (referred to as xrefs from here forward) and raster images, or find a missing *.ctb* or *.stb* (plot style tables) file.
- Each *.dwg* file should be named using the following format: *Sheet Number-xyz* where *xyz* is a project number or project name or other further identifying label as determined by the DP. For example: *Sheet A1.00* should not be in a file called *A1*, but it should be in a file called *A1.00-xyz.dwg*

- If more than one sheet is contained in one file, then the file should be composed to only have one sheet per file and then naming each accordingly.
- Each sheet should be set up on a layout tab of its own in paper space. Each layout tab should be renamed with the sheet number represented on it. Any unused layout tabs should be deleted.
- All *xrefs* should be bound. Any *xrefs* no longer needed in a drawing should be "detached" and not just "unloaded".
- In order to prevent missing raster images, before transferring the digital files, place all raster images in the same folder as the file into which they are referenced.
- When the transferred files are opened, individual files should be available either in the root folder or in the first sub-folder. In other words, one shouldn't have to open 2 or more sub-folders to find a file.
- The file with pen weights (*.ctb* or *.stb* file) should be included in the transfer, along with any other non-standard font or shape files.
- Each layout should be set up for either 24"x36" or 30"x42" according to the following settings:
  Plotter:
  None Plot
  Area:
  Layout
  Pen Assignment: As per D-B's own *.ctb* or *.stb*
  file Scale: 1:1
  Viewports: Should be zoomed to appropriate scale and locked
  Paper size: ArchD (24"x36") or E1 (30"x42") that matches the plotted drawing set

GeoDatabase AutoCAD Drawings

Provide the following composite drawings derived from the project documents:

1. The intent of this guideline is to insure new facility information is available to City of Glendale in a form and at a time in the design process which will enable a more effective update City of Glendale Citywide Database.
2. To meet this intent, an electronic drawing file will be created through compositing a number of CAD layers from different source drawings. This new drawing file will then be transformed into the original units, coordinates, and scale of the City's GeoDatabase. If desired, several composite drawings may be created (e.g., one for site layers, one for architectural layers, etc.) so long as they all end up in the same original GeoDatabase coordinates.
3. Composite Drawing Elements: The composite drawing(s) should include at a minimum the following plan view elements separated into distinct layers by feature types (e.g. survey monuments and monument labels on different layers, trees on one layer and shrubs on a different layer, etc.). Name each layer within categories as noted below (e.g. Hardscape, Irrigation, Building Footprint, etc.) name beginning with a standard prefix for that category (e.g. Plant_xyz.dwg, Irrig_xyz.dwg, etc.). Name layers in a way which legibly communicates the subject layer. This could be in one or several drawings, although all layers must spatially register with each other properly.

Site Information

Existing survey control monuments referenced in the project, and new ones added
Planting plan
Hardscape plan (walks, streets, curbs, parking, parking lot striping, etc.)
Irrigation lines and components
Building footprint
Underground site utilities and/or building connection points
Site work / grading
Drainage
Other site structures proposed by the project

Building Information

Survey control monuments
Building footprint and roof outline
Architectural plans for each floor Interior layout plans for each floor
Structural plans for each floor
Plumbing plans for each floor
Mechanical Piping and HVAC Ductwork plans for each floor
Electrical Power and Lighting plans for each floor
Telecommunications (voice, data, audio/visual, etc.) plans for each floor

4. Transform this composite drawing(s) into the original state plane coordinates (see Survey Requirements defining units, scaling and other transformation parameters in this Exhibit B). Do not include imbedded blocks or x-refs (i.e., explode all elements/layers so that they permanently reside in the drawing and its transformed coordinates).
5. Provide an Index in Word or Excel, for each composite drawing, listing and describing drawing category prefixes, which are used to group the layers by features and by subject. Also list the names for each category and briefly describe contents.
6. Provide the Enterprise GeoDatabase Drawings at two times:
   with the 100% Construction Documents
   with the Project Record Drawings

Project Survey AutoCAD Drawings

Save files in AutoCAD release 2013

Site Plan AutoCAD Drawings

Provide Overall Site Plan **only:**

- survey monuments
- buildings
- hardscape (walks, streets, curbs, parking, parking lot striping, etc.)
- other site structures proposed by the project

Save files in AutoCAD Release 2013

No coordinate shift or other modifications required in this drawing; just the Site Plan current at that phase, in project coordinates

Key Plans AutoCAD Drawings

Provide **separate** DWG file **for each floor**

Save files in AutoCAD Release 2013

Formatting of AutoCAD Floor Plan Files

- include Room Numbers and Room Names
- depict each wall as two lines **only** (representing the finished surface on each side of the wall)
- include only lines for each floor on that Floor Plan
- remove intermediate lines, hatching, and symbols from within the walls
- include the project's original site survey monuments on a separate layer, on the Floor Plan which includes the building's Main Entrance
- additional construction-phase monuments may be added as well
- include separate hardscape layers on the Floor Plan which includes the building's Mai Entrance
- existing hardscape layers (pre-construction streets, curbs, walks, site walls) from the project's site survey
- sidewalk and pedestrian hardscape layers created for the project
- include doors and windows
- include major pieces of fixed equipment, casework, lab benches, etc.
- remove dimensions
- remove notes and keynotes
- remove structural grid
- remove symbols
- set up layer and block properties to facilitate black-on-white printing on a variety of plotters
  - avoid nested blocks and hard-set colors

<u>Security Design AutoCAD Drawings</u>

Provide Floor Plans, Reflected Ceiling Plans, and Sections **only**

- save files in the AutoCAD Release 2013 Formatting of AutoCAD Files
- include Room Numbers and Room Names
- include doors and windows
- include major pieces of fixed equipment, casework, lab benches, etc.
- remove dimensions
- remove notes and keynotes
- remove structural grid
- remove symbols
- set up layer and block properties to facilitate black-on-white printing on a variety of plotters
  - avoid nested blocks and hard-set colors

<u>Wi-Fi Design AutoCAD Drawings</u>

Provide Site Plans, Floor Plans, and Reflected Ceiling Plans **only**

- save files in the AutoCAD Release 2013

Provide BIM Model

- (see detailed requirements below)

Formatting of AutoCAD Files

- include Room Numbers and Room Names
- include doors and windows

- include major pieces of fixed equipment, casework, lab benches, etc.
- remove dimensions
- remove notes and keynotes
- remove structural grid
- remove symbols
- set up layer and block properties to facilitate black-on-white printing on a variety of plotters
- avoid nested blocks and hard-set colors

BIM Model

A complete BIM Model, including all design disciplines, in the Latest Release of Revit.

Submitting the BIM Model **does not** exempt the D-B from submitting Record and As-Built Drawing AutoCAD and PDF files, as described in this document.

EXHIBIT B

SCHEDULE OF PAYMENTS

Specific payments to DP are subject to and will be made following DP's completion of the following order of milestones in accordance with the Contract Time:

Milestone Number	Activity	Payment
1.	Program Development Subphase	$20,750.84
2.	Conceptual Design Subphase	$40,672.95
3.	Schematic Design Subphase	$38,805.15
4.	Design Development Subphase	$38,542.65
5.	50% Construction Documents / GMP-Setting Subphase	$43,559.89
6.	100% Construction Documents Subphase	$41,016.65
7.	Construction Administration Subphase	$76,961.05
8.	Closeout Subphase	$5000
9.	Warranty Subphase	$5000
10.	Reimbursable Expenses	$53,855.00
	Total:	$364,164.18

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EXHIBIT C

DP PROPOSAL

Entellus, Inc. Proposal Dated Feburary 26th, 2024

(14 pages)

SCOPE FOR DESIGN SERVICES
Waterline Improvements:
59th Ave. - Glendale Ave. to Northern Ave.

Project No. 340.079

EXHIBIT C

February 26th, 2024

Project Description

The City of Glendale (City) has selected Entellus, Inc (Engineer or Consultant) to complete waterline improvement design services in 59th Ave., from Glendale Ave. to Northern Ave. The intent of this project is to replace the existing aging 8-inch and 12-inch waterlines along this alignment with new 12-inch ductile iron waterlines.

The following scope of work outlines the various tasks that will be completed as part of the design phase of this project. This scope covers the detailed design of waterline replacements in 59th Ave. only.

Design Services Objective

This Exhibit describes the scope of services and the responsibilities of the Engineer and the City in connection with the design requirements and preparation of a complete set of construction documents and any necessary special documents for the Waterline Improvements in 59th Avenue, Glendale Avenue to Northern Avenue.

The Engineer will perform the engineering services required to prepare a set of construction documents which consist of a topographic survey, data collection, utility coordination, site visit, ADOT coordination, cost estimates, and other project features as may be identified by the City.

The proposal also includes allowances to provide post design services for 59th Ave. as well as perform a geotechnical investigation, and other services as requested by the City.

TASK SERIES SUMMARY

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Task 101 – Manage Sub-Consultants 3
Task 102 – Conduct Meetings 3
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Task Series 100 – Project Management Services During Design

The Engineer will perform project management services as described in the following subtasks:

Task 101 – Manage Sub-Consultants

The Engineer will select and secure services of those firms providing specific or specialized design services for the Project as accepted by the City in the fee proposal. The Engineer will prepare the scope of services performed by each sub-consultant and monitor the sub-consultant's work for timeliness and that it meets Project requirements. The Engineer will coordinate and incorporate the drawings and specifications that are prepared by the sub-consultant(s) into the Project construction documents. The Engineer will review sub-consultant's progress payments for accuracy and completeness and make payments as provided in the sub-consultant's agreement. It is assumed that the Engineer will spend two (2) hours a month on this task during the design phase of this project.

Task 102 – Conduct Meetings

The Engineer will conduct meetings and/or workshops with City staff to discuss specific technical aspects of the design; progress in the development of the design, drawings, and specifications; and related issues that may affect Project results. The meetings or workshops will consist of the following:

- Attend Kick-off Meeting with Project Manager and City staff.
- Conduct the Design Review Meeting at the conclusion of each design progress deliverable (30%, 60%, and 90%) period.
- Attend up to two (2) additional Project Meetings and/or meetings with the residents as called for by the City.

The Engineer will prepare and distribute meeting agenda and document meeting minutes for each meeting and workshop.

It is assumed that each meeting will be in person and last up to one (1) hour, and that the Engineer will need to prepare for the meeting and provide documentation of information presented at the meeting.

Task 103 – Monitor Progress and Prepare Status Reports

The Engineer will report the progress of design activities through the use of a computer-based Project management and scheduling system, which includes all major work activities. The Engineer will update and review the design schedule and deliverables with the City monthly. Progress and schedule tracking will consist of:

- Developing a detailed Project design and deliverable schedule by task
- Monthly tracking and reporting on progress

It is assumed that the Engineer PM will spend two (2) hours a month on this task during the design phase of this project.

Assumptions:

- It is assumed that the City will communicate with the sub-consultants through the Engineer.
- It is assumed the design effort will have five (5) meetings or workshops at two hours each plus time to prepare meeting materials and meeting results. Task 102 is not intended for the Engineer's private internal staff meetings.

City Input:

- The City will acknowledge the list of sub-consultants to be used by the Engineer and state any objection if necessary.
- The City will have representation at progress/review meetings and workshops and provide input and feedback.
- The City will review and provide comments on status reports and progress schedules.

Deliverables:

- Design and deliverable schedule
- Meeting and workshop agenda and documentation of meeting results
- Reports on design progress and estimates for cost

Task Series 200 – Data Collection and Research

The following tasks shall be completed prior to production of detailed construction drawings.

Task 201 – Topographic Assessment

The Engineer will provide topographic surveying of 59th Avenue from Glendale Avenue to Northern Avenue, approximately 5,200 linear feet. The Engineer anticipates obtaining cross sections for the full width of the existing and proposed right-of-way which will allow us to have a better understanding of the terrain. The survey cross sections will be obtained every 50 feet and will include the road centerline, edge of pavement, top and bottom of ditches and any other hardscape found in the area, such as existing power poles, driveways, signs, traffic signals, water valves, manhole rims and inverts, culverts, fire hydrants, trees, culvert headwalls, etc.

This task will include the following:

1. Project control survey
2. Topographic survey (total station)
3. Existing manhole inverts / water valve nuts (assume 60 manholes)

Task 202 – Existing Mapping / Bluestake

The Engineer shall contact Bluestake and obtain a list of existing utilities that are within the project limits. The Engineer will reach out to each one of those utility companies with any infrastructure in the project area to obtain their mapping and confirm there are no other new utilities or facilities that may affect this project. The Engineer will review this information and will utilize it to prepare the CAD basemap, which will be the basis of the plan and profile sheets.

Task 203 – Field Visit

The Engineer shall conduct one (1) site visit to review the topographic survey data, assess general conditions of the project area, and review drainage and utility features.

Task 204 – Data Research

The Engineer will conduct research of available City records to obtain any as-built / record drawing information that may have an impact within the project limits.

Assumptions:

- Aerial mapping for photos and/or topography and contours are not included in this scope
- The Engineer will obtain the City's existing utility mapping. Any expenses associated with reproduction will be reimbursed by the City.

City Input:

- The City will confirm the limits of the survey

Deliverables:

- CAD Basefiles
- Record of survey signed and sealed by a Professional Engineer

Task Series 300 – Utility Coordination (Included under Task Series 500)

Task Series 400 – Design Development

This task describes the submittals the Engineer will prepare for City review as progress is made on the design and preparation of construction drawings and specifications. Deliverables from the Engineer will be reviewed by the City and others during the design development period.

The design shall conform to the latest edition and amendments of the following:

- City of Glendale Engineering Design and Construction Standards, 2015
- Maricopa Association of Governments (MAG) Uniform Standard Specifications and Details

The Engineer will prepare submittal packages when the design, drawings, and specifications are considered 30, 60, 90 and 100 percent (%) complete, Final construction set of drawings. One (1) full-size and PDF copies of the plans and progress submittal packages will be included with each submittal for City review. The level of detail on the drawings in each progress submittal should be as given below unless the City needs other information to complete its review.

Task 401 – 30% Submittal

The 30% Submittal shall include all existing base map information (survey, utilities, right-of-way, etc.)The waterline design shall be placed on combined plan and profile sheets at a horizontal scale of 1" = 20' and a vertical scale of 1" = 2'. These drawings are used to convey information about the Project's overall appearance and configuration to the City and other Project stakeholders. For the 30% plans, the waterline profile will not be included. These drawings are not intended for construction. Technical Specifications are not included with this submittal.

The 30% submittal shall include:

- Front End Sheets (Cover, Notes and Legend, Key Maps, Horizontal Control, etc.)
- Waterline Plans (No Profile)
- Detail Sheets
- 30% Construction Cost Estimate

Task 402 – 60% Submittal

The 60% Submittal shall include all existing base map information (survey, utilities, right-of-way, etc.). The drawings will include plan and profile for the waterline improvements, construction notes, and key details needed for the construction of the new infrastructure. The profile shall show existing utility crossings and their approximate elevations. A proposed pothole and excavation list will be provided with the 60% submittal package. Refer to Task 502 for additional information on the potholing scope. This plan set will incorporate any review comments received from the City or other stakeholders at the 30% stage. These drawings are not intended for construction. Technical Specifications will be provided on the plans.

The 60% submittal shall include:

- Front End Sheets (Cover, Notes and Legend, Key Maps, Horizontal Control, etc.)
- Waterline Plan and Profile Plans
- Detail Sheets
- 60% Construction Cost Estimate
- Proposed Pothole and Excavation List
- Utility Conflict Letters

Task 403 – 90% Submittal

The Engineer shall prepare 90% submittal to include pre-final plans. It will include plan and profile for the waterline improvements, construction notes and any details needed for the construction of the new infrastructure. This plan set will incorporate any review comments received from the City or other stakeholders at the 60% stage. The following items are included in this submittal:

The 90% submittal shall include:

- Front End Sheets (Cover, Notes and Legend, Key Maps, Horizontal Control, etc.)
- Waterline Plan and Profile Plans
- Detail Sheets
- 90% Construction Cost Estimate
- Utility Conflict Letters

Task 404 – 100% Submittal

The Engineer shall prepare a 100% construction set and bid package for the project. It will include plan and profile for the waterline improvements, construction notes and any details needed for the construction of the new infrastructure. This plan set will incorporate any review comments received from the City or other stakeholders at the 90% stage. As part of this submittal, the Engineer will submit plans to the City's Development Services Department for review and approval.

The following items are included in this submittal:

- Final Construction Plans
- Final Construction Cost Estimate
- Bid Schedule
- Response to 90% Review Comments

This plan set will be sealed and signed and will be ready to release for construction. The City will prepare the formal contract documents.

Task 405 – Opinions of Construction Cost

The Engineer shall submit a detailed project construction cost estimate with the construction plans, technical specifications and contract documents. Estimates will be provided for the 90% submittal only.

Cost estimates will be based on typical items in MAG format.

Task 406 – Design Memorandum

The Engineer shall prepare and submit a brief memorandum summarizing the project scope and highlighting the key components of project. This memorandum will be used to obtain the ATC certificate from MCESD. This memorandum will be signed and sealed by the Engineer.

Assumptions:

- Electronic submittals (PDF) will be provided at each design stage
- Bond hard copies to be provided as requested.

City Input:

- City to collect their review comments and provide review comments at every submittal stage

Deliverables:

The DELIVERABLE TABLE below shows the anticipated items for this project:

	Description	30%	60%	90%	100%
DESIGN PHASE	PLAN SET 1 Cover Sheet 1 General Notes Sheet 1 Legend and Abbreviations 1 Key Map and Typical Sections 1 Survey Control Map 11 Waterline Plans and Profiles 4 Detail Plans *20 Total Sheets Anticipated*				
	Electronic Copies of Plan Set (PDF), and DWG/DXF files	1	1	1	1
	Cost Estimate (PDF)			1	
	Design Memorandum			1	

Task Series 500 – Allowances

The following allowances will be included as part of this scope:

Task 501 – Geotechnical Design Services (N&M)

Geotechnical Services shall be provided by Ninyo & Moore (N&M) per the attached Scope and Fee Proposal. The proposed scope of work includes a preliminary geotechnical evaluation and a pavement/trench recommendation for project area.

Task 502 – Utility Coordination

This allowance shall be used to submit and address comments as needed to utility companies within the 59th Ave. corridor. Engineer shall prepare utility base map in accordance with the latest version of the Arizona Utility Coordinating Committee "Public Improvement Project Guide" (PIPG).

Engineer shall prepare base maps and transmit them to the utility companies for verification and comment concerning the utility location. Engineer shall incorporate the utility company comments into the plan set.

Engineer shall identify conflicts, with input from utility companies, which might affect alignment or grade and recommend alignment alternatives. Potholing for the purpose of locating underground utilities is included as an allowance. Engineer will provide the City with a list of recommended potholing locations for approval prior to utilizing the allowance.

Engineer shall send 30%, 60%, 90% and 100% plans and electronic base files as requested to each utility company for their review with a request for written response from each company to determine the disposition of their utility as it relates to the planned roadway improvements.

Task 503 – SRP Coordination

This allowance shall be used to submit and address comments as needed to SRP. Engineer shall coordinate with SRP as needed to navigate the existing irrigation and power facilities along the 59th Ave. alignment. The design drawings will comply with the latest version of SRP's design standards (if required). Engineer shall identify any conflicts that require SRP's utilities to be relocated and shall advise the City. If required, Engineer will assist City with easement acquisition within SRP right-of-way through coordination and preparation of exhibits. Design drawings will be submitted to SRP throughout the utility conflict process. Legal descriptions and permit fees are not anticipated and therefore not included in this proposal.

Task 504 – ADOT Coordination

This allowance shall be used to submit and address comments as needed to ADOT. Engineer shall coordinate with ADOT as needed to accommodate the waterline connection design at the 59th Ave. and Glendale intersection. The design drawings will comply with the latest version of ADOT's design standards (if required). Engineer will prepare any exhibits, drawings or

calculations which may be requested in order to obtain any required approvals/permits/agreements from ADOT for the design approval. If required, Engineer will assist City with easement acquisition within ADOT right-of-way. Design drawings will be submitted to ADOT throughout the design process to achieve design approval. The final Encroachment Permit from ADOT will require traffic control plans prepared by the Contractor. It is anticipated that the Engineer will support the Contractor in obtaining this permit, but the Contractor will be responsible for obtaining it. Legal descriptions are not anticipated and therefore not included in this proposal. Any required permit fees shall be paid out of the provided allowances as required.

Task 505 – MCESD ATC/AOC

This allowance shall be used to submit and address comments as needed to MCESD for ATC and AOC approval. Engineer shall submit pre-final drawings to MCESD for review and comments. The Engineer will receive and respond to review comments from MCESD and incorporate necessary revisions into the drawings in order to obtain an Approval to Construct (ATC) certificate.

Following completion of construction, Engineer will prepare and submit all required documents to obtain an Approval of Construction (AOC) certificate.

Task 506 – 59th Ave. Post Design Services

This allowance has been provided for post design services for the 59th Avenue Waterline Improvements as defined in this scope of work. This includes submittal/shop drawing review (30 Assumed), responding to RFI's (15 assumed) during construction, responding to questions, providing design clarifications (5 assumed), and coordinating other information requested during construction as needed. Also included is preparing the Record Drawings for the City according to Glendale Standards. Additionally, the Engineer shall attend up to twenty-four (24) construction progress meetings (assumed to be virtual) and six (6) site visits. For 59th Ave., construction is estimated to take approximately 12 months. No inspections are included in this scope.

Task 507 – Subsurface Utility Investigation

This allowance may be used for the non-destructive subsurface investigation of existing utilities along 59th Ave. from Glendale Ave. to Northern Ave. This work will be performed per the attached scope and fee by Al Field & Associates.

Task 508 – Printing & Reproduction & Permitting Fees

This allowance will cover printing and photocopying services required beyond that identified in the base scope of work. Permitting Fees (regular review and not expedited) for ATC and ADOT Design Review are also included here. Reimbursable fees will be billed as a direct expense for costs actually incurred to the City. Any fees or expenses in addition to those identified herein will need to be covered by additional or reallocated funds.

Task 509 – Owner's Contingency

This allowance will cover additional work outside the scope requested by the City. Examples of additional services may include additional reviews, additional meetings, additional survey, utility design, etc. The Engineer will not utilize this allowance without prior written approval from the City.

Assumptions, Clarifications and Exclusions:

- All required permitting fees shall be paid directly from the provided allowances and billed at actual cost.
- No SRP permit is anticipated for this project. Utility coordination is provided under the appropriate Tasks 503 above.
- Post Design Services Task 506 shall be for 59th Ave. only and shall not include inspection or construction administration services but only meeting attendance and submittal, RFI and RFC review and responses.
- Task 507 does not include any utility coordination efforts.

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END OF EXHIBIT

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EXHIBIT D

Dispute Resolution Procedures

1. Disputes.

1.1 Each Dispute arising out of or related to this Agreement (including Disputes regarding any alleged breaches of this Agreement) which cannot be resolved by applications of sections 12.1-12.2, shall be initiated and decided under the provisions of this Exhibit.

1.2 DP and City shall each designate in writing to the other party, from time to time, a member of senior management who shall be authorized to attempt to expeditiously resolve any Dispute relating to the subject matter of this Agreement in an equitable manner.

1.3 A party shall initiate a Dispute by delivery of written notice to the members of management designated by the respective parties under Section 1.2 of this Exhibit.

1.4 The parties must:

(A) Attempt to resolve all Disputes promptly, equitably and in a good faith manner; and

(B) Provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any such Dispute.

1.5 With respect to matters concerning modification of the Design Process or any schedule, DP must first follow the provisions of any Claim procedure established by the Agreement before seeking relief under these Procedures.

2. Emergency Arbitration.

2.1 If the parties are unable to accomplish resolution of a Dispute, the expedited resolution of which either party considers necessary to prevent or mitigate a material delay to the critical path of the Services (a "Time Sensitive Dispute") within two days after the Time Sensitive Dispute has been initiated by a party, either party may thereafter seek emergency relief before an emergency arbitrator (the "Emergency Arbitrator") appointed as follows:

(A) The parties will exercise best efforts to pre-select an Emergency Arbitrator within 20 days after entering into this Agreement;

(B) If the Emergency Arbitrator has not been selected at the time a party delivers Notice of a Time Sensitive Dispute, the parties will each select a representative within one day after the Notice is delivered and the two representatives will then select the Emergency Arbitrator by the third day following delivery of the Notice.

(C) The Emergency Arbitrator shall be an attorney with at least ten (10) years' experience with commercial construction legal matters in Maricopa County,

Arizona, be independent, impartial, and not have engaged in any business for or adverse to either party for at least ten (10) years.

2.2 The Emergency Arbitrator will conduct a hearing and render a written determination on the Dispute to both parties within five business days of the matter being referred to him or her, all in accordance with Rules O-1 to O-8 of the American Arbitration Association ("AAA") Commercial Rules-Optional Rules for Emergency Protection Commercial Rules ("AAA Emergency Rules").

2.3 Although the hearing will be conducted using AAA rules, unless both parties agree otherwise, this dispute process will not be administered by the AAA but will be conducted by the parties in accordance with these procedures.

2.4 If, however, an Emergency Arbitrator has not selected within three days after delivery of the Notice, either party may upon three days additional notice, thereafter seek emergency relief before the AAA, in accordance with the AAA Emergency Rules, provided that the Emergency Arbitrator meets the qualifications set forth above.

2.5 All proceedings to arbitrate Time Sensitive Disputes shall be conducted in Glendale, Arizona.

2.6 Presentation, request for determination (i.e., a party's prayer), and the Emergency Arbitrators decision will adhere to the procedures required in Section 3.6 of this Exhibit.

2.7 The finding of the Emergency Arbitrator with respect to any Time Sensitive Dispute will be binding upon the parties on an interim basis during progress of the Services, subject to review de novo by arbitration after the Project Substantial Completion Date.

2.8 The time and extent of discovery will be as determined by the Emergency Arbitrator.

(A) Discovery orders of the Emergency Arbitrator will consider the time sensitivity of the matter and the parties desire to resolve the issue in the most time and costs efficient manner;

(B) The parties are obligated to cooperate fully and completely in the provision of documents and other information, including joint interviews of individuals with knowledge such that the matter moves toward resolution in the most time and costs efficient manner and the Emergency Arbitrator is empowered to fashion any equitable penalty against a party that fail to meet this obligation.

3. Non-Emergency Arbitration.

3.1 Except as provided in Section 5 of this Exhibit, any Dispute that is either a non-emergency Dispute that has not been resolved by negotiation, or a de novo review of an AAA emergency arbitration will be decided by binding arbitration by a panel of three arbitrators in accordance with, but not necessarily administered by, the Construction Industry Rules of the AAA.

(A) The parties shall each select an arbitrator within 15 days after notice that a party desires to resolve a dispute by arbitration.

(B) The two arbitrators shall then each select a third arbitrator. If an arbitrator is not selected within any such 15 day period, then the arbitrator shall be appointed by the AAA.

3.2 The arbitrator(s) shall meet the qualifications of Emergency Arbitrators as provided in Section 2 of this Exhibit.

3.3 The arbitrators do not have the authority to consider or award punitive damages as part of the arbitrators' award.

3.4 In connection with such arbitration, each party shall be entitled to conduct up to five depositions, and, no less than 90 days prior to the date of the arbitration hearing, each party shall deliver to the other party copies of all documents in the delivering party's possession that are relevant to the dispute.

3.5 The arbitration hearing shall be held within 150 days of the appointment of the arbitrators.

3.6 At the arbitration hearing, each party will argue its position to the arbitrators in support of one proposed resolution to the dispute (a "Proposed Resolution").

(A) Each party's Proposed Resolution must be fully dispositive of the dispute.

(B) The arbitrators must select one Proposed Resolution by majority consent and are not free to fashion any alternative resolutions.

(C) The parties must submit their proposed resolution of the matter to the arbitrators and the other party 15 days prior to the date set for commencement of the arbitration proceeding.

(D) The decision of the arbitrators will be forwarded to the parties within 15 days after the conclusion of the arbitration hearing.

(E) The decision of the arbitration panel is final and binding on the parties and may be entered in any court of competent jurisdiction for the purpose of securing an enforceable judgment.

(F) All costs and expenses associated with the arbitration, including the reasonable legal fees and costs incurred by the prevailing party, must be paid by the party whose position was not selected by the arbitrators.

4. Continuing Work. Unless otherwise agreed to in writing, DP must continue to perform and maintain progress of the Work during any Dispute Resolution or arbitration proceedings, and City will continue to make payment to DP in accordance with the Agreement.

5. Exceptions.

5.1 Neither City nor DP are required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defenses in any action that is commenced by a third-party who is not obligated by contract to arbitrate disputes with City and DP.

5.2 City or DP may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice (but only to the extent the lien or stop notice the party seeks to enforce is enforceable under Arizona law), including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.

5.3 This Exhibit does not apply to, and may not be construed to require arbitration of, any claims, actions or other process undertaken, filed, or issued by the City of Glendale Building Safety Department, Code Compliance Department, Police Department, Fire Department, or any other agency of City acting in its governmental permitting, for the benefit of public health, safety, and welfare, or other regulatory capacity.

5.4 In connection with any arbitration, the arbitrators do not have the authority to, and may not enforce, any provision of the Federal or Arizona Rules of Civil Procedure.

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