

**CITY CLERK
ORIGINAL**

C-11036
08/10/2016

**PROFESSIONAL SERVICES AGREEMENT
SERVICE AGREEMENT FOR GAS CHROMATOGRAPH AND MASS SPECTROMETER**

This Professional Services Agreement ("Agreement") is entered into and effective between CITY OF GLENDALE, an Arizona municipal corporation ("City") and Full Spectrum Analytics, Inc., a California corporation, authorized to do business in the State of Arizona, ("Consultant") as of the 10 day of August, 2014 ("Effective Date").

RECITALS

- A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in **Exhibit A**, Project (the "Project");
- B. City desires to retain the professional services of Consultant to perform certain specific duties and produce the specific work as set forth in the attached **Exhibit B**, Project Scope of Work ("Scope");
- C. Consultant desires to provide City with professional services ("Services") consistent with best consulting or architectural practices and the standards set forth in this Agreement, in order to complete the Project; and
- D. City and Consultant desire to memorialize their agreement with this document.

AGREEMENT

The parties hereby agree as follows:

1. Key Personnel; Other Consultants and Subcontractors.

- 1.1 **Professional Services.** Consultant will provide all Services necessary to assure the Project is completed timely and efficiently consistent within Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other consultants or contractors, retained by City.
- 1.2 **Project Team.**
 - a. **Project Manager.**
 - (1) Consultant will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, complete the project and handle all aspects of the Project such that the work produced by Consultant is consistent with applicable standards as detailed in this Agreement; and
 - (2) The City must approve the designated Project Manager.
 - b. **Project Team.**
 - (1) The Project Manager and all other employees assigned to the Project by Consultant will comprise the "Project Team."
 - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the Project by Consultant.
 - c. **Discharge, Reassign, Replacement.**
 - (1) Consultant acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in **Exhibit A**.
 - (2) Consultant will not discharge, reassign, replace or diminish the responsibilities of any of the employees assigned to the Project who have been approved by City without City's prior written consent unless that person leaves the employment of Consultant, in which event the substitute must first be approved in writing by City.

- (3) Consultant will change any of the members of the Project Team at the City's request if an employee's performance does not equal or exceed the level of competence that the City may reasonably expect of a person performing those duties, or if the acts or omissions of that person are detrimental to the development of the Project.

d. **Subcontractors.**

- (1) Consultant may engage specific technical contractors (each a "Subcontractor") to furnish certain service functions.
- (2) Consultant will remain fully responsible for Subcontractor's services.
- (3) Subcontractors must be approved by the City.
- (4) Consultant will certify by letter that all contracts with Subcontractors have been executed incorporating requirements and standards as set forth in this Agreement.

2. **Schedule.** The Services will be undertaken in a manner that ensures the Project is completed timely and efficiently in accordance with the Project.

3. **Consultant's Work.**

3.1 **Standard.** Consultant must perform Services in accordance with the standards of due diligence, care, and quality prevailing among consultants having substantial experience with the successful furnishing of Services for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 **Licensing.** Consultant warrants that:

- a. Consultant and its Subconsultants or Subcontractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of Services ("Approvals"); and
- b. Neither Consultant nor any Subconsultant or Subcontractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
 - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments, or to examine Consultant's contracting ability.
 - (2) Consultant must notify City immediately if any Approvals or Debarment changes during the Agreement's duration. The failure of the Consultant to notify City as required will constitute a material default under the Agreement.

3.3 **Compliance.**

- a. Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by City.
- b. Consultant 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. Consultant will require any Sub-contractor to be bound to the same requirements as stated within this section. Consultant, and on behalf of any subcontractors, warrants compliance with this section.

3.4 **Coordination; Interaction.**

- a. For projects that the City believes requires the coordination of various professional services, Consultant will work in close consultation with City to proactively interact with

any other professionals retained by City on the Project ("Coordinating Project Professionals").

- b. Consultant will meet to review the Project, Schedule and in-progress work with Coordinating Project Professionals and City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.
- c. For projects not involving Coordinating Project Professionals, Consultant will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.

3.5 Work Product.

- a. Ownership. Upon receipt of payment for Services furnished, Consultant grants to City, and will cause its Subconsultants or Subcontractors to grant to the City, the exclusive ownership of and all copyrights, if any, to evaluations, reports, drawings, specifications, project manuals, surveys, estimates, reviews, minutes, all "architectural work" as defined in the United States Copyright Act, 17 U.S.C § 101, *et seq.*, and other intellectual work product as may be applicable ("Work Product").
 - (1) This grant is effective whether the Work Product is on paper (e.g., a "hard copy"), in electronic format, or in some other form.
 - (2) Consultant warrants, and agrees to indemnify, hold harmless and defend City for, from and against any claim that any Work Product infringes on third-party proprietary interests.
- b. Delivery. Consultant will deliver to City copies of the preliminary and completed Work Product promptly as they are prepared.
- c. City Use.
 - (1) City may reuse the Work Product at its sole discretion.
 - (2) In the event the Work Product is used for another project without further consultations with Consultant, the City agrees to indemnify and hold Consultant harmless from any claim arising out of the Work Product.
 - (3) In such case, City will also remove any seal and title block from the Work Product.

4. **Compensation for the Project.**

- 4.1 Compensation. Consultant's compensation for the Project, including those furnished by its Subconsultants or Subcontractors will not exceed \$27,636 as specifically detailed in **Exhibit D** ("Compensation").
- 4.2 Change in Scope of Project. The Compensation may be equitably adjusted if the originally contemplated Scope as outlined in the Project is significantly modified.
 - a. Adjustments to Compensation require a written amendment to this Agreement and may require City Council approval.
 - b. Additional services which are outside the Scope of the Project contained in this Agreement may not be performed by the Consultant without prior written authorization from the City.
 - c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take priority and govern the conduct of the parties.
- 4.3 Allowances. An "Allowance" may be identified in **Exhibit D** only for work that is required by the Scope and the value of which cannot reasonably be quantified at the time of this Agreement.

- a. As stated in Sec. 4.1 above, the Compensation must incorporate all Allowance amounts identified in **Exhibit D** and any unused allowance at the completion of the Project will remain with City.
 - b. Consultant may not add any mark-up for work identified as an Allowance and which is to be performed by a Subconsultant.
 - c. Consultant will not use any portion of an Allowance without prior written authorization from the City.
 - d. Examples of Allowance items include, but are not limited to, subsurface pothole investigations, survey, geotechnical investigations, public participation, radio path studies and material testing.
- 4.4 **Expenses.** City will reimburse Consultant for certain out-of-pocket expenses necessarily incurred by Consultant in connection with this Agreement, without mark-up (the "Reimbursable Expenses"), including, but not limited to, document reproduction, materials for book preparation, postage, courier and overnight delivery costs incurred with Federal Express or similar carriers, travel and car mileage, subject to the following:
- a. Mileage, airfare, lodging and other travel expenses will be reimbursable only to the extent these would, if incurred, be reimbursed to City of Glendale personnel under its policies and procedures for business travel expense reimbursement made available to Consultant for review prior to the Agreement's execution, and which policies and procedures will be furnished to Consultant;
 - b. The Reimbursable Expenses in this section are approved in advance by City in writing; and
 - c. The total of all Reimbursable Expenses paid to Consultant in connection with this Agreement will not exceed the "not to exceed" amount identified for Reimbursable Services in the Compensation.

5. Billings and Payment.

5.1 **Applications.**

- a. Consultant will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.
- b. The period covered by each Payment Application will be one calendar month ending on the last day of the month.

5.2 **Payment.**

- a. After a full and complete Payment Application is received, City will process and remit payment within 30 days.
- b. Payment may be subject to or conditioned upon City's receipt of:
 - (1) Completed work generated by Consultant and its Subconsultants and Subcontractors; and
 - (2) Unconditional waivers and releases on final payment from all Subconsultants and Subcontractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

5.3 **Review and Withholding.** City's Project Manager will timely review and certify Payment Applications.

- a. If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.

- b. City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.

6. Termination.

6.1 **For Convenience.** City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 15 days following the date of delivery.

- a. Consultant will be equitably compensated for Services furnished prior to receipt of the termination notice and for reasonable costs incurred.
- b. Consultant will also be similarly compensated for any approved effort expended, and approved costs incurred, that are directly associated with Project closeout and delivery of the required items to the City.

6.2 **For Cause.** City may terminate this Agreement for cause if Consultant fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

- a. Consultant will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Consultant for Services furnished, City will pay the amount due to Consultant, less City's damages, in accordance with the provision of Sec. 5.
- b. If City's direct damages exceed amounts otherwise due to Consultant, Consultant must pay the difference to City immediately upon demand; however, Consultant will not be subject to consequential damages more than \$1,000,000 or the amount of this Agreement, whichever is greater.

7. **Conflict.** Consultant acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

8. **Insurance.** For the duration of the term of this Agreement, Consultant shall procure and maintain insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of all tasks or work necessary to complete the Project as herein defined. Such insurance shall cover Consultant, its agent(s), representative(s), employee(s) and any subcontractors.

8.1 **Minimum Scope and Limit of Insurance.** Coverage must be at least as broad as:

- a. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01, including products and completed operations, with limits of no less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- b. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than \$1,000,000 per accident for bodily injury and property damage.
- c. **Professional Liability.** Consultant must maintain a Professional Liability insurance covering errors and omissions arising out of the work or services performed by Consultant, or anyone employed by Consultant, or anyone for whose acts, mistakes, errors and omissions Consultant is legally liability, with a liability insurance limit of \$1,000,000 for each claim and a \$2,000,000 annual aggregate limit.
- d. **Worker's Compensation:** Insurance as required by the State of Arizona, with Statutory Limits, and Employers' Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.

8.2 **Indemnification.**

- a. To the fullest extent permitted by law, Consultant must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties") for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense" collectively "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Consultant) and that arises out of or results from the breach of this Agreement by the Consultant or the Consultant's negligent actions, errors or omissions (including any Subconsultant or Subcontractor or other person or firm employed by Consultant), whether sustained before or after completion of the Project.
- b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Consultant will be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Consultant or of any person or entity for whom Consultant is responsible.
- c. Consultant is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

8.3 **Other Insurance Provisions.** The insurance policies required by the Section above must contain, or be endorsed to contain the following insurance provisions:

- a. **The City, its officers, officials, employees and volunteers are to be covered as additional insureds** of the CGL and automobile policies for any liability arising from or in connection with the performance of all tasks or work necessary to complete the Project as herein defined. Such liability may arise, but is not limited to, liability for materials, parts or equipment furnished in connection with any tasks, or work performed by Consultant or on its behalf and for liability arising from automobiles owned, leased, hired or borrowed on behalf of the Consultant. General liability coverage can be provided in the form of an endorsement to the Consultant's existing insurance policies, provided such endorsement is at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37, if later revisions are used.
- b. For any claims related to this Project, the **Consultant's insurance coverage shall be primary insurance** with respect to the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Consultant's insurance and shall not contribute with it.
- c. Each insurance policy required by this Section shall provide that coverage shall not be canceled, except after providing notice to the City.

8.4 **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII, unless the Consultant has obtained prior approval from the City stating that a non-conforming insurer is acceptable to the City.

8.5 **Waiver of Subrogation.** **Consultant hereby agrees to waive its rights of subrogation which any insurer may acquire** from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation Policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Consultant, its employees, agent(s) and subcontractor(s).

8.6 **Verification of Coverage.** Within 15 days of the Effective Date of this Agreement, Consultant shall furnish the City with original certificates and amendatory endorsements, or copies of any applicable insurance language making the coverage required by this Agreement effective. All certificates and endorsements must be received and approved by the City before work commences. Failure to obtain, submit or secure the City's approval of the required insurance policies, certificates or endorsements prior to the City's agreement that work may commence shall not waive the Consultant's obligations to obtain and verify insurance coverage as otherwise provided in this Section. The City reserves the right to require complete, certified copies of all required insurance policies, including any endorsements or amendments, required by this Agreement at any time during the Term stated herein.

Consultant's failure to obtain, submit or secure the City's approval of the required insurance policies, certificates or endorsements shall not be considered a Force Majeure or defense for any failure by the Consultant to comply with the terms and conditions of the Agreement, including any schedule for performance or completion of the Project.

8.7 **Subcontractors.** Consultant shall require and shall verify that all subcontractors maintain insurance meeting all requirements of this Agreement.

8.8 **Special Risk or Circumstances.** The City reserves the right to modify these insurance requirements, including any limits of coverage, based on the nature of the risk, prior experience, insurer, coverage or other circumstances unique to the Consultant, the Project or the insurer.

9. **E-verify, Records and Audits.** To the extent applicable under A.R.S. § 41-4401, the Consultant warrant their compliance and that of its subconsultants with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). The Consultant or subconsultant's breach of this warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by the City under the terms of this Agreement. The City retains the legal right to randomly inspect the papers and records of the other party to ensure that the other party is complying with the above-mentioned warranty. The Consultant and subconsultant warrant to keep their respective papers and records open for random inspection during normal business hours by the other party. The parties shall cooperate with the City's random inspections, including granting the inspecting party entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

10. **Notices.**

10.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:

- a. The Notice is in writing; and
- b. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested).
- c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
 - (1) Received on a business day before 5:00 p.m. at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service; or
 - (2) As of the next business day after receipt, if received after 5:00 p.m.
- d. The burden of proof of the place and time of delivery is upon the Party giving the Notice.
- e. Digitalized signatures and copies of signatures will have the same effect as original signatures.

10.2 Representatives.

- a. Consultant. Consultant's representative (the "Consultant's Representative") authorized to act on Consultant's behalf with respect to the Project, and his or her address for Notice delivery is:

John Martin
1252 Quarry Lane
Pleasanton, California 94566

- b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale
c/o Anthony Weathersby
7070 W Northern Ave
Glendale, Arizona 85301

With required copy to:

City Manager
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

City Attorney
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

- c. Concurrent Notices.

- (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
- (2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by the City Manager and the City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Consultant identifying the designee(s) and their respective addresses for notices.

- d. Changes. Consultant or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

11. **Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

12. **Entire Agreement; Survival; Counterparts; Signatures.**

- 12.1 Integration. This Agreement contains, except as stated below, the entire agreement between City and Consultant and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
- b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
- c. Inconsistencies between the solicitation, any addenda attached to the solicitation, the response or any excerpts attached as **Exhibit A**, and this Agreement, will be resolved by the terms and conditions stated in this Agreement.

12.2 Interpretation.

- a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.

b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.

c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.

12.3 **Survival.** Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

12.4 **Amendment.** No amendment to this Agreement will be binding unless in writing and executed by the parties. Electronic signature blocks do not constitute execution for purposes of this Agreement. Any amendment may be subject to City Council approval.

12.5 **Remedies.** All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

12.6 **Severability.** If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform with applicable law.

12.7 **Counterparts.** This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

13. **Term.** The term of this Agreement commences upon the Effective Date and continues for a one (1) year initial period. There are no automatic renewals of this Agreement.

14. **Dispute Resolution.** Each claim, controversy and dispute (each a "Dispute") between Consultant and City will be resolved in accordance with **Exhibit E**. The final determination will be made by the City.

15. **Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A	Project
Exhibit B	Scope of Work
Exhibit C	Schedule
Exhibit D	Compensation
Exhibit E	Dispute Resolution

(Signatures appear on the following page.)

The parties enter into this Agreement effective as of the date shown above.

City of Glendale,
an Arizona municipal corporation



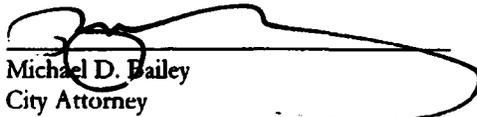
By: Craig Johnson, P.E.
Its: Director

ATTEST:



Jolie K. Bower (SEAL)
City Clerk

APPROVED AS TO FORM:



Michael D. Bailey
City Attorney

Full Spectrum Analytics, Inc.,
a California corporation



By: John Martin
Its: Vice President of Sales and Marketing

EXHIBIT A
Professional Services Agreement

PROJECT

Full Spectrum Analytics, Inc. is the only vendor who provides full service for the analytical equipment to be serviced by quotation 12806.

EXHIBIT B
Professional Services Agreement

SCOPE OF WORK

Full Spectrum Analytics, Inc. will provide on-site service, replacement parts and consumable parts for the analytical equipment at the Water Quality Lab as outlined in the attached Exhibit B.



Service Agreement Terms and Conditions Form

Document No: Form 7.2.1-001

**Document Name: Service Agreement Terms and
Conditions Form**

Revision: 4.0

Date Issued: 12OCT2015



Document Title: Service Agreement Terms and Conditions Form	Document No: FORM 7.2.1-001	Revision: Date Issued: 4.0 12OCT2015	Issued By: Cindy Governor
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Scope:

- I. This Agreement is entered into and made effective as of the date set forth below, by and between Full Spectrum Analytics (FSA) and the party identified below.

Responsibilities of Full Spectrum Analytics:

I. ON-SITE SERVICE

Unless otherwise stated, on-site response time will not be longer than 48-hours after a service call has been authorized by FSA. An FSA Representative may ask the analyst to try several troubleshooting techniques before opening a service call. The maximum telephone troubleshooting time is one full working day. On-site service calls and travel times are unlimited for as long as the account is kept current with FSA. A representative of the Customer's company must be on-site with the FSA Service Representative at all times. Laboratories located beyond 150 miles from FSA's service hub are subject to a 72 hour response time and extended travel charges.

FSA Service Hubs currently include:

California: Pleasanton, Los Angeles, San Diego
Arizona: Phoenix, Tucson
Texas: San Antonio, Houston
New Jersey: Princeton
Illinois: Chicago
Maryland: Baltimore

Washington: Seattle
Utah: Salt Lake City
Colorado: Denver
Pennsylvania: Philadelphia
Massachusetts: Boston
New York: New York City

II. PARTS REPLACEMENT

Service parts replacements are included in the price of the service agreement. FSA Service Representatives carry a complete line of parts for electronic, pneumatic, analytical and mechanical failures. If the required part is not in stock or available within FSA, a Company representative will place an order with the supplier and request next business day delivery. FSA reserves the right to use refurbished parts when available, necessary and applicable. Refurbished parts may include, but are not limited to; Mechanical Vacuum Pumps, Electronic Boards, Pneumatic Valves, Turbo Pumps and Controllers.

III. CONSUMABLE PARTS

FSA will not replace or repair any items considered to be consumable items, unless otherwise specified in the service agreement proposal. Examples are, but not limited to, GC injector liners, septa, columns, ferrules, glassware, needles, NPD beads, jets, traps, gas filters, electron multipliers, lamps, flow cells, filaments, dryers, and reaction tubes, Purge & Trap water management systems and analytical traps. Consumable parts for TOC analyzers are, but not limited to, peristaltic pump tubing, UV lamps, acid/oxidizer cartridges, glass fittings and glass assemblies.

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Consumable parts for Dionex IC systems are, but not limited to, suppressors, column and eluant generator cartridges. Sciex/ABI MS consumable parts include PPG standards kit, o-rings, ferrules, TIS nozzle, TIS electrode, ionizer needle, and anti-static foam swabs. Customer Consumable items can be provided and installed on a time-and material basis.

Exceptions:

If you have purchased the Enhanced Service Package (along with a complete qualification program) your instrument support will include consumables during a routine preventative maintenance visit to your laboratory. The following is an example list of consumable items that will be replaced during a PM Service visit: Wear Retainers, Inlet Cap, Piston Seals, Needle Seats, Rotor Seals, Gaskets, Capillary Seat, Cell Springs, Needle Assemblies, Windows, Pistons, Valves, Seat Assemblies, Spacer FEP & Finger Caps. With the Enhanced Package the following lamps will be replaced once per year only: Deuterium, Xenon and Tungsten lamps.

It is highly recommended that PM visits coincide with Qualification visits in order to give the systems a much higher chance of passing Qualifications criteria.

IV. GOOD FAITH EFFORTS

FSA makes every effort to continue the repair and maintenance of instruments that have been deemed "obsolete" by the manufacturer. Over the years, FSA and manufacturers have been successful at utilizing alternate vendors for acquiring replacement parts and from instruments in inventory. Unfortunately, due to the age of some instruments, many parts become very scarce. Therefore, service agreement support for the following instruments will only be supplied on a "Good Faith Effort" basis (Reference Appendix A, page 8). The Good Faith Effort list is subject to change.

HP 5971/5972 Analyzer Loaner Program: Due to the lack of availability of replacement parts for the Analyzer including the quadrupoles, FSA will retain ownership of all analyzers and quadrupoles that are replaced under this agreement. When the instrument is retired or taken off contract, FSA will return the original analyzer and reclaim the one that was installed into the Customer's instrument.

V. ENGINEERING UPGRADES

Engineering upgrades offered by the manufacturer may enhance the performance of certain instruments. If the original manufacturer offers upgrades at no cost, FSA will install them onto systems covered by this agreement at no cost as long as there is no acquisition cost or other extended cost to FSA. If the upgrade is not free of cost from the manufacturer, and if the Customer would like to upgrade the instrument, the Customer will be responsible for purchasing the upgrade kit and contracting FSA for the installation service on a time and materials basis. Other components that may be upgraded such as software, computers and monitors will be paid for by the Customer

FSA will replace items such as computers, printers, monitors and re-install software with same generation of systems if replacements are necessary and are part of the original contract agreement.



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If system upgrades are required due to obsolescence or availability of certain parts, i.e., upgrading to a larger turbo or mechanical pump. FSA may, at its own discretion, may cover the upgrade, but only that portion of the obsolete part that needs to be replaced. FSA will also cover all the labor costs associated with the replacement of these parts.

VI. PERIOD OF COVERAGE

Telephone Technical Support and On-Site Service Calls are provided Monday through Friday between business hours of 8:00 a.m. to 5:00 p.m. local standard time, excluding National and FSA Holidays. Telephone support is limited to the above coverage period and to equipment listed on the service agreement.

VII. MISUSE AND CONTAMINATION

Instrumentation failure due to operator misuse, sample contamination or damage from repairs performed by any other party other than an FSA Representative is not covered under this service agreement. Instrument malfunctions that are a result of power failures, poor environmental controls, facility supply contamination, sample foam-over or analytical breakdown due to active sites are not covered under this agreement. Examples are, but not limited to, the loss of 2-Chloroethyl-vinyl-ether, breakdown of Endrin or DDT and low recoveries of target compounds and poor analytical results as a result of a contaminated or failed system. FSA will be available for telephone technical support if an instrument has been contaminated or damaged. But parts, labor and travel required to repair the instrument will be charged on a time and materials basis.

FSA will verify that the instrument is in working condition according to the manufacturers' specifications by utilizing recommended set points, columns, standards and procedures. Specific Customer applications are not covered by FSA or this service agreement. It is the responsibility of the Customer to ensure complete understanding of each analysis, experiment, method and application performed on the instrument.

VIII. PREVENTIVE MAINTENANCE EXAMPLES

Mass Selective Detectors

Preventive maintenance (PM) service will be scheduled annually on all the Mass Selective Detectors listed on the quotation. The PM visits will include replacement of pump fluids, source cleaning and electromechanical check-out and System Tunes

TOC Analyzers

Preventive maintenance (PM) service will be scheduled annually on all the TOC Analyzers listed on the quotation. The PM visits will include replacement of scrubbers, permeation dryer tube, thorough cleaning and electromechanical, chemical standards check-out.

Liquid Chromatographs

Preventive maintenance (PM) service will be scheduled annually on all the Liquid Chromatographs listed on the quotation. The PM visits will include replacement of pump seals, needle seat, purge valve frit, thorough cleaning, and electromechanical, and reference standards when applicable.

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Document Title: Service Agreement Terms and Conditions Form	Document No: FORM 7.2.1-001	Revision: Date Issued: 4.0 12OCT2015	Issued By: Cindy Governor
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Ion Chromatographs

Preventive maintenance (PM) service will be scheduled annually on all the Ion Chromatographs listed on the quotation. The PM visits will include replacement of pump seals, piston seals, active mixer filter, valve rotor, thorough cleaning, electromechanical, chemical standards check-out.

Headspace Instruments

Preventive maintenance (PM) service will be scheduled annually on all the Headspace Instruments listed on the quotation. The PM visit will include sensor cleaning, lubrication of all moving parts, thorough cleaning, electromechanical, chemical standards check-out.

ABI/Sciex Mass Spectrometers

Preventive maintenance (PM) service will be scheduled bi-annually on all ABI/Sciex instruments listed on the quotation. The PM visit will include a comprehensive series of tests which is recommended by the manufacturer including replacement of pump oils, cleaning and electromechanical check-out and System Tunes.

A detailed listing of services performed during a Preventive Maintenance visit will be provided to the Customer after each PM Service visit.

Responsibilities of the Customer:

I. INSTRUMENT PREQUALIFICATION

All instruments are subject to a prequalification review by FSA personnel prior to the commencement of the service agreement. Instruments must be fully functional according to the manufacturer's operating specifications and able to perform specific analytical test that the Customer requires. FSA reserves the right to not accept a customer's purchase order until instrument(s) have been completely prequalified by an FSA Service Representative. Customers will be invoiced for all repairs necessary to bring the system up to an acceptable level of performance to both parties, if necessary.

Instruments are also subject to a Requalification process should there be a lapse in the service agreement for more than 15 working days prior to a contract renewal. In the event repairs are necessary to bring the instruments to fully functional conditions, FSA will repair the instrument(s) and invoice the Customer separately on a time and materials basis

II. LABORATORY PERSONNEL

It is the customer's responsibility to ensure that only adequately trained laboratory personnel will operate the instruments under this service agreement. Laboratory personnel must provide FSA Service Personnel details of all circumstances leading to an instrument failure. Consumable items required to complete the repair shall be provided by the Customer.

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III. OPERATING CONDITIONS

A controlled climate must be maintained, as specified in the manufacturer's operating manual. A reliable power source must be supplied at all times, as per the manufacturers' requirements. Instrument failure(s) due to power fluctuations and or power loss are not covered under this agreement. FSA will repair the damaged instrument(s) and invoice the Customer separately on a time and materials basis.

IV. RELOCATION OF INSTRUMENTS

Relocation services are available through FSA on a flat rate or time and materials basis. If the Customer finds it necessary to relocate an instrument, they may do so at their own risk and discretion. Damages resulting from the relocation of instruments relocated by the Customer or another contractor are not covered. System malfunctions occurring after the relocation services performed by FSA Service Representatives will be covered by this agreement.

The manufacturer required operating conditions apply for the instruments location. System failures or damage as a result of facilities power, environmental conditions or contamination are not covered by this contract or relocation service. All repairs will be performed at a time and materials basis

V. PAYMENT TERMS AND CANCELLATION

After acceptance of this agreement, all payments are due Net 30 days of invoice date.

Payment plans are available if an acceptable credit rating has been determined and maintained. Delinquent payments will cause delays with technical support and on-site response time. FSA reserves the right to refuse service and provide parts and technical support under this agreement if the customer's account becomes delinquent.

Customer may cancel this service agreement with a 30-day written notice. Provided FSA is aware of all service issues or other communications and FSA have been given a reasonable opportunity to correct the problems. In the event FS A has corrected the stated problems and Customer still cancels, Customer will be liable for the remaining balance of the contract price. Notice of cancellation must be delivered by certified mail or express courier. FSA will contact Customer after receiving the notice and will inform Customer of any outstanding balance due for the month(s) that service was provided. FSA reserves the right to cancel this service agreement at any time and shall provide the Customer with a written 30-day notice and inform the Customer of any outstanding balance due for the month(s) that service was provided.

Multi-year contract customers receive a discount from FSA's standard price. If a multi-year contract is canceled prior to the end of the agreed upon term, the Customer will be liable for the difference between the standard price and the discounted price for each instruments for the covered term, or the remaining contract balance, whichever is greater

In the event that legal action is necessary by FSA to enforce any part of this agreement, including payment of invoices, FSA shall be entitled to recover all its reasonable attorney's fees and court costs from the Customer to the extent that Customer is found liable for.



Document Title: Service Agreement Terms and Conditions Form	Document No: FORM 7.2.1-001	Revision: 4.0 Date Issued: 12OCT2015	Issued By: Cindy Governor
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VI. LIMITATION OF LIABILITY

FSA's liability under this agreement is limited to repair of the instrument and the replacement of parts as provided for this agreement. It is understood that FSA does not warrant or represent that any equipment owned or utilized by Customer is fit for any particular purpose or method. Any other warranties and representations are hereby expressly denied by FSA and waived by the Customer.

In particular, FSA is not liable for the loss of irretrievable or damaged data, loss of revenue, profits, or any other cost to Customer or its affiliates. Including loss of employee or consultant time, damages to the facility and/or injury to the customer, it's personnel or third parties caused by the instrument, or any other injuries, property damage or consequential damages, whether due to the failure of the instrument or the services or parts provided by FSA. This agreement does not cover repair of instruments which have been damaged by the intentional negligent or misconduct of Customer's employees or third parties, or by fire, flood, vandalism, terrorism or other acts of violence including earthquakes and other Acts of God.

FSA is not responsible for any specialized, regulated or non-regulated methods or applications performed on instruments under contract. System calibrations, data acquisitions or data accuracy are the responsibility of the Customer. Archiving and recovery of data from computers and other media are also the responsibility of the customer.

If this service agreement is not renewed after its expiration date, all services that are currently being provided under this agreement will then be provided on a time and materials basis, i.e., repairs, PMs and Qualifications being conducted at the time of the expiration of this agreement.

This agreement shall be governed by the laws of the State of California and it is of further covenant and mutually agreed that each party hereby consents to the jurisdiction and venue in the appropriate court of the State of California. The Customer and Full Spectrum Analytics, Inc. shall hold each other harmless, defend by counsel reasonably acceptable to, and fully indemnify each other, its shareholders, directors, officers and employees against expenses incurred by the either party in connection with any action, suit or proceeding to which either may be a party to.

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Appendix A

Good Faith Efforts

- **Agilent/HP**
 - GC: 5890, 6850, 7694 Headspace, 7673A/B ALS
 - LC: 1050, 1090
 - Mass Spec: 4500 ICP, 5971, 5972, G1946, G1956
- **AB Sciex**
 - Mass Spec: API 150, API 2000/2000QTrap
- **Dionex**
 - Extraction: ASE 200
 - IC: DX-500, DX-600
- **Cetac**
 - ASX-510
- **OI Analytical**
 - ELCD: 4420, 5200
 - P&T: 4460, MHC
 - TOC: 1010, 1020
- **Perkin Elmer**
 - All Models
- **Sievers**
 - TOC: 800
- **Teledyne/Tekmar**
 - Autocan
 - Headspace: 7000
 - P&T: LSC-2000, 2016, ASH
 - Precept, Solatek 72
- **Varian/Bruker**
 - GC: 3400, 3800, 3900
 - Mass Spec: 2000, 2100, 2200
- **Waters**
 - LC: 486, 490, 712, 432, 474, 410, SATIN, 616, 510, 600, Acquity
 - Mass Spec: ZQ 2000, Quattro, GCT

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EXHIBIT C
Professional Services Agreement

SCHEDULE

Service for the Gas Chromatograph and Gas Chromatograph Spectrometer will be provided on a monthly basis.

EXHIBIT D
Professional Services Agreement

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

Method and amount of compensation will be provided based on quoted amount for service agreement.

NOT-TO-EXCEED AMOUNT

The total amount of compensation paid to Consultant for full completion of all work required by the Project during the entire term of the Project must not exceed \$27,636.

DETAILED PROJECT COMPENSATION

See attached Exhibit D.



QUOTATION

DATE	QUOTE#
5/9/2016	12806

City of Glendale - Pyramid Peak
28101 North 63rd Ave.
Phoenix, AZ 85083
Attn: Jim Williams
Tel: 623-930-3885 jjwilliams@glendaleaz.c

Full Spectrum Analytics, Inc.
 1252 Quarry Lane
 Pleasanton, CA 94566
 Phone: 800-795-6357
 Fax: 877-443-4085
 Email: eouellet@fsaservice.com

QUOTE TYPE	TERMS	REQ	ZONE	VALID FOR	
Contract	See Attached	ID	Zone 1	90 Days	
SERVICE AGREEMENT					
INSTRUMENT #1 VOLATILES					
AG-6890SXXX-C1	Agilent 6890 (G1530A/N) GC with Single Split/Splitless Inlet. S/N: CN10627010	12	87.00	1,044.00	
AG-5975CPE-C1	Agilent G3172A, 5975 Performance Turbo Pump, EI Service Contract S/N: US61633550	12	303.00	3,636.00	
TK-AQUA1-C1	Tekmar Aquatek 100 Water only Autosampler. S/N: US10323004	12	146.00	1,752.00	
TK-STRAT-C1	Tekmar Stratum PTC Purge and Trap Concentrator S/N: US10315005	12	101.00	1,212.00	
INSTRUMENT #4 SEMI VOLATILES					
AG-6890SSEE-C1	Agilent 6890 (G1530A/N) with Dual SS Inlet, Dual ECD (Hardware Only - Cleaning and refoiling of the ECD is not covered under this agreement) S/N: US10226071	12	138.00	1,656.00	
AG-7683AINJ-C1	Agilent 7683A, G2613A Autosampler Injector S/N: CN22025359	12	20.00	240.00	
AG-7683ATRAY-C1	Agilent 7683A, G2614A Autosampler Tray S/N: CN21420518	12	20.00	240.00	
				TOTAL ANNUAL AMOUNT	

Prepared by: Eileen Ouellet



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5/9/2016	12806

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Attn: Jim Williams
Tel: 623-930-3885 jjwilliams@glendaleaz.c

Full Spectrum Analytics, Inc.
 1252 Quarry Lane
 Pleasanton, CA 94566
 Phone: 800-795-6357
 Fax: 877-443-4085
 Email: eouellet@fsaservice.com

QUOTE TYPE	TERMS	REQ	ZONE	VALID FOR	POINTERS	
Contract	See Attached	ID	Zone 1	90 Days		
P/N	DESCRIPTION			QTY	UNIT PRICE	TOTAL AMT
	INSTRUMENT #3 SEMI-VOLATILES					
AG-6890SXXX-C1	Agilent 6890 (G1530A/N) GC with Single Split/Splitless Inlet. S/N: CN10616078			12	87.00	1,044.00
AG-5975CPE-C1	Agilent G3172A, 5975 Performance Turbo Pump, EI Service Contract S/N: US61643496			12	303.00	3,636.00
	GERSTEL					
GS-MPS2-C3	Gerstel MPS2 Autosampler (liquid & headspace) S/N: 124788			12	173.00	2,076.00
GS-CIS4-506-C1	Gerstel CIS4 Injection Port and 506 Controller S/N: 07803-00291; 0782001384			12	85.00	1,020.00
GS-TDU-C1	Gerstel Thermal Desorption Unit with Pneumatic Controller S/N: 74110189			12	74.00	888.00
GS-UPC-C1	Gerstel Universal Peltier Cooler (UPC) S/N: 0782001386			12	77.00	924.00
	INSTRUMENT #2 VOLATIES					
AG-7890SXXX-C1	Agilent 7890 (G3440, G3442) GC with single split/splitless inlet. S/N: CN10928010			12	87.00	1,044.00
				TOTAL ANNUAL AMOUNT		

Prepared by: Eileen Ouellet



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 1252 Quarry Lane
 Pleasanton, CA 94566
 Phone: 800-795-6357
 Fax: 877-443-4085
 Email: eouellet@fsaservice.com

QUOTE TYPE	TERMS	REQ	ZONE	VALID FOR	POTENTIAL
Contract	See Attached	ID	Zone 1	90 Days	
P/N	DESCRIPTION	QTY	MONTHLY AMT.	TOTAL AMT.	
AG-5975CPE-C1	Agilent G3172A, 5975 Performance Turbo Pump, EI Service Contract S/N: US92033062	12	303.00	3,636.00	
CTC-CombiPAL-C1	CTC Analytics Combi PAL Liquid Autosampler for GC S/N: 121201	12	173.00	2,076.00	
OI-4560-C1	OI 4560 Purge and Trap Concentrator S/N: M033460319	12	126.00	1,512.00	
FS-CONT-01	SERVICE AGREEMENT INCLUDES: On-site response time within 48 hours Unlimited number of service calls All parts (excluding consumables) and labor Unlimited telephone technical support One (1) Preventive Maintenance visit per year				
1 Yr.	ONE YEAR AGREEMENT Annual Amount: \$27,636.00 (Applicable sales tax is not included) Contract Effective Date: 8/1/17 to 7/31/18				
				TOTAL ANNUAL AMOUNT	

Prepared by: Eileen Ouellet



QUOTATION

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5/9/2016	12806

City of Glendale - Pyramid Peak
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Full Spectrum Analytics, Inc.
 1252 Quarry Lane
 Pleasanton, CA 94586
 Phone: 800-795-6357
 Fax: 877-443-4085
 Email: eouellet@fsaservice.com

QUOTE TYPE	TERMS	REQ	ZONE	VALID FOR	PO NUMBER	
Contract	See Attached	ID	Zone 1	90 Days		
P/N	DESCRIPTION			QTY	MONTHLY AMT	TOTAL AN...
Tax	NOTE: Sales tax may apply to all or part of the amount quoted depending on state laws. A Tax Certificate is required for exemption except for Federal Branches. Please call 714-279-3999 ext. 232 for further information or if exact figure is required.					
T&C	Upon acceptance of this agreement, the customer understands the instruments must be fully functional according to the manufacturer's operating specifications and able to perform specific analytical test that the Customer requires. FSA reserves the right to not accept a Customer purchase order until instrument(s) have been completely prequalified by an FSA Service Representative. The Customer will be invoiced for all repairs necessary to bring the system up to an acceptable level of performance to both parties and acknowledges they have read and agree to Full Spectrum Analytics, Inc. Terms and Conditions.					
FS-SIGN-01	If you accept this quote, please indicate the preferred payment option by checking the boxes below. You may return the signed quote via email.					
					TOTAL ANNUAL AMOUNT	

Prepared by: Eileen Ouellet



QUOTATION

DATE	QUOTE#
5/9/2016	12806

City of Glendale - Pyramid Peak
28101 North 63rd Ave.
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 Phone: 800-795-6357
 Fax: 877-443-4085
 Email: eouellet@fsaservice.com

QUOTE TYPE	TERMS	REQ	ZONE	VALID FOR	PO NUMBER
Contract	See Attached	ID	Zone 1	90 Days	
QTY	DESCRIPTION	QTY	MONTHLY AMT	TOTAL AN...	
	PAYMENT OPTION 1: Annual/Semi-Annual/Quarterly Payment <input type="checkbox"/> Visa <input type="checkbox"/> MasterCard <input type="checkbox"/> AMEX Exp. _____ Acct. # _____ <input type="checkbox"/> Single Annual Payment: Net 30 Days <input type="checkbox"/> Semi-Annual Payments: Net 30 Days <input type="checkbox"/> Quarterly Payments: Net 30 Days Customer PO # _____ Accounts Payable Contact _____ PAYMENT OPTION 2: Monthly (EFT or Credit Card) <input type="checkbox"/> Electronic Funds Transfer on 1st, 15th, or 30th Bank: _____ Routing # _____ <input type="checkbox"/> Visa <input type="checkbox"/> MasterCard <input type="checkbox"/> AMEX Exp. _____ Acct. # _____ Amt. _____ <input type="checkbox"/> Quarterly <input type="checkbox"/> Monthly CUSTOMER SIGNATURE: Signed _____ Date _____ Print Name _____ Title _____				
				TOTAL ANNUAL AMOUNT	\$27,636.00

Prepared by: Eileen Ouellet

EXHIBIT E
Professional Services Agreement

DISPUTE RESOLUTION

1. Disputes.

- 1.1 **Commitment.** The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.
- 1.2 **Application.** The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.
- 1.3 **Initiation.** A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.
- 1.4 **Informal Resolution.** When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.
 - a. The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;
 - b. The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and
 - c. The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

2. Arbitration.

- 2.1 **Rules.** If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the Dispute will be decided by binding arbitration in accordance with Construction Industry Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
 - a. The parties will exercise best efforts to select an arbitrator within five business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.
 - b. The arbitrator selected must be an attorney with at least 15 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 10 years.
- 2.2 **Discovery.** The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within 10 days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.

- 2.3 **Hearing.** The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.
 - 2.4 **Award.** At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.
 - 2.5 **Final Decision.** The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.
 - 2.6 **Costs.** The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party will pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.
3. **Services to Continue Pending Dispute.** Unless otherwise agreed to in writing, Consultant must continue to perform and maintain progress of required Services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Consultant in accordance with this Agreement.
 4. **Exceptions.**
 - 4.1 **Third Party Claims.** City and Consultant are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third party who is not obligated by contract to arbitrate disputes with City and Consultant.
 - 4.2 **Liens.** City or Consultant 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.
 - 4.3 **Governmental Actions.** This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.