



BOARD OF SUPERVISORS AGENDA ITEM REPORT
AWARDS / CONTRACTS / GRANTS

Award Contract Grant

Requested Board Meeting Date: 04/18/23

* = Mandatory, information must be provided

or Procurement Director Award:

***Contractor/Vendor Name/Grantor (DBA):**

McKinstry Essention, LLC (Headquarters: Seattle, WA)

***Project Title/Description:**

Office of the Medical Examiner Commissioning Services

***Purpose:**

Award: Contract No. CT-FM-23-356. This award of contract is to provide Commissioning Services for the Office of the Medical Examiner project for a not-to-exceed amount of \$398,385.93 for a contract term from 04/18/23 to 04/17/25. Administering Department: Facilities Management.

***Procurement Method:**

Pursuant to Direct Selection authority of A.R.S. § 34-103, award for Requisition No. 480837 is recommended to the above-named Consultant which has accepted the terms of the County's standard contract and with which the County has negotiated a satisfactory agreement.

Attachments: Direct Select Memorandum and Consultant Services Contract.

***Program Goals/Predicted Outcomes:**

Energy efficient and well-constructed building that meets Pima County requirements.

***Public Benefit:**

Efficient building systems and high quality building construction will allow the Office of the Medical Examiner to provide important services to the public without disruption.

***Metrics Available to Measure Performance:**

The commissioning team will provide reports of the testing to indicate the performance of the building systems and track items to be corrected to completion and retest. LEED V4 requires thorough documentation of building systems performance matching design intent for the granting of credits.

***Retroactive:**

No.

THE APPLICABLE SECTION(S) BELOW MUST BE COMPLETED

Click or tap the boxes to enter text. If not applicable, indicate "N/A". Make sure to complete mandatory (*) fields

Contract / Award Information

Document Type: CT Department Code: FM Contract Number (i.e., 15-123): 23-356
Commencement Date: 04/18/2023 Termination Date: 04/17/2025 Prior Contract Number (Synergen/CMS):
Expense Amount \$ 398,385.93* Revenue Amount: \$

*Funding Source(s) required: FM Capital Non-Bond Projects

Funding from General Fund? Yes No If Yes \$ %
Contract is fully or partially funded with Federal Funds? Yes No
If Yes, is the Contract to a vendor or subrecipient?
Were insurance or indemnity clauses modified? Yes No
If Yes, attach Risk's approval.
Vendor is using a Social Security Number? Yes No
If Yes, attach the required form per Administrative Procedure 22-10.

Amendment / Revised Award Information

Document Type: Department Code: Contract Number (i.e., 15-123):
Amendment No.: AMS Version No.:
Commencement Date: New Termination Date:
Prior Contract No. (Synergen/CMS):
Expense Revenue Increase Decrease
Amount This Amendment: \$

Is there revenue included? Yes No If Yes \$
*Funding Source(s) required:
Funding from General Fund? Yes No If Yes \$ %

Grant/Amendment Information (for grants acceptance and awards) Award Amendment

Document Type: Department Code: Grant Number (i.e., 15-123):
Commencement Date: Termination Date: Amendment Number:
Match Amount: \$ Revenue Amount: \$

*All Funding Source(s) required:
*Match funding from General Fund? Yes No If Yes \$ %
*Match funding from other sources? Yes No If Yes \$ %
*Funding Source:

*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?

Contact: Dawn Dargan Scott Loomis
Department: Procurement Director Terri Spencer Telephone: 520-724-9071
Department Director Signature: Sheila Holben Date:
Deputy County Administrator Signature: Date: 3/30/2023
County Administrator Signature: Date: 3/31/2023

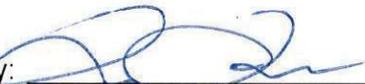


PIMA COUNTY
FACILITIES MANAGEMENT
MEMORANDUM

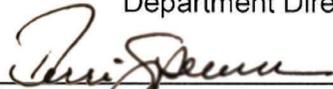
DATE: January 10, 2023
TO: Terri Spencer, Procurement Director
FROM: Martyn Klell, Architectural Manager
SUBJECT: Request for Direct Selection of Professional Services from a Technical Registrant for the Office of the Medical Examiner Project

Background: Pima County Facilities Management needs to procure commissioning services for the new Office of the Medical Examiner in order to verify all code required and critical operational systems are installed and performing per the design documents. Additionally, envelope commissioning is required for the LEED silver certification which this project is striving for. Due to the complexity of the building systems and their components along with the envelope testing, the estimated cost of the service exceeds the QCL threshold of \$250,000. McKinstry Essention LLC is currently on Pima County's Qualified Consultant List and has performed well in the commissioning services on other projects. McKinstry Essention LLC also performed the design phase commissioning services on the said project and has inherent knowledge that will be beneficial during the construction phase of the project.

Requested Action: Facilities Management requests McKinstry Essention LLC to be selected for the Office of the Medical Examiner in an estimated amount of \$410,000 for a contract term of 2 years pursuant to the Direct Select provisions of A.R.S. §34-103.

Submitted By: 
Department Director

Date: 1/10/23

Approved: 
Terri Spencer, Procurement Director

Date: 1/10/2023

PIMA COUNTY FACILITIES MANAGEMENT DEPARTMENT

PROJECT: Office of the Medical Examiner Commissioning Services

CONSULTANT: McKinstry Essention, LLC
4835 East Cactus Road, Suite 100
Scottsdale, AZ 85254

CONTRACT NO.: CT-FM-23-356

AMOUNT: \$398,385.93

FUNDING: FM Capital Non-Bond Projects

CONSULTANT SERVICES CONTRACT

1. Parties, Background and Purpose.

- 1.1. Parties. This Contract is entered into between Pima County, a body politic and corporate of the State of Arizona, hereafter called County, and McKinstry Essention, LLC hereinafter called Consultant, and collectively referred to as the Parties.
- 1.2. Purpose. County requires the services of a Consultant registered in the State of Arizona and qualified to provide construction commissioning services for the Office of the Medical Examiner Commissioning Services ("Project").
- 1.3. Authority. Consultant is currently performing design services on the Project under the QCL Master Agreement and has inherent knowledge that will be beneficial during the construction phase of the project. Consultant was determined under the direct select provisions of A.R.S. § 34-103 to be the best source for said work.

2. Term and Extension/Renewal/Changes.

- 2.1. Initial Term. This Contract, as approved by the Board of Supervisors, commences on April 18, 2023, and terminates on April 17, 2025, unless sooner terminated or further extended pursuant to the provisions of this Contract.
- 2.2. Extension Options. County has the option to extend the contract termination date for purposes of project completion. Any modification or extension of the contract termination date must be by formal written amendment executed by the Parties.

3. Scope of Services. Consultant agrees to provide Architectural and Engineering Design Services for the County as described in Exhibit A – Scope of Services (5 pages), an attachment to this contract, and to complete such services within the term and value of this contract as it may be modified in accordance with Article 5. Amendments and changes to the Scope must be approved by the Board of Supervisors or the Procurement Director before the work under the amendment commences.

4. Definitions.

- 4.1. Other Direct Costs. Other Direct Costs are those costs that can be specifically identified within this Contract, are required for performance of the Contract, and are actually incurred. This includes Subcontract or Subconsultant costs; reproduction, copy and printing costs; courier services; and similar costs specifically necessary for this Contract and approved by County.

- 4.2. Cost Plus Fixed Fee. The modified Cost Plus Fixed Fee (CPFF) is a compensation method that provides compensation to Consultant for actual costs of Direct Labor, Indirect, and Other Direct Costs incurred up to a "not-to-exceed" amount, plus a fixed Fee amount for the successful performance of the work. The Fee amount may initially be determined as a percentage of the estimated not-to-exceed costs. Once negotiated, the Fee amount becomes fixed and does not vary with actual costs. The Fee may only be in accordance with Article 5.
- 4.3. Critical Path Method. The Critical Path Method (CPM) is a way of depicting the sequence of activities in a project, including interdependencies, and containing all activities needed for successful completion of the Work. Delay in the completion of activities on the critical path will extend the completion date.
- 4.4. Direct Labor Costs. Direct Labor Costs are the total number of allowable hours worked on the Project by each individual multiplied by the Labor Rate, identified in Exhibit B – Compensation Schedule (24 pages).
- 4.5. Fee. Fee is the amount, independent of actual costs, that the Consultant is allowed for assuming risk and to stimulate efficient contract performance. Fee includes compensation to Consultant for both profit and unallowable costs. Efficient cost control will allow Consultant to earn a higher profit margin without adjustment of the fee amount. Conversely, inefficient cost control will result in a lower profit margin.
- 4.6. Float. Float is the number of days by which an activity not on the critical path in a CPM network may be delayed before it extends the completion date.
- 4.7. Labor Rates. Labor rates are the actual cost of salary paid to employees of Consultant and identified in Exhibit B – Compensation Schedule.
- 4.8. Not to Exceed Cost. The Not to Exceed Cost for a task is the sum of the agreed Direct Labor costs, indirect costs, and other reimbursable costs of the task defined in the original Project Baseline. Actual Direct Labor costs may be invoiced based on hours worked, per discipline, per task, or a percent complete by task for the period. Consultant assumes all risk for providing the requested task/deliverables at or below the original estimated cost, unless an equitable adjustment to the scope and/or fee are made by amendment to the Contract. Any costs incurred by Consultant beyond the not-to-exceed amount identified which are not attributable to any change in the project baseline are unallowable. Unallowable costs are compensated through the Consultant's fixed Fee.
- 4.9. Indirect Costs. Indirect costs are at the overhead rate identified in Exhibit B – Compensation Schedule.
- 4.10. Project Baseline. The agreed Contract scope of services, total Not-to-Exceed Cost plus Fixed-Fee (CPFF), the allocation thereof among Contract tasks, and the accompanying schedule and expectations/assumptions upon which the scope of services and schedule are based, collectively constitute the Project Baseline.

5. **Compensation and Payment.**

- 5.1. Rates; Adjustment. County will pay Consultant on a modified Not-to-Exceed Cost plus Fixed Fee (CPFF) basis, not to exceed the total amount of this Contract. Cost is comprised of Consultant's Direct Labor Costs, Indirect Costs and Other Direct Costs. Consultant's fee will remain fixed and may be adjusted only as provided in Article 5 and Article 6.
- 5.2. Compensation Schedule. Consultant's total CPFF will be allocated among the major tasks contemplated by this Contract in such manner that each major deliverable will have associated with it a not-to-exceed cost, plus a fixed fee amount, incorporated herein as Exhibit B – Compensation Schedule. Consultant may invoice monthly for the actual costs incurred plus a pro-rata portion of the fee amount for each task. Consultant will calculate actual costs based on actual hours spent, to which the agreed overhead rate may be applied, plus Other Direct Costs. Actual Costs may then be represented as percentage of the "not to exceed" cost amount associated with that task on the Consultant's invoice for billing purposes. Calculations and supporting data will be made available to County at any time, upon request. The cumulative payment for the actual costs of any task may not be more than the "not to exceed" cost amount

associated with that task. Upon completion of the Scope of Work, (including acceptance by County of all associated deliverables), County will pay the balance of the fixed fee to Consultant.

- 5.3. Hourly Rates. Hourly rates and all other rates included under this Contract will remain fixed throughout the term of the contract. County may consider adjustments to rates in connection with any extensions of the contract term.
- 5.4. Maximum Payment Amount. The total of all payments to Consultant for services provided under this Contract will not exceed \$398,385.93.
- 5.5. Timing of Invoices. Unless otherwise agreed, Consultant will submit invoices monthly.
- 5.6. Content of Invoices. All invoices will be accompanied by a narrative description of the work performed during the period covered by the invoice, time accounting information, and an allocation of all direct costs, including reimbursable costs and Subconsultant charges, to the tasks identified in the Scope of Services for which those costs were incurred. The time accounting information should be sufficient to show the workers and hours worked by day for the period covered by the invoice. Subconsultant charges must be supported by appropriate documentation with each separate invoice submitted.
- 5.7. Invoice Adjustments. For the period of record retention required under Article 25, County reserves the right to question any payment made under this Article and to require reimbursement by setoff or otherwise for payments determined to be improper or contrary to the Contract or law.
- 5.8. Additional Services. Consultant will not perform work in excess of the contract amount without prior authorization by an amendment executed by the Parties. Work performed in excess of the contract amount without prior authorization by amendment is at Consultant's own risk. Additional Services identified in Exhibit B – Compensation Schedule, are services within the scope of this Contract but not included within the Tasks identified as of the effective date of this Contract. If ordered, Consultant will invoice additional Services at the rates incorporated into this Contract as in v. County may add additional services throughout the term of the Contract by providing notice in writing to Consultant. Hourly billable rates shown in Exhibit B – Compensation Schedule will only be adjusted by written amendment to the Contract. The Parties may add additional required professional classifications or disciplines to Exhibit A – Scope of Services by written amendment at any time.
- 5.9. Invoice Discrepancies. County has 10 calendar days from the date of invoice to notify Consultant of any invoicing discrepancies. County and Consultant will meet to resolve any discrepancies before the invoice is approved or rejected for payment. Subconsultant charges must be supported by appropriate documentation upon request by County.

6. Project Baseline and Adjustments.

- 6.1. Schedule. County and Consultant have agreed upon the Project scope and the total Cost Plus Fixed Fee, and will prepare a CPM-based schedule for the performance of the work. The schedule is based on assumptions and expectations agreed upon by the Parties. Schedule estimates for the timeframes associated with outside party activities, i.e. design and other reviews, and/or permits or other clearances do not represent commitments made by either outside agencies or the permit-granting entities of County. This Project Baseline represents a firm commitment by the Parties to complete the work within the schedule and total cost identified in the Baseline, subject to schedule variations by outside parties and other factors beyond the control of the Parties.
- 6.2. Project Baseline Adjustments. Although the Baseline reflects the best estimates and expectations of the Parties at the time of agreement, there is an element of uncertainty associated with the design process that makes the actual schedule and effort required to complete the work difficult or impossible to establish in advance. Unusual citizen input, litigation, regulatory changes, significant delays by utilities or others, unforeseen decisions or commitments by policy makers, or other unanticipated events or factors beyond the control of the Parties that differ materially from the expectations of the Parties may delay or disrupt

the schedule and/or require a change in the level of resources or effort. The Project Baseline may be adjusted as follows:

- 6.2.1. A delay in the work attributable to a failure by County to adhere to its estimates with respect to schedule is an excusable delay for which an adjustment may be made to the schedule. In any such case affecting a task on the critical path, the schedule of the affected task or activity may be extended one day for each day of County -caused delay; provided, however, that if the County -caused delay overlaps a period of delay attributable to any other cause, the extension for County -caused delay is limited to the number of non-overlapped days of County -caused delay.
 - 6.2.2. There is no adjustment for any delay in the work attributable to a failure by Consultant to adhere to its commitments with respect to schedule. In the event of a significant delay attributable to a failure by Consultant to adhere to its schedule expectations, Consultant will provide a recovery plan to County within five days of County's request. For the purposes of this paragraph, a delay arising from or attributable to a necessity for Consultant to make more than two submissions of plans or documents for approval is a failure by Consultant to adhere to its schedule commitments. Consultant's work associated with additional reviews is non-compensable.
 - 6.2.3. A delay in the work attributable to any other cause that differs materially from the expectations of the parties regarding that cause is an excusable delay for which the parties will negotiate an appropriate schedule adjustment. If the period of delay attributable to any cause under this paragraph overlaps a period of delay attributable to any other cause, the adjustment under this paragraph will be made first and the delay attributed to such other cause will be limited to that occurring outside of the overlap.
 - 6.2.4. If any of the causes of delay in subparagraphs 6.2.1 or 6.2.3 above affects a task or activity on the critical path, then the schedule adjustment may include adjustment to the completion date. If the cause does not affect a task or activity on the critical path, then the adjustment will be made from Float and the completion date will not change.
 - 6.2.5. If any of the causes of delay in subparagraphs 6.2.1 or 6.2.3 above results in material provable additional costs to the affected task or tasks as a result of disruption of the schedule, then the parties will negotiate an equitable adjustment to the cost for the affected task or tasks, but not to the fee.
 - 6.2.6. The parties will negotiate an equitable adjustment of cost and fee for any task or tasks for which there is any significant change in the level of effort arising from additional or changed work requested or directed in writing by County that materially deviates from or adds to the baseline expectations or assumptions of the Parties with respect to the work.
 - 6.2.7. If any action, comment, cause, decision, or other event attributable to any third party results in a change in requirements that differs materially from expectations, then the Parties will negotiate in good faith an equitable adjustment in the cost and fee for the affected task or tasks.
- 6.3 Completion Date. Consultant agrees to complete the work by the completion date in the schedule, as it may be adjusted under the preceding provisions of this Article. Costs incurred by Consultant to complete the work after the completion date in the schedule are not reimbursable under this Contract.

7. **Reallocation of Funds.**

- 7.1. Costs. Given the magnitude and complexity of the scope required by this Contract, the Parties understand that the actual cost to perform specific tasks may vary from the estimates reflected in Exhibit A – Scope of Services and Exhibit B – Compensation Schedule.
- 7.2. Tasks. If the actual cost to complete a task is less than the estimated amount for that task, the cost savings realized accrues to County. With the agreement of the Parties, County may reallocate the cost

savings to other tasks in Exhibit A – Scope of Services and Exhibit B – Compensation Schedule as follows:

7.2.1. Subtasks. Reallocation between subtasks in Exhibit A – Scope of Services under any one of the major task categories in Exhibit B – Compensation Schedule may be made between the County's department representative and the Consultant's project manager by written agreement.

7.2.2. Procurement Director. County's Procurement Director may make a reallocation among the major tasks in Exhibit B – Compensation Schedule by a Contract amendment, provided that the transfer does not increase the total amount of the Contract.

7.2.3. Board of Supervisors. The Board of Supervisors may make any reallocation or adjustment in Exhibit A – Scope of Services or Exhibit B – Compensation Schedule that increases the total contract amount through a Contract Amendment.

7.3. Cost and Fee. Costs and Fee may not be reallocated from any task on which work has not progressed significantly and which does not include actual or demonstrable savings or reductions in required effort such that the task may be completed for less than the balance of the task remaining after the transfer.

8. **Insurance**. The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. County in no way warrants that the minimum limits contained herein are sufficient to protect the Consultant from liabilities that arise out of the performance of the work under this Contract.

8.1. Ratings. Consultant's insurance will be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers will have an "A.M. Best" rating of not less than A- VII. County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Consultant from potential insurer insolvency.

8.2. Insurance Coverages and Limits.

8.2.1. Minimum Scope and Limits of Insurance: Consultant will procure and maintain, until all of their obligations have been discharged, coverage with limits of liability not less than those stated below.

8.2.1.1. Commercial General Liability (CGL) – Occurrence Form with limits of \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy will include bodily injury, property damage, and broad form contractual liability coverage.

8.2.1.2. Business Automobile Liability – Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract with a Combined Single Limit (CSL) of \$1,000,000.

8.2.1.3. Workers' Compensation and Employers' Liability - Statutory requirements and benefits. Coverage is compulsory for employers of one or more employees. Employer's Liability - \$1,000,000.

Note: The Workers' Compensation requirement will not apply to a Consultant that is exempt under A.R.S. § 23-901, and when such Consultant executes the appropriate County Sole Proprietor or Independent Consultant waiver form.

8.2.1.4. Professional Liability (Errors and Omissions) Insurance – This insurance is required when soliciting work from licensed professionals. The policy limits will be not less than \$2,000,000 Each Claim and \$2,000,000 Annual Aggregate. The policy will cover professional misconduct or negligent acts for those positions defined in the Scope of Work of this contract.

8.2.1.5. Claims-Made Coverage. In the event that the Professional Liability insurance required by this Contract is written on a claims-made basis, Consultant warrants that any retroactive date under the policy will precede the effective date of this Contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised, for a period of three years beginning at the time work under this Contract is completed.

8.3. Additional Insurance Requirements:

The policies will include, or be endorsed to include, as required by this written agreement, the following provisions:

8.3.1. Additional Insured: The General Liability and Business Automobile Liability Policies will each be endorsed to include County, its departments, districts, boards, commissions, officers, officials, agents, and employees as additional insured's with respect to liability arising out of the activities performed by or on behalf of Consultant.

8.3.2. Subrogation: The General Liability, Business Automobile Liability and Workers' Compensation Policies will each contain a waiver of subrogation endorsement in favor of County, and its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of Consultant.

8.3.3. Primary Insurance: Consultant's policies will stipulate that the insurance afforded Consultant will be primary and that any insurance carried by the Department, its agents, officials, employees or County will be excess and not contributory insurance.

8.3.4. Insurance provided by Consultant will not limit Consultant's liability assumed under the indemnification provisions of this Contract.

8.4. Notice of Cancellation:

Each required Insurance policy must provide, and certificates specify, that County will receive not less than 30 days advance written notice of any policy cancellation, except 10-days prior notice is sufficient when the cancellation is for non-payments of a premium. Notice shall include the County project or contract number and project description.

8.5. Verification of Coverage:

Consultant will furnish County with certificates of insurance as required by this Contract. An authorized representative of the insurer will sign the certificates.

8.5.1. All certificates and endorsements, as required by this written agreement, are to be received and approved by County before work commences. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance coverages or policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

8.5.2. All certificates required by this Contract will be sent directly to the Department. County project or contract number and project description will be noted on the certificate of insurance. County reserves the right to require complete copies of all insurance policies required by this Contract at any time.

8.6. Approval and Modifications:

The Pima County Risk Manager may modify the Insurance Requirements at any point during the Term of this Contract. This can be done administratively, with written notice from the Risk Manager and does not require a formal Contract amendment. Neither the County's failure to obtain a required insurance

certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, nor the County's receipt of any other information from the Consultant, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

9. Indemnification.

- 9.1. To the fullest extent permitted by law, Consultant will defend, indemnify, and hold harmless Pima County and any related taxing district, and the officials and employees of each of them (collectively, "Indemnitee") from and against any and all claims, actions, liabilities, losses, and expenses (including reasonable attorney fees) (collectively, "Claims") arising out of actual or alleged injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by any act or omission of Consultant or any of Consultant's directors, officers, agents, employees, volunteers, or subconsultants. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Consultant to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Indemnitee will, in all instances, except for Claims arising solely from the acts or omissions of the Indemnitee, be indemnified by Consultant from and against any and all Claims. Consultant is responsible for primary loss investigation, defense and judgment costs for any Claim to which this indemnity applies. This indemnity will survive the expiration or termination of this Contract.
- 9.2. All warranty and indemnification obligations under this contract shall survive expiration or termination of the contract, unless expressly provided otherwise. The Parties agree that any indemnification provision inconsistent with A.R.S. § 34-226 is, in all cases, not void, but will be interpreted and applied as if it were consistent with A.R.S. § 34-226.
- 9.3. Upon request, Consultant may fully indemnify and hold harmless any private property owner granting a right of entry to Consultant for the purpose of completing the project. The obligations under this Article do not extend to the negligence of County, its agents, employees or indemnities.

10. Laws and Regulations.

- 10.1. Compliance with Laws. Consultant will comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Contract.
- 10.2. Licensing. Consultant warrants that it is appropriately licensed to provide the services under this Contract and that its Subconsultants will be appropriately licensed.
- 10.3. Choice of Law; Venue. The laws and regulations of the State of Arizona govern the rights and obligations of the parties under this Contract. Any action relating to this Contract must be filed and maintained in Superior Court in Pima County.

11. **Status of Consultant.** Consultant is an independent Consultant. Neither Consultant, nor any of Consultant's officers, agents or employees will be considered an employee of Pima County for any purpose or be entitled to receive any employment-related benefits, or assert any protections, under the Pima County Merit System. Consultant is responsible for paying all federal, state and local taxes on the compensation received by Consultant under this Contract and will indemnify and hold County harmless from any and all liability that County may incur because of Consultant's failure to pay such taxes.

12. Consultant's Performance.

- 12.1. Performance. Consultant will perform the work with the degree of care and skill required of any similarly situated Arizona registrant. Consultant will employ suitably trained and skilled professional personnel to perform all required services under this Contract. Prior to changing any key personnel, especially those key personnel County relied upon in making this contract, Consultant will obtain County's approval.
- 12.2. Responsibility. Consultant is responsible for the professional quality, technical accuracy, timely completion, and the coordination of all its effort and other services furnished by Consultant under this

Contract. Without additional compensation, Consultant will correct or revise any errors, omission, or other deficiencies in all products of its efforts and other services provided. This includes resolving any deficiencies arising out of the acts or omissions of Consultant found during or after the course of the services performed by or for Consultant under this Contract, regardless of County having knowledge of or condoning/accepting the products or the services. Correction of such deficiencies will be at no cost to County.

13. **Non-Waiver.** The failure of County to insist in any one or more instances upon full and complete compliance with any of the terms and provisions of this Contract or to take any action permitted as a result is not a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time is not an accord and satisfaction.
14. **Subconsultant.** Consultant will be fully responsible for all acts and omissions of its Subconsultant and of persons directly or indirectly employed by Subconsultant and of persons for whose acts any of them may be liable to the same extent that Consultant is responsible for the acts and omissions of persons directly employed by it. Nothing in this Contract creates any obligation on the part of County to pay or any Subconsultant, except as may be required by law.
15. **Non-Assignment.** Consultant will not assign its rights or obligations under this Contract in whole or in part, without County's prior written approval. County may withhold approval at its sole discretion.
16. **Non-Discrimination.** Consultant will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this contract, including flow-down of all provisions and requirements to any Subconsultants. During the performance of this Contract, Consultant will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
17. **Americans with Disabilities Act.** Consultant will comply with Title II of the Americans with Disabilities Act (Public Law 110-325, 42 U.S.C. §§ 12101-12213) and the federal regulations for Title II (28 CFR Part 35).
18. **Cancellation for Conflict of Interest.** This Contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.
19. **Termination of Contract for Default.**
 - 19.1. Upon a failure by Consultant to cure a default under this Contract within ten days of receipt of notice from County of the default, County may, in its sole discretion, terminate this Contract for default by written notice to Consultant. In this event, County may take over the work and complete it by contract or otherwise. In such event, Consultant will be liable for any damage to the County resulting from Consultant's default, including any increased costs incurred by County in completing the work.
 - 19.2. Default Events. The following constitutes an event of default:
 - 19.2.1. Abandonment of or failure by Consultant to observe, perform or comply with any material term, covenant, agreement or condition of this Contract, or to prosecute the work or any separable part thereof with the diligence that will insure completion within the time specified in this contract, including any extension, or a failure to complete the work (or the separable part of the work) within the specified time;
 - 19.2.2. Persistent or repeated refusal or failure to supply adequate staff, resources or direction to perform the work on schedule or at an acceptable level of quality;
 - 19.2.3. Refusal or failure to remedy defective or deficient work within a reasonable time;

- 19.2.4. Loss of professional registration or business or other required license or authority, or any curtailment or cessation for any reason of business or business operations that would substantially impair or preclude Consultant's performance of this Contract;
 - 19.2.5. Disregard of laws, ordinances, or the instructions of County or its representatives, or any otherwise substantial violation of any provision of the contract;
 - 19.2.6. Performance of work hereunder by personnel that are not qualified or permitted under state law or local law to perform such services;
 - 19.2.7. Commission of any act of fraud, misrepresentation, willful misconduct, or intentional breach of any provision of this Contract; or
 - 19.2.8. If a voluntary or involuntary action for bankruptcy is commenced with respect to Consultant, or Consultant becomes insolvent, makes a general assignment for the benefit of creditors, or has a receiver or liquidator appointed in respect of its assets.
- 19.3. Termination. In the event of a termination for default:
- 19.3.1. All finished and unfinished drawings, specifications, documents, data, studies, surveys, drawings, photographs, reports and other information in whatever form, including electronic, acquired or prepared by Consultant for this project become County's property and will be delivered to County not later than five business days after the effective date of the termination;
 - 19.3.2. County may withhold payments to Consultant arising under this or any other Contract for the purpose of set-off until such time as the exact amount of damage due County from Consultant is determined; and
 - 19.3.3. Subject to the immediately preceding subparagraph 19.3.2, County's liability to Consultant will not exceed the Contract value of work satisfactorily performed prior to the date of termination for which County has not previously made payment.
- 19.4. Non-Termination. County will not terminate Contract for default or charge Consultant with damages under this Article if:
- 19.4.1. Except for subparagraph 19.2.8 in subsection 19.2 above, the event of default or delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of Consultant. Examples of such causes include:
 - 19.4.1.1. Acts of God or of the public enemy,
 - 19.4.1.2. Acts of County in either its sovereign or contractual capacity,
 - 19.4.1.3. Acts of another Contractor in the performance of a contract with County,
 - 19.4.1.4. Fires,
 - 19.4.1.5. Floods,
 - 19.4.1.6. Epidemics,
 - 19.4.1.7. Quarantine restrictions,
 - 19.4.1.8. Strikes,
 - 19.4.1.9. Freight embargoes,
 - 19.4.1.10. Unusually severe weather, or

19.4.1.11. Delays of Subconsultants at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both Consultant and the Subconsultant(s); and

19.4.2. Consultant, within seven days from the beginning of any event of default or delay (unless extended by County), notifies County in writing of the cause(s) therefor. In this circumstance, County will ascertain the facts and the extent of the resulting delay. If, in the reasonable judgment of County, the findings warrant such action, County may extend the time for completing the work.

19.5. Receipt of Notice. For the purposes of subsection 19.1 above, "receipt of notice" includes receipt by hand by Consultant's project manager, by facsimile transmission with notice of receipt, or under the Notices clause of this Contract.

19.6. Excusable. If, after termination of the Contract for default, County determines that the Consultant was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if County had terminated Contract for convenience as set forth in Article 20.

19.7. Rights and Remedies. The rights and remedies of County in this Article are cumulative and in addition to any other rights and remedies provided by law or under this contract.

20. **Termination for Convenience of County**. County may terminate this Contract at any time by giving written notice to Consultant of such termination and specifying the effective date thereof, at least 15 days before the effective date of such termination. In that event, all finished or unfinished documents and other materials will, at the option of the County, become its property. If County terminates the Contract as provided herein, County will pay Consultant an amount based on the time and expenses incurred by Consultant prior to the termination date, however, no payment will be allowed for anticipated profit on unperformed services.

21. **Non-Appropriation of Funds**. Notwithstanding any other provision in this Contract, this Contract may be terminated if for any reason the Pima County Board of Supervisors does not appropriate sufficient monies for the purpose of maintaining this Contract. In the event of such termination, County will have no further obligation to Consultant, other than payment for services rendered prior to termination.

22. **Notices**. Any notice required or permitted to be given under this Contract must be in writing and be served by delivery or by certified mail upon the other party as follows:

COUNTY:
Sara Fontaine
Pima County Facilities Management
150 W. Congress, 3rd Floor
Tucson, AZ 85601
Tel: (520) 724-3101

CONSULTANT:
Greg Spaulding, Regional Director
McKinstry Essention, LLC
16025 Table Mountain Parkway, Suite 100
Golden, CO 80403
Tel: (303) 215-4071

23. **Other Documents**. Consultant and County in entering into this Contract have relied upon information provided in Consultant's response to a request for fee proposal. These documents are hereby incorporated into and made a part of this Contract as if set forth in full herein, to the extent not inconsistent with the provisions of this Contract. Consultant will perform services in accordance with the terms of the Contract and at a level of care consistent with prevailing industry standards. In the event any provision of this contract is inconsistent with those of any other document, the contract provisions will prevail.

24. **Remedies**. Either party may pursue any remedies provided by law for the breach of this Contract, provided, however, that the procedures in Article 28 are first exhausted. No right or remedy is intended to be exclusive of any other right or remedy and each is cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract.

25. **Severability.** Each provision of this Contract stands alone, and any provision of this Contract found to be prohibited by law is ineffective to the extent of such prohibition without invalidating the remainder of this Contract.
26. **Books and Records.**
- 26.1. Maintenance. Consultant will keep and maintain proper and complete books, records and accounts, which will be open at all reasonable times for inspection and audit by duly authorized representatives of County.
- 26.2. Retention. Consultant will retain all records relating to this contract at least five years after its termination or cancellation or until any related pending proceeding or litigation has been closed, if later. Alternatively, Consultant may, at its option, deliver such records to County for retention.
27. **Delays.** Neither party will be in default in the performance of its obligations to the extent that the performance of any such obligation is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party.
28. **Disputes.**
- 28.1. Resolving Dispute. In the event of a dispute between the parties regarding any part of this Contract or the parties' obligations or performance hereunder, either party may request a special meeting between their respective representatives to resolve the dispute. If the dispute remains unresolved, then either party may request escalation of the issue to a meeting between the Director of the Pima County Department administering this Contract and Consultant's counterpart official, such meeting to be held within one week of the request, unless otherwise agreed. If the dispute is still not resolved after that meeting, then either party may pursue such remedy or remedies as may be available to them under the laws of the State of Arizona.
- 28.2. Performance. The parties will continue performance of their respective obligations under this Contract notwithstanding the existence of any dispute.
29. **Ownership of Documents.** Ownership of all original drawings, field data, estimates, field notes, plans, specifications, documents, reports, calculations, and other information developed by Consultant under this contract vests in and become the property of County and shall be delivered to County upon completion or termination of the services, but Consultant may retain and use copies thereof. County agrees that the material will not be used for any project other than the project for which it was designed without the expressed permission of the Consultant.
30. **Public Records.**
- 30.1. Disclosure. Pursuant to A.R.S. § 39-121 et seq., and A.R.S. §§ 34-603(H), 604(H), in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all information submitted by Consultant in any way related to this contract, including, but not limited to, pricing, product specifications, work plans, and any supporting data becomes public information and upon request, is subject to release and/or review by the general public including competitors.
- 30.2. Records Marked Confidential.
- 30.2.1. Any information submitted related to this Contract that Consultant believes constitutes proprietary, trade secret or otherwise confidential information must be appropriately and prominently marked as Confidential prior to submittal to County and be accompanied by an index specifically identifying and describing the general contents of each page so marked. The index is a Public Record and must not include any information considered confidential.
- 30.2.2. Notwithstanding the above provisions, in the event records marked Confidential are requested for public release pursuant to A.R.S. § 39-121 et seq., County will release records marked

Confidential 10 business days after the date of notice to the Consultant of the request for release, unless Consultant has, within the ten day period, secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction in Arizona, enjoining the release of the records. For the purposes of this paragraph, the day of the request for release is not counted in the time calculation. County will notify Consultant of any request for such release on the same day of the request for public release or as soon thereafter as practicable. County is not, under any circumstances, responsible for securing a protective order or other relief enjoining the release of records marked Confidential, nor is County in any way financially responsible for any costs associated with securing such an order.

31. **Legal Arizona Workers Act Compliance.**

31.1. Compliance with Immigration Laws. Consultant warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Consultant's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Consultant will further ensure that each Subconsultant who performs any work for Consultant under this contract likewise complies with the State and Federal Immigration Laws.

31.2. Books & Records. County has the right at any time to inspect the books and records of Consultant and any Subconsultant in order to verify such party's compliance with the State and Federal Immigration Laws.

31.3. Remedies for Breach of Warranty. Any breach of Consultant's or any Subconsultant's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this Contract subjecting Consultant to penalties up to and including suspension or termination of this Contract. If the breach is by a Subconsultant, and the subcontract is suspended or terminated as a result, Consultant must take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement Subconsultant, (subject to County approval if SBE or DBE preferences apply) as soon as possible so as not to delay project completion.

31.4. Subconsultants. Consultant will advise each Subconsultant of County's rights, and the Subconsultant's obligations, under this Article by including a provision in each subcontract substantially in the following form:

"Subconsultant hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subconsultant's employees, and with the requirements of A.R.S. § 23-214 (A). Subconsultant further agrees that County may inspect the Subconsultant's books and records to insure that Subconsultant is in compliance with these requirements. Any breach of this paragraph by Subconsultant is a material breach of this contract subjecting Subconsultant to penalties up to and including suspension or termination of this contract."

31.5. Costs. Any additional costs attributable directly or indirectly to remedial action under this Article are the responsibility of Consultant. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of Consultant's approved construction or critical milestones schedule, such period of delay is excusable delay for which Consultant is entitled to an extension of time, but not costs.

32. **Israel Boycott Certification.** Pursuant to A.R.S. § 35-393.01, if Consultant engages in for-profit activity and has 10 or more employees, and if this Contract has a value of \$100,000.00 or more, Consultant certifies it is not currently engaged in, and agrees for the duration of this Contract to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.

33. **Forced Labor of Ethnic Uyghurs.** Pursuant to A.R.S. § 35-394, if Consultant engages in for-profit activity and has 10 or more employees, Consultant certifies it is not currently using, and agrees for the duration of this Contract to not use (1) the forced labor of ethnic Uyghurs in the People's Republic of China; (2) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and (3) any

consultants, subconsultants or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If Consultant becomes aware during the term of the Contract that the Company is not in compliance with A.R.S. § 35-394, Consultant must notify the County within five business days and provide a written certification to County regarding compliance within one hundred eighty days.

- 34. **Amendment.** Except for the amendment provision above in Article 4, this Contract may be modified, amended, altered or extended only by a written amendment signed by the Parties.
- 35. **Entire Agreement.** This document constitutes the entire agreement between the Parties and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein.
- 36. **Effectiveness and Date.** This contract will become effective when all Parties have signed it. The date of this Contract will be the date the Contract is signed by the last Party to sign it (as indicated by the date associated with that Party's signature).

Each Party is signing this Contract on the date below that Party's signature.

PIMA COUNTY:

Chair, Board of Supervisors

Date

CONSULTANT:



Signature

Greg Spalding, Regional Director

Name and Title (Please Print)

3/30/23

Date

ATTEST:

Clerk of the Board

Date

This contract template has been approved as to form by the Pima County Attorney's Office.



PIMA COUNTY FACILITIES MANAGEMENT

New Buildings Division

150 W. Congress Street | 3rd Floor | Tucson, Arizona | 85701
Tel: 520-724-3085

SCOPE OF Commissioning (Cx) SERVICES REQUIRED

DATE (Version): January 15, 2023
PROJECT NAME: Office of the Medical Examiner
PROJECT LOCATION: 3050 E. Milber St, Tucson, AZ 85713

A. SCOPE OF SERVICES TO BE PROVIDED BY THE CONSULTANT

1. General Provisions:

The COUNTY lacks the available expertise for the Project, and has therefore, by this Agreement, employed the CONSULTANT, the Commissioning Authority (CxA). The CONSULTANT shall manage the overall commissioning effort and shall be the COUNTY's representative for the LEED V4 Fundamental Commissioning and Verification & Enhanced Commissioning Credits on this project. The following outlines the services anticipated to provide documented confirmation that the building systems identified function in compliance with the criteria set forth in the project documents and satisfy the COUNTY's needs. The Commissioning shall ensure that the systems are installed, functionally tested and are capable of being operated and maintain to perform in conformity with the design intent.

2. Project Narrative:

The approximately 34,000 sf, single story new building will support the mission of the PCOME to provide accurate, timely, compassionate and professional death investigation services for the citizens of Pima County, Arizona and surrounding counties. Core functions of PCOME include Forensic Pathology, Anthropology & Office. The design of the building systems focuses on occupant safety, energy savings, and redundancies to maintain critical operations at all times.

The County's Project Team will consist of representatives from Pima County Facilities Management (PCFM) who will have final decision-making authority during both the design and construction phases. The team also includes the following members.

- Architect
- Mechanical Engineer
- Electrical Engineer
- Plumbing Engineer
- LEED Accredited Professional
- Construction Manager at Risk (CMAR)

3. Building Systems to be Commissioned

- a. Mechanical Systems including controls
- b. Plumbing Systems: domestic hot water systems, pumps and controls
- c. Electrical Systems: distribution, lighting, emergency systems, lighting and controls, daylighting and controls
- d. Envelope Commissioning

4. Supporting Documents

- a. Plans: 2022-110 Building Permit Submittal Drawings 11/04/2022
- b. Specifications: Project Manual – Building Permit 110422

5. Cx Services Tasks

Cx services for this project shall meet the Construction Phase Requirements of the LEED V4 Energy & Atmosphere Fundamental Commissioning & Verification Prerequisite & Enhanced Commissioning (including Envelope Commissioning) Credits. Construction Phase includes all tasks included during Construction and Warranty phases. Tasks include the following items. CONSULTANT to advise on any services that are not listed that are required to meet stated LEED credit goal prior to construction.

MEP Systems – LEED Fundamental Commissioning & Enhanced Commissioning (Option 1 Path 1) Construction Phase

1. Serve as the Commissioning Authority (CxA) on behalf of the County to oversee and lead the commissioning process for the project.
2. Develop and issue a Commissioning (Cx) Plan and use it to guide the commissioning process.
3. Conduct a Cx Kick-off Meeting with the County and the design and construction teams to review the Cx Plan and to discuss the commissioning scope, process and tasks, expectations and roles and responsibilities.
4. Review the Contractor's project schedule related to commissioning activities and durations at the start of construction and provide comments to the County and General Contractor. Work with the contractors to review the updated project schedules relative to commissioning activities.
5. Review and approve the contractor Cx procedures, plans and blank forms per the Cx specification prior to their use.
6. Setup and maintain the project Cx Issues Log
7. Attend periodic MEP Cx meetings to review and discuss any upcoming Cx tasks and requirements, and the status of any current issues or outstanding documentation.
8. Conduct onsite reviews of the MEP system installation and readiness for system startup, including reviews of the contractor completed IV forms. Also, witness the first duct leakage test and verify hydronic pipe clean and flush activities prior to startup. Where

- able, witness a sample of the first major HVAC equipment startups for the AHUs, ERUs, and chillers.
9. Witness a sample of field back-check verifications of the BAS Controls point-to-point pre-functional checks conducted by the contractor after completion and submission of the BAS Controls pre-functional check form
 10. Witness a sample of field back-check verifications of the HVAC TAB conducted by the TAB contractor after completion and submission of the Preliminary TAB Report
 11. Review the BAS control sequence of operation programming with the BAS contractor prior to witnessing onsite FPTs, as outlined in the Cx specifications.
 12. Develop project specific functional performance test (FPT) forms for the systems to be commissioned and update per any review comments from the team.
 13. Witness and document the FPTs conducted by the contractors and provide input for the resolution of issues and recommendations for improvements. Provided below are the estimated sample rates from the Cx specifications for witnessing the FPT
 - a. HVAC systems and controls: 100%, no sampling given the critical nature of the systems and
 - b. relatively small number of terminal units and split DX units.
 - c. Lighting controls: Verification Tests for 100% of the spaces (to test all sensors, switches and devices).
 - d. Performance Tests for approximately 20% to 40% of the spaces, as selected by the CxA, where applicable for verifying any light levels and daylight controls per the design.
 - e. Emergency power system (generator and transfer switches): 100% no sampling.
 - f. Whole building emergency power integrated systems test: 100% no sampling.
 - g. Domestic hot water systems (including water heaters, storage tanks, recirculation pumps and controls, etc.): 100%, no sampling
 - h. Plumbing automatic fixture controls: verification tests for approximately 20% to 40%.
 - i. BAS energy and water metering: verification tests for 100% of the meters (verifying BAS readings via the system graphics and/or trend data).
 14. Verify delivery of the O&M manuals and the completion of the O&M training, including reviewing the contractor training agendas prior to the actual training, and collecting copies of the training sign-in sheets.
 15. Provide a final Commissioning Report to the County, including all commissioning documentation and the final Cx Issues Log
 16. Compile the Current Facilities Requirements (CFR) and Operations and Maintenance (O&M) Plan per the LEED Fundamental Cx requirement
 17. Develop an ongoing Commissioning Plan and Systems Manual per the LEED Enhanced Cx requirements. The Systems Manual will include applicable as-built drawings, equipment information and controls documentation, which per the Cx specifications shall be provided by the contractors to McKinstry for inclusion in the Systems Manual.
 18. Complete and upload all LEED required documentation for Cx credits.
- MEP Systems – LEED Fundamental Commissioning & Enhanced Commissioning (Option 1 Path 1) Warranty Phase:**
19. Verify applicable deferred or seasonal testing.
 20. deferred seasonal testing of the HVAC systems during the opposite season in which the construction phase FPTs were witnessed.
 21. deferred electrical system IR scanning required per the design specifications, and review the completed electrical system IR scanning report.
 22. Setup and maintain a Warranty Phase Cx Log and report any identified issues and recommendations to the contractors via a Warranty Phase Cx Log for review and resolution prior to the end of the warranty period.
 23. Perform an on-site review and remote trend analysis of system operation and performance, within approximately ten (10) months of substantial completion.
 24. Schedule and facilitate a near end-of-warranty phase Cx review meeting, to be scheduled with the key representatives from the construction team, the Owner's facility staff and CONSULTANT, no later than either 10 months after substation completion or two months prior to the expiration of the first 12-month warranty period.

- a. During this meeting, the operation of the systems will be discussed with the Owner's staff, the results of any commissioning trend analysis will be reviewed, and the Warranty Phase Cx Log will be reviewed. If needed, a walk-through of the systems with the Owner's staff will be conducted.
- b. Next steps and actions items for any open Cx issues and recommendations will be discussed and documented via meeting minutes or a field report issued by McKinstry. The intent is to resolve any open Cx issues prior to the end of the warranty phase.

25. Provide the final, update Warranty Phase Cx Log to the County

Building Enclosure Commissioning (BECx) – LEED Enhanced Commissioning (Option 2)-Construction Phase

- 26. Participate in the commissioning coordination meeting
- 27. Construction Observation Site Visits
- 28. Observe the initial installation of critical enclosure components such as fenestration systems and air/water barrier systems at exterior walls and roofs.
- 29. Document discrepancies from the Construction Documents in an issues log and follow-up until resolution. Provide feedback to the contractor and design team to improve installation methods.
- 30. Review contractor quality control / quality assurance checklists.
- 31. Witness Performance Verification Testing of Enclosure Components and Assemblies
- 32. Participate in BECx Progress Meetings
- 33. Prepare BECx Report.

Building Enclosure Commissioning (BECx) – LEED Enhanced Commissioning (Option 2)-Warranty Phase

- 34. Perform a 10-month warranty site visit to review building enclosure systems.
- 35. Verify inclusion of systems manual requirements in construction document
- 36. Finalize BECx Report.

Enclosure Field /Mock-up and Ins-situ Testing

- 37. Standard Air/Water and Adhesion
 - a. ASTM E1105, Standard Test Method for Field Determination of Water Penetration of Installed Exterior
 - b. Windows, Skylights, Doors, and Curtain Walls, by Uniform or Cyclic Static Air Pressure Difference
 - c. ASTM E783, Standard Test Method for Field Measurement of Air Leakage Through Installed Exterior Windows and Doors
 - d. ASTM E1186, Standard Practices for Air Leakage Site Detection in Building Envelopes and Air Barrier Systems
 - e. AAMA 501.2-15, Quality Assurance and Diagnostic Water Leakage Field Check of Installed Storefronts, Curtain Walls and Sloped Glazing Systems
 - f. ASTM D4541 - 09e1, Standard Test Method for Pull-Off Strength of Coatings Using Portable Adhesion Tester
- 38. Dynamic Water Penetration
 - a. AAMA 501.1 Standard Test Method for Water Penetration of Windows, Curtain Walls and Doors Using Dynamic Pressure
- 39. Whole Building Air Leakage Testing
 - a. ASTM E779-10, Standard Test Method for Determining Air Leakage Rate by Fan Pressurization
 - b. ASTM E1186-03 (2009), Standard Practices for Air Leakage Site Detection in Building Envelopes and Air
 - c. Barrier Systems, Section 4.2.1 Building Depressurization (or Pressurization) with Infrared Scanning
 - d. Techniques and/or Section 4.2.2 Smoke Tracer in Conjunction with Pressurization or Depressurization
 - e. ISO Standard 6781, Thermal Insulation-Qualitative Detection of Thermal Irregularities of Building
 - f. Envelopes – Infrared Method

- 6. Project Schedule:** Cx Services shall begin concurrently upon receipt of an approved contract (or Delivery Order) and a Notice to Proceed from the Project Manager. Below is the current construction schedule:

Construction Start: November 2022

Construction Substantial Completion: June 2024

B. SCOPE OF SERVICES TO BE PROVIDED BY PIMA COUNTY

1. The County will cooperate with the CxA in the performance of service under this Agreement and will be available for consultation with the Cx at such reasonable times with advance notice as necessary.
2. A Project Manager from Facilities Management will be assigned to work with the CONSULTANT;
 - a. Any information available regarding the PROJECT, building utilities and services, or any other Project Specific information as required. This does not limit or negate the requirement of the CONSULTANT to verify the field conditions.
 - b. The COUNTY will examine the documents submitted to the COUNTY by the Cx and will render decisions and advise the Cx in a timely manner to avoid unreasonable delay in the orderly sequential progress of the Cx's services.
 - c. Consultation with Pima County Officials as required.
 - d. Promptly review and comment on all documents submitted to COUNTY for review.
 - e. The services performed by CxA under this agreement shall be subject to review by the COUNTY for compliance with this agreement. COUNTY may delegate any or all of his/her responsibilities under this Agreement to appropriate COUNTY staff members, and shall so inform the CxA by written notice of such delegation.
 - f. Establish formats, schedules and periodic reports required from the CONSULTANT.
 - g. Cost of any reproductions requested by the COUNTY.

Provide input for Owners Project Requirements for development by CxA.

END EXHIBIT A - SCOPE OF SERVICES

EXHIBIT B - COMPENSATION SCHEDULE (24 pages)

1. COST PLUS FIXED FEE SCHEDULE OF PAYMENTS

(Detailed by Major Milestone, Not to Exceed Cost by Task (Direct Labor, Indirect, and Other Direct Costs), and Fixed Fee)

2. COMPENSATION DETAILS

A. Cost Allocation and Ceilings

The compensation schedule will contain the negotiated cost allocations for each individual task. The compensation schedule will be used to monitor cost expenditures and sets the fixed price that can be charged for work pursuant to the specified task.

B. Cost Adjustments

If, for valid reason(s), Consultant notifies the Project Manager that the requisite work cannot be performed within the task's compensation allocation, and the Project Manager (PM) concurs, County will consider modifying cost allocations. The total compensation may be increased only by formal amendment to this agreement.

C. Progress Payments

It is anticipated certain elements of the Project may take longer than one (1) month to complete. These elements may be at considerable cost to Consultant prior to their full completion and acceptance by County. In such cases, at the sole discretion of County, County may authorize interim progress payments to Consultant. The invoice from Consultant will be proportionate to the actual percentage of work completed through the period covered by the invoice, as accepted by the PM.

D. The Fixed Fee for each assignment will be negotiated on a case-by-case basis. The fee will be a percent of the Consultant or Co- Consultant level of effort cost estimate agreed to by the County excluding Sub-Consultants and other direct cost estimates. The fee will be fixed for the scope of work detailed in the contract. The fixed fee percentage will be based upon historical departmental percentages for similar assignments, published industry guidelines and magnitude and duration of the assignment. Fixed Fee for engineering Subconsultants will generally follow the same guidelines established for the prime consultants but can also be negotiated on a case-by-case basis as appropriate.

E. COST ITEMS

1. Hourly Billing

a. Hourly Billing Rates

- Actual Payroll Rates within published industry standards
- Actual payroll rates for each person anticipated to be performing services on the assignment will be provided in advance of execution of the contract. Said listing will be updated on an annual basis during the term of the contract
- Hourly fee schedules for various position titles are not allowed

b. Annual Salaried Professionals

- Annual Salary individuals working a normal forty (40) hour week will be divided by two thousand eighty (2,080) hours to arrive at hourly billing rates
- Annual Salary individuals working a normal thirty-seven and one-half (37.5) hour week will be divided by one thousand nine hundred fifty (1,950) to arrive at hourly billing rates

- c. Allowable Annual Increases
 - Reasonable annual salary increases within published industry standards will be allowed and approved in advance
 - Unusually high proposed increases and increases above published industry standards will be agreed to on a case by case basis.
 - d. Subconsultants

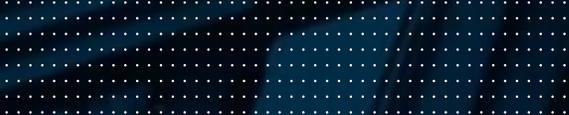
Specific billing arrangements will be negotiated with specialty Subconsultants such as the following:

 - Attorneys
 - Financial Advisors
 - Surveyors
 - Subsurface Consultants
 - Specialty Consultants
 - e. Vacation/Holidays
 - Included in firm's audited multiplier
 - f. Sick Time
 - Included in firm's audited multiplier
 - g. Billing for non-productive idle time
 - No billing for vehicle driving time (commuting time)
 - Allow billing during air travel to Pima County for actual time worked on Pima County projects
 - Short-term assignments are negotiable
2. Multipliers
- a. Only audited multipliers following Generally Accepted Accounting Principles (GAAP) or Federal Single Audit principles are allowed
 - b. Corporate, Regional or Local Audited Multipliers of firms will be negotiated for each contract
 - c. Job Site multipliers will be negotiated in the event the County provides office space or job site trailers for the Consultant
 - d. County will consider annual audited multipliers or fixed multipliers for the contract period
3. Travel Time
- a. Air Travel
 - Allow only for time spent on aircraft working on Pima County projects
 - b. Land Travel
 - Not allowed from Phoenix Metro Area to Pima County (both ways)
 - Not allowed to and from airports
 - c. Local Travel between meetings and job sites
 - Allowed
4. Expenses
- a. Mileage (Between Phoenix Metro Area and Pima County)
 - Approve at the established County mileage rate
 - Included in firm's audited multiplier or as other direct cost
 - Mileage for commuting not allowed

- b. Mileage – local
 - Approve at the established County mileage rate only allowable for projects outside a radius of 50 miles from 130 W. Congress, Tucson, AZ 85701.
 - Included in firm’s audited multiplier or as other direct cost
 - Mileage for commuting to and from work place not allowed
 - c. Car Rental/Lease/Corporate Vehicles
 - Included in firm’s audited multiplier or as other direct cost
 - d. Hotel/Meals
 - Allow only for infrequent call-in of an out of state consultant for a limited period of time
 - Establish daily limits in accordance with Federal Guidelines and negotiable for unusual circumstances
 - Allowed charges to be identified as other direct costs
 - e. IT/Phone/Internal Delivery Charges/Normal Postage/Miscellaneous/Other Administrative Charges
 - Include in firm’s audited multiplier
 - f. Relocation, second domicile or subsistence expenses
 - Negotiable on a case by case basis
 - g. Reproduction Costs
 - Bill as other direct costs if not in audited multiplier
 - h. All other direct costs will be detailed in the contract billing
5. Unallowable Costs
- a. Bonus
 - Not allowed as a direct charge or in the multiplier
 - b. Entertainment Costs
 - c. Marketing Costs
 - Only as allowed in audited multipliers
 - d. Non-identifiable Costs
 - e. Donations
 - Only as allowed in audited multipliers
 - f. Mark-up on subconsultants
 - g. Travel time from Phoenix Metro Area to Pima County (both ways)
 - h. Air travel for commuting purposes

C. INVOICING

Consultant will submit invoices monthly, to the Project Manager, with appropriate supporting data and documentation and in a format as prescribed by the Project Manager. The Project Manager may delay approval for up to five (5) work days to review the Progress Report and invoice. The invoice will tabulate the costs associated with each individual task. All Task (deliverables) and Subcontracted Service costs will be appropriately documented. The Project Manager will review and check the invoice to determine if it is complete and acceptable. If the Project Manager determines the invoice to be complete and acceptable, the Project Manager will approve the invoice and forward it for processing the payment.



Office of the Medical Examiner

Pima County

NEW CONSTRUCTION COMMISSIONING SERVICES -
CONSTRUCTION & WARRANTY PHASES

TUCSON, AZ

MARCH 28, 2023

For the Life of
Your Building



March 28, 2023

Sara Fontaine

Pima County Facilities Management
150 W. Congress Street
Tucson, AZ 85701

Re: Pima County Office of the Medical Examiner – Construction & Warranty Phase Commissioning Services Proposal

Dear Sara,

As a Qualified Commissioning Agent for Pima County under Master Services Agreement MA-PO-21-191, we are delighted at the prospect of providing construction and warranty phase commissioning (Cx) services for the Office of the Medical Examiner (OME) building. McKinstry has provided design phase Cx services for the new OME building and fully understands the design and critical nature of the building to support the mission of the Pima County Office of the Medical Examiner.

The new building is approximately 34,000 square feet and is designed with high-performance HVAC systems and critical emergency power systems. And the design of the building systems focuses on occupant safety, energy efficiency and maintaining critical operations at all times. The HVAC systems include dedicated outside air (DOAS) air-handling units, laboratory VAV systems and controls, exhaust heat recovery, central chilled and heating hot water systems, and a building automation control system with integration to the electrical, plumbing, emergency power, and lighting control systems for enhanced control and monitoring.

The scope of services follows the LEED fundamental and enhanced commissioning requirements, including building enclosure with our enclosure commissioning partner Intertek, who's scope is to directly perform enclosure system tests.

Our Cx team will be focused on providing a high level of assurance that the building's systems are installed and functioning according to the design intent. This will involve collaboration with the entire project team beginning in the early construction phase, extending through the acceptance phase, and continued through the first year of the post-occupancy warranty phase.

We look forward to partnering with Pima County, and we are dedicated to assisting with the delivery of a successful project. If you have any questions or want to discuss our proposal in more detail, you can reach me at 602.622.5471 or EdB@McKinstry.com, or Eric Koepfel at 602.750.4318 or EricK@McKinstry.com.

Sincerely,

Edward Ball | Senior Account Executive
602.622.5471 | EdB@mckinstry.com

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Pima County Office of the Medical Examiner

Construction & Warranty Phase Cx Proposal

1. Construction & Warranty Phase Commissioning Approach

Our team is experienced in providing construction and warranty phase commissioning (Cx) services following the LEED commissioning requirements. Our Cx team takes a detailed, hands-on approach that will create additional value for Pima County and the entire project team. Our Cx team has successfully implemented Cx plans for many projects over the years and has extensive knowledge of the commissioning process and objectives. Our desire is to go beyond our typical Cx approach, be a true team player, and work toward project solutions collaboratively each day we are on-site, and throughout the entire life of the project. We plan to work hand-in-hand with the contractors to ensure systems performance, and to be proactive to help head off or identify potential issues early on, not only to deliver a high-performance, energy-efficient building, but also to not sacrifice the project schedule.

The key to McKinstry's Cx program approach is the ability to define the desired outcomes of our clients and provide a process that assures these outcomes will be met. While our experienced and capable staff is the key ingredient to achieve this, we have put in place a system of quality assurance to provide added measures of discipline to the delivery of our services.

The scope of work tasks outlined below for the mechanical, electrical and plumbing (MEP) systems will be performed by McKinstry. The scope of work for the building envelope will be conducted by Intertek, as a sub-consultant to McKinstry, through Intertek's Phoenix office. Intertek's Building Science Solutions (BSS) group is primarily focused on building enclosure consulting, commissioning, and field performance testing for new construction and retrofit projects. The Intertek team includes experts in fenestrations, curtain wall, roofing, waterproofing, stone, masonry, stucco, EFIS, glass and glazing, sealants, air leakage performance evaluation, and thermal and hygrothermal analysis. Intertek has performed similar building enclosure testing for McKinstry on other commissioning projects. McKinstry will oversee the construction phase commissioning services conducted by Intertek and will ensure there is consistency and integration with commissioning of the MEP systems.

SCOPE OF WORK

The Construction and Warranty Phase commissioning process activities shall be completed for the following energy-related systems, per the LEED V4 Fundament and Enhanced Commissioning requirements:

- Mechanical HVAC Systems including controls
- Plumbing Systems: domestic hot water systems, pumps and controls
- Electrical Systems: distribution, lighting, emergency systems, lighting and controls, daylighting and controls
- Building Envelope / Enclosure

Renewable energy systems are not included in the scope of work as they are currently not included in the design (just infrastructure for future solar PV is currently included in the design).

Fire alarm/life safety, fire sprinkler, elevators and security systems are excluded from the commissioning fee and are to be tested by contractor/sub/AHJ as coordinated by the Owner.

Also, the walk-cooler refrigeration systems and lighting controls are excluded (as they are considered process systems and not required to be commissioned per LEED), but the BAS monitoring of the cooler refrigeration systems is included.

The commissioning scope of work is outlined below and split out between the mechanical, electrical and plumbing (MEP) systems and the building enclosure. The submittal review scope of work for both the MEP and

Pima County Office of the Medical Examiner Construction & Warranty Phase Cx Proposal

building enclosure has been transferred to the design phase commissioning services and thus is crossed out herein.

MEP Systems - LEED Fundamental Commissioning & Enhanced Commissioning (Option 1 Path 1)

Construction Phase:

1. Serve as the Commissioning Authority (CxA) on behalf of the County to oversee and lead the commissioning process for the project.
- ~~2. Conduct reviews of pertinent contractor submittals for MEP systems to be commissioned, concurrently with the engineer of record (EOR), and provide and coordinate written review comments to the EOR for inclusion in the returned submittals.
 - ~~a. McKinstry will coordinate with the County and the General Contractor to indicate the requested submittals to be reviewed by McKinstry (for which the GC shall issue to the CxA concurrently with the submission to the EOR). Alternatively, the GC can include the CxA on the distribution of all Trade Subcontractor submittals issued to the design team, for systems applicable to this specification.~~
 - ~~b. Pertinent submittals to be reviewed will include the main HVAC, DHW and electrical equipment, the emergency power equipment, electrical and plumbing metering, EMCS/BAS controls, and lighting controls. Contractor Cx procedures, plans and blank form submittals will also be reviewed and are outlined separately.~~
 - ~~c. McKinstry has included one review, and one back-check review of previous comments for the controls submittals and for 20% of all other submittals.~~~~
3. Develop and issue a Commissioning (Cx) Plan and use it to guide the commissioning process.
4. Conduct a Cx Kick-off Meeting with the County and the design and construction teams to review the Cx Plan and to discuss the commissioning scope, process and tasks, expectations and roles and responsibilities.
5. Review the Contractor's project schedule related to commissioning activities and durations at the start of construction and provide comments to the County and General Contractor. Work with the contractors to review the updated project schedules relative to commissioning activities.
6. Review and approve the contractor Cx procedures, plans and blank forms per the Cx specification prior to their use.
 - a. As defined in McKinstry's Cx specifications, the trade contractors are required to develop and submit their Cx plans/procedures and blank forms for conducting installation verification (IV), startups, and pre-functional checks (PFC) to McKinstry for our review and approval. The required forms and plans are summarized below.
 - HVAC Equipment & System IV, Startup and PFC Plan with Blank Forms.
 - Duct Leakage Test Plan with Blank Forms.
 - Hydronic Pipe System Pressure / Leak Test Plan with Blank Forms.
 - Refrigeration Pipe Test Plan with Blank Forms (if applicable).
 - Hydronic Pipe Clean and Flush Plan with Blank Forms.
 - Water Treatment Plan.
 - BAS Controls IV and PFC Plan with Blank Forms.
 - TAB Plan, Forms and Qualifications.

Pima County Office of the Medical Examiner

Construction & Warranty Phase Cx Proposal

- Electrical Service & Distribution IV and PFC Plan with Blank Forms (including NETA electrical inspection and test forms).
 - Emergency Power Systems IV and PFC Blank Plan with Blank Forms.
 - Electric Meter IV and PFC Plan with Blank Forms.
 - Lighting and Lighting Control Sensor & Device IV Plan with Blank Forms.
 - Lighting Control System Blank PFC Plan with Blank Forms.
 - DHW Equipment & System IV, Startup and PFC Plan with Blank Forms (including any local equipment factory controls that are not installed by the BAS Contractor).
 - Domestic Water Pipe Clean, Flush and Treatment Plan.
 - Plumbing Water and Gas Meter IV and PFC Plan with Blank Forms.
 - Plumbing Automatic Fixture Controls IV and PFC Plan with Blank Forms.
- b. McKinstry's review will ensure the procedures and forms are well defined, are project specific and include all manufacturer requirements. Where needed, McKinstry will have the contractors update their forms to address any missing items and to include manufacturer specific checklists or project specific requirements, such design details, or drawings that McKinstry recommends be used as a form (to be field verified and signed).
 - c. McKinstry has included one review and one back-check review of previous comments for the contractor plans and blank forms.
7. Setup and maintain the project Cx Issues Log.
 - a. McKinstry's software tool for the Cx Issues Log is Cx Alloy. Access to Cx Alloy will be provided to all project team members.
 8. Attend periodic MEP Cx meetings to review and discuss any upcoming Cx tasks and requirements, and the status of any current issues or outstanding documentation. The MEP Cx meetings can be conduct as part of or immediately after the contractor MEP coordination meetings.
 - a. Frequency will likely be a minimum of once a month after the Cx kickoff meeting, increasing in frequency towards the system startups and testing.
 - b. McKinstry has included a total of 28 meetings, estimated to be monthly one-hour meetings for 10 months (half remote meetings and half onsite meetings) and bi-weekly onsite one-hour meetings for 7 months and weekly onsite one-hour meetings for 1 month.
 - c. The Cx meeting time includes scheduling and facilitating a HVAC Controls and TAB coordination meeting to discuss in more details the specific controls and TAB Cx activities and coordination.
 9. Conduct onsite reviews of the MEP system installation and readiness for system startup, including reviews of the contractor completed IV forms. Also, witness the first duct leakage test and verify hydronic pipe clean and flush activities prior to startup. Where able, McKinstry will witness a sample of the first major HVAC equipment startups for the AHUs, ERUs, and chillers.
 - a. McKinstry will prepare a written summary of the site visit as appropriate, and note any identified issues and recommendations in Cx Issues Log.
 - b. McKinstry has assumed a total of 12 onsite Cx visits for installation reviews and IV back-checks, witnessing HVAC duct leakage testing, witnessing hydronic Cx activities, and witnessing equipment startups (not including controls and HVAC TAB activities – see below for those site visits). Half the onsite Cx visits are assumed to be conducted in conjunction with onsite Cx meetings.
 10. Review the trade contractor completed IV, startup and PFC forms/reports as listed above.

Pima County Office of the Medical Examiner

Construction & Warranty Phase Cx Proposal

- a. McKinstry will review all contractor completed Cx forms, which will be required prior to witnessing the FPTs. Additional time spent in dealing with significant issues associated with incomplete or inaccurate completed forms may impact our commissioning fee.
11. Witness a sample of field back-check verifications of the BAS Controls point-to-point pre-functional checks conducted by the contractor after completion and submission of the BAS Controls pre-functional check forms.
 - a. McKinstry included a maximum of 2 days onsite to witness the BAS Controls field back-check verifications and review the system graphics, as outlined in the Cx specifications, and that it be performed prior to the FPTs.
12. Witness a sample of field back-check verifications of the HVAC TAB conducted by the TAB contractor after completion and submission of the Preliminary TAB Report.
 - a. McKinstry has included a maximum of 2 days onsite to witness the TAB field back-check verifications, as outlined in the Cx specifications.
13. McKinstry has included up to 2 days to review the BAS control sequence of operation programming with the BAS contractor prior to witnessing onsite FPTs, as outlined in the Cx specifications.
14. Develop project specific functional performance test (FPT) forms for the systems to be commissioned and update per any review comments from the team.
15. Witness and document the FPTs conducted by the contractors and provide input for the resolution of issues and recommendations for improvements. Provided below are the estimated sample rates from the Cx specifications for witnessing the FPTs.
 - a. HVAC systems and controls: 100%, no sampling given the critical nature of the systems and relatively small number of terminal units and split DX units.
 - b. Lighting controls: Verification Tests for 100% of the spaces (to test all sensors, switches and devices). Performance Tests for approximately 20% to 40% of the spaces, as selected by the CxA, where applicable for verifying any light levels and daylight controls per the design.
 - c. Emergency power system (generator and transfer switches): 100% no sampling.
 - d. Whole building emergency power integrated systems test: 100% no sampling.
 - e. Domestic hot water systems (including water heaters, storage tanks, recirculation pumps and controls, etc.): 100%, no sampling
 - f. Plumbing automatic fixture controls: verification tests for approximately 20% to 40%.
 - g. BAS energy and water metering: verification tests for 100% of the meters (verifying BAS readings via the system graphics and/or trend data).
 - h. McKinstry has included a total 96 hours of time to witness onsite functional performance tests (FPTs) for all systems to be performed by the trade contractors, including witnessing a whole building emergency power integrated systems test. As the commissioning authority, McKinstry's commissioning specifications require the trade contractors to perform all FPTs with McKinstry who will witness and document the results of the FPTs.
 - i. McKinstry has included 32 hours for re-testing and/or verification the resolution of functional testing issues across all systems.
16. Verify delivery of the O&M manuals and the completion of the O&M training, including reviewing the contractor training agendas prior to the actual training, and collecting copies of the training sign-in sheets.
17. Provide a final Commissioning Report to the County, including all commissioning documentation and the final Cx Issues Log.

Pima County Office of the Medical Examiner

Construction & Warranty Phase Cx Proposal

18. Compile the Current Facilities Requirements (CFR) and Operations and Maintenance (O&M) Plan per the LEED Fundamental Cx requirements.
19. Develop an ongoing Commissioning Plan and Systems Manual per the LEED Enhanced Cx requirements. The Systems Manual will include applicable as-built drawings, equipment information and controls documentation, which per the Cx specifications shall be provided by the contractors to McKinstry for inclusion in the Systems Manual.
 - a. McKinstry has also included one onsite meeting to review the Systems Manual with the facility O&M Team.
20. Complete and upload all LEED required documentation for Cx credits.

Warranty Phase:

21. Verify applicable deferred or seasonal testing.
 - a. McKinstry has included 1 day of onsite time for deferred seasonal testing of the HVAC systems during the opposite season in which the construction phase FPTs were witnessed.
 - b. McKinstry will also verify the completion of the deferred electrical system IR scanning required per the design specifications, and review the completed electrical system IR scanning report.
22. Setup and maintain a Warranty Phase Cx Log and report any identified issues and recommendations to the contractors via a Warranty Phase Cx Log for review and resolution prior to the end of the warranty period (for any issues or recommendations identified either by McKinstry or the County).
23. Perform an on-site review and remote trend analysis of system operation and performance, within approximately ten (10) months of substantial completion.
 - a. McKinstry has included one (1) onsite review for MEP systems and 40 hours of time of remote BAS trend data collection and analysis (with the data provided to McKinstry by the O&M Team or the Contractor).
24. Schedule and facilitate a near end-of-warranty phase Cx review meeting, to be scheduled with the key representatives from the construction team, the Owner's facility staff and McKinstry, no later than either 10 months after substation completion or two months prior to the expiration of the first 12-month warranty period.
 - a. During this meeting, the operation of the systems will be discussed with the Owner's staff, the results of any commissioning trend analysis will be reviewed, and the Warranty Phase Cx Log will be reviewed. If needed, a walk-through of the systems with the Owner's staff will be conducted.
 - b. Next steps and actions items for any open Cx issues and recommendations will be discussed and documented via meeting minutes or a field report issued by McKinstry. The intent is to resolve any open Cx issues prior to the end of the warranty phase.
25. Provide the final, update Warranty Phase Cx Log to the County.

Building Enclosure Commissioning (BECx) - LEED Enhanced Commissioning (Option 2)

See the attached proposal from Intertek for the building enclosure scope of work. Different than the MEP Systems, Intertek will directly perform specific enclosure FPTs (with preparations by others; the construction team), as outlined in their proposal for the following tests:

- Standard Air/Water and Adhesion testing (per ASTM E1105, ASTM E783, ASTM E1186, AAMA 501.2-15, ASTM D4541, ASTM C1401)
- Dynamic Water Penetration testing (per AAMA 501.1)
- Whole Building Air Leakage testing (per ASTM E779-10, ASTM E1186-03, ASTM C1060)

Pima County Office of the Medical Examiner Construction & Warranty Phase Commissioning

2. Fee Proposal

Our proposed fee for the services as described in the Section 1 is provided below, with a breakdown of the submittal review from the construction and warranty phase services.

Construction and Warranty Phase NCCx Services\$398,385.93

The fee is based on McKinstry’s direct labor and overhead rates contained in Attachment B, as a 2023 update to the rates in the qualified consultant list (QCL) master agreement MA-PO-21-191. And an 8% fixed fee (profit). The labor rates in Attachment B represent a 12% increase from the rates in the master agreement executed in July 2021. The new rates also account for the construction services being provided over an 18 month period from now, and the warranty phase scope services being provided for another 12 month period thereafter.

FEE BREAKDOWN

McKinstry Role / Function	Direct Labor + Overhead Rate (\$/Hr)	MEP Cx - Construction		MEP Cx - Warranty		BECx - Construction		BECx - Warranty		Total	
		Labor Hours	Fee	Labor Hours	Fee	Labor Hours	Fee	Labor Hours	Fee	Labor Hours	Fee
Regional Director	243.68	11.0	\$ 2,680.48	3.0	\$ 731.04	1.0	\$ 243.68	0.0	\$ -	15.0	\$ 3,655.20
Senior Program Manager	197.06	42.0	\$ 8,276.52	13.0	\$ 2,561.78	4.0	\$ 788.24	1.0	\$ 197.06	60.0	\$ 11,823.60
Program / Project Manager	171.12	66.0	\$ 11,293.92	20.0	\$ 3,422.40	18.0	\$ 3,080.16	4.0	\$ 684.48	108.0	\$ 18,480.96
Lead Commissioning Engineer	171.12	546.0	\$ 93,431.52	132.0	\$ 22,587.84	36.0	\$ 6,160.32	4.0	\$ 684.48	718.0	\$ 122,864.16
Commissioning Engineer	139.98	342.0	\$ 47,873.16	138.0	\$ 19,317.24	0.0	\$ -	0.0	\$ -	480.0	\$ 67,190.40
Business Operations Analyst	129.63	47.0	\$ 6,092.61	25.0	\$ 3,240.75	55.0	\$ 7,129.65	12.0	\$ 1,555.56	139.0	\$ 18,018.57
Safety Engineer	160.73	8.0	\$ 1,285.84	0.0	\$ -	8.0	\$ 1,285.84	0.0	\$ -	16.0	\$ 2,571.68
Sub-Total		1062.0	\$ 170,934.05	331.0	\$ 51,861.05	122.0	\$ 18,687.89	21.0	\$ 3,121.58	1536.0	\$ 244,604.57
Estimated Total # of Trips		58.0		6.0		0.0		0.0		64.0	
Other Direct Costs - McKinstry Travel & Mileage Expenses			\$ 11,534.75		\$ 1,193.25		\$ -		\$ -		\$ 12,728.00
Other Direct Costs - Subconsultant Expenses (Intertek)			\$ -		\$ -		\$ 91,755.00		\$ 4,730.00		\$ 96,485.00
Sub-Total - Other Direct Costs			\$ 11,534.75		\$ 1,193.25		\$ 91,755.00		\$ 4,730.00		\$ 109,213.00
Owner's Contingency			\$ 15,000.00		\$ -		\$ 10,000.00		\$ -		\$ 25,000.00
Profit (8% x Direct Labor + Overhead Costs Sub-Total)			\$ 13,674.72		\$ 4,148.88		\$ 1,495.03		\$ 249.73		\$ 19,568.36
Total (Direct Labor + Overhead, Other Direct Costs, Profit)			\$ 211,143.52		\$ 57,203.18		\$ 121,937.92		\$ 8,101.31		\$ 398,385.93

CLARIFICATIONS

- McKinstry’s Travel & Mileage Expenses are estimated based on the following assumptions:
 - Estimated Total # of Trips = 64 Includes 5 extra trips during construction and 1 extra trip during warranty.
 - Food & Parking Costs = \$1,728.00 This is based on the GAO per diem of \$27/day times the number of trips. Assumed no parking fees.
 - Mileage Costs = \$10,400.00 This is based on 260 miles/trip (from McKinstry office to the site) @ \$0.625/mile times the number of trips.
 - Hotel Costs = \$600.00 Cost allowance for cases where the hotel costs may be more than the mileage trip cost.

Total Expenses = \$12,728.00

- McKinstry has not included any profit on the expenses or for our subconsultant Intertek for the building envelope, per our QCL master agreement for commissioning services (MA-PO-21-191).
- Per discussions with the County, McKinstry has included a total contingency of \$25,000.

Pima County Office of the Medical Examiner Construction & Warranty Phase Commissioning

AUTHORIZATION

Pima County Design Phase NCCx Services is Authorized By:

Pima County

Name:

McKinstry Essention, LLC

Name:



Signature

Signature

3/28/23

Date

Date

Pima County Office of the Medical Examiner Construction & Warranty Phase Commissioning

ATTACHMENT A - INTERTEK PROPOSAL

Proposal No. 279970R3

March 1, 2023

Mr. Eric Koeppel, P.E., CxA, CEM
McKinstry
4835 E Cactus Rd#100
Scottsdale, AZ 85254

RE: Proposal for Building Enclosure Commissioning Services
Pima County Medical Examiners Facility
Tucson, AZ 85714

Dear Mr. Koeppel:

Architectural Testing, Inc., an Intertek company ("Intertek"¹) is pleased to offer you this revised proposal to provide building enclosure commissioning (BECx) services on the above-referenced project. This proposal is based on the Scope of Commissioning Services Required dated May 24, 2022 ("RFP), the Design Development drawings dated April 14, 2022, and our email correspondence on June 22, 2022.

This revised/updated proposal is for our remaining BECx services during the Construction, Operations & Maintenance, and Functional Performance Testing.

PROJECT UNDERSTANDING

The project consists of a new medical examiner's facility. The new construction will consist of a single-story, 34,000 SF facility expected to house an estimated 60 staff members. Design is underway, with 100% CD's anticipated to be complete around October 28, 2022. Construction is anticipated to start January 2023 and reach substantial completion September 2024. The exterior enclosure schedule is scheduled for approximately 4 months.

¹ Intertek is a brand name representing the Intertek Group plc legal entities, including but not limited to, Professional Service Industries, Inc., and Architectural Testing Inc. **Note: Vendor setup, contracts, etc. should be written to the corresponding legal entity, as noted in the header.**

PROPOSED PROJECT TEAM

We are confident our collective experience provides an extremely well-rounded team with expertise in all portions of the building enclosure. We propose the following project team.

Project Team Member	Role
Eric Seaverson, P.E. - Director, Building Science Solutions	Project Executive
Jason O’Boyle, P.E., RRO - Regional Manager, Building Science Solutions	BECx Lead
Tom Shirey – Manager, Building Science Solutions	Project Manager

SCOPE OF SERVICES

The following summarizes our proposed construction phase scope of services based on our understanding of the project requirements.

Construction Phase BECx
Participate in the commissioning coordination meeting <i>We have included one (1) meeting on site to discuss the BECx process.</i>
Construction Observation Site Visits Observe the initial installation of critical enclosure components such as fenestration systems and air/water barrier systems at exterior walls and roofs. Document discrepancies from the Construction Documents in an issues log and follow-up until resolution. Provide feedback to the contractor and design team to improve installation methods. <i>We have included twelve (12) site visits. Note the number of visits can be adjusted once the building enclosure schedule is provided.</i>
Review contractor quality control / quality assurance checklists.
Witness Performance Verification Testing of Enclosure Components and Assemblies <i>We assume testing will be completed during site visits.</i> <i>Note: Our fees include witnessing the field testing only on days we are performing a Site Visit.</i>
Participate in BECx Progress Meetings <i>We have included six (6) conference calls.</i>
Prepare BECx Report.

Occupancy and Operations Phase BECx
Perform a 10-month warranty site visit to review building enclosure systems.
Verify inclusion of systems manual requirements in construction documents.
Finalize BECx Report.

MOCK-UP AND ENCLOSURE FUNCTIONAL PERFORMANCE FIELD TESTING

The scope and fees outlined above includes witnessing the enclosure related field testing only. Intertek is also uniquely qualified and equipped to perform the enclosure functional performance field verification testing for this project. Based upon our project meeting on September 28, 2022, we understand the Owner would like us to include the following testing:

Enclosure Field / Mock-up and In-Situ Testing
<p>Standard Air/Water and Adhesion <i>ASTM E1105, Standard Test Method for Field Determination of Water Penetration of Installed Exterior Windows, Skylights, Doors, and Curtain Walls, by Uniform or Cyclic Static Air Pressure Difference</i> <i>ASTM E783, Standard Test Method for Field Measurement of Air Leakage Through Installed Exterior Windows and Doors</i> <i>ASTM E1186, Standard Practices for Air Leakage Site Detection in Building Envelopes and Air Barrier Systems</i> <i>AAMA 501.2-15, Quality Assurance and Diagnostic Water Leakage Field Check of Installed Storefronts, Curtain Walls and Sloped Glazing Systems</i> <i>ASTM D4541 - 09e1, Standard Test Method for Pull-Off Strength of Coatings Using Portable Adhesion Testers</i></p>
<p>Dynamic Water Penetration <i>AAMA 501.1 Standard Test Method for Water Penetration of Windows, Curtain Walls and Doors Using Dynamic Pressure</i></p>
<p>Whole Building Air Leakage Testing <i>ASTM E779-10, Standard Test Method for Determining Air Leakage Rate by Fan Pressurization</i> <i>ASTM E1186-03 (2009), Standard Practices for Air Leakage Site Detection in Building Envelopes and Air Barrier Systems, Section 4.2.1 Building Depressurization (or Pressurization) with Infrared Scanning Techniques and/or Section 4.2.2 Smoke Tracer in Conjunction with Pressurization or Depressurization</i> <i>ISO Standard 6781, Thermal Insulation-Qualitative Detection of Thermal Irregularities of Building Envelopes – Infrared Method</i></p> <p>Building Preparation and Testing:</p> <ul style="list-style-type: none"> ▪ Upon arrival to the site, Intertek will perform a review of the building to verify the appropriate and required building preparations have been completed <i>by others</i> in preparation for testing. ▪ We will advise the appropriate parties of identified concerns that must be addressed prior to testing. ▪ Once preparations are completed, testing will be performed. ▪ As part of the testing, air leakage diagnostic testing of the building enclosure will be performed to identify any areas of significant air leakage. <p>We will prepare a comprehensive report of the test results per the requirements of the specification.</p>

Based upon sequencing of the installation, we have budgeted the following days for testing:

BUILDING	DESCRIPTION	TEST STANDARD	QTY. DAYS	UNIT RATE	EXTENDED COST
Mockup	Glazing Testing	ASTM E783, ASTM E1105, and/or AAMA 501.1	2	\$3,900	\$3,900
Mockup & Building	Air/Water Barrier Leakage & Adhesion Testing	ASTM E1105 (modified) ASTM E1185 (practice 4.2.7) ASTM D4541 / ABAA T0002	3	\$1,625	\$4,875
Mockup	Sealant Adhesion Testing	ASTM C1401	3	\$1,625	\$4,875
Building	In-situ testing	ASTM E783, ASTM E1105, and/or AAMA 501.1	2	\$3,900	\$7,800
Building	Metal wall panels	ASTM E1186 (smoke) ASTM E1105 (modified) - w/o metal panels installed AAMA 501.1 - w/ metal panels installed	1	\$3,900	\$3,900
Building	Expansion Joints	AAMA 501.2	2	\$3,500	\$3,500
Building	Substantial completion IR scan	ASTM C1060 ASTM E1186 (practice 4.2.1 and/or 4.2.2)	1	\$5,025	\$5,025
Building	Whole building air tightness testing	ASTM E779	1	\$8,775	\$8,775
Total:					\$50,650

Items Provided by Intertek

- All equipment necessary to perform the testing.
- Test technician, assistant, gauges, and instrumentation for conducting the testing.
- A detailed report summarizing the results of the field tests.

Items Provided by Others

- Installer/manufacturer to supply specification/test report data, prior to date of testing, to confirm product performance ratings.
- Source of water capable of delivering five (5) gallons of water per hour per square foot to the spray rack assembly (within 200 feet of the test area).
- 110-volt power supply (within 100 feet of the test area).
- Forklift (preferably with outriggers) capable of lifting 3,000 pounds to the test area. Need to provide an experienced operator for the forklift.
- Notification and coordination of all parties involved.
- Access to the interior and exterior of the test area, including any lifts/scaffolding as necessary.
- Repair of any damage that may result from testing.

EXPENSES

A summary of our anticipated expenses is provided below:

Category	Qty.	Rate	Extended Cost	Comments
Mileage	28 @ 226 miles/each	\$0.625/mile	\$3,955.00	Meetings, site visits, testing
Testing - Air Barrier or Sealants	6 Days	\$100/day	\$600.00	Testing consumables (blades, knives, test discs, glue, equipment, etc.)
Testing - Glazing	7 Days	\$250/day	\$1,750.00	Testing consumables (wood, screws, plastic, gasket, tape, etc.)
Testing - IR Scan	1 Day	\$250/day	\$250.00	Equipment fee
Testing - WBAT	1 Day	\$500/day	\$500.00	Equipment fee (cords, hoses, etc.)
Estimated Total:			\$7,055.00	

LIMITATIONS

It should be noted that Intertek is not the designer of record for this project and therefore will not be preparing new construction drawings, formal design recommendations or calculations. The services presented herein are not intended to be a code or safety compliance assessment.

SCHEDULE

The Client is responsible for scheduling Intertek’s inspection and testing dates. Intertek requests at least two-weeks advance notice for scheduling field work. Intertek may be able to arrange field work with less notice; however, this increases the likelihood of scheduling conflicts. Intertek will complete the review of project documents within 10 business days. Quality Assurance Monitoring and Testing Service for the project will be based on the construction schedule. Please note that this schedule could require modifications if our workload schedule is different than the current load at the time of authorization. Based on our normal backlog, Intertek highly recommends providing us the anticipated construction schedule with updates being provided two-weeks before the desired QA visits and testing. QA and testing reports will be delivered within three-business days of completed site visit. Provided communication is

maintained and substantial notice is provided throughout the project, Intertek has the resources available to meet your project needs.

FEE SUMMARY

We will perform the services outlined above for the following on a unit rate basis. These fees include expenses, where applicable.

BECx Phases	Fee
BECx Construction Phase Services	\$34,050.00
BECx Occupancy and Operations	\$4,730.00
Building Enclosure Functional Performance Testing	\$50,650.00
Expenses	\$7,055.00
Total:	\$96,485.00

Please find a summary of our fees below for the BECx Construction Phase and Occupancy and Operations Phases. Refer to the tables above for our estimate of testing and expenses:

Sub-Task	VP \$285	Director \$250	Manager \$235	SPM \$230	PM \$205	Engineer \$190	Sr. Tech. \$175	Tech. \$150	Sr. Admin. \$105	Admin. \$75	Qty.	Labor Sub-Total	Equipment 100%	Travel 100%	Mileage \$0.625	Expenses Sub- Total	Labor + Expenses Sub-
Phase II - Construction Phase																	
BECx Kickoff	0.0	0.0	0.0	0.0	8.0	0.0	0.0	0.0	0.0	0.0	1.0	\$1,640	0.0	0.0	0.0	\$0.00	\$1,640.00
RFPs, COs, ASIs	0.0	0.0	2.0	0.0	0.0	8.0	0.0	0.0	0.0	0.0	1.0	\$1,990	0.0	0.0	0.0	\$0.00	\$1,990.00
Site Visits	0.0	0.0	0.5	0.0	8.0	0.0	0.0	0.0	0.5	0.0	12.0	\$21,720	0.0	0.0	0.0	\$0.00	\$21,720.00
QC Checklists	0.0	0.0	0.0	0.0	0.0	8.0	0.0	0.0	0.0	0.0	1.0	\$1,520	0.0	0.0	0.0	\$0.00	\$1,520.00
Proj. coord. Mtgs.	0.0	0.0	0.0	2.0	0.0	0.0	0.0	0.0	0.0	0.0	6.0	\$2,760	0.0	0.0	0.0	\$0.00	\$2,760.00
PM / Admin.	0.0	0.0	12.0	0.0	0.0	0.0	0.0	0.0	4.0	0.0	0.5	\$1,620	0.0	0.0	0.0	\$0.00	\$1,620.00
BECx Report	0.0	0.0	1.0	0.0	12.0	0.0	0.0	0.0	1.0	0.0	1.0	\$2,800	0.0	0.0	0.0	\$0.00	\$2,800.00
Sub-Total												\$34,050.00			\$0.00	\$34,050.00	
Phase II - O&M																	
10-month visit	0.0	0.0	1.0	0.0	0.0	12.0	0.0	0.0	0.5	0.0	1.0	\$2,568	0.0	0.0	0.0	\$0.00	\$2,567.50
Systems manual	0.0	0.0	1.0	0.0	4.0	0.0	0.0	0.0	0.0	0.0	1.0	\$1,055	0.0	0.0	0.0	\$0.00	\$1,055.00
Final BECx report	0.0	0.0	1.0	0.0	4.0	0.0	0.0	0.0	0.5	0.0	1.0	\$1,108	0.0	0.0	0.0	\$0.00	\$1,107.50
Sub-Total												\$4,730.00			\$0.00	\$4,730.00	
Phase III - O&M																	
Phase IV - BUILDING ENCLOSURE TESTING																	
Mockup testing	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2.0	\$0	3900.0	0.0	0.0	\$7,800.00	\$7,800.00
Air barrier testing	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3.0	\$0	1625.0	0.0	0.0	\$4,875.00	\$4,875.00
Sealant testing	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3.0	\$0	1625.0	0.0	0.0	\$4,875.00	\$4,875.00
Glazing testing - building	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2.0	\$0	3900.0	0.0	0.0	\$7,800.00	\$7,800.00
Metal wall panel testing	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0	\$0	3900.0	0.0	0.0	\$3,900.00	\$3,900.00
Expansion joint testing	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2.0	\$0	3800.0	0.0	0.0	\$7,600.00	\$7,600.00
IR Scan	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0	\$0	5025.0	0.0	0.0	\$5,025.00	\$5,025.00
WBAT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0	\$0	8775.0	0.0	0.0	\$8,775.00	\$8,775.00
Sub-Total												\$0.00			\$50,650.00	\$50,650.00	
Phase V - Expenses																	
Meetings	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0	\$0	0.0	0.0	226.0	\$141.25	\$141.25
Site Visits	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	12.0	\$0	0.0	0.0	226.0	\$1,695.00	\$1,695.00
Testing Days - Air Barrier	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	6.0	\$0	100.0	0.0	226.0	\$1,447.50	\$1,447.50
Testing Days - Glazing	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	7.0	\$0	250.0	0.0	226.0	\$2,738.75	\$2,738.75
Testing Days - IR Scan	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0	\$0	250.0	0.0	226.0	\$391.25	\$391.25
Testing Days - WBAT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0	\$0	500.0	0.0	226.0	\$641.25	\$641.25
Sub-Total												\$0.00			\$7,055.00	\$7,055.00	

Any fees for additional services that are required/requested, will only be incurred after a change order has been submitted to the client and written approval from the client has been received. If required, work on weekends and holidays will be subject to additional costs at the rates listed on the current Fee Schedule.

This proposal is valid for 30 calendar days, after which Intertek reserves the right to modify the fees and/or schedule.

HOURLY RATES/ADDITIONAL SERVICES

The following summarizes our hourly rates. If conditions arise that alter our expectations, or if additional services are required, we will provide these services based on these rates. Annual adjustment of these fees may be incurred in accordance with industry standards. No additional work will be performed unless authorized by your office.

2023 Fee Schedule	
Vice President	\$285 per hour
Senior Director/Director/Chief Engineer/Chief Architect	\$250 per hour
Department Manager/Discipline Manager/Senior Consultant/Principal Consultant/Consultant	\$235 per hour
Manager/Senior Project Engineer/Senior Project Architect/Senior Project Manager	\$230 per hour
Project Engineer/Project Architect/Project Manager	\$205 per hour
Engineer	\$190 per hour
Senior Technician/Senior Inspector/Project Lead/Technician Lead/Project Specialist	\$175 per hour
Technician/Inspector/Acoustician	\$150 per hour
Project Coordinator/Senior Administrative	\$105 per hour
Travel and Reimbursable Expenses	Cost
Mileage	\$0.625 per mile

TERMS

Services will be provided in accordance with the General Conditions included in this proposal. A minimum fee of \$1,000 may be charged for cancellations or postponements that occur within 48 hours of confirmed test dates. Monthly invoices will be issued and are due Net 30 days upon receipt. These terms are subject to approval by Intertek’s Accounting Department prior to initiation of our services. Should the requirements for this project significantly deviate from those quoted herein, we reserve the right to revise this proposal.

Remit Payment to:
Architectural Testing, Inc. lockbox 419241
PO Box 419241
Boston, MA 02241-9241

Information for courier, credit card, ACH and wire payment is available upon request.

AUTHORIZATION

You may authorize us to proceed with the work as described and quoted herein by signing the proposal and returning it to us. You may forward a signed copy of this proposal to my attention at jason.oboyle@intertek.com. We will proceed with the work upon receipt of proposal authorization.

Thank you for the opportunity to provide this proposal. Should you have any questions or require additional information, please contact us at your convenience. We look forward to working with you.

Respectfully Submitted,

Architectural Testing, Inc., an Intertek company

Jason O'Boyle, P.E., REWC, RRO
Regional Manager
Building Science Solutions

JO;jh

Pima County Office of the Medical Examiner Construction & Warranty Phase Commissioning

ATTACHMENT B - MCKINSTRY'S LABOR RATES

Overhead %	139%
Profit %	8%

Discipline	A	B	Direct Labor + Overhead Rate
	Direct Labor Rate	Overhead Rate	
Program Manager	\$71.60	\$99.52	\$171.12
Commissioning Technician	\$45.56	\$63.33	\$108.89
Commissioning Specialist	\$49.90	\$69.36	\$119.26
Commissioning Engineer	\$58.57	\$81.41	\$139.98
Sr. Commissioning Engineer	\$71.60	\$99.52	\$171.12
Commissioning Lead	\$71.60	\$99.52	\$171.12
Business Operations Analyst	\$54.24	\$75.39	\$129.63
Safety Engineer	\$67.25	\$93.48	\$160.73
Sr. Program Manager	\$82.45	\$114.61	\$197.06
Operations Manager	\$88.95	\$123.64	\$212.59
Senior Account Executive	\$93.29	\$129.67	\$222.96
Project Director	\$93.29	\$129.67	\$222.96
Account Management Director	\$101.96	\$141.72	\$243.68
Regional Director	\$101.96	\$141.72	\$243.68

Formulas:

(A) Direct Labor Rate

(B) Overhead% x (A) Rounded

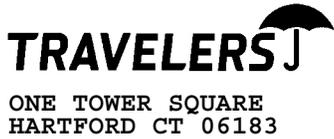
Pima County Office of the Medical Examiner Construction & Warranty Phase Commissioning

ATTACHMENT C - INTERTEK'S LABOR RATES

Overhead %	207%
Profit %	8%

Staff Level	Direct Labor Rate	Overhead	Profit	Billing Rate
Manager	\$70.88	\$146.72	\$17.40	\$235.00
Senior Project Manager	\$69.37	\$143.60	\$17.03	\$230.00
Project Manager	\$61.83	\$127.99	\$15.18	\$205.00
Engineer	\$57.31	\$118.63	\$14.06	\$190.00
Senior Admin	\$31.67	\$65.56	\$7.77	\$105.00

END OF EXHIBIT B - COMPENSATION SCHEDULE



**WORKERS COMPENSATION
AND
EMPLOYERS LIABILITY POLICY**

ENDORSEMENT WC 00 03 13 (00) - 001

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

SCHEDULE

DESIGNATED PERSON:

DESIGNATED ORGANIZATION:

**ANY PERSON OR ORGANIZATION FOR WHICH THE INSURED HAS AGREED
BY WRITTEN CONTRACT EXECUTED PRIOR TO LOSS TO FURNISH THIS
WAIVER.**

Any person or organization for which the employer has agreed by written contract, executed prior to loss, may execute a waiver of subrogation. However, for purposes of work performed by the employer in Missouri, this waiver of subrogation does not apply to any construction group of classifications as designated by the waiver of right to recover from others (subrogation) rule in our manual.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED – AUTOMATIC STATUS IF REQUIRED BY WRITTEN CONTRACT (CONTRACTORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that:

- a. You agree in a written contract or agreement to include as an additional insured on this Coverage Part; and
- b. Has not been added as an additional insured for the same project by attachment of an endorsement under this Coverage Part which includes such person or organization in the endorsement's schedule;

is an insured, but:

- a. Only with respect to liability for "bodily injury" or "property damage" that occurs, or for "personal injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement and while that part of the contract or agreement is in effect; and
- b. Only as described in Paragraph (1), (2) or (3) below, whichever applies:

(1) If the written contract or agreement specifically requires you to provide additional insured coverage to that person or organization by the use of:

- (a) The Additional Insured – Owners, Lessees or Contractors – (Form B) endorsement CG 20 10 11 85; or
- (b) Either or both of the following: the Additional Insured – Owners, Lessees or Contractors – Scheduled Person Or Organization endorsement CG 20 10 10 01, or the Additional Insured – Owners, Lessees or Contractors – Completed Operations endorsement CG 20 37 10 01;

the person or organization is an additional insured only if the injury or damage arises out of "your work" to which the written contract or agreement applies;

(2) If the written contract or agreement specifically requires you to provide additional insured coverage to that person or organization by the use of:

(a) The Additional Insured – Owners, Lessees or Contractors – Scheduled Person or Organization endorsement CG 20 10 07 04 or CG 20 10 04 13, the Additional Insured – Owners, Lessees or Contractors – Completed Operations endorsement CG 20 37 07 04 or CG 20 37 04 13, or both of such endorsements with either of those edition dates; or

(b) Either or both of the following: the Additional Insured – Owners, Lessees or Contractors – Scheduled Person Or Organization endorsement CG 20 10, or the Additional Insured – Owners, Lessees or Contractors – Completed Operations endorsement CG 20 37, without an edition date of such endorsement specified;

the person or organization is an additional insured only if the injury or damage is caused, in whole or in part, by acts or omissions of you or your subcontractor in the performance of "your work" to which the written contract or agreement applies; or

(3) If neither Paragraph (1) nor (2) above applies:

(a) The person or organization is an additional insured only if, and to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the written contract or agreement applies; and

(b) Such person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.

The insurance provided to such additional insured is subject to the following provisions:

- a. If the Limits of Insurance of this Coverage Part shown in the Declarations exceed the minimum limits required by the written contract or agreement, the insurance provided to the additional insured will be limited to such minimum required limits. For the purposes of determining whether

COMMERCIAL GENERAL LIABILITY

this limitation applies, the minimum limits required by the written contract or agreement will be considered to include the minimum limits of any Umbrella or Excess liability coverage required for the additional insured by that written contract or agreement. This provision will not increase the limits of insurance described in Section III – Limits Of Insurance.

b. The insurance provided to such additional insured does not apply to:

(1) Any "bodily injury", "property damage" or "personal injury" arising out of the providing, or failure to provide, any professional architectural, engineering or surveying services, including:

- (a) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and
- (b) Supervisory, inspection, architectural or engineering activities.

(2) Any "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the written contract or agreement specifically requires you to provide such coverage for that additional insured during the policy period.

c. The additional insured must comply with the following duties:

(1) Give us written notice as soon as practicable of an "occurrence" or an offense which may

result in a claim. To the extent possible, such notice should include:

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

(2) If a claim is made or "suit" is brought against the additional insured:

- (a) Immediately record the specifics of the claim or "suit" and the date received; and
- (b) Notify us as soon as practicable and see to it that we receive written notice of the claim or "suit" as soon as practicable.

(3) Immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.

(4) Tender the defense and indemnity of any claim or "suit" to any provider of other insurance which would cover such additional insured for a loss we cover. However, this condition does not affect whether the insurance provided to such additional insured is primary to other insurance available to such additional insured which covers that person or organization as a named insured as described in Paragraph 4., Other Insurance, of Section IV – Commercial General Liability Conditions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**OTHER INSURANCE – DESIGNATED ADDITIONAL
INSUREDS – PRIMARY WITH RESPECT TO CERTAIN
OTHER INSURANCE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE OF DESIGNATED ADDITIONAL INSUREDS

Any person or organization that qualifies as an additional insured under such other endorsement to this Coverage Part, if you agree in a written contract to include such person or organization as an additional insured on this Coverage Part and such written contract:

- a. Specifically requires that this insurance apply on a primary basis or a primary and non-contributory basis; and
- b. Was signed and executed by you before, and is in effect when, the "bodily injury" or "property damage" occurs or the "personal injury" or "advertising injury" offense is committed

PROVISIONS

The following is added to Paragraph 4.a., **Primary Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

The insurance afforded under this Coverage Part to any additional insured shown in the Schedule Of

Designated Additional Insureds is primary to any of the other insurance, whether primary, excess, contingent or on any other basis, that is available to such additional insured which covers such additional insured as a named insured, and we will not share with that other insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

XTEND ENDORSEMENT FOR CONTRACTORS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|---|---|
| <ul style="list-style-type: none"> A. Who Is An Insured – Unnamed Subsidiaries B. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Operations | <ul style="list-style-type: none"> C. Incidental Medical Malpractice D. Blanket Waiver Of Subrogation E. Contractual Liability – Railroads F. Damage To Premises Rented To You |
|---|---|

PROVISIONS

A. WHO IS AN INSURED – UNNAMED SUBSIDIARIES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any of your subsidiaries, other than a partnership, joint venture or limited liability company, that is not shown as a Named Insured in the Declarations is a Named Insured if:

- a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and
- b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal and advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

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

- a. An organization other than a partnership, joint venture or limited liability company; or

- b. A trust;

as indicated in its name or the documents that govern its structure.

B. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO OPERATIONS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to operations performed by you or on your behalf and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of such operations.

The insurance provided to such governmental entity does not apply to:

- a. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

C. INCIDENTAL MEDICAL MALPRACTICE

1. The following replaces Paragraph **b.** of the definition of "occurrence" in the **DEFINITIONS** Section:

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

2. The following replaces the last paragraph of Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED**:

Unless you are in the business or occupation of providing professional health care services, Paragraphs **(1)(a)**, **(b)**, **(c)** and **(d)** above do not apply to "bodily injury" arising out of providing or failing to provide:

- (a)** "Incidental medical services" by any of your "employees" who is a nurse, nurse assistant, emergency medical technician or paramedic; or

- (b)** First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

3. The following replaces the last sentence of Paragraph **5.** of **SECTION III – LIMITS OF INSURANCE**:

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

4. The following exclusion is added to Paragraph **2.**, **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

Sale Of Pharmaceuticals

"Bodily injury" or "property damage" arising out of the violation of a penal statute or ordinance relating to the sale of

pharmaceuticals committed by, or with the knowledge or consent of, the insured.

5. The following is added to the **DEFINITIONS** Section:

"Incidental medical services" means:

- a.** Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or

- b.** The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

6. The following is added to Paragraph **4.b.**, **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph **2.a.(1)** of Section II – Who Is An Insured.

D. BLANKET WAIVER OF SUBROGATION

The following is added to Paragraph **8.**, **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a.** "Bodily injury" or "property damage" that occurs; or

- b.** "Personal and advertising injury" caused by an offense that is committed;

subsequent to the execution of the contract or agreement.

E. CONTRACTUAL LIABILITY – RAILROADS

1. The following replaces Paragraph **c.** of the definition of "insured contract" in the **DEFINITIONS** Section:

- c.** Any easement or license agreement;

2. Paragraph **f.(1)** of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

F. DAMAGE TO PREMISES RENTED TO YOU

The following replaces the definition of "premises damage" in the **DEFINITIONS** Section:

"Premises damage" means "property damage" to:

- a. Any premises while rented to you or temporarily occupied by you with permission of the owner; or
- b. The contents of any premises while such premises is rented to you, if you rent such premises for a period of seven or fewer consecutive days.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**TOTAL AGGREGATE LIMIT OTHER THAN PROJECTS
AND DESIGNATED PROJECT AND LOCATION
AGGREGATE LIMITS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE – LIMITS OF INSURANCE AND DESIGNATED PROJECTS AND LOCATIONS

LIMITS OF INSURANCE

Total Aggregate Limit (Other Than Projects and Products-Completed Operations)	\$ 25,000,000
Designated Location Aggregate Limit (Other Than Products-Completed Operations)	\$ 4,000,000
Designated Project Aggregate Limit (Other Than Products-Completed Operations)	\$ 4,000,000
General Aggregate Limit (Other Than Products-Completed Operations)	\$ 4,000,000

Designated Projects:

Each "project" away from premises owned by or rented to you
Designated Locations: Each premises owned by or rented to you

Designated Locations:

Each premises owned by or rented to you

PROVISIONS

1. The General Aggregate Limit (Other Than Products-Completed Operations) shown in the Declarations is replaced by the Limits of Insurance shown in the Schedule – Limits Of Insurance And Designated Projects And Locations.
2. The following replaces Paragraph 1. of **SECTION III – LIMITS OF INSURANCE:**
 1. The Limits of Insurance shown in the Declarations or the Schedule – Limits Of Insurance And Designated Projects And Locations, whichever apply, and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought;

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- c. Persons or organizations making claims or bringing "suits"; or
 - d. "Projects" or "locations".
- 3. The following replaces Paragraph 2. of **SECTION III – LIMITS OF INSURANCE:**
 - 2. a. The Total Aggregate Limit shown in the Schedule – Limits Of Insurance And Designated Projects And Locations is the most we will pay for the sum of all amounts under the Designated Location Aggregate Limit and all amounts under the General Aggregate Limit. This includes:
 - (1) Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard";
 - (2) Damages under Coverage B; and
 - (3) Medical expenses under Coverage C.
 - b. The Designated Project Aggregate Limit shown in the Schedule – Limits Of Insurance And Designated Projects And Locations applies and is further subject to all of the following provisions:
 - (1) The Designated Project Aggregate Limit is the most we will pay for the sum of:
 - (a) Damages under Coverage A because of "bodily injury" and "property damage" caused by "occurrences"; and
 - (b) Medical expenses under Coverage C for "bodily injury" caused by accidents;that can be attributed only to operations at a single "project".
 - (2) The Designated Project Aggregate Limit applies separately to each "project".
 - (3) The Designated Project Aggregate Limit does not apply to damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard". Instead, the Products-Completed Operations Aggregate Limit described in Paragraph 3. below applies to such damages.
 - (4) The Designated Project Aggregate Limit does not apply to damages under Coverage B. Instead, the General Aggregate Limit described in Paragraph 2.d. below applies to such damages.
- (5) Any payments made for damages or medical expenses to which the Designated Project Aggregate Limit applies will reduce the Designated Project Aggregate Limit for the applicable "project". Such payments will not reduce the Total Aggregate Limit, the General Aggregate Limit described in Paragraph 2.d. below, the Designated Project Aggregate Limit for any other "project" or the Designated Location Aggregate Limit.
- c. Subject to the Total Aggregate Limit described in Paragraph 2.a. above, the Designated Location Aggregate Limit shown in the Schedule – Limits Of Insurance And Designated Projects And Locations applies and is further subject to all of the following provisions:
 - (1) The Designated Location Aggregate Limit is the most we will pay for the sum of:
 - (a) Damages under Coverage A because of "bodily injury" and "property damage" caused by "occurrences"; and
 - (b) Medical expenses under Coverage C for "bodily injury" caused by accidents;that can be attributed only to operations at a single "location".
 - (2) The Designated Location Aggregate Limit applies separately to each "location".
 - (3) The Designated Location Aggregate Limit does not apply to damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard". Instead, the Products-Completed Operations Aggregate Limit described in Paragraph 3. below applies to such damages.
 - (4) The Designated Location Aggregate Limit does not apply to damages ssunder Coverage B. Instead, the General Aggregate Limit described in

Paragraph **2.d.** below applies to such damages.

- (5) Any payments made for damages or medical expenses to which the Designated Location Aggregate Limit applies will reduce:

- (a) The Total Aggregate Limit; and
- (b) The Designated Location Aggregate Limit for the applicable "location".

Such payments will not reduce the General Aggregate Limit described in Paragraph **2.d.** below, the Designated Project Aggregate Limit or the Designated Location Aggregate Limit for any other "location".

- d. Subject to the Total Aggregate Limit described in Paragraph **2.a.** above, the General Aggregate Limit shown in the Schedule – Limits Of Insurance And Designated Projects And Locations applies and is further subject to all of the following provisions:

- (1) The General Aggregate Limit is the most we will pay for the sum of:

- (a) Damages under Coverage **A** because of "bodily injury" and "property damage" caused by "occurrences", and medical expenses under Coverage **C** for "bodily injury" caused by accidents, that cannot be attributed only to operations at a single "project" or a single "location"; and
- (b) Damages under Coverage **B**.

- (2) The General Aggregate Limit does not apply to damages for "bodily injury" or "property damage" included in the "products-completed operations hazard". Instead, the Products-Completed Operations Aggregate Limit described in Paragraph **3.** below applies to such damages.

- (3) Any payments made for damages or medical expenses to which the

General Aggregate Limit applies will reduce:

- (a) The Total Aggregate Limit; and
- (b) The General Aggregate Limit.

Such payments will not reduce the Designated Project Aggregate Limit for any "project" or the Designated Location Aggregate Limit for any "location".

- 4. The following replaces Paragraph **3.** of **SECTION III – LIMITS OF INSURANCE:**

- 3. The Products-Completed Operations Aggregate Limit shown in the Declarations is the most we will pay under Coverage **A** for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard". Any payments made for such damages will not reduce the Total Aggregate Limit, the General Aggregate Limit, the Designated Project Aggregate Limit for any "project" or the Designated Location Aggregate Limit for any "location".

- 5. The following is added to the **DEFINITIONS** Section:

"Location" means any designated location shown in the Schedule – Limits Of Insurance And Designated Projects and Locations that is owned by or rented to you. For the purposes of determining the applicable aggregate limit of insurance, each "location" that includes a premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or waterway, or by a right-of-way of a railroad, will be considered a single "location".

"Project" means any designated project shown in the Schedule – Limits Of Insurance And Designated Projects And Locations that is away from premises owned by or rented to you and at which you are performing operations pursuant to a contract or agreement. For the purposes of determining the applicable aggregate limit of insurance, each "project" that includes a premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or waterway, or by a right-of-way of a railroad, will be considered a single "project".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|---|---|
| <ul style="list-style-type: none"> A. BROAD FORM NAMED INSURED B. BLANKET ADDITIONAL INSURED C. EMPLOYEE HIRED AUTO D. EMPLOYEES AS INSURED E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS G. WAIVER OF DEDUCTIBLE – GLASS | <ul style="list-style-type: none"> H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT J. PERSONAL PROPERTY K. AIRBAGS L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS M. BLANKET WAIVER OF SUBROGATION N. UNINTENTIONAL ERRORS OR OMISSIONS |
|---|---|

PROVISIONS

A. BROAD FORM NAMED INSURED

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any organization you newly acquire or form during the policy period over which you maintain 50% or more ownership interest and that is not separately insured for Business Auto Coverage. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

B. BLANKET ADDITIONAL INSURED

The following is added to Paragraph **c. in A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which

this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

C. EMPLOYEE HIRED AUTO

1. The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

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

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

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your

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permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

D. EMPLOYEES AS INSURED

The following is added to Paragraph **A.1.**, **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph **A.2.a.(2)**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph **A.2.a.(4)**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS

The following replaces Subparagraph (5) in Paragraph **B.7.**, **Policy Period, Coverage Territory**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

(5) Anywhere in the world, except any country or jurisdiction while any trade sanction, embargo, or similar regulation imposed by the United States of America applies to and prohibits the transaction of business with or within such country or jurisdiction, for Covered Autos Liability Coverage for any covered "auto" that you lease, hire, rent or borrow without a driver for a period of 30 days or less and that is not an "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

(a) With respect to any claim made or "suit" brought outside the United States of America, the territories and possessions of the United States of America, Puerto Rico and Canada:

(i) You must arrange to defend the "insured" against, and investigate or settle any such claim or "suit" and keep us advised of all proceedings and actions.

(ii) Neither you nor any other involved "insured" will make any settlement without our consent.

(iii) We may, at our discretion, participate in defending the "insured" against, or in the settlement of, any claim or "suit".

(iv) We will reimburse the "insured" for sums that the "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, that the "insured" pays with our consent, but only up to the limit described in Paragraph **C.**, **Limits Of Insurance**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**.

(v) We will reimburse the "insured" for the reasonable expenses incurred with our consent for your investigation of such claims and your defense of the "insured" against any such "suit", but only up to and included within the limit described in Paragraph **C.**, **Limits Of Insurance**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, and not in addition to such limit. Our duty to make such payments ends when we have used up the applicable limit of insurance in payments for damages, settlements or defense expenses.

(b) This insurance is excess over any valid and collectible other insurance available to the "insured" whether primary, excess, contingent or on any other basis.

(c) This insurance is not a substitute for required or compulsory insurance in any country outside the United States, its territories and possessions, Puerto Rico and Canada.

You agree to maintain all required or compulsory insurance in any such country up to the minimum limits required by local law. Your failure to comply with compulsory insurance requirements will not invalidate the coverage afforded by this policy, but we will only be liable to the same extent we would have been liable had you complied with the compulsory insurance requirements.

- (d) It is understood that we are not an admitted or authorized insurer outside the United States of America, its territories and possessions, Puerto Rico and Canada. We assume no responsibility for the furnishing of certificates of insurance, or for compliance in any way with the laws of other countries relating to insurance.

G. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph **D.**, **Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT

The following replaces the last sentence of Paragraph **A.4.b.**, **Loss Of Use Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

However, the most we will pay for any expenses for loss of use is \$65 per day, to a maximum of \$750 for any one "accident".

I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph **A.4.a.**, **Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

J. PERSONAL PROPERTY

The following is added to Paragraph **A.4.**, **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Personal Property

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

- (1) Owned by an "insured"; and

- (2) In or on your covered "auto".

This coverage applies only in the event of a total theft of your covered "auto".

No deductibles apply to this Personal Property coverage.

K. AIRBAGS

The following is added to Paragraph **B.3.**, **Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Exclusion **3.a.** does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs **A.1.b.** and **A.1.c.**, but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS

The following is added to Paragraph **A.2.a.**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- (a) You (if you are an individual);
- (b) A partner (if you are a partnership);
- (c) A member (if you are a limited liability company);
- (d) An executive officer, director or insurance manager (if you are a corporation or other organization); or
- (e) Any "employee" authorized by you to give notice of the "accident" or "loss".

M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph **A.5.**, **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract signed and executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by

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such contract. The waiver applies only to the person or organization designated in such contract.

N. UNINTENTIONAL ERRORS OR OMISSIONS

The following is added to Paragraph **B.2., Concealment, Misrepresentation, Or Fraud,** of **SECTION IV – BUSINESS AUTO CONDITIONS:**

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BLANKET ADDITIONAL INSURED – PRIMARY AND
NON-CONTRIBUTORY WITH OTHER INSURANCE –
CONTRACTORS**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

PROVISIONS

1. The following is added to Paragraph **c.** in **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

This includes any person or organization who you are required under a written contract or agreement, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to name as an additional insured for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent of that person's or organization's liability for the conduct of another "insured".

2. The following is added to Paragraph **B.5., Other Insurance** of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Regardless of the provisions of paragraph **a.** and paragraph **d.** of this part **5. Other Insurance**, this insurance is primary to and non-contributory with applicable other insurance under which an additional insured person or organization is a named insured when a written contract or agreement with you, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, requires this insurance to be primary and non-contributory.