

PROFESSIONAL SERVICES AGREEMENT

SEWER & MANHOLE REHABILITATION PHASE IV

PROJECT NO. 131419

This Professional Services Agreement ("Agreement") is entered into and effective between CITY OF GLENDALE, an Arizona municipal corporation ("City") and Primatex, L.L.C., an Arizona limited liability company, ("Consultant") as of the 24 day of November, 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.** 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.

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 \$754,437.00 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.**

8.1 **Requirements.** Consultant must obtain and maintain the following insurance ("Required Insurance").

- a. Consultant and Subconsultants and Subcontractors. Consultant, and each Subconsultant or Subcontractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively referred to herein as the "Consultant's Policies"), until each Party's obligations under this Agreement are completed
- b. General Liability.
 - (1) Consultant must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate limit.
 - (2) Subconsultants and Subcontractors must at all times relevant hereto carry a general commercial liability policy with a combined single limit of at least \$4,000,000 per occurrence.
 - (3) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, XCU hazards if requested by the City, and a separation of insurance provision.
 - (4) These limits may be met through a combination of primary and excess liability coverage.
- c. Professional Liability. Consultant must maintain a professional errors and omissions liability policy providing a minimum limit of \$1,000,000 for each claim and a \$2,000,000 annual aggregate limit.
- d. Auto. A business auto policy providing a liability limit of at least \$1,000,000 per accident for Consultant and \$1,000,000 per accident for Subconsultants and Subcontractors and covering owned, non-owned and hired automobiles.

- e. **Workers' Compensation and Employer's Liability.** Consultant must also maintain a workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.
- f. **Notice of Changes.** Consultant's Policies must provide for not less than 30 days' advance written notice to City Representative of
 - (1) Cancellation or termination of Consultant's Policies;
 - (2) Reduction of the coverage limits of any of Consultant's Policies; and
 - (3) Any other material modification of Consultant's Policies related to this Agreement
- g. **Certificates of Insurance.**
 - (1) Within 10 business days after the execution of the Agreement, Consultant must deliver to City Representative certificates of insurance for each of Consultant's Policies, which will confirm the existence or issuance of Consultant's Policies in accordance with the provisions of this section, and copies of the endorsements of Consultant's Policies in accordance with the provisions of this section.
 - (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Consultant's Policies, or to examine Consultant's Policies, or to inform Consultant, Subconsultant, or Subcontractor in the event that any coverage does not comply with the requirements of this section.
 - (3) Consultant's failure to secure and maintain Consultant's Policies and to assure Consultant's Policies as required will constitute a material default under the Agreement.
- h. **Other Contractors or Vendors.**
 - (1) Other contractors or vendors that may be contracted with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular contract.
 - (2) This insurance coverage must comply with the requirements set forth above for Consultant's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).
- i. **Policies.** Except with respect to workers' compensation and Consultant's professional liability coverages, City must be named and properly endorsed as additional insureds on all liability policies required by this section
 - (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self insurance policies or programs maintained by the additional insureds.
 - (2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and reasonably acceptable to all parties.

8.2 Subconsultants and Subcontractors.

- a. Consultant must also cause its Subconsultants and Subcontractors to obtain and maintain the Required Insurance.
- b. City may consider waiving these insurance requirements for a specific Subconsultant or Subcontractor if City is satisfied the amounts required are not commercially available to the Subconsultant or Subcontractor and the insurance the Subconsultant or Subcontractor does have is appropriate for the Subconsultant or Subcontractor's work under this Agreement.

- c Consultant and Subcontractors must provide to the City proof of the Required Insurance whenever requested.

8.3 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.

9. **Immigration Law Compliance.**

- 9.1 Consultant, and on behalf of any Subconsultant or Subcontractor, warrants, to the extent applicable under A.R.S § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.
- 9.2 Any breach of warranty under this section is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement
- 9.3 City retains the legal right to inspect the papers of any Consultant, Subconsultant, or Subcontractor employee who performs work under this Agreement to ensure that the Consultant, Subconsultant or any Subcontractor is compliant with the warranty under this section.
- 9.4 City may conduct random inspections, and upon request of City, Consultant will provide copies of papers and records of Consultant demonstrating continued compliance with the warranty under this section. Consultant agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this section.
- 9.5 Consultant agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Consultant and expressly accrue those obligations directly to the benefit of the City. Consultant also agrees to require any Subconsultant or Subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.
- 9.6 Consultant's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.

9.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

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.

Primatech, LLC
Shi-En Shiau, P.E., Principal
4640 East McDowell Road, Suite 100
Phoenix, AZ 85008

- 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 Bill Passmore, P.E., Principal Engineer
5850 West Glendale Avenue, Suite 315
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 two (2)-year initial period. The City may, at its option and with the approval of the Consultant, extend the term of this Agreement for an additional year, but only for the purpose of allowing the Consultant to complete the Project. 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: Brenda S. Fischer
Its: City Manager

ATTEST:



Pamela Hanna
City Clerk

(SEAL)

APPROVED AS TO FORM:



Michael D. Bailey
City Attorney

Primatech, L.L.C.,
an Arizona limited liability company,



By: Shi-En Shiao
Its: Principal

EXHIBIT A
Professional Services Agreement

PROJECT

(Cover Page)

EXHIBIT A
Professional Services Agreement

SEWER & MANHOLE REHABILITATION PHASE IV
DESIGN SERVICES
PROJECT NO. 131419

PROJECT

THE PROJECT

This project is to provide Sanitary Sewer System Evaluation and Design Services for rehabilitating the existing sewer systems at thirteen locations identified by the City of Glendale. Construction Administration services will be performed under a separate contract or amendment to this contract at a later date.

The thirteen locations presented below are not all inclusive and the City reserves the right to add to this list or delete selected sections, as necessary.

1. W. Glenn Dr. / N. 52nd Ave., from MH 23-16-005C to MH 23-16-007, 8" VCP, 1,098 LF.
2. W. Glenn Dr. / N. 52nd Ave., from MH 23-16-011 to MH 23-16-007, 8" VCP, 1,098 LF.
3. W. Butler Dr. / N. 55th Ave., from MH 25-16-021 to MH 25-16-020, 8" VCP, 233 LF.
4. W. Butler Dr. / N. 55th Ave., from MH 25-16-020 to MH 25-16-019, 8" VCP, 24 LF.
5. W. Northern Ave. / N. 45th Ave., from MH 25-18-027 to MH 25-18-026, 8" VCP, 180 LF.
6. NW. Grand Ave. / W. Maryland Ave., from MH 22-16-001 to 22-15-007, 8" VCP and DIP, 533' LF.
7. N. 68th Dr. / W. Camelback Rd., from MH 19-12-013 to MH 19-12-006, 8" VCP, 159 LF.
8. 7900-7500 Blk N. 59th Ave., Easement from MH 24-14-035 to MH 24-14-030, 8" VCP, 2,327 LF.
9. W. Maryland Ave. / N. 60th Ave., from MH 22-14-012 to 22-14-004, 8" VCP, 750 LF.
10. N. 78th Dr. / W. Missouri Ave., from MH 20-10-106 to MH 20-10-006. 8" DIP sewer siphon 110 LF.
11. 63rd Ave. / W. Maryland Ave. Manhole from Manhole 22-14-002C to 22-14-059, 8" VCP, 567 L.F.
12. W. Maryland Ave. / Grand Ave. - Grand Ave. Sewer Crossing Abandonment, Sewer Flow Reversal and New Manhole on the west side. In addition, Primatch will prepare - legal descriptions and corresponding exhibits depicting a utility easement for installation of an access manhole on private property for project Number 11. The legal description and exhibit will be sealed by a registered Professional Land Surveyor.
13. N. 63rd Ave./ W. Cholla St from MH 30-13-065 to 30-13-064, 8"-VCP 384 feet

Some of the problems of the sewers at the locations listed above are hydraulic deficiency (sag of sewer pipe), high maintenance, frequent sewer cleaning, occasional sewage overflow, and cracks in the sewer pipes. This project will be performed in three phases. Phase I and Phase II can be performed in parallel to each other, if approved by City of Glendale.

Phase I – Sanitary Sewer Systems Evaluation;

Phase II – Design Services;

Phase III – Construction Administration Services (performed under a separate contract or amendment to this contract at a later date) .

EXHIBIT B
Professional Services Agreement

SCOPE OF WORK

(Cover Page)

EXHIBIT B
Professional Services Agreement

SEWER & MANHOLE REHABILITATION PHASE IV
DESIGN SERVICES
PROJECT NO. 131419

SCOPE OF WORK

PHASE I – SANTARY SEWER SYSTEMS EVALUATION

100. PROJECT MEETINGS/MANAGEMENT

101 Project Meeting and Minutes

Primatech shall conduct initial kickoff meeting and subsequent project meetings with the City of Glendale Project Team to discuss the progress, direction and technical aspects of the project. Project documentation will consist of preparing and distributing meeting agendas and minutes, and monthly reports. Meeting minutes will summarize key discussions, comments, decisions, and any action items required. The monthly project reports will summarize the monthly work progress, project issues, and project schedule status. Minutes will be submitted to the City of Glendale within 5 working days of the meetings.

102 Coordination with City Staff

Primatech will assist in the overall coordination of the project with City staff, including Water Services, Engineering, Building Safety, and other departments as necessary to facilitate the project.

103 Coordination with private, public and city utilities

Primatech will coordinate with private, public and City Water Services Department (WSD) regarding utility issues and incorporating pertinent information in the plans.

- Make a request to Blue Stake to acquire a list of utility companies serving the project area
- Submit a project map to all utilities to acquire as-built and/or utility maps
- Submit 30%, 60% and 90% plan to utilities
- Secure “No Conflict” letter and/or relocation plan from each utility company prior to 100% plan submit to Maricopa County Environmental Services Department for “Approval to Construct”

104 Documents retrieval and submission

Primatech will submit and retrieve all required design documents to the various required reviewing agencies.

105 Project Schedule

Primatech will prepare and maintain a project schedule after meeting with the designated City project team to determine appropriate submittal deadlines and to coordinate project submissions.

106 Assisting for permitting

Primatech will assist the City in obtaining all federal, state, county, local and utility permits and approvals required for the Project. As the Project progresses, Primatech shall timely furnish to the City copies of all communications between Primatech and the respective agencies or departments, and all approvals and permits for the Project.

107 Monthly Progress Report

Primatech will submit a written monthly progress report to the City Project Team during the entire period of the project, through both design and construction. Also, Primatech shall submit a monthly project schedule update and status report, as well as a quarterly project cash flow schedule for both design and construction phases. This information will be submitted to City Engineering Administration for the entire period of the project, through both design and construction.

- a. Project Schedule: Primatech shall prepare a significant event calendar within fourteen (14) days of the Notice to Proceed (NTP). The initial schedule should show the original start date with initial completion date as a reference. One copy of the original overall schedule with original time line and data dates will be submitted at the project kick-off meeting. Additionally, minimum general time frames for project milestones will be provided. Primatech shall update the schedule monthly to keep it current showing comparison with the Baseline/Target schedule. The updated schedule report will be submitted with the monthly invoice.
- b. Invoices: Primatech shall submit a projection of monthly project billings within fourteen (14) days of the Notice to Proceed (NTP). The City will approve the format for invoices. Project invoices, with progress and status reports will be delivered to the City's Project Manager no later than the 25th day of the month. The invoice will identify the contract number and include the amount of each work task and man-hour level of effort and Primatech service identified in the approved fee proposal. The percent complete will be consistent with the project schedule, tasks, and fee proposal per tasks. The total invoice submitted will be less than or equal to the report that details the task percent complete with the associated cost. The invoice will show the amounts previously billed, the amount due for the current period, the project balance and the percent complete per tasks. Primatech shall submit one hard copy invoice to the City Project Manager, City of Glendale Engineering Department, 5850 West Glendale Avenue, Glendale, Arizona 85301.
- c. Cash Flow: The cash flow schedule will provide information to the City regarding future funds needed to complete the project. Primatech shall submit the project life cycle cash flow spreadsheet on a quarterly basis. Primatech shall have life cycle design responsibility for the project. Primatech shall collect or estimate the cash flow information from all the parties involved in the project such as design consultants,

engineers, etc. and shall combine this information using the Excel four (4) page workbook provided by the city. Primatech shall complete the applicable four (4)-page workbook and send it electronically to Gloria Olaya (golaya@glendaleaz.com) with the Engineering Department and copy Shuang Huang, WSD at shuang@glendaleaz.com quarterly.

200. DATA REVIEW

201 Data Collection

Primatech shall compile and collect the following items from the City and other sources:

- 1) As-built drawings of the existing sewer, water and storm drain systems at the defective sewer locations.
- 2) As-built drawings of the existing 2x9'x9' Box Culverts from the MCFCD.
- 3) Various reports, including the 2008 Sanitary Sewer Rehabilitation Program from the City.
- 4) City quarter section maps of the water, sewer and storm drains from the City.
- 5) Available utility maps and as-built from different utility companies.
- 6) The City's GIS map of the sewer mains and waterlines from the City.
- 7) The CCTV and the sewer maintenance records (including sewer overflow).
- 8) Flow monitoring data/records.
- 9) Other pertinent information available from the City.

202 Field Investigation

Primatech will conduct field investigations to procure and evaluate the existing field information in order to avoid potential conflicts with construction.

300. SURVEY (COORDINATION AND REVIEW)

301 Topographic Survey

Primatech will prepare a topographic survey according to the City of Glendale standards as documented in the 2002 Design and Construction Standards, Chapter 2. The surveyor shall perform a field survey as necessary in order to prepare a base drawing for the design of the sewer line rehabilitation/replacement and pavement replacement.

The base drawing will be prepared using the City of Glendale draft symbols presented in Standard Detail G-210.

The survey shall be based on the horizontal and vertical controls that are tied to City datum.

The topographic survey shall include, but not be limited to, street monument lines, top and back of curb locations, edges of pavements and sidewalk locations, and shall extend at least 100 feet from the street centerlines to each side of the road.

The survey will extend at least 25 feet beyond the limits of the sewer line segments and will include, but not be limited to the setting of street monument lines, right-of-way, easements, top and back of curb, edge of pavements and sidewalk locations. The survey will also locate all utilities, facilities, significant features and water valve nuts.

The topographic survey should consist of 100' cross sections of site elevations 5' past the existing right-of-way and should include the PC returns of local intercepting streets. In areas where a buffer wall exists, the topographic locations will stop at the wall.

Approved City of Glendale benchmarks shall be used, and temporary benchmarks will be set at intervals not to exceed every 1,000 feet.

Local intercepting street monumentation that is needed for the determination of intermediate lot lines along the streets shall be located and plotted on the base drawing.

Addresses and lot numbers must be shown for each lot.

Existing right-of-ways, easements, view-easements, property lines and dimensions of these shall be clearly indicated on the base drawing.

All existing topography shall be shown. Typically this would include:

- 1) Existing contours with adequate spot elevations to show drainage.
- 2) Existing utilities – both above and below ground.
- 3) Existing irrigation facilities if presented.
- 4) Adjacent land uses.
- 5) City limits, where applicable.
- 6) 100-year floodplain/floodway limits, where applicable.

302 Utility Map

The survey shall also locate visible utilities and other significant features, including the invert elevations of manholes and elevations of water valve nuts. Primatech shall review the survey to ensure compliance with the City's requirements.

All exposed utilities, pipes, ditches, water valves (with valve nut elevations), sewer manholes (with pipe invert elevations), storm water catch basins (with invert elevations), perimeter walls, fences, major trees, vegetation, power poles, street signs, edges of concrete or asphalt concrete pavement, curbs, gutters, sidewalks, driveways and structures shall be located and shown on the base drawing. All surface features shall be called out in the drawing (e.g., "WATER VALVE", "ELECTRIC CABINET", etc.).

All sewer service lines to individual properties at private manhole/cleanout and waterline with water meters and fire lines with fire hydrants along the streets shall be located and shown on the base drawing.

Underground utilities shall be shown on the base drawing per blue-staked locations, as-builts and/or plats available from local municipalities and utility companies, and they shall be verified with field observations. Neither Primatech nor the City will order blue-staking for this survey.

303 Base Map for design

Primatech will prepare and submit survey data in digital dtm format - AutoCAD drawings (AutoCAD Civil 3D 2014 or newer) with separated layers.

400. UTILITY (COORDINATION AND REVIEW)

401 Utility Coordination

Primatech shall identify and contact all utility companies in the project area. Primatech shall prepare a utility base map, locate all existing utilities, identify potential conflicts, transmit the base maps to utility companies and carefully coordinate with utility companies, using strict follow-up procedures.

402 Utility Potholing

Primatech shall identify the required potholing and prepare a potholing map and potholing request list. The potholing map and list will be submitted to the City Project Manager for approval. Primatech shall review the potholing reports to ensure that all of the requested potholing locations are completed appropriately.

500. GEOTECHNICAL INVESTIGATION

501 Geotechnical Investigation

Primatech shall conduct a geotechnical investigation for the segment as identified for this project and included in the Subconsultant scope of work.

502 Geotechnical Report

If requires, the Geotechnical investigation shall be performed according to City of Glendale standards and requirements. It shall include any boring and testing required along with documentation of the findings and recommendations made, which shall be presented in a Geotechnical Report. This report will provide the geotechnical criteria for the design and construction of the sewer line, including but not limited to trench excavation, backfill requirements and pavement replacement.

600. PUBLIC INFORMATION

601 Public Information

One public information session at the City Hall in the design phase will be conducted, which will be announced through City's web site and/or public announcement channel/media. No door-to-door flyer hanging/handouts are to be conducted.

Primatech/Central creative will draft one project messaging and notice for the public information session.

Comprehensive public information sessions during the construction phase will be conducted and are to be included in the Scope of Work for Construction phase.

Primatech shall prepare information to be used for exhibits for briefing residents including graphics of the new sewer lines; limits of trench operations; restoration details for streets, side walks and any landscaping that may be disturbed during construction and the project schedule.

700. EVALUATION OF EXISTING SEWER CAPACITY

701 Hydrology Model

Primatech will obtain the hydrology model of the study area from the City and determine the design flow rates of the sewer segments to be rehabilitated.

702 Hydraulic Studies of Sewer Segment

Primatech conducts a hydraulic study of the each sewer segment identified for this project to determine if the sewer pipe has sufficient capacity to handle the peak hour flow.

703 Develop Sewer Pipe Rehabilitation Alternatives

Based on the conditions of the sewer pipes, slope, and the hydraulic study, Primatech will develop sewer pipe rehabilitation alternatives.

704 Develop Rehabilitation Alternatives for Missouri/79th Avenue Siphon

- Primatech will prepare a conceptual pipe penetrating the Flood Control District of Maricopa County's (FCDMC) Bethany Home Outfall double 9'x9'box culvert. This option would allow gravity flow via a 16" DIP pipe encased in a 24" Steel pipe and eliminate the defunct siphon.
- Primatech will attend coordination meetings at FCDMC.
- Primatech will prepare hydraulic analysis for FCDMC's review.
- The approval of this alternative requires close coordination between City of Glendale and FCDMC.

750 CCTV DATA REVIEW

- Review CCTV Records.
- CCTV Data Review Report

800. ENGINEERING REPORT

801 Preliminary Engineering Report

Primatech shall prepare a preliminary engineering report, which incorporates the findings, conclusions, and recommendations to the City for review and comments. The City will review the preliminary engineering report and Primatech shall address and incorporate the comments into the final report.

802 Final Engineering Report

Primatech shall prepare a final engineering report based on the comments and recommendations from the City.

PHASE II – DESIGN SERVICES

900. BASIS OF DESIGN REPORT

901 Preliminary Basis of Design Report

A Basis of Design Report will be prepared which presents the detailed design criteria needed to prepare the drawings and specifications, lists the applicable codes and standards, and outlines the required permits and any special design requirements necessary for the project. The City will review the Basis of Design Report and Primatech shall address and incorporate the comments into the final report.

902 Final Basis of Design Report

A Basis of Design Report will be prepared which presents the detailed design criteria needed to prepare the drawings and specifications, lists the applicable codes and standards, and outlines the required permits and any special design requirements necessary for the project. The City will review the Basis of Design Report and Primatech shall address and incorporate the comments into the final report.

1000. DRAWINGS AND SPECIFICATION

Primatech shall prepare the project drawings and specifications. Primatech shall submit the drawings and specifications for review and comment at the 30, 60, 90, 95 and 100 percent complete phases. The drawings will include all drawings as needed to provide a complete project design. The drawings will be prepared on 24 by 36 inch sheets using computer generated drafting AutoCAD (CAD) techniques. The project documents will include the following:

- City of Glendale’s “boiler plate” front-end specifications.
- Primatech standard technical specifications.
- Project drawings, including the cover sheet, in standard City format.

1001 30% drawings and specification

Primatech shall submit the contract drawings and specification for the Glendale Water Services and Engineering Departments review and comment at the 30% percent phase for preliminary review and comment.

1002 60% drawings and specification

Agency reviews will include submittal of 60 percent drawings and specifications to Maricopa County Environmental Services Department, Glendale Water Services and Engineering Departments, and other interested agencies requiring approval and/or permits for construction.

1003 90% drawings and specification

Agency reviews will include submittal of 90 percent drawings and specifications to Maricopa County Environmental Services Department, Glendale Water Services and Engineering Departments, and other interested agencies requiring approval and/or permits for construction.

1004 100% drawings and specification

Final contract drawings and specifications will be prepared based upon review comments received from the City and review agencies from the 95% documents. Primatech shall coordinate obtaining all permits required for construction, including assistance in preparing permit applications and providing additional information in support of the project. One reproducible set of the approved bid ready final drawings and specifications will be delivered to the City. Primatech shall also provide the final drawings and specifications on a CD in a format approved by the City.30% drawings and specification.

1100. COST ESTIMATE

1101 30% Cost Estimate

Primatech shall prepare a construction cost estimate at the 30 percent document phases. The estimates will include estimates of quantities and prices appropriate for the various phases and completeness of the work covered by the drawings and specifications.

1102 60% Cost Estimate

Primatech shall prepare a construction cost estimate at the 60 percent document phases. The estimates will include estimates of quantities and prices appropriate for the various phases and completeness of the work covered by the drawings and specifications.

1103 90% Cost Estimate

Primatech shall prepare a construction cost estimate at the 90 percent document phases. The estimates will include estimates of quantities and prices appropriate for the various phases and completeness of the work covered by the drawings and specifications.

1104 100% Cost Estimate

Primatech shall prepare a construction cost estimate at the 100 percent document phases. The

estimates will include estimates of quantities and prices appropriate for the various phases and completeness of the work covered by the drawings and specifications.

1200. BID PHASE

1201 Pre-Bid Conference

Primatech will attend and prepare meeting minutes for the pre-bid conference and any other related meetings, and prepare all necessary addenda related to documents originated by Primatech.

1202 Respond to question and Prepare Addenda

Primatech will respond to questions regarding the plans and specifications. Primatech shall receive, review and make recommendations regarding requests for substitutions, and incorporate these substitution requests into the addenda as required.

1203 Bid Review and Recommendation

If requested by the City, Primatech shall review the submitted bid documents and prepare a recommendation for bid approval.

1300. REIMBURSABLE AND ALLOWANCE

Reimbursable include any fees and direct cost associated with the project such as:

1301 Survey

1302 Geotechnical Investigation

1303 Public Information

1304 Potholing

1305 Lift Station Allowance Alternative: If the Lift Station Alternative is selected, Primatech shall design a complete sewage lift station in addition to the gravity option. The works shall include:

1305.1 Hydraulic analysis, wet well design, mechanical design of wastewater pumps and force main specification and cost estimate. The fee is in addition to base work required for other alternatives.

1305.2 Structural design of wet well.

1305.3 Electrical and P&I control

1306 Reimbursable – printings, deliveries, mileages, supplies (permit fee not included; all permit fees are to be paid by the City directly to permitting agencies)

1307 City Allowance

Allowance items can be only used when approved by the City. Primatech will submit individual invoices for each allowance items.

EXHIBIT C
Professional Services Agreement

SCHEDULE

(Cover Page)

**Exhibit C
City of Glendale
City Project Number 131419**

PROJECT SCHEDULE

Activity	Duration
Design/Permitting Completion	
Data Review	15
Field Investigation	10
Hydrology/Hydraulics/Rehabilitation Alternatives	40
Engineering Report	10
Basis of Design Report	10
30% Design	30
Glendale Review of 30% Design	10
60% Design	30
Glendale Review of 60% Design	10
90% Plans	30
Final approved Plan / MCESD Permit	15
Total Design Time	210 (Work Days)
Construction	365 (calendar days)

Note: Survey and Geotechnical Investigation run concurrent with the task of Hydrology/Hydraulics/Rehabilitation Alternatives

EXHIBIT D
Professional Services Agreement

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

Time and materials; not to exceed the contract amount of \$754,437.00.

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 \$754,437.00.

DETAILED PROJECT COMPENSATION

See attached.

**EXHIBIT D
Professional Services Agreement**

CITY OF GLENDALE

**SEWER & MANHOLE REHABILITATION PHASE IV
DESIGN SERVICES
PROJECT NO. 131419**

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

Compensation shall be hourly rates plus allowable reimbursable expenses.

NOT-TO-EXCEED AMOUNT

The total amount of compensation paid to Primatch Engineering, for full completion of all work required by the Project during the entire term of the Project must not exceed \$754,437.

DETAILED PROJECT COMPENSATION

See attached spreadsheets for detail

Wastewater Collection System and Manhole Rehabilitation Phase IV Design and Construction FEE SCHEDULE		
TASK	HOURS	COST
100 - PROJECT MEETINGS/MANAGEMENT	634	\$68,021
200 - DATA REVIEW	172	\$20,458
300 - SURVEY (Coordination and Review)	240	\$25,880
400 - UTILITY (Coordination and Review)	80	\$9,548
500 - GEOTECHNICAL INVESTIGATION (Coordination and Review)	32	\$4,471
600 - PUBLIC INFORMATION	32	\$3,661
700 - EVALUATION OF EXISTING SEWER CAPACITY	938	\$112,256
750 - CCTV DATA REVIEW	176	\$18,211
800 - ENGINEERING REPORT	160	\$19,095
900 - BASIS OF DESIGN REPORT	168	\$19,912
1000 - DRAWING AND SPECIFICATION	2,690	\$267,509
1100 - COSTING ESTIMATE	162	\$20,289
1200 - BID PHASE	56	\$7,014
SUBTOTAL (Hours & fee):	5,540	\$596,325

1300 - ALLOWANCES & REIMBURSABLES:	
1301 - Survey (alignment and culture from R/W to R/W, for detail see scope of work)	\$40,000
1302 - Geotechnical Investigation (Sewer Segments @ 12 locations)	\$8,450
1303 - Public Information (Design Phase Only)	\$1,500

1304 - Potholing (12 holes)	\$8,450
1305 - Lift Station Alternative Allowance	
1305.1 - Hydraulic Analysis, Mechanical Design, Spec and Cost Estimate (in addition to gravity option)	\$11,555
1305.2 - Structural Design	\$6,975
1305.3 - Electrical, P&I Control	\$27,182
1306 – Reimbursable	\$4,000
1307 – City Allowance	\$50,000
SUB-TOTAL (Allowances & Reimbursable):	\$158,112
TOTAL PROJECT COST:	\$754,437

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.