



# CONTRACT AMENDMENT

## Materials Management Procurement

9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, AZ 85345  
Telephone: (623) 773-7115  
Fax: (623) 773-7118

Buyer: Lisa Houg

Solicitation No. P12-0080 Page 1 of 1  
Description: Consultant Services for Development Fee Study  
Amendment No. Four (4) Date: August 17, 2016

In accordance with the Contract Special Terms and Conditions, **Contract Extension**, the above referenced contract shall expire on August 31, 2016. The contract is being extended and the new contract term is: September 1, 2016 through August 31, 2017.

Contractor hereby acknowledges receipt and agreement. A signed copy shall be filed with the City of Peoria, Materials Management Division.

	8/17/2016	Clancy Mullen, Vice President	James Duncan and Associates Inc. dba Duncan Associates
Signature	Date	Typed Name and Title	Company Name
17409 Rush Pea Circle (new address) 360 Nueces Street, Ste. 2704		Austin	TX 78738 78701
Address		City	State Zip Code

for  
Attested By:   
Rhonda Geriminsky, City Clerk

Director: Brent Mattingly, Chief Financial Officer  
Katie Gregory - Mgmt & Budget Director

Project Manager: Barry Cloug, Budget Manager

Approved as to Form: Stephen M. Kemp, City Attorney



CC Number  
LCON04612D  
Contract Number

The above referenced Contract Amendment is hereby Executed  
Sept. 1, 2016 at Peoria, Arizona

Dan Zenko, Materials Manager

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# CONTRACT AMENDMENT

**Materials Management  
Procurement**  
 9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
 Peoria, AZ 85345  
 Telephone: (623) 773-7115  
 Fax: (623) 773-7118  
 Buyer: Jennifer Miller

Solicitation No. P12-0080 Page 1 of 1  
 Description: Consultant Services for Development Fee Study  
 Amendment No. Three (3) Date: 6/16/15

In accordance with the Contract Special Terms and Conditions, **Contract Extension**, the above referenced contract shall expire on 8/31/15.

The New Contract Term Is: 9/1/15 to 8/31/16

**Contractor hereby acknowledges receipt and agreement. A signed copy shall be filed with the City of Peoria, Materials Management Division.**

*Clancy Mullen 7/2/15*  
 Signature Date

Clancy Mullen, Vice President  
 Typed Name and Title

James Duncan and Associates Inc.  
 dba Duncan Associates  
 Company Name

360 Nueces Street, Ste. 2701  
 Address

Austin  
 City

TX  
 State

78701  
 Zip Code

Attested By:

*Rhonda Geriminsky*  
 Rhonda Geriminsky, City Clerk

*Brent Mattingly*

Director: Brent Mattingly, Chief Financial Officer

*Barry Houg*

Project Manager: Barry Houg, Budget Manager

*Stephen M. Kemp*

Approved as to Form: Stephen M. Kemp, City Attorney



CC Number

LCON04612C  
 Contract Number

The above referenced Contract Amendment is hereby Executed

*July 20, 2015*, at Peoria, Arizona

*Dan Zenko*

Dan Zenko, Materials Manager

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LCON04612C



# CONTRACT AMENDMENT

## Materials Management Procurement

9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, AZ 85345  
Telephone: (623) 773-7115  
Fax: (623) 773-7118

Buyer: Jennifer Miller

Solicitation No. P12-0080 Page 1 of 1  
Description: Consultant Services for Development Fee Study  
Amendment No. Two (2) Date: 6/11/14

In accordance with the Contract Special Terms and Conditions, Contract Extension, the above referenced contract shall expire on 8/31/14.

The New Contract Term Is: 9/1/14 to 8/31/15

Contractor hereby acknowledges receipt and agreement. A signed copy shall be filed with the City of Peoria, Materials Management Division.

*Clancy Mullen* 7/3/14  
Signature Date

Clancy Mullen, Vice President  
Typed Name and Title

James Duncan and Associates Inc.  
dba Duncan Associates  
Company Name

360 Nueces Street, Ste. 2701  
Address

Austin  
City

TX  
State

78701  
Zip Code

Attested By:

*Rhonda Geriminsky*  
for Rhonda Geriminsky, City Clerk

*pm*

Director: Brent Mattingly, Chief Financial Officer

Project Manager: *Barry Houg*, Budget Manager

CC Number

LCON04612B  
Contract Number

Approved as to Form: *Stephen M. Kemp*, City Attorney

The above referenced Contract Amendment is hereby Executed

*July 23, 2014* at Peoria, Arizona

*Dan Zenko*  
Dan Zenko, Materials Manager

LCON04612B



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# CONTRACT AMENDMENT

**Materials Management**

**Procurement**

9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.

Peoria, AZ 85345

Telephone: (623) 773-7115

Fax: (623) 773-7118

Buyer: Jennifer Miller

Solicitation No. P12-0080 Page 1 of 1  
 Description: Consultant Services for Development Fee Study  
 Amendment No. One Date: 7/8/13

In accordance with the Contract Special Terms and Conditions, Contract Extension, the above referenced contract shall expire on 8/31/13.

The New Contract Term Is: 9/1/13 to 8/31/14

Contractor hereby acknowledges receipt and agreement. A signed copy shall be filed with the City of Peoria, Materials Management Division.

*Clancy Mullen*  
Signature

*8/28/13*  
Date

Clancy Mullen, Vice President  
Typed Name and Title

James Duncan and Associates Inc.  
dba Duncan Associates  
Company Name

360 Nueces Street, Ste. 2701  
Address

Austin  
City

TX  
State

78701  
Zip Code

Attested By:

*Rhonda Geriminsky*  
for Rhonda Geriminsky, City Clerk

*Brent Mattingly*

Director: Brent Mattingly, Finance Director

*Barry Houg*

Project Manager: Barry Houg, Budget Manager

*Stephen M. Kemp*

Approved as to Form: Stephen M. Kemp, City Attorney



CC Number

LCON04612A  
Contract Number

The above referenced Contract Amendment is hereby Executed

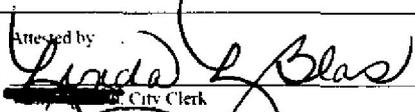
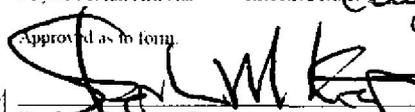
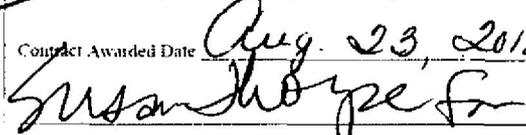
*Sept 9, 2013* at Peoria, Arizona

*Dan Zenko*  
Dan Zenko, Materials Manager

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Official File

## 2. Offer Sheet

	<b>City of Peoria, Arizona Notice of Request for Proposal for Professional Services</b>		
Request for Proposal No:	<b>P12-0080</b>	Proposal Due Date:	<b>June 11, 2012</b>
Services:	<b>Consultant Services for Development Fee Study</b>	Proposal Time:	5:00 P.M. AZ Time
Project No:		Purchasing Agent:	<b>Jennifer Miller</b>
Location:	City of Peoria, Materials Management	Phone:	(623) 773-7115
Mailing Address:	9875 N. 85 <sup>th</sup> Avenue, 2 <sup>nd</sup> Floor, Peoria, AZ 85345		
<p>In accordance with City of Peoria Procurement Code, competitive sealed proposals for the services specified will be received by the City of Peoria Materials Management at the specified location until the date and time cited above. Proposals shall be in the actual possession of the City of Peoria Materials Management on or prior to the exact date and time indicated above. Late proposals will not be considered, except as provided in the City of Peoria Procurement Code. <i>Proposals shall be submitted in a sealed envelope with the Request for Proposal number and the offeror's name and address clearly indicated on the front of the envelope.</i> All proposals shall be completed in ink or typewritten. Offerors are strongly encouraged to carefully read the <i>entire</i> Request for Proposal Package.</p>			
<b>OFFER</b>			
<p>To the City of Peoria: The undersigned, on behalf of the entity, firm, company, partnership, or other legal entity listed below, offers on its behalf to the City a proposal that contains all terms, conditions, specifications and amendments in the Notice of Request for Proposal issued by the City. Any exception to the terms contained in the Notice of Request for Proposal must be specifically indicated in writing and are subject to the approval of the City prior to acceptance. The signature below certifies your understanding and compliance with Paragraph 1 of the <u>City of Peoria Standard Terms and Conditions</u> (form COP 202) contained in the Request for Proposal package issued by the City.</p>			
For clarification of this offer contact:	Telephone:	512-423-0480	Fax: 312-268-7418
Name: <u>Clancy Mullen, Vice-President</u>	Email:	<u>clancy@duncanassociates.com</u>	
James Duncan and Associates, Inc., dba Duncan Associates			
Company Name	Authorized Signature for Offer		
360 Nueces Street, Suite 2701	Clancy Mullen		
Address	Printed Name		
Austin, TX 78701	Vice-President		
City	State	Zip Code	Title
<b>ACCEPTANCE OF OFFER AND CONTRACT AWARD (For City of Peoria Use Only)</b>			
<p>Your offer is accepted by the City, subject to approval of each written exception that your proposal contained. The contract consists of the following documents: 1.) Request for Proposal issued by the City, 2.) Your offer in Response to the City's Request for Proposal, and 3.) This written acceptance and contract award.</p> <p>As the awarded professional service provider, you are now legally bound to provide the services listed by the attached award notice, based on the solicitation of proposals, including all terms, conditions, specifications, amendments and your offer as now accepted by the City. The professional service provider shall not commence any billable work or provide any services under this contract until the professional service provider receives an executed Purchase Order or a Notice to Proceed.</p>			
Attested by:	City of Peoria, Arizona	Effective Date:	<u>Aug 27, 2012</u>
	Approved as to form:		
City Clerk	Stephen M. Kemp, City Attorney		
cc: <u>9 082112</u>	Contract Number:	Contract Awarded Date:	<u>Aug 23, 2012</u>
	<u>LC0N04612</u>		
Official File	Carl Swenson, City Manager		
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# REQUEST FOR PROPOSAL

## INSTRUCTIONS TO OFFEROR

**Materials Management  
Procurement**  
9875 N. 85<sup>th</sup> Avenue  
Peoria, Arizona 85345-6560  
Phone: (623) 773-7115  
Fax: (623) 773-7118

**1. PREPARATION OF PROPOSAL:**

- a. All proposals shall be on the forms (if any) provided in this *Request For Proposal* package. It is permissible to copy these forms if required. Telegraphic (facsimile) or mailgram proposals will not be considered.
- b. The Offer and Contract Award document (COP Form 203) shall be submitted with an original ink signature by a person authorized to sign the offer.
- c. Erasures, interlineations, or other modifications in the proposal shall be initialed in original ink by the authorized person signing the Offer sheet.
- d. If price is a consideration and in case of error in the extension of prices in the proposal, the unit price shall govern. No proposal shall be altered, amended, or withdrawn after the specified proposal due date and time.
- e. Periods of time, stated as a number of days, shall be calendar days.
- f. It is the responsibility of all Offerors to examine the entire *Request For Proposal* package and seek clarification of any item or requirement that may not be clear and to check all responses for accuracy before submitting a bid. Negligence in preparing a Proposal confers no right of withdrawal after proposal due date and time.

- 2. INQUIRIES:** Any question related to the *Request For Proposal* shall be directed to the purchasing agent whose name appears on the front. The Offeror shall not contact or ask questions of the department for which the requirement is being procured. Questions should be submitted in writing when time permits. The purchasing agent may require any and all questions be submitted in writing at the Buyer's sole discretion. Any correspondence related to a *Request For Proposal* should refer to the appropriate *Request For Proposal* number, page, and paragraph number. However, the Offeror shall not place the *Request For Proposal* number on the outside of any envelope containing questions since such an envelope may be identified as a sealed proposal and, if so, will not be opened until after the official *Request For Proposal* due date and time.

- 3. PROSPECTIVE OFFERORS CONFERENCE:** A prospective offerors conference may be held. If scheduled, the date and time of this conference will be indicated within this document. The purpose of this conference will be to clarify the contents of this *Request For Proposal* in order to prevent any misunderstanding of the City's position. Any doubt as to the requirements of this *Request For Proposal* or any apparent omission or discrepancy should be presented to the City at this conference. The City will then determine if any action is necessary and may issue a written amendment to the *Request for Proposal*. Oral statements or instructions will not constitute an amendment to this *Request for Proposal*.

- 4. LATE PROPOSALS:** Late Proposals will not be considered, except as provided by the *City of Peoria Procurement Code*. A professional service provider submitting a late proposal shall be so notified.

- 5. WITHDRAWAL OF PROPOSAL:** At any time prior to the specified proposal due date and time, a professional service provider (or designated representative) may withdraw the proposal. Telegraphic (facsimile) or mailgram proposal withdrawals will not be considered.

- 6. AMENDMENT OF PROPOSAL:** Receipt of a Solicitation Amendment (COP Form 207) shall be acknowledged by signing and returning the document prior to the specified proposal due date and time.

- 7. PAYMENT:** The City will make every effort to process payment for the purchase of services within thirty (30) calendar days after receipt of services and a correct notice of amount due, unless a good faith dispute exists as to any obligation to pay all or a portion of the account. Any proposal that requires payment in less than thirty (30) calendar days shall not be considered.

- 8. DISCOUNTS:** Payment discount periods will be computed from the date of receipt of service or correct invoice, whichever is later, to the date Buyer's payment is mailed. Unless freight and other charges are itemized, any discount provided will be taken on full amount of invoice. Payment discounts of thirty (30) calendar days or more will be deducted from the proposal price in determining the low bid. However, the Buyer shall be entitled to take advantage of any payment discount offered by the Offeror provided payment is made within the discount period.

- 9. TAXES:** The City of Peoria is exempt from Federal Excise Tax, including the Federal Transportation Tax. Sales tax, if any, shall be indicated as a separate item.

- 10. VENDOR REGISTRATION:** After the award of a contract, the successful Offeror shall have a completed Vendor Registration Form (COP Form 200) on file with the City of Peoria Materials Management Division.

**11. AWARD OF CONTRACT:**

- a. Notwithstanding any other provision of this *Request For Proposal*, The City expressly reserves the right to:

- (1) Waive any immaterial defect or informality; or
- (2) Reject any or all proposals, or portions thereof, or
- (3) Reissue a *Request For Proposal*.

- b. A response to a *Request For Proposal* is an offer to contract with the City based upon the terms, conditions and specifications contained in the City's *Request For Proposal* and the written amendments thereto, if any. Proposals do not become contracts unless and until they are accepted by the City Council. A contract is formed when written notice of award(s) is provided to the successful Offeror(s). The contract has its inception in the award document, eliminating a formal signing of a separate contract. For that reason, all of the terms and conditions of the procurement contract are contained in the *Request For Proposal*, unless modified by a Solicitation Amendment (COP Form 207) or a Contract Amendment (COP Form 217).



## STANDARD TERMS AND CONDITIONS

**Materials Management  
Procurement**  
9875 N. 85<sup>th</sup> Avenue  
Peoria, Arizona 85345-6560  
Phone: (623) 773-7115  
Fax: (623) 773-7118

THE FOLLOWING TERMS AND CONDITIONS ARE AN EXPLICIT PART OF THE SOLICITATION AND ANY RESULTANT CONTRACT.

1. **CERTIFICATION:** By signature in the Offer section of the Offer and Contract Award page (COP Form 203), the Professional Services Provider, (Consultant), certifies:
  - a. The submission of the offer did not involve collusion or other anti-competitive practices.
  - b. The Consultant shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246.
  - c. The Consultant has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor, or service to a public servant in connection with the submitted offer. Failure to sign the offer, or signing it with a false statement, shall void the submitted offer or any resulting contracts, and the Consultant may be debarred.
2. **GRATUITIES:** The City may, by written notice to the Consultant, cancel this contract if it is found by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant, to any officer or employee of the City with a view toward securing an order, securing favorable treatment with respect to the awarding, amending, or the making of any determinations with respect to the performing of such order. In the event this contract is cancelled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Consultant the amount of the gratuity. Paying the expense of normal business meals which are generally made available to all eligible city government customers shall not be prohibited by this paragraph.
3. **APPLICABLE LAW:** In the performance of this agreement, contractors shall abide by and conform to any and all laws of the United States, State of Arizona and City of Peoria including but not limited to federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this agreement.

Contractor specifically understands and acknowledges the applicability to it of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986, and the Drug Free Workplace Act of 1989. In addition, if this agreement pertains to construction, Contractor must also comply with A.R.S. § 34-301, as amended (Employment of Aliens on Public Works Prohibited) and A.R.S. § 34-302, as amended (Residence Requirements for Employees).

Under the provisions of A.R.S. § 41-4401, Contractor hereby warrants to the City that Contractor and each of its subcontractors ("Subcontractors") will comply with, and are contractually obligated to comply with, all Federal immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A) (hereinafter, "Contractor Immigration Warranty").

A breach of the Contractor Immigration Warranty shall constitute a material breach of this agreement and shall subject Contractor to penalties up to and including termination of this agreement at the sole discretion of the City. The City may, at its sole discretion, conduct random verification of the employment records of Contractor and any Subcontractors to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any random verifications performed.

Neither Contractor nor any Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if Contractor or the Subcontractor establishes that it has complied with the employment verification provisions prescribed by §§ 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214(A).

The provisions of this Paragraph must be included in any contract Contractor enters into with any Subcontractors who provide services under this agreement or any subcontract. "Services" is defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

Contractor warrants, for the term of this agreement and for six months thereafter, that it has fully complied with the requirements of the Immigration Reform and Control Act of 1986 and all related or similar legal authorities.



## STANDARD TERMS AND CONDITIONS

**Materials Management  
Procurement**  
9875 N. 85<sup>th</sup> Avenue  
Peoria, Arizona 85345-6560  
Phone: (623) 773-7115  
Fax: (623) 773-7118

This contract shall be governed by the City and Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this contract or in statutes pertaining specifically to the City. This contract shall be governed by the laws of the State of Arizona and suit pertaining to this contract may be brought only in courts in the State of Arizona.

This contract is subject to the provisions of ARS §38-511; the City may cancel this contract without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City or any of its departments or agencies, is at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

4. **LEGAL REMEDIES:** All claims and controversies shall be subject to resolution according to the terms of the City of Peoria Procurement Code.
5. **CONTRACT:** The contract between the City and the Consultant shall consist of (1) the Solicitation, including instructions, all terms and conditions, specifications, scopes of work, attachments, and any amendments thereto, and (2) the offer submitted by the Consultant in response to the solicitation. In the event of a conflict in language between the Solicitation and the Offer, the provisions and requirements in the Solicitation shall govern. However, the City reserves the right to clarify, in writing, any contractual terms with the concurrence of the Consultant, and such written contract shall govern in case of conflict with the applicable requirements stated in the Solicitation or the Consultant's offer. The Solicitation shall govern in all other matters not affected by the written contract.
6. **CONTRACT AMENDMENTS:** This contract may be modified only by a written Contract Amendment (COP Form 217) signed by persons duly authorized to enter into contracts on behalf of the City and the Consultant.
7. **CONTRACT APPLICABILITY:** The Offeror shall substantially conform to the terms, conditions, specifications and other requirements found within the text of this specific Solicitation. All previous agreements, contracts, or other documents, which have been executed between the Offeror and the City are not applicable to this Solicitation or any resultant contract.
8. **PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the contract will be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the contract will forthwith be physically amended to make such insertion or correction.
9. **SEVERABILITY:** The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.
10. **RELATIONSHIP TO PARTIES:** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Consultant is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and that the Consultant should make arrangements to directly pay such expenses, if any.
11. **INTERPRETATION-PAROL EVIDENCE:** This contract represents the entire agreement of the Parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this contract are hereby revoked and superseded by this contract. No representations, warranties, inducements or oral agreements have been made by any of the Parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this contract. This contract may not be changed, modified or rescinded except as provided for herein, absent a written agreement signed by both Parties. Any attempt at oral modification of this contract shall be void and of no effect.
12. **NO DELEGATION OR ASSIGNMENT:** Contractor shall not delegate any duty under this Contract, and no right or interest in this Contract shall be assigned by Contractor to any successor entity or third party, including but not limited to an affiliated successor or purchaser of Contractor or its assets, without prior written permission of the City. The City, at its



## STANDARD TERMS AND CONDITIONS

### Materials Management Procurement

9875 N. 85<sup>th</sup> Avenue  
Peoria, Arizona 85345-6560  
Phone: (623) 773-7115  
Fax: (623) 773-7118

option, may cancel this Contract in the event Contractor undertakes a delegation or assignment without first obtaining the City's written approval. Contractor agrees and acknowledges that it would not be unreasonable for the City to decline to approve a delegation or assignment that results in a material change to the services provided under this Contract or an increased cost to the City.

13. **SUBCONTRACTS:** No subcontract shall be entered into by the Consultant with any other party to furnish any of the material, service or construction specified herein without the advance written approval of the City. The prime Consultant shall itemize all sub-contractors which shall be utilized on the project. Any substitution of sub-contractors by the prime Consultant shall be approved by the City and any cost savings will be reduced from the prime Consultant's bid amount. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract and if the Subcontractor were the Consultant referred to herein. The Consultant is responsible for contract performance whether or not Subcontractors are used.
14. **RIGHTS AND REMEDIES:** No provision in this document or in the Consultant's offer shall be construed, expressly or by implication, as waiver by the City of any existing or future right and/or remedy available by law in the event of any claim of default or breach of contract. The failure of the City to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the City's acceptance of and payment for materials or services, shall not release the Consultant from any responsibilities or obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of the Contract.
15. **INDEMNIFICATION:** To the fullest extent permitted by law, the Consultant shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees for costs or damages for which the Consultant is legally responsible or for which the City is vicariously liable on account of the Consultant's willful or negligent acts, error or omissions.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

16. **OVERCHARGES BY ANTITRUST VIOLATIONS:** The City maintains that, in practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Consultant hereby assigns to the City any and all claims for such overcharges as to the goods and services used to fulfill the Contract.
17. **FORCE MAJEURE:** Except for payment for sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; acts of terror, hate crimes affecting public order; riots; strikes; mobilization; labor disputes; civil disorders; fire; floods; lockouts, injunctions-intervention-acts, or failures or refusals to act by government authority; events or obstacles resulting from a governmental authority's response to the foregoing; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this Contract.

Force majeure shall not include the following occurrences:

- a. Last minute failure of office equipment is not force majeure.
- b. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this Force Majeure term and Condition.

Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure. If either party is delayed at any time in the progress of the work by force majeure, then the delayed party shall notify the other party



## STANDARD TERMS AND CONDITIONS

### Materials Management Procurement

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in writing of such delay within forty-eight (48) hours commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand delivered or mailed *Certified-Return Receipt* and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing. The time of completion shall be extended by contract modification for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this contract.

18. **RIGHT TO ASSURANCE:** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.
19. **RIGHT TO AUDIT RECORDS:** The City may, at reasonable times and places, audit the books and records of any Contractor as related to any contract held with the City. This right to audit also empowers the City to inspect the papers of any Contractor or Subcontractor employee who works on this contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty made pursuant to Paragraph 3 above.
20. **RIGHT TO INSPECT:** The City may, at reasonable times, inspect the part of the place of business of a Consultant or Subcontractor which is related to the performance of any contract as awarded or to be awarded.
21. **WARRANTIES:** Consultant warrants that all services delivered under this contract shall conform to the specifications of this contract. Consultant warrants that all services shall be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Additional warranty requirements may be set forth in the solicitation.
22. **INSPECTION:** All services are subject to final inspection and acceptance by the City. Services failing to conform to the specifications of this Contract will be held at Consultant's risk and may be returned to the Consultant. If so returned, all costs are the responsibility of the Consultant. The City may elect to do any or all:
  - a. Waive the non-conformance.
  - b. Stop the work immediately.
  - c. Bring material into compliance.This shall be accomplished by a written determination for the City.
23. **TITLE AND RISK OF LOSS:** The title and risk of loss of service shall not pass to the City until the City actually receives the service at the point of delivery, unless otherwise provided within this Contract.
24. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach of the Contract as a whole.
25. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Consultant shall deliver conforming materials in each installment of lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials or a default of any nature, at the option of the City, shall constitute a breach of the Contract as a whole.
26. **LICENSES:** Consultant shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Consultant as applicable to this Contract.
27. **PATENTS AND COPYRIGHTS:** All services, information, computer program elements, reports and other deliverables, which may be patented or copyrighted and created under this contract are the property of the City and shall not be used or released by the Consultant or any other person except with the prior written permission of the City.
28. **PREPARATION OF SPECIFICATIONS BY PERSONS OTHER THAN CITY PERSONNEL:** All specifications shall seek to promote overall economy for the purposes intended and encourage competition and not be unduly restrictive in satisfying the City's needs. No person preparing specifications shall receive any direct or indirect benefit from the utilization of specifications, other than fees paid for the preparation of specifications.



## STANDARD TERMS AND CONDITIONS

**Materials Management  
Procurement**  
9875 N. 85<sup>th</sup> Avenue  
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Fax: (623) 773-7118

29. **COST OF PROPOSAL PREPARATION:** The City shall not reimburse the cost of developing presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner.
30. **PUBLIC RECORD:** All offers submitted in response to this solicitation shall become the property of the City and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Code. However, subsequent to the award of the contract, any information and documents obtained by the City during the course of an audit conducted in accordance with Paragraph 19 above for the purpose of determining compliance by Contractor or a Subcontractor with the Contractor Immigration Warranty mandated by Paragraph 3 above shall remain confidential and shall not be made available for public review or produced in response to a public records request, unless the City is ordered or otherwise directed to do so by a court of competent jurisdiction.
31. **ADVERTISING:** Consultant shall not advertise or publish information concerning this Contract, without prior written consent of the City.
32. **DELIVERY ORDERS:** The City shall issue a Purchase Order for the services covered by this contract. All such documents shall reference the contract number as indicated on the Offer and Contract Award (COP Form 203).
33. **FUNDING:** Any contract entered into by the City of Peoria is subject to funding availability. Fiscal years for the City of Peoria are July 1 to June 30. The City Council approves all budget requests. If a specific funding request is not approved, the contract shall be terminated.
34. **DISCLAIMER:** The City of Peoria, Arizona provides current and complete solicitation information for registered Plan Holders only. Updates, amendments and related information regarding the solicitation contained herein will be delivered only to registered Plan Holders. The City assumes no liability or duty to so update or send any update to persons who are not Plan Holders. Any person who acquires these documents from any source other than the City website or directly from the Materials Management Division, has no assurance that the solicitation is valid. No person may amend this document, nor may any person publish it without this disclaimer.
35. **PAYMENT:** A separate invoice shall be issued for each service performed, and no payment will be issued prior to receipt of services and correct invoice.
36. **PROHIBITED LOBBYING ACTIVITIES:** The Offeror, his/her agent or representative shall not contact, orally or in any written form any City elected official or any City employee other than the Materials Management Division, the procuring department, City Manager, Deputy City Manager or City Attorney's office (for legal issues only) regarding the contents of this solicitation or the solicitation process commencing from receipt of a copy of this request for proposals and ending upon submission of a staff report for placement on a City Council agenda. The Materials Manager shall disqualify an Offeror's proposal for violation of this provision. This provision shall not prohibit an Offeror from petitioning an elected official after submission of a staff report for placement on a City Council agenda or engaging in any other protected first amendment activity after submission of a staff report for placement on a City Council agenda.
37. **PROHIBITED POLITICAL CONTRIBUTION:** Consultant during the term of this Agreement shall not make a contribution reportable under Title 16, Chapter 6, Article 1, Arizona Revised Statutes to a candidate or candidate committee for any city elective office during the term of this Agreement. The City reserves the right to terminate the Agreement without penalty for any violation of this provision.



# SPECIAL TERMS AND CONDITIONS

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## Materials Management Procurement

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1. **Purpose:** Pursuant to provisions of the City Procurement Code, the City of Peoria, Materials Management Division intends to establish a contract for **Consultant Services for Development Fee Study**.
2. **Authority:** This Solicitation as well as any resultant contract is issued under the authority of the City. No alteration of any resultant contract may be made without the express written approval of the City Materials Manager in the form of an official contract amendment. Any attempt to alter any contract without such approval is a violation of the contract and the City Procurement Code. Any such action is subject to the legal and contractual remedies available to the City inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the Consultant.
3. **Offer Acceptance Period:** In order to allow for an adequate evaluation, the City requires an offer in response to this Solicitation to be valid and irrevocable for sixty (60) days after the opening time and date.
4. **Eligible Agencies:** Any contract resulting from this Solicitation shall be for the exclusive use of the City of Peoria.
5. **Contract Type:** Fixed Price
6. **Term of Contract:** The term of any resultant contract shall commence on the first day of the month following the date of award and shall continue for a period of two (2) years thereafter, unless terminated, cancelled or extended as otherwise provided herein.
7. **Contract Extension:** By mutual written contract amendment, any resultant contract may be extended for supplemental periods of up to a maximum of thirty-six (36) months.
8. **Affirmative Action:** It is the policy of the City of Peoria that suppliers of goods or services to the City adhere to a policy of equal employment opportunity and demonstrate an affirmative effort to recruit, hire, and promote regardless of race, color, religion, gender, national origin, age or disability. The City of Peoria encourages diverse suppliers to respond to solicitations for products and services.
9. **Cooperative Purchasing:** Any contract resulting from this solicitation shall be for the use of the City of Peoria. In addition, specific eligible political subdivisions and nonprofit educational or public health institutions may also participate at their discretion. In order to participate in any resultant contract, a political subdivision or nonprofit educational or public health institution must have been invited to participate in this specific solicitation and the contractor must be in agreement with the cooperative transaction. In addition to cooperative purchasing, any eligible agency may elect to participate (piggyback) on any resultant contract; the specific eligible political subdivision, nonprofit educational or public health institution and the contractor must be in agreement.

Any orders placed to the successful contractor will be placed by the specific agencies participating in this purchase. Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The City shall not be responsible for any disputes arising out of transactions made by others.

10. **Proposal Format:** If firm is submitting for both categories, proposal responses shall be submitted in separate proposals, General Government and Utilities. Each proposal shall be submitted in one (1) original and seven (7) copies on the forms and in the format as contained in the Request for Proposal. Proposals shall be on 8 1/2" & 11" paper with the text on one side only. The proposals should be submitted in the maximum length requirements as specified:

**A.) Technical Proposal Content for General Government Impact Fees (Streets, Parks, Library, Police and Fire) - the following items shall be addressed in the technical proposal submission.**

**1. Project Understanding and Project Approach. (maximum 10 pages)**

- i. Understanding of the Scope of Work.
- ii. Plan and Method of approach to accomplish the Scope of Work.
- iii. Work plan and task schedule to accomplish the required Scope of Work.
- iv. Overall firm and staff projected workload.
- v. Location of Work
- vi. Anticipated City involvement for successful completion of the required Scope of Work.



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**2. Firm's Experience/Similar Projects. (maximum 5 pages)**

- i. Firm's list of Similar Projects completed within the last five (5) years.

**3. Staff's Capabilities and Assignments. (maximum 8 pages)**

- i. Staff assignments for this project
- ii. 1 page resumes.

**4. Cost**

**B.) Technical Proposal Content for Utilities Impact Fees (Water, Wastewater, Water Resources and Reclaimed Water) - the following items shall be addressed in the technical proposal submission.**

**1. Project Understanding and Project Approach. (maximum 10 pages)**

- i. Understanding of the Scope of Work.
- ii. Plan and Method of approach to accomplish the Scope of Work.
- iii. Work plan and task schedule to accomplish the required Scope of Work.
- iv. Overall firm and staff projected workload.
- v. Location of Work
- vi. Anticipated City involvement for successful completion of the required Scope of Work.

**2. Firm's Experience/Similar Projects. (maximum 5 pages)**

- i. Firm's list of Similar Projects completed within the last five (5) years.

**3. Staff's Capabilities and Assignments. (maximum 8 pages)**

- i. Staff assignments for this project
- ii. 1 page resumes.

**4. Cost**

**11. Interview Guidelines:** During any requested interview, which would be scheduled in the future, be prepared to discuss your firm's proposal, staff assignments, project approach and other pertinent information. The presentation shall be approximately 30 minutes, allowing 30 minutes for a question and answer session. The Consultant's Project/Team Manager shall lead the presentation team and answer questions on behalf of the Consultant. If work involves a major sub-consultant, the firms Project/Team Manager's presence may also be requested (by the City) at the interview.

**12. Evaluation:** In accordance with the City of Peoria Procurement Code, awards shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the City, based upon the evaluation criteria listed below. The evaluation factors are listed in their relative order of importance. The final list will consist of the top 3-5 scoring firms.

- a. Project Understanding and Project Approach. (250 points)
- b. Firm's Experience/Similar Projects. (250 points)
- c. Staff's Capabilities and Assignments. (250 points)



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- d. Cost. (200 points)  
e. Conformance to Request for Technical Proposals. (50 points)
13. **Interviews:** If interviews are needed, the final selection scoring will start over and be based on the presentation and interview scores only.
- a. Presentation (500 points)  
b. Interview Questions and Answers (500 points)
14. **Discussions:** In accordance with the City of Peoria Procurement Code, after the initial receipt of proposals, discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award.
15. **Proposal Opening:** Proposals shall be submitted at the time and place designated in the request for proposals. All information contained in the proposals shall be deemed as exempt from public disclosure based on the City's need to avoid disclosure of contents prejudicial to competing offerors during the process of negotiation. The proposals shall not be open for public inspection until after contract award. **PRICES SHALL NOT BE READ.** After contract award, the successful proposal and the evaluation documentation shall be open for public inspection.
16. **Performance Warranty:** This section does not relieve Consultant from its obligation to provide Work and Materials/Design Materials appropriate to the purposes of this Project. Nothing in this Agreement creates any contractual liability between the City of Peoria and any Subcontractor; however, the City of Peoria is an intended third-party beneficiary of all contracts for services, all Subcontracts, purchase orders and other agreements between the Consultant and third parties. The Consultant must incorporate the obligations of this Agreement into its respective Subcontracts, supply agreements and purchase orders.
17. **Scope of Work Deliverable:** The successful Consultant shall prepare and provide a detailed Scope of Work for the project. The finalized Scope of Work shall include the agreed upon approach, method, format, and timing to complete the project.
18. **Ownership of Documents:** All materials/design materials (hardcopy or electronic), drawings, specifications, reports, and other data developed by the Consultant, its assigned employees or subconsultants pursuant to this Agreement shall become the property of the City of Peoria as prepared, whether delivered to the City of Peoria or not. Unless otherwise provided herein, all such data shall be delivered to the City of Peoria or its designee upon completion of the agreement or at such other times as the City of Peoria or its designee may request.
- The City of Peoria shall indemnify and hold harmless the Consultant, its Subcontractors, Subconsultants, and their respective agents and employees from and against all claims, liabilities, demands, actions, costs and expenses (including attorneys' and experts' fees and costs) (collectively, "Claims") arising from any use by the City of Peoria, its successors or assigns of such Materials/Design Materials if reuse, modifications or amendments of any such materials/design materials are made without the prior consent and involvement of the Consultant.
19. **Investigation of Conditions:** The Consultant warrants and agrees familiarity of the work that is required, is satisfied as to the conditions under which is performed and enters into this contract based upon the Consultants own investigation.
20. **Compensation:** Compensation for services shall be based upon fees negotiated, including all approved costs and expenses incurred in connection with the project; including but not limited to, telephone and other communications, reproduction of documents, special consultants (as approved by the City) and computer costs.
21. **Acceptance:** Determination of the acceptability of work shall be completed in a responsive and professional manner and in accordance with the specifications, schedules, or plans which are incorporated in the Scope of Work.
22. **Payments:** The City shall pay the Consultant monthly, based upon work performed and completion to date, and upon submission of invoices. All invoices shall document and itemize all work completed to date. The invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.
23. **Insurance Requirements:** The Consultant, at Consultant's own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly licensed, possessing a current A.M. Best, Inc. Rating of A-, or approved unlicensed in the State of Arizona with policies and forms satisfactory to the City.



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All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted; failure to do so may, at the sole discretion of the City, constitute a material breach of this Contract.

The Consultant's insurance shall be primary insurance as respects the City, and any insurance or self-insurance maintained by the City shall not contribute to it.

Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect coverage afforded under the insurance policies to protect the City.

The insurance policies, except Workers' Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against the City, its agents, representatives, directors, officers, and employees for any claims arising out of the Consultant's acts, errors, mistakes, omissions, work or service.

The insurance policies may provide coverage which contain deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the City under such policies. The Consultant shall be solely responsible for the deductible and/or self-insured retention and the City, at its option, may require the Consultant to secure payment of such deductibles or self-insured retentions by a Surety Bond or an irrevocable and unconditional letter of credit.

The City reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and endorsements. The City shall not be obligated, however, to review same or to advise Consultant of any deficiencies in such policies and endorsements, and such receipt shall not relieve Consultant from, or be deemed a waiver of the City's right to insist on, strict fulfillment of Consultant's obligations under this Contract.

The insurance policies, except Workers' Compensation and Professional Liability, required by this Contract, shall name the City, its agents, representatives, officers, directors, officials and employees as Additional Insureds.

#### 24. Required Insurance Coverage:

##### a. Commercial General Liability

Consultant shall maintain Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence with a \$2,000,000 Products/Completed Operations Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this Contract which coverage will be at least as broad as Insurance Service Office, Inc. Policy Form CG 00011207 or any replacements thereof. The coverage shall not exclude X, C, U.

Such policy shall contain a severability of interest provision, and shall not contain a sunset provision or commutation clause, nor any provision which would serve to limit third party action over claims.

The Commercial General Liability additional insured endorsement shall be at least as broad as the Insurance Service Office, Inc.'s Additional Insured, Form B, CG 20370704, and shall include coverage for Consultant's operations and products and completed operations.

If required by this Contract the Consultant subletting any part of the work, services or operations awarded to the Consultant shall purchase and maintain, at all times during prosecution of the work, services or operations under this Contract, an Owner's and Consultant Protective Liability insurance policy for bodily injury and property damage, including death, which may arise in the prosecution of the Consultant's work, service or operations under this Contract. Coverage shall be on an occurrence basis with a limit not less than \$1,000,000 per occurrence, and the policy shall be issued by the same insurance company that issues the Consultant's Commercial General Liability insurance.

##### b. Automobile Liability

Consultant shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to the Consultant's any owned, hired, and non-owned vehicles assigned to or used in performance of the Consultant's work. Coverage will be at least



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as broad as coverage code 1, "any auto", (Insurance Service Office, Inc. Policy Form CA 00010306, or any replacements thereof). Such insurance shall include coverage for loading and off loading hazards.

c. **Workers' Compensation**

The Consultant shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Consultant's employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee, and \$500,000 disease policy limit.

In case any work is subcontracted, the Consultant will require the Subcontractor to provide Workers' Compensation and Employer's Liability to at least the same extent as required of the Consultant.

d. **Professional Liability**

The Consultant retained by the City to provide the work or service required by this Contract will maintain Professional Liability insurance covering acts, errors, mistakes and omissions arising out of the work or services performed by the Consultant, or any person employed by the Consultant, with a limit of not less than \$1,000,000 each claim.

25. **Certificates of Insurance:** Prior to commencing work or services under this Contract, Consultant shall furnish the City with Certificates of Insurance, and formal endorsements as required by the Contract, issued by Consultant's insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Contract are in full force and effect.

In the event any insurance policy(ies) required by this contract is(are) written on a  "claims made" basis, coverage shall extend for two years past completion and acceptance of the Consultant's work or services and as evidenced by annual Certificates of Insurance.

If a policy does expire during the life of the Contract, a renewal certificate must be sent to the City fifteen (15) days prior to the expiration date.

All Certificates of Insurance shall be identified with bid serial number and title. A \$25.00 administrative fee will be assessed for all certificates received without the appropriate bid serial number and title.

26. **Cancellation and Expiration Notice:** Insurance required herein shall not expire, be canceled, or materially changed with respect to coverage or rating of carrier. All other changes shall be with thirty (30) days prior written notice to the City.

27. **Independent Contractor:**

a. **General**

- i. The Consultant acknowledges that all services provided under this Agreement are being provided by him as an independent Consultant, not as an employee or agent of the City Manager or the City of Peoria.
- ii. Both parties agree that this Agreement is nonexclusive and that Consultant is not prohibited from entering into other contracts nor prohibited from practicing his profession elsewhere.

b. **Liability**

- i. The City of Peoria shall not be liable for any acts of Consultant outside the scope of authority granted under this Agreement or as the result of Consultant's acts, errors, misconduct, negligence, omissions and intentional acts.
- ii. To the fullest extent permitted by law, the Consultant shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees for costs or damages for which the Consultant is legally responsible or for which the City is vicariously liable on account of the Consultant's willful or negligent acts, errors or omissions.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.



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c. **Other Benefits**

The Consultant is an independent Consultant, therefore, the City Manager will not provide the Consultant with health insurance, life insurance, workmen's compensation, sick leave, vacation leave, or any other fringe benefits. Further, Consultant acknowledges that he is exempt from coverage of the Comprehensive Benefit and Retirement Act (COBRA). Any such fringe benefits shall be the sole responsibility of Consultant.

28. **Key Personnel:** It is essential that the Consultant provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The Consultant must agree to assign specific individuals to the key positions.

- a. The Consultant agrees that, once assigned to work under this contract, key personnel shall not be removed or replaced without written notice to the City.
- b. If key personnel are not available for work under this contract for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the Consultant shall immediately notify the City, and shall, subject to the concurrence of the City, replace such personnel with personnel of substantially equal ability and qualifications.

29. **Confidential Information:**

- a. If a person believes that a bid, proposal, offer, specification, or protest contains information that should be withheld, a statement advising the Materials Supervisor of this fact shall accompany the submission and the information shall be identified.
- b. The information identified by the person as confidential shall not be disclosed until the Materials Supervisor makes a written determination.
- c. The Materials Supervisor shall review the statement and information and shall determine in writing whether the information shall be withheld.
- d. If the Materials Supervisor determines to disclose the information, the Materials Supervisor shall inform the bidder in writing of such determination.

30. **Identity Theft Prevention:** The Contractor shall establish and maintain Identity Theft policies, procedures and controls for the purpose of assuring that "personal identifying information," as defined by A.R.S. § 13-2001(10), as amended, contained in its records or obtained from the City or from others in carrying out its responsibilities under the Contract, is protected at all times and shall not be used by or disclosed to unauthorized persons. Persons requesting such information should be referred to the City. Contractor also agrees that any "personal identifying information" shall not be disclosed other than to employees or officers of Contractor as needed for the performance of duties under the Contract. Contractor agrees to maintain reasonable policies and procedures designed to detect, prevent and mitigate the risk of identity theft. Contractor is required under this contract to review the City of Peoria's Identity Theft Program and to report to the Program Administrator any Red Flags as defined within that program. At a minimum, the contractor will have the following Identity Theft procedures in place:

- a. Solicit and retain only the "personal identifying information" minimally necessary for business purposes related to performance of the Contract.
- b. Ensure that any website used in the performance of the contract is secure. If a website that is not secure is to be used, the City shall be notified in advance before any information is posted. The City reserves the right to restrict the use of any non-secure websites under this contract.
- c. Ensure complete and secure destruction of any and all paper documents and computer files at the end of the contract's retention requirements.
- d. Ensure that office computers are password protected and that computer screens lock after a set period of time.



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- e. Ensure that offices and workspaces containing customer information are secure.
- f. Ensure that computer virus protection is up to date.

31. **Confidentiality of Records:** The Consultant shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that information contained in its records or obtained from the City or from others in carrying out its functions under the contract shall not be used or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the contract. Persons requesting such information should be referred to the City. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under the contract. These provisions shall not restrict the Design Professional from giving notices required by law or complying with an order to provide information or data when such order is issued by a court, administrative agency or other authority with proper jurisdiction.

32. **Ordering Process:** Upon award of a contract by the City of Peoria, Materials Management Division may procure the specific service awarded by the issuance of a purchase order to the appropriate Consultant. The award of a contract shall be in accordance with the City of Peoria Procurement Code and all transactions and procedures required by the Code for public bidding have been complied with. A purchase order for the awarded service that cites the correct contract number is the only document required for the department to order and the Consultant to delivery the service.

Any attempt to represent any service not specifically awarded as being under contract with the City of Peoria is a violation of the contract and the City of Peoria Procurement Code. Any such action is subject to the legal and contractual remedies available to the City inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the Consultant.

33. **Billing:** All billing notices to the City shall identify the specific item(s) being billed and the purchase order number. Items are to be identified by the name, model number, and/or serial number most applicable. Any purchase/delivery order issued by the requesting agency shall refer to the contract number resulting from this solicitation.

34. **Cancellation:** The City reserves the right to cancel the whole or any part of this contract due to failure by the Consultant to carry out any obligation, term or condition of the contract. The City will issue written notice to the Consultant for acting or failing to act as in any of the following:

- a. The Consultant provides material that does not meet the specifications of the contract;
- b. The Consultant fails to adequately perform the services set forth in the specifications of the contract;
- c. The Consultant fails to complete the work required or to furnish the materials required within the time stipulated in the contract;
- d. The Consultant fails to make progress in the performance of the contract and/or gives the City reason to believe that the Consultant will not or cannot perform to the requirements of the contract.

Upon receipt of the written notice of concern, the Consultant shall have ten (10) days to provide a satisfactory response to the City. Failure on the part of the Consultant to adequately address all issues of concern may result in the City resorting to any single or combination of the following remedies:

- a. Cancel any contract;
- b. Reserve all rights or claims to damage for breach of any covenants of the contract;
- c. Perform any test or analysis on materials for compliance with the specifications of the contract. If the results of any test or analysis find a material non-compliant with the specifications, the actual expense of testing shall be borne by the Consultant;
- d. In case of default, the City reserves the right to purchase materials, or to complete the required work in accordance with the City Procurement Code. The City may recover any actual excess costs from the Consultant by:
  - i. Deduction from an unpaid balance;
  - ii. Or any other remedies as provided by law.



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35. **Project Travel Reimbursable Expenses:** If travel expenses are allowed as part of the contract the reimbursable expenses will be as follows. All expenses will be billed to the City at cost without markup. Copies of bills for expenses are to be submitted with the invoice. Travel time to and from job site is excluded from this contract. There will be no allowances for parking or personal car mileage. No incidentals for travel of any kind are allowed under this contract.

The following is a list of allowable travel expenses under this contract agreement:

a. Transportation:

- i. Air Transportation – coach class fares, minimum 14 days advanced purchase, unless otherwise agreed upon.
- ii. Car Rental – mid size car, gas for rental car (City assumes no liability regarding additional insurance costs).

b. Lodging and Meals:

- i. Meals – three meals per day, at the current federal per diem rate for Maricopa County.
- ii. Lodging – not to exceed the current federal rate for Maricopa County. Vendors are encouraged to stay in hotels located within the City of Peoria when practical. A listing of accommodations within Peoria can be found on the following website: <http://visitpeoriaaz.gov/accommodations.php>

36. **Protest Policy and Procedures:** The City of Peoria protest policy and procedures are available for review at the following public websites as per ARS 34-603.C.2(f).

- a. The City of Peoria Protest Policy and Procedures are available online at

<http://www.peoriaaz.gov/content2.aspx?ID=2071>

The policy is contained within the City of Peoria Procurement Code, Chapter 2- Administration, section 2-321. Procurement Code Protests; Informal and Formal.

- b. The specific protest procedures are contained in the Materials Management “Administrative Guidelines” and can be accessed at <http://www.peoriaaz.gov/content2.aspx?ID=2141> under the “Learn more About” box on the right side of the web page.



## SCOPE OF WORK

Solicitation Number: P12-0080

### Materials Management

#### Procurement

9875 N. 85<sup>th</sup> Avenue  
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Phone: (623) 773-7115  
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### SCOPE OF SERVICES

The City of Peoria ("City") is issuing a Request for Proposal ("RFP") to engage the services of a consulting firm(s) with demonstrated experience in the development of impact fees and infrastructure improvement plans. The City will contract with a Consultant(s) to complete a full analysis for impact fees in the following areas: Police and Fire facilities, Transportation Improvements, Parks, Libraries and Utilities Development Impact Fees (Water, Sewer, Water Resources, and Reclaimed Water). The awarded consulting firm(s) will advise and assist the City with the development of an infrastructure improvements plan (IIP) for the City, in compliance with the State of Arizona's new state statutes regarding impact fees and to prepare and write a development impact fee report based on the IIP for the City.

For the new state statutes, see Arizona Revised Statutes, Title 9, Article 6.2 "Municipal Subdivision Regulations," 463.05 - Development fees; imposition by cities and towns; infrastructure improvements plan; annual report; advisory committee; limitation on actions; definitions (L11, Ch. 243, sec. 1. Eff. 1/1/12)

The specific responsibilities are outlined below:

#### Existing IIP and Impact Fee Schedule

##### Task 1: Treatment of Previously Collected Fees

Arizona Revised Statutes, 9-463.05 grandfathers accumulated impact fees for purposes no longer permitted under the category of necessary public services until January 1, 2020. The Consultant(s) will review fund balances for unauthorized fee categories as of January 1, 2012 and work with City staff to develop options for utilizing these funds within the allotted timeframe.

#### New IIP and Fee Schedule

##### Task 1: Land Use Assumptions

The selected Consultant(s) will review annual projections of population, employment, housing, commercial, industrial and other nonresidential square footage data for up to ten years. This will be based on discussions with City staff and review of published information, including that from the regional planning organization, the Maricopa Association of Governments ([www.azmag.gov](http://www.azmag.gov)). The selected Consultant(s) will prepare a memorandum discussing the recommended land use projections that will serve as the basis for the IIP and development impact fee schedule.

##### Task 2: Identification of Demand Factors/Level of Service/Service Areas

The Consultant(s) will determine the expected demand levels reflective of anticipated uses for city services. This includes a review of current service levels enjoyed by Peoria residents, as well as an assessment of the impact of these demands from future growth in the city.



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- a. **Ascertain Demand Factors** – The actual demand factors that generate the need for new capital facilities related to growth, and based on the zoning for the identified areas of the City, will be reviewed.
- b. **Evaluate Existing Levels of Service** – Development fees should use existing levels of service for the purpose of calculating the new demand, unless there are extenuating circumstances and/or a financial plan to provide a higher level of service to existing development. The selected Consultant(s) will determine the existing level of service by conducting onsite interviews, evaluating the appropriate studies and analyzing relevant local data.
- c. **Determine Geographic Service Area** – The appropriate geographic service area for purposes of calculating the development fees will be determined. Based on the new legislation, we anticipate that there will be multiple zones with differing impact fees, including one or more areas where infill development could occur that result in increased demand for services.

The above subtasks (a through c) will enable the selected Consultant(s) to ensure that three (3) important development fee requirements are met, collectively referred to as rational nexus requirements: 1) demonstration of impact, 2) benefit, and 3) proportionality.

### Task 3: Identification of Facility Needs and Costs

Based on the preceding information, the Consultant(s) will review capital facility needs within the appropriate planning period, and identify those capital costs which can be attributed to the planned growth in the City. This task will culminate in development of infrastructure improvement plans based on the relevant capital needs and costs due to growth.

- a) **Long Range Capital Needs** - The selected Consultant(s) will assist the City in developing an IIP in compliance with the requirements of state statutes. This subtask may include reviewing various studies and other relevant data. The discussions will include establishing reasonable costs based on the size and scope of identified projects and whether these capital facilities needs are due to normal replacement, existing deficiencies or new demand tied to growth.
- b) **Review Cost Estimates** - In this subtask the selected Consultant(s) will review, estimated capital costs. As part of this subtask, the City will ascertain whether the facilities are likely to be financed and, if so, the amortization schedule. Land and infrastructure values shall be developed for all fee categories and geographic service areas to assist in the administration of credits.

As part of calculating the fee, the Consultant(s) will ensure only eligible capital costs are included per the requirements of state statutes. The Consultant(s) also will ensure that relevant tax revenues are incorporated into the calculation of the impact fee in accordance with State of Arizona Statutes.

### Task 4: Evaluate Alternative Fee Methodologies

The selected Consultant(s) will determine the most appropriate allocation methodology or methodologies for each public facility fee category so the resulting fee is in compliance with new state statute requirements. Consultant(s) shall provide a summary review of alternative methodologies considered and



## SCOPE OF WORK

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their advantages and disadvantages prior to finalizing the fee methodology.

### **Task 5: Determine Need for and Calculate Credits to be Applied Against Capital Costs**

There are two (2) types of credits each with specific and distinct characteristics, but both of which will be addressed in the development of fees. The first is a credit due to possible double payment situations. This could occur when future contributions are made by the property owner toward the capital costs of the public facility covered by the development fee. The second is a credit toward the payment of a development fee for the required dedication of public sites and improvements provided by the developer and for which the development fee is imposed.

With respect to the second type of credit, the selected Consultant(s) shall complete a comprehensive review and summary of the current credit management procedures and provide recommendations to ensure legal compliance.

### **Task 6: Discussion of Preliminary Methodologies and Policy Options**

The completion of the above tasks will allow the selected Consultant(s) to prepare draft levels of service tables and supporting documentation for each public facility fee category. This draft information will be shared with the City to ensure understanding and acceptance. Policy alternatives will be discussed as appropriate.

### **Task 7: Review Administrative Policies and Procedures**

Conformance with the new statutory requirements will require the City to reevaluate policies and procedures governing the administration of development impact fees. The Consultant(s) will review existing City policies and procedures and recommend changes necessary to ensure compliance with the new requirements and administer impact fees as efficiently as possible. These recommendations will address the new grandfathering rules and refund requirements.

### **Task 8: Prepare Infrastructure Improvement Plan (IIP)**

In this task the selected Consultant(s) will prepare an IIP that reflects the costs of infrastructure, improvements, real property, financing, other capital and associated appurtenances, equipment, vehicles, furnishings, and other eligible items that are associated with meeting future needs necessary for public services as allowed per state statutes. This IIP will meet the new State of Arizona requirements.

### **Task 9: Complete Development Fee Methodology and Calculations**

The completion of the above task will enable the development fee methodology and calculations to be finalized. The Consultant(s) will calculate and provide a summary of the maximum justifiable fee that can be charged per fee category.

### **Task 10: Conduct Funding and Cash Flow Analysis**

In this task, the selected Consultant(s) will prepare a cash flow analysis for each fee category that incorporates anticipated funding sources. This calculation will allow the City to better understand the revenue potential of development fees and any additional amount needed if the development fees were discounted to less than one hundred percent (100 %) of the maximum justifiable fee. It will also provide a



## SCOPE OF WORK

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### Materials Management Procurement

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good understanding of the cash flow needed to cover the infrastructure costs for new development.

The initial cash flow analysis will also indicate whether additional funds might be needed or whether the IIP might need to be altered. This could also affect the total credits calculated in the previous task. Therefore, it is likely that a number of iterations will be conducted in order to refine the cash flow analysis reflecting the capital improvement needs.

#### **Task 11: Preparation of IIP and Development Fee Report**

The selected Consultant(s) will prepare a draft report that summarizes the need for development fees for the appropriate public facility fee category, the relevant methodology employed and document all assumptions and cost factors. The report will include, at a minimum, the following information:

- ✓ Executive summary
- ✓ A detailed description of the methodologies used in the study
- ✓ A detailed description of all level of service standards, cost factors and accompanying rationale
- ✓ An IIP spanning a minimum five (5) year planning horizon listing projects, costs, timing, and financing
- ✓ A detailed schedule of all proposed fees listed by land use type and activity
- ✓ Other information that adequately explains and justifies the resulting recommended fee schedule

The selected Consultant(s)'s report will have flow diagrams clearly indicating the methodology and approach, a series of tables for each activity showing all of the data assumptions and figures, and a narrative explaining all of the data assumptions, sources and the methodologies. The report will be a stand-alone document clearly understood by interested parties.

Following the City's review of the draft report, the selected Consultant(s) will incorporate mutually agreed upon changes and issue final copies in a time frame agreed upon between the City and the awarded Consultant(s).

All deliverables shall be transmitted via email or on CD as applicable.

#### **Task 12: Presentations/Meetings**

The selected Consultant(s) will attend two (2) to three (3) meetings between the City and the stakeholder community (homebuilders, commercial builders, etc). The purpose of these meetings is to allow interested parties, designated by the City, to understand assumptions and raise any questions about the technical demographic, cost, revenue, credit and other data and supporting documentation that is being used in the calculation of development fees. This will not be a forum to discuss the political and/or philosophical use of fees. Rather, it will be an opportunity for the interested parties to understand the soundness and the reasonableness of the technical development fee methodology. We anticipate two (2) meetings with this group, but the number of meetings may increase to three (3) if needed. The first meeting would be to discuss the initial data assumptions, after "sign-off" by the client. The second meeting would be to discuss



## SCOPE OF WORK

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the draft report.

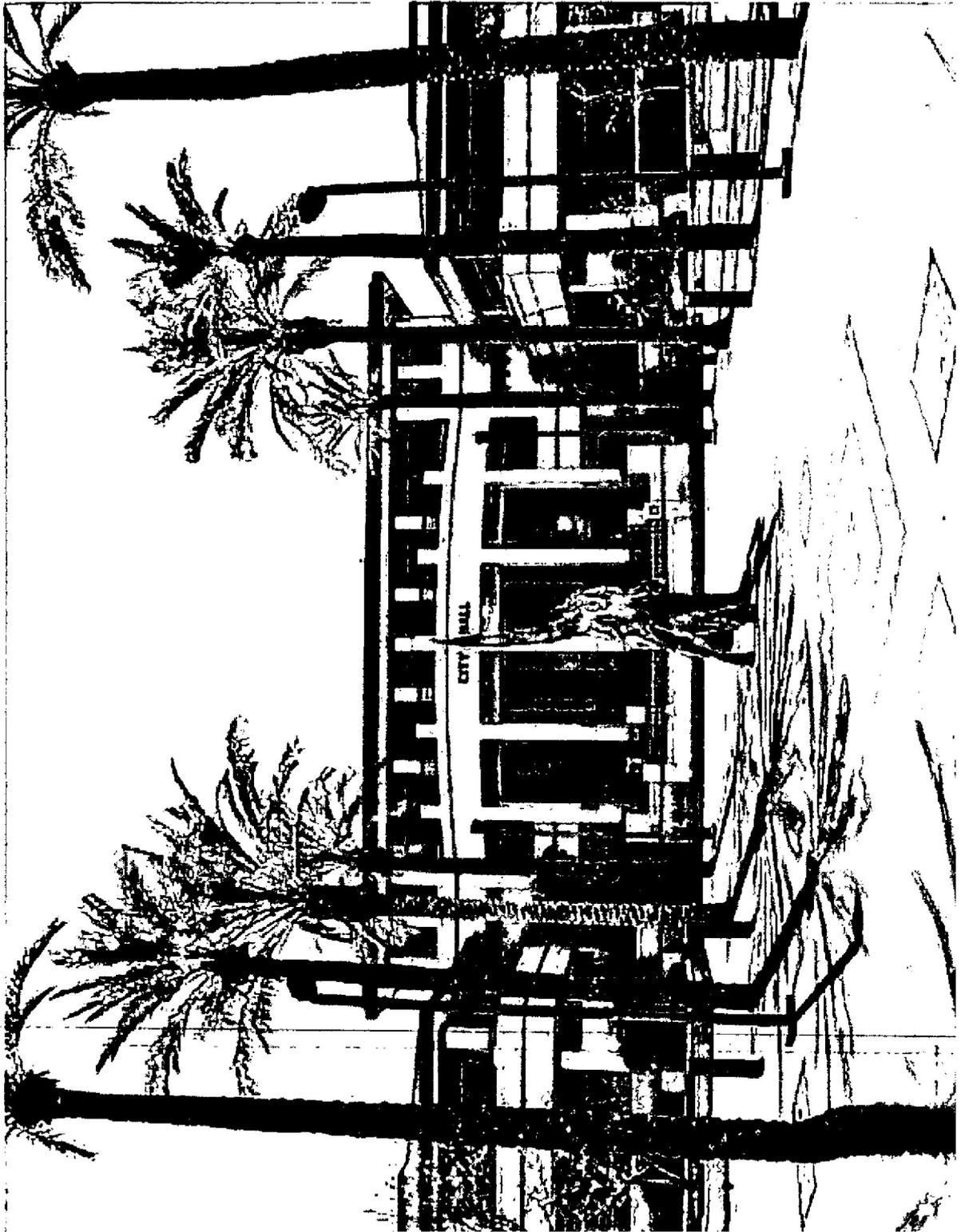
Further, the selected Consultant(s) is required to attend one (1) or two (2) City Council workshop discussions where City staff will present the report and its findings.

In addition, the selected Consultant(s) will conduct on-site interviews with relevant staff at the beginning of the process to gather data and obtain a detailed understanding of capital needs.

Finally, it is possible that an advisory committee could be established and if the city chooses that route (rather than the biennial audit), there could be two (2) to three (3) meetings of the committee that the Consultant(s) may be required to attend.

### **Project Timeline**

The new statute requires all existing fee programs to be replaced with fees adopted under the new statute by August 1, 2014 §9-463.05(K). The City is interested in a project timeline of no more than 18 months from project kickoff to full implementation of the updated fee schedules. This includes time for public review and approval off the IIP and/or advisory committee review, if applicable.



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# 1. Transmittal Letter

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**duncan** associates

June 7, 2012

City of Peoria Materials Management  
9875 N. 85<sup>th</sup> Avenue, 2<sup>nd</sup> Floor  
Peoria, AZ 85345

## RE: P12-0080, Development Fee Study for General Government Facilities

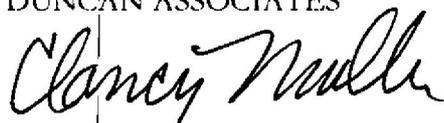
On behalf of **Duncan Associates**, and **Ritoch-Powell & Associates**, I am pleased to submit our proposal to assist the City in updating its impact fee program for general government facilities.

- National experience:** We have prepared over 100 road, park, library, fire and police impact fee studies over the past five years. Of those, 24 were for Arizona cities.
- Arizona experience:** Our Arizona impact fee experience includes the state's four largest cities (Phoenix, Tucson, Mesa and Chandler). We have an in-depth understanding of SB 1525, having worked with the Arizona League of Cities and Towns on the model ordinance and having assisted Mesa, Chandler, Florence and Buckeye in complying with the bill's requirements that had to be met by January 1, 2012.
- Staff experience:** With an average of 25 years of impact fee experience each, our staff members are more highly experienced than most other impact fee consulting firms. We also have experience in actually administering impact fee programs.
- Local familiarity:** Our subconsultant engineering firm has worked for the City of Peoria on numerous projects over the past ten years, and Steve Lewis is a Peoria resident. They have a working relationship with City staff and are knowledgeable of the City's design standards and processes.
- Legal defensibility:** We have a proven track record of producing impact fee studies that have withstood legal challenge. None of our studies have been successfully challenged in court. We have served as expert witnesses in successfully defending legal challenges. We are also one of the few impact fee firms with in-house legal expertise.

Duncan Associates will be the primary consultant, and I am our firm's authorized representative. Please contact me if you have any questions.

Sincerely,

DUNCAN ASSOCIATES



Clancy Mullen  
Vice-President

360 Nueces St #2701 | austin tx 78701 | 512.423.0480 | fax 312.268.7418 | [clancy@duncanassociates.com](mailto:clancy@duncanassociates.com)

### 3. Project Understanding and Approach

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This section provides the consultant's understanding of the implications of SB 1525, our general approach to this project and a detailed work plan and timeline for completing the project.

#### Implications of SB 1525

Duncan Associates has a thorough understanding of SB 1525, the sweeping overhaul of Arizona's impact fee enabling act for municipalities enacted during the last legislative session. In particular, we participated with the attorneys assisting the League of Cities and Towns in developing a model impact fee ordinance to comply with the bill. We also assisted Mesa, Chandler, Buckeye and Florence in modifying their fees to comply with the January 1, 2012 deadline for ceasing to collect impact fees that are no longer authorized. We are currently in the process of preparing land use assumptions and infrastructure improvement plans to support an update of impact fees for Mesa, Chandler and Florence. This section outlines our understanding of SB 1525's requirements and the implications for Arizona cities in general and Peoria in particular.

**Eligible Facilities.** One of the most significant changes made by SB 1525 was to restrict the types of facilities or improvements for which impact fees can be charged. Of the types of facilities subject to this update, the major change was to make ineligible, after January 1, 2012, certain types of parks, library, fire and police improvements, as described below. However, impact fees can continue to charge for improvements that are no longer eligible for impact fees, but were funded with debt incurred prior to July 1, 2011 that was intended to be repaid with impact fees ("pledged debt"). In addition, SB 1525 requires that eligible facilities must have a life expectancy of at least three years.

**Parks.** Park impact fees may no longer be assessed for parks more than 30 acres in size, although up to 30 acres of a larger park may be included if it provides a "direct benefit" to development (i.e., it provides services comparable to what would be provided by a smaller park to nearby development). Community or recreation centers larger than 3,000 square feet are now ineligible, although impact fees can be used to pay up to the first 3,000 square feet of a larger community center. Aquatic facilities are now ineligible, although swimming pools continue to be eligible (the model ordinance prepared by the Arizona League of Cities and Towns defines an aquatic center as "a facility primarily designed to host non-recreational competitive functions generally occurring within water, including, but not limited to, water polo games, swimming meets, and diving events. Such facility may be indoors, outdoors, or any combination thereof, and includes all necessary supporting amenities, including but not limited to, locker rooms, offices, snack bars, bleacher seating, and shade structures"). SB 1525 also excludes amusement parks, aquariums, auditoriums, arenas, arts and cultural facilities, bandstand and orchestra facilities, bathhouses, boathouses, clubhouses, environmental education centers, equestrian facilities, golf course facilities, greenhouses, lakes, museums, theme parks, water reclamation or riparian areas, wetlands and zoo facilities.

The City eliminated open space and trail impact fees, but continues to assess separate neighborhood and community park fees, although these have been somewhat reduced from the amounts calculated in the 2007 impact fee study. These should probably be consolidated into a single park fee, and the impact fee update should ensure that no unauthorized facility costs, other than what is related to pledged debt, are retained in the updated park fees.

**Libraries.** SB 1525 prohibits the collection of impact fees for libraries of more than 10,000 square feet, although the first 10,000 square feet of a larger library (and the land associated with that square footage) can be eligible for impact fees. Library impact fees for future improvements are restricted to land and building costs only, and cannot include the cost of furniture, fixtures, equipment or library materials. The City's library impact fees have been reduced somewhat from the amounts calculated in the 2007 impact fee study. The library impact fee update should ensure that no unauthorized facility costs, other than what is related to pledged debt, are retained in the updated library fees.

**Fire and Police.** In the calculation of fire or police impact fees, cities may no longer include the costs of vehicles or equipment used to provide administrative services, helicopters, airplanes, or any facility that is used for training personnel from more than one station or substation. The City's fire and police impact fees are higher than what was calculated in the 2007 study, indicating that the fees have been adjusted for inflation. The fire and police impact fee update should ensure that no unauthorized facility costs, such as training facilities, are retained in the updated fees, other than what is related to pledged debt.

**Service Areas.** Service areas are a key requirement for impact fees under SB 1525. A service area is defined as "any specified area within the boundaries of a municipality in which development will be served by necessary public services or facility expansions and within which a substantial nexus exists between the necessary public services or facility expansions and the development being served as prescribed in the infrastructure improvements plan." Land use assumptions (growth projections) and an infrastructure improvements plan (list of capital improvements and impact fee analysis) must be prepared for each service area.

Multiple service areas are not mandated by SB 1525. A service area may include all of the area within the city limits, or within the city's water and wastewater service area, as long as it can be shown that developments located anywhere within the service area will be served by or benefit from improvements anywhere in the service area. In general, the consultant suggested that the City should try to minimize the number of service areas to the extent possible, since more service areas will restrict the City's ability to accumulate funds to make improvements and will complicate the impact fee system.

**Transportation.** The City currently has three transportation impact fee service areas: South, Central and North. These zones should be sufficient to meet the requirements of SB 1525.

**Parks.** Now that eligible park improvements are limited to "neighborhood" parks of up to 30 acres in size, the city will likely need to be divided into multiple park service areas for the purpose of park impact fees for new facilities. While the 2007 impact fee study analyzed the provision of future neighborhood park acres to three neighborhood park zones, the fees are uniform city-wide. The three neighborhood park zones may be a reasonable basis for future park service areas. The consultant will review park improvement plans, growth projections and other information to develop recommendations for appropriate service areas.

**Libraries.** The City's library impact fees are based on a city-wide service area. The City has a main downtown library and a Sunrise Mountain branch, and plans for additional branches. Assuming the City has modern inter-library lending policies that allow residents to check out circulation materials from other libraries at their local branch, it would be reasonable to continue with a city-wide service area.

**Fire/Police.** The City could probably justify continuing to retain city-wide service areas for fire and police facilities. While each fire station has a primary response area, fire and police protection systems tend to be integrated systems that are appropriate for a single, city-wide service area. The bulk of police facilities are centralized, and service is provided by roving patrol cars that can respond to incidents anywhere in the city. Fire response units often are dispatched to incidents out of their primary response zones.

**Methodology.** SB 1525 is sometimes misunderstood to dictate a particular methodology for calculating impact fees. Because cities must forecast anticipated growth over a fixed time period and identify improvements needed over the same time period, some are led to think that a “plan-based” methodology is required, where the cost per service unit (i.e., a measure of growth, often expressed as a single-family equivalent dwelling unit or EDU) is calculated by dividing planned costs by anticipated new service units. In fact, however, SB 1525 does not dictate this methodology. Most impact fees, even in states with similar requirements, are not calculated in this way. The reason for this is that a list of planned improvements must generally be developed using a rigorous analysis, such as the modeling used to develop a master plan, in order to establish the required nexus between the anticipated growth and the specific list of improvements required to serve that growth. In most cases, such a master plan is not available and the resources are not available to develop such master plans as part of the impact fee study.

The principal alternative to the plan-based methodology is “standards-based.” The key difference is that the plan-based approach is based on a complex level of service (LOS) standard, such as “the average fire response time shall not exceed three minutes,” that requires projecting growth by small areas and using sophisticated modeling or analysis to determine the specific improvements needed to maintain the desired LOS. In contrast, a standards-based approach uses a generalized LOS standard (such as the ratio of park acres to population) that does not require an extensive master planning effort in order to determine the improvements and costs that are attributable to a specific quantity of growth.

There are advantages and disadvantages to the two methodologies. The major advantage of a standards-based methodology is that it is more flexible, since the fees are not dependent on the specific projects included in the list of improvements, only on the average cost to construct a unit of capacity. Changing the list of planned projects typically does not require recalculation of standards-based impact fees, since a single project is likely to have an insignificant impact on the average cost of capacity added by all of the improvements. This allows the capital plan to change in response to unforeseen development without triggering the need for an impact fee update. It may also provide an added layer of defense against the need to provide a refund if a particular planned construction project turns out to cost more than 10% less than anticipated, as required by SB 1525, since it would be more difficult to show that the actual cost of a single improvement would have a measurable effect on the average cost per unit of capacity.

The City’s current fees were calculated using the standards-based approach, even though the 2007 study called its methodologies “plan based incremental” and “plan based average.” Under the plan based incremental approach, the planned costs were divided by capacity added to determine the cost per capacity unit (library book, park acre, etc.), and the cost per capacity unit was multiplied by the desired level of service (capacity units per service unit, such as books per capita) to determine the cost per service unit. The key missing element, however, was a determination of the existing level of service. SB 1525 explicitly requires that impact fees “shall be based on the same level of service provided to existing development in the service area.” While SB 1525 makes this requirement explicit, it has always been a fundamental requirement of national impact fee case law. The updated

fees would be based on the existing level of service, unless the City has a specific plan to remedy any existing deficiencies for existing development and a credit is calculated for new development's contribution toward any revenues to be used to fund the deficiencies.

The plan based average approach used in the 2007 study for open space and trails is even more suspect, since future improvements are assumed to benefit both existing and future residents. However, since these fees have been discontinued, it is not necessary to discuss this approach further.

**Land Use Assumptions.** An impact fee update must now include the development of land use assumptions (growth projections) for each service area. The land use assumptions must cover a period of at least 10 years. Since the Infrastructure Improvements Plan (IIP) that must be prepared for each service area must identify improvement needs for a period not to exceed 10 years, a 10-year time-frame would continue to be appropriate for both the land use assumptions and the IIP.

As noted, land use assumption must be prepared for each service area. Some of the service areas are likely to cover less than the entire city. Small-area projections will therefore be required in order to prepare growth projections for subareas of the city. The likely source for these kinds of projections is the demographic data sets prepared by the Maricopa Association of Governments (MAG) for use in the regional transportation model. These data sets include projections of population, households and employment by small Transportation Analysis Zones (TAZs). The TAZ data can be aggregated to service areas.

**Infrastructure Improvements Plan.** The Infrastructure Improvements Plan (IIP) required to be prepared for each service area is often confused with a list of planned capital improvements. While the IIP must include such a list, it must also contain much more analysis. The IIP is basically the impact fee study. To avoid confusion, we suggest referring to the list of improvements that must be included in the IIP as the "capital plan."

We propose to prepare a single, consolidated document that includes land use assumptions, infrastructure improvement plans and impact fee analyses for all of the City's general government impact fee facilities. As noted above, the IIP must identify planned projects over a period of not more than 10 years, and it is suggested that the City's IIPs and capital plans cover a 10-year period. Of course, the impact fee analysis could cover a longer period, such as to build-out, which may be required if the fees are based on build-out master plans.

The cost of the projects listed in the capital plan will not determine the impact fee amounts. As noted in the methodology section above, there are two basic methodologies. Under a plan-based approach, the fee will be determined by the projects listed in the applicable master plan, some but not all of which will be listed in the 10-year capital plan. Under the standards-based approach, the fees will be based on the existing level of service and the average cost per unit of capacity (e.g., for fire, the average cost to build a square foot of fire station). So the capital plan is simply a list of improvements that are eligible to be funded with impact fees. The capital plan can also be used to determine the average cost per capacity unit, as was done in the 2007 study, although this average cost can also be based on a representative list of historical improvements.

Eligible improvements are those that add capacity to accommodate future growth. Replacing an existing fire truck or an existing fire station, or remodeling or repairing an existing building, are examples of improvements to do not add capacity. Some projects may be partially eligible. For example, replacing an existing two-bay fire station with a larger three-bay fire station would be partially eligible for impact fee funding.

In addition, existing facilities that have outstanding debt that is to be repaid with impact fees should be listed in the capital plan. Debt-funded projects that have been pledged to be repaid with impact fees but are no longer eligible under SB 1525 should also be identified and included in the capital plan. Care must be taken to ensure that the capacity provided by existing debt-funded improvements included in the capital plan is excluded from the determination of the existing level of service, since by definition this capacity is for the purpose of accommodated future growth, not existing demands.

**Revenue Credits.** SB 1525 requires that the impact fee calculation take into consideration future revenues generated by new development and used to fund capital costs of facilities covered by the fees. The 2007 study did not provide a credit for future non-impact fee funding toward improvements included in the infrastructure plan, because the City was committed to funding the improvements exclusively with impact fees. To the extent that the infrastructure plan does not remedy existing deficiencies, in general this continues to be a reasonable approach that is consistent with both national case law and SB 1525. However, SB 1525 does specifically require a forecast of revenues, including “state-shared revenue, highway users revenue, federal revenue, ad valorem property taxes” and construction excise taxes, and that such revenues be taken into consideration when determining the extent of the burden imposed by new development. While local property tax or other revenues can be used to raise the existing level of service for both existing and new development without necessitating a revenue credit, credit probably should be provided for state and federal funding anticipated to be available to fund a portion of the growth-related costs. In addition, if the City charges a higher excise tax on construction than on most other activities, a credit is mandated for the excess portion of the construction excise tax revenues. Finally, credit should be provided for any future debt service payments on existing facilities included in determining the existing level of service.

**Land Use Categories.** The requirement of SB 1525 that impact fees “shall be assessed against commercial, residential and industrial development” has been interpreted by some to require that fees for facilities typically assessed only on residential development, such as parks and libraries, must also be assessed on nonresidential development. We disagree with this interpretation. It is very difficult to establish the required demand nexus for such facilities resulting from nonresidential development. In the absence of available data supporting such assessment, we do not believe that non-residential park and library fees are required.

While we favor using a limited number of land use categories in the impact fee schedules, the City might want to consider some differentiation of fire and police fees between the nonresidential land uses. The approach taken in the 2007 study of allocating costs between residential and nonresidential based on land area is not unreasonable, but a stronger and more detailed nexus could be achieved. Some fire and police fees are based on calls for service by land use, but while this would seem to provide the strongest nexus, the data are often not readily available. Even more problematic, it has been our experience that calls per land use are relatively unstable over time, and fees by land use tend to swing dramatically between updates. An alternative approach is to base the fees on a methodology called “functional population,” which measures the presence of people at the site of different land uses. Most fire calls are related to medical emergencies, not fires, and although police patrol vacant buildings, most police calls are also related to the presence of people. Such an approach could also provide a basis for differentiating fees between the various nonresidential land use categories, although the City could retain a flat fee per 1,000 square feet for all nonresidential development if it prefers.

## **Work Plan**

This proposal represents our initial approach. We look forward to fine-tuning this proposed work plan with the City in the near future.

Our general approach to impact fee studies is to clearly explain and document all data sources, inputs, assumptions and calculations in the report. The 2007 study was long on data tables but weak on text documenting data sources, providing justifications for assumptions and clearly explaining the fee calculations.

City staff involvement in the impact fee update will include project management, provision of requested data to the consultant, identification of administrative issues, policy direction, review and comment on draft documents and scheduling of meetings.

We do not propose any exceptions to the terms, conditions or scope of work identified in the RFP. However, we do propose to organize the identified tasks somewhat differently, as outlined below.

### **Task 1: Project Organization/Data Collection**

This task will involve data collection and project organization for the update of the City's land use assumptions, infrastructure improvement plans and impact fee studies for transportation, parks, library, fire and police facilities. The consultant will work with the City's project manager to schedule one day of meetings with key members of City staff. The consultant could also meet with a stakeholder group or advisory committee during this trip if feasible. Prior to the organizational meeting, the consultant will gather and review as much information as possible about the City's existing capital facilities and planned improvements.

At these initial organizational meetings, the consultant will gather available information related to the project, identify major policy issues involved in developing the impact fee program, coordinate staff and consultant responsibilities and establish the project schedule. The City should provide the consultant team, without charge, copies of all relevant plans, studies and documents needed to perform the scope of work. These may include, but are not limited to:

- Existing land use data and growth projections,
- Facility master plans,
- Capital improvements programs,
- Recent land acquisition and facility cost data,
- Inventories of existing facilities by facility type and service area,
- Annual budgets and comprehensive financial reports, and
- Debt payment schedules for outstanding bond issues.

In addition to data collection, the meetings will address policy and methodological issues. An important issue to be discussed is the definition of appropriate service areas for the various types of facilities. Other issues to be discussed could include advantages and disadvantages of plan-based versus existing level of service methodologies, sources of information for growth projections, the relative advantages of having an advisory committee or a biennial audit, etc.

At the conclusion of the task, the consultant will prepare a memorandum summarizing the organizational framework for the project and listing additional data to be provided by the City. The Project

Organization Memorandum will be delivered to the project manager within two weeks of the organizational meetings.

*Deliverables: Project Organization Meeting  
Project Organization Memorandum*

## **Task 2: Policies and Procedures Review**

This proposed task would consolidate several of the tasks identified in the RFP, including (1) treatment of previously collected fees, (2) identification of demand factors/level of service/service areas, (3) evaluation of alternative fee methodologies, (4) review and summary of current credit management practices, (5) discussion of preliminary methodologies and policy options, and (6) review of administrative policies and procedures. While it is likely that an initial draft memorandum would be prepared separately for each of these topics, it is contemplated that the final product would be a consolidated policy and procedures memorandum.

The determination of service areas will be a key early decision that must proceed the development of land use assumptions and infrastructure improvement plans, since these must be prepared for each service area. While service areas must be designed to reasonably reflect the areas served by each set of facilities, the utilization of the same boundaries for different facilities should be favored wherever they are appropriate to keep the impact fee system as simple to understand and administer as possible. While it will probably not be possible to precisely determine existing levels of service in the potential service areas at this stage, reasonable approximations can be made to try to ensure that they do not vary too widely between service areas, if at all possible, unless such differentials are a key policy objective.

Alternative methodologies and levels of service measures will be described, and the consultant will recommend an appropriate approach to the calculation of each of the impact fees.

The consultant will review the City's current impact fee procedures and policies, and recommend any changes required to comply with SB 1525. The review will address the City's approach to developer credits, as well as any additional provisions needed to address SB 1525 requirements for grandfathered fee schedules and refunds.

The analysis and recommendations will be provided in written form. An initial draft of the memoranda will be provided to City staff, and staff comments will be addressed prior to preparing the consolidated draft. Staff comments on the consolidated draft will be addressed in preparing a final memorandum.

*Deliverable: Draft Policies and Procedures Memoranda  
Consolidated Draft Policies and Procedures Memorandum  
Final Policies and Procedures Memorandum*

## **Task 3: Land Use Assumptions**

This task entails the preparation of land use assumptions covering a ten-year period for each service area to serve as the basis of the infrastructure improvements plans for the updated impact fees.

While growth projections should be as accurate as possible, they are unlikely to have a major effect on the fee calculations themselves. Current land use data will determine existing levels of service, which in turn will be the major factor in determining maximum fee amounts. The consultant will review population and housing data from the 2000 and 2010 US Census, US Census annual American Community Survey data, and City building permit records to determine existing population and residential development by service area. City-wide data on existing nonresidential square footage by land use from the Maricopa County Assessor's Office and small-area employment estimates from the Maricopa Association of Governments as well as other available data, such as City GIS land use data, will be reviewed to develop employment and square footage estimates by service area.

The consultant will review available growth projections provided by the City and/or MAG to determine reasonable annual projections of population, housing, employment and nonresidential square footage for the next ten years for each service area. An initial draft of the land use assumptions will be provided to City staff, and staff comments will be addressed prior to preparing the final document.

*Deliverable: Draft Land Use Assumptions Memorandum  
Final Land Use Assumptions Memorandum*

#### **Task 4: Staff Review Draft**

This task entails the preparation of an initial draft of the consolidated land use assumptions, infrastructure improvements plan (IIP) and impact fee study for staff review. SB 1525 implies that the IIP and impact fee study are two separate documents, but in reality there is almost complete overlap between the two. The IIP is not just a list of planned projects and cost estimates, but must include most of the elements required to calculate impact fees. According to SB 1525, the IIP must include a description of existing facilities in the service area, including existing capacity and demand, any costs related to existing deficiencies or service upgrades to serve existing development, the portion of any planned or existing improvement costs that are attributable to new development, a demand schedule, total projected service units over the planning period, and a forecast of revenues anticipated to be generated by new development over the planning period and available to fund those improvements, along with a plan for providing an offset against the fee for those revenues. In other words, the IIP is virtually the entire impact fee study, but it could exclude the fee schedule itself.

The consolidated impact fee study will incorporate the land use assumptions developed in Task 3, and include all of the elements required by SB 1525 needed to calculate impact fees for each service area for transportation, parks, library, fire and police facilities. It will also include a cash flow analysis that incorporates anticipated funding sources. The consultant will rely on City staff and review available master plans for potential projects to include in the IIP, and will review land and unit costs for reasonableness. The impact fee revenue projections, projections of other funding and cash flow analysis will have implications for the planned projects to be included in the IIP, and consequently several iterations may be required to finalize the IIP projects. Initial drafts of elements of the report, such as existing facility inventories, demand schedules, unit costs, fee schedules, revenue projections and capital plans, will be provided to staff for review and comment prior to the preparation of the consolidated report draft.

*Deliverable: Staff Review Draft Impact Fee Study*

### **Task 5: Public Review Draft/Ordinance**

Following receipt of staff comments on the staff review draft, the consultant will make appropriate modifications to the consolidated impact fee study. Concurrently with the public review draft of the study, the consultant will provide draft ordinance amendments to implement the updated impact fees and comply with all of the requirements of SB 1525. The updated ordinance will adapt the model ordinance prepared by the League of Cities and Towns to the City's needs.

*Deliverables: Public Review Draft IIP and Impact Fee Study  
Draft Impact Fee Ordinance Amendments*

### **Task 6: Meetings and Presentations**

The RFP anticipates up to three meetings with a stakeholder group, up to three meetings with an advisory committee if the City chooses that option rather than the biennial audit, and up to two City Council work sessions, for a total of up to eight meetings. The consultant would provide up to eight days of meeting attendance, and more than one meeting held within a 24-hour period would be counted as one day. Additional consultant trips for meeting attendance would be provided for additional compensation.

*Deliverables: Eight (8) Person-Days of Meetings/Presentations*

### **Task 7: Study Revisions and Final Documents**

Up to three recalculations of the fees, including revised drafts of all affected IIP and impact fee study documents, will be provided for no additional charge, provided that the recalculations reflect only minor adjustments to study inputs, such as modified cost estimates. Substantial modifications to the documents requiring significant additional work, such as changes to service area boundaries, changes in level of service or methodology, or wholesale revisions to the list of planned projects, would be provided on a time-and-expense basis. Once the project is complete, the consultant will provide the City with electronic copies of all documents in Word format and all spreadsheets in Excel format.

*Deliverables: Up to Three (3) Fee Recalculations (minor changes)  
Electronic files for all final documents and spreadsheets*

## Time Schedule

The proposed scope of services is anticipated to take approximately 18 months from notice to proceed to the effective date of the updated fees, as illustrated in the following flowchart.

Assuming that the notice to proceed is issued and the organizational meeting could be held in early August, the consultant will provide the final policies and procedures memorandum in mid-October. The final land use assumptions memorandum would be provided within six weeks, or about the end of November. Once consensus is achieved on the land use assumptions, drafting of the IIP and impact fee study could commence in earnest. Preparation of the complete staff review draft will take about four months. Allowing another month for staff review and consultant revisions, as well as preparation of the draft ordinance amendments, the public review draft could be prepared by the end of April 2013. It is anticipated that several meetings with stakeholders, the advisory committee and/or the City Council would be held over the following two months, and one or more revisions to the study prepared to address local comments, prior to publication of the final documents and issuance of the notice of intent in about mid-July 2013. The initial public hearing would need to be held at least 30 days after the notice of intent. The adoption meeting could not take place for another thirty days, and the updated fees could not go into effect for another 75 days, or about January 1, 2014.

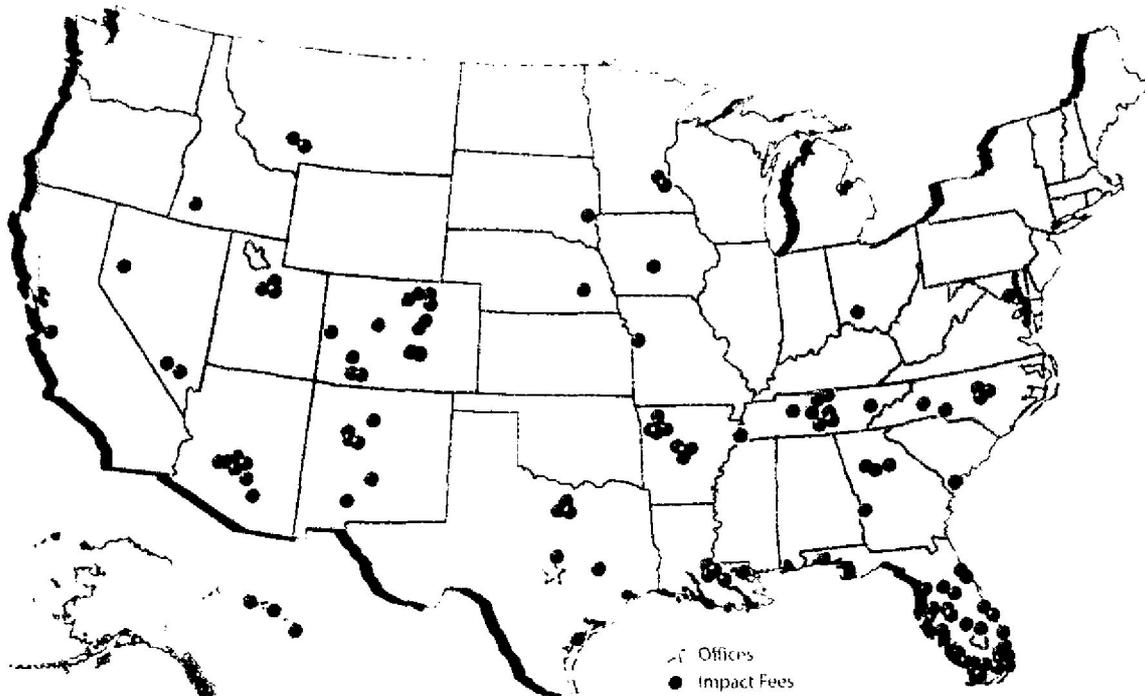
Task	2012					2013												2014	
	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	
1. Project Organization/Data Collection	▲																		
2. Policies and Procedures Review	◆	◆	◆	◆															
3. Land Use Assumptions			◆	◆	◆														
4. Staff Review Draft					◆	◆	◆	◆	◆										
5. Public Review Draft/Ordinance								◆	◆										
6. Meetings and Presentations			▲		▲		▲			▲	▲	▲		▲	▲				
7. Revisions (if needed)										■	■	■							off date

## 4. Firm Experience/References

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**Duncan Associates** is a consulting firm with a national practice specializing in plan implementation. Founded in Austin, Texas in 1987 and incorporated in 1997, the firm has become one of the nation's leading consultants in the field of infrastructure financing and impact fees. From its principal office in Austin, the firm has drafted almost 400 impact fee studies for over 100 clients in 24 states.

Previous and current clients in Arizona include Phoenix, Mesa, Tucson, Chandler, Florence, Buckeye and Apache Junction. We worked with the League of Cities and Towns on behalf of our Arizona clients to ensure that the model ordinance being prepared by the League works for our clients. Nationally, our large city clients have included Las Vegas, Albuquerque, Atlanta, Miami, Fort Lauderdale, Kansas City, Memphis, Raleigh and Boise. The map below shows the locations of our impact fee clients.



Impact fee studies that we have prepared over the last five years that include the general government facilities addressed in this RFP (roads, parks, library, fire and police) are summarized in the table on the following page. Over the five-year period, we have completed 40 road impact fee studies, 24 park impact fee studies, 11 library impact fee studies, 22 fire impact fee studies and 20 police impact fee studies.

Descriptions of some of these projects that may be of interest to Peoria are provided on the following pages. The descriptions include contact information for local references.

### **James B. Duncan, FAICP, Principal-in-Charge**

Jim Duncan is one of America's leading urban planners. Throughout his almost five decade career, he has focused his primary interests and energies on the development of "efficient and effective" land-use controls and "full and fair" infrastructure financing tools. In addition to having served as a consultant to over 300 public sector clients, Jim has directed planning and development programs for Austin, Texas; Hollywood, Florida; and Broward County, Florida. He also served as an advisor to two Florida Governors, co-wrote the nation's first state impact fee enabling act (Texas), and prepared one of the first comprehensive plans to incorporate "consistency and concurrency" (South Miami). Jim co-authored the best-selling APA publication, "Growth Management Principles and Practices" and wrote the "Public Infrastructure" chapter in the ICMA "Planner's Greenbook." He is a regular instructor for APA's popular Planner's Training Service workshop on "Sustainable Development Controls." Jim has served as national president of the American Planning Association and as president of its Florida chapter. His peers have honored him by naming him a Fellow of the American Institute of Certified Planners. Jim also serves on advisory boards for the Prague Institute of Global Urban Development and the Institute for Local Government Studies. He has a masters degree in regional and city planning from the University of Oklahoma and a bachelors degree in Journalism and political science from the University of Texas at Austin. Jim has served as principal-in-charge for all of the firm's impact fee projects.



**JAMES B. DUNCAN**

#### **Education**

M.S. Regional and City Planning, University of Oklahoma  
B.A. Journalism, University of Texas at Austin

### **Clancy J. Mullen, Project Manager**

Clancy is one of the nation's most experienced impact fee specialists. Since joining Duncan Associates 22 years ago, he has managed most of the firm's infrastructure financing, "cost of growth," and impact fee studies, including all of the firm's projects in Arizona. In addition to over 300 studies for cities and counties from coast to coast, he has also prepared studies for the Florida Department of Community Affairs, the Hawaii Department of Education, the Louisiana Department of Transportation, the Maryland-National Capitol Park and Planning Commission, and the Minnesota Department of Agriculture. During his extensive work with infrastructure financing, he has gained considerable experience managing multi-disciplinary teams of planners, engineers, economists and attorneys. Prior to joining Duncan Associates, Clancy served as a zoning planner for the City of Austin, Texas. He is a contributing author to two American Planning Association publications, *Impact Fees: Principles and Practice of Proportionate-Share Development Fees*, 2009 and *Growth Management Principles and Practices*, 1995, as well as the Island Press book *A Guide to Impact Fees and Housing Affordability*, 2008. Clancy is a frequent conference speaker on impact fees, and currently serves on the Board of Directors of the Growth & Infrastructure Consortium (formerly National Impact Fee Roundtable). He was a National Merit Scholar at Rice University and has a masters degree in community and regional planning from the University of Texas at Austin.



**CLANCY J. MULLEN**

#### **Education**

M.S. in Community and Regional Planning  
University of Texas at Austin

B.S. in Sociology  
University of Houston

### **Eric Damian Kelly, FAICP, Land Use Lawyer**

Eric is one of the nation's most respected land-use and zoning attorneys. Since joining Duncan Associates almost 20 years ago, he has drafted zoning and land development regulations for over 50 communities in more than 25 states. In addition, he has served as chair of the Department of Urban Planning at Iowa State University and as dean of the College of Architecture and Urban Planning at Ball State University, where he still teaches part-time. Eric began his career as a planner for the Philadelphia firm that invented "Impact Zoning" and went on to operate his own law firm in Pueblo, Colorado for 14 years. Eric is a prolific author. He is general editor of the 10-volume Matthew Bender series on "Zoning and Land Use Controls." Other publications include "Managing Community Growth", the "Zoning" chapter in the ICMA "Planner's Greenbook," and APA Planning Advisory Service reports on zoning enforcement, sign regulations, adequate facilities, and adult use businesses. Eric is a past national president of the American Planning Association and a Fellow of the American Institute of Certified Planners. He received the Colorado APA chapter's award for "Outstanding Service and Educational Leadership." Eric has a bachelors degree in political economy from Williams College, a law degree and a masters degrees in city planning from the University of Pennsylvania, and a doctorate in public policy from The Union Institute. Eric has drafted or reviewed ordinances for most of the firm's impact fee studies.



**ERIC DAMIAN KELLY**

#### **Education**

Ph.D. in Public Policy, The Union Institute

Juris Doctor and M.S. of City Planning, University of Pennsylvania

B.A. in political economy, Williams College

### **Kirk Bishop, Planner**

Kirk has been with Duncan Associates since 1987. Kirk is in charge of the firm's regulatory review and revision services. Since joining Duncan Associates over 20 years ago, he has led most of the firm's major zoning and land development ordinance updates. Among his many notable assignments, he served as project director for the Chicago zoning ordinance update, where he led a team of a dozen firms in completing the first comprehensive revision of the Chicago code in nearly 50 years. Kirk has also led code updates in Pittsburgh and Kansas City and has served as project director for code updates in dozens of other cities, towns and counties throughout the U.S. He has also served as a special zoning advisor to the cities of Portland and Seattle and was invited by Harvard University and the Lincoln Institute to serve on a three-member panel that advised planning directors of the nation's 25 largest cities. Before joining Duncan Associates, Kirk was a senior planner with the city of Austin, where he was responsible for zoning and subdivision case review, and staff support for a citizen's code update panel. Earlier in his career, he was a senior associate with the American Planning Association, where he served as principal researcher for numerous studies and authored the Planning Advisory Services report, "Designing Urban Corridors". Kirk is a frequent speaker at conferences and a regular guest lecturer in the University of Illinois at Chicago's Urban Planning and Public Affairs program. He holds a master's degree in urban and regional planning and a bachelor's degree in political science from the University of Iowa. In addition to his regulatory work, Kirk has assisted in numerous impact fee projects, and has managed impact fee projects for the Town of Hilton Head Island, South Carolina, the Telluride R-1 School District in La Plata County, Colorado, and the Miami-Dade School Board.



**KIRK R. BISHOP**

#### **Education**

M.A. Urban and Regional Planning, University of Iowa

B.A. Political Science, University of Iowa

### **Frank E. Henderson III, PE, Civil Engineer**

Frank Henderson, a minority owner of Ritoch-Powell & Associates, has more than 32 years of civil engineering experience in water and wastewater system design, utility system relocation design, transportation design, stormwater hydrology and hydraulics. He has provided engineering support services for several impact fee studies prepared by Duncan Associates, including for the City of Mesa and the City of Apache Junction. His engineering project experience features include client and project management; design report preparation; plan, specification and cost estimate preparation; technical design staff and sub-consultant supervision and coordination; regulatory and funding agencies coordination; construction administration and alternative delivery (CM@Risk and design-build) projects. Specific project experience includes municipal potable water supply, distribution and pumping systems; wastewater collection, transport and pumping systems; rural and urban freeway design, arterial street design, stormwater collection, conveyance and pump station system design, open channel hydraulics; large-diameter pipe design; cross country fiber optic cable networks; and airport and airfield improvements. Since 1993, Frank has been responsible for approximately 18 miles of waterline design and 19 miles sewer design. He recently served as project engineer for the Happy Valley Road Improvements for the City of Peoria. He is a member of the Arizona Society of Professional Engineers, the Arizona Council of Engineering Companies, the Arizona Society of Civil Engineers and the American Public Works Association.



**FRANK HENDERSON**

#### **Education**

B.S. Civil Engineering  
U.S. Air Force Academy

AZ Prof. Engineer 28940  
IL Prof. Engineer 602-049047  
WI Prof. Engineer 297571

### **Steve Lewis, PE, Civil Engineer**

Steve Lewis is a Peoria resident, minority owner of Ritoch-Powell & Associates, has over 17 years' experience in civil engineering design, specializing in roadway design, utility design and coordination, waterline distribution infrastructure, wastewater collection systems and reclaimed waterlines. His project experience is specific to municipal infrastructure project design, incorporating utility coordination, construction document preparation, and post-design services for municipal agency projects. Mr. Lewis has been engaged in consulting for the City of Peoria on more than 15 projects over the last 10 years, including the Edwards Tract waterline improvements, and has a thorough understanding of the City of Peoria's transportation and utility coordination requirements. He is a member of the American Society of Professional Engineers, the American Council of Engineering Companies and the American Public Works Association.



**STEVE LEWIS**

#### **Education**

B.S. Civil Engineering  
Northern Arizona University

AZ Prof. Engineer 34589

## 6. Cost

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The consultant cost for the proposed scope of services is a fixed-fee of \$99,200, as broken down by task below. The City would be billed monthly, based on the percentage completion of each task. Meetings and presentations would be billed only for trips taken, at a flat rate of \$2,100 per person-day of meetings.

<b>Task</b>	<b>Total Costs</b>
1. Project Organization	\$4,400
2. Policies and Procedures Review	\$12,000
3. Land Use Assumptions	\$9,000
4. Staff Review Draft	\$51,000
5. Public Review Draft/Ordinance	\$6,000
6. Meetings and Presentations (8)	\$16,800
7. Revisions and Final Documents	na
<b>Total</b>	<b>\$99,200</b>

Additional services would be provided on a time-and-expense basis, or for a fixed-fee as may be negotiated with the City. Our standard hourly rates are \$195 for James B. Duncan, \$160 for Clancy Mullen and Kirk Bishop, and \$225 for Eric Kelly. Our hourly rates include all normal business costs, excluding travel costs.

## 7. Questionnaire Responses

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Duncan Associates does not take any exceptions to the terms, conditions or scope of work identified in Solicitation P12-0080.

Duncan Associates does not currently have a City of Peoria business license, but will obtain one at the time of contract award.

Duncan Associates is not a minority or woman owned business enterprise.

### Similar Studies Completed in the Last Five Years

Client	Complete	Road	Park	Library	Fire	Police
Albuquerque, NM	May 2012	X	X		X	X
Orange County, FL	Mar 2012				X	
Lee County, FL	Nov 2011		X		X	
St. Tammany Parish, LA	Nov 2011	X				
Chandler, AZ	Oct 2011		X	X	X	X
El Paso County, CO	Oct 2011	X				
Florence, AZ	Oct 2011		X	X	X	X
Sherwood, AR	Sep 2011	X	X			
Sweetwater, FL	Aug 2011	X	X			X
Smyrna, TN	May 2011	X	X		X	
Lee County, FL	Apr 2011	X				
Maui County, HI	Apr 2011				X	X
Charlotte, NC	Feb 2011	X				
Citrus County, FL	Dec 2010	X	X	X	X	X
Atlanta, GA	Nov 2010	X	X		X	X
Franklin, TN	Nov 2010	X				
Las Vegas, NV	Nov 2010	X				
Las Cruces, NM	Oct 2010	X			X	X
Weld County, CO	Oct 2010	X				
Highlands County, FL	Aug 2010	X	X	X	X	X
Lake County, FL	Jun 2010	X	X	X	X	
Arlington, TX	Oct 2009	X				
Louisiana DOT	Jun 2009	X				
Phoenix, AZ	Jun 2009	X	X	X	X	X
Polk County, FL	Mar 2009		X	X	X	X
La Plata County, CO	Jan 2009	X				
Washoe Co. RTC, NV	Dec 2008	X				
Cape Coral, FL	Aug 2008	X				
Lee County, FL	Aug 2008	X				
Sioux Falls, SC	Aug 2008	X				
Durango, CO	Jul 2008	X				
Chandler, AZ	Jun 2008	X	X	X	X	X
Apex, NC	Jan 2008		X			
Santa Fe, NM	Jan 2008	X	X		X	X
Smyrna, TN	Jan 2008	X	X		X	
Windsor, CO	Jan 2008	X				
Cary, NC	Nov 2007	X				
Destin, FL	Sep 2007	X	X	X		X
Farragut, TN	Aug 2007	X	X			
La Plata County, CO	Aug 2007	X				
Franklin, TN	Jul 2007	X				
Indian River Co., FL	Jul 2007	X	X	X	X	X
Lee County, FL	Jul 2007		X			
Bonita Springs, FL	Jun 2007	X				
Nolensville, TN	Jun 2007	X				
Mesa, AZ	May 2007		X	X	X	X
Tucson, AZ	May 2007				X	X
Clark County, NV	Apr 2007	X	X		X	X
Baton Rouge, LA	Mar 2007	X				
N Bay Village, FL	Mar 2007					X
Hamilton Twp, OH	Feb 2007	X	X		X	X
Little Rock, AR	Feb 2007	X				
<b>Total</b>		<b>41</b>	<b>24</b>	<b>11</b>	<b>22</b>	<b>20</b>

### City of Phoenix, Arizona

For Phoenix, Duncan Associates conducted a three-phase impact fee study. The first phase consisted of an evaluation of the City's existing fee system. The second phase consisted of an update of the major roads and bridges, park and trails and open space impact fees. The third phase addressed drainage, library, fire and police fees. All work products were delivered according to the initial project schedule. The City first established its impact fee program in 1988. The system was complex, with 11 different types of fees that vary between service areas (ranging from one service area for open space fees to 12 service areas for wastewater fees), resulting in a potential combination of 42 different fee schedules. It also lacked transparency, since the City did not publish fee schedules except for single-family units. One would need to acquire EDU multipliers from the ordinance, the costs per EDU for the facility and service area in question from the *Infrastructure Financing Plan* and the offsets by type of facility and land use from the *Offsets Report*, in order to calculate fees for other land uses. Our recommendations focused on simplifying the system and making it more transparent for the user and public. The development impact fee studies and infrastructure improvement plans were adopted by the City Council.



### Policy Evaluation and Impact Fee Study

Sept 2007 - Dec 2009

**Contact:**

Doug Frost  
Principal Planner  
200 W. Washington St.  
Phoenix, AZ 85003  
602-262-4883  
douglas.frost@phoenix.gov

### City of Mesa, Arizona

For Mesa, the third largest city in Arizona and largest city in the nation with no property tax, Duncan Associates developed a two-phase impact fee project. The first phase analyzed local growth-related infrastructure costs and evaluated alternative financing techniques, including development taxes as well as impact fees. In 1998 the firm prepared an impact fee study for water, wastewater, arterial roads, drainage, park, cultural, library, fire and police facilities. While the City had kept its local sales taxes, utility rates and development fees among the lowest in the region, new growth was not paying its way. The initial project was completed in July 1998, when the City adopted impact fees for water, wastewater, parks, libraries, cultural, fire and police facilities. Subsequently, the firm assisted in updating these fees and explored additional fees for drainage and general government facilities. For over a decade, Duncan Associates has updated Mesa's fees on a regular basis.



### Multi-Facility Impact Fee Study

Mar 1997 - July 1998  
Sept 1999 - March 2001  
Jan 2002 - Jan 2003  
Mar 2003 - Mar 2004  
Aug 2006 - May 2007  
Oct 2011 - present

**Contact:**

Christine Zielonka, Development  
& Sustainability Director  
55 North Center Street  
Mesa, AZ 85211  
480-644-3833  
christine.zielonka@mesaaz.gov

In October 2011, Duncan Associates was retained to assist the City in complying with the January 1, 2010 deadline imposed by SB 1525. Tasks, included documenting impact fee pledges for current fees not authorized after the end of the year and preparing ordinance revisions to comply with the model ordinance promulgated by the League of Cities and Towns, were completed in November 2011. The update of the City's impact fee studies and preparation of infrastructure improvement plans began in 2012.

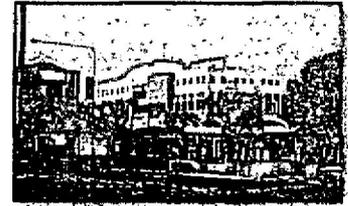
### City of Chandler, Arizona

For Chandler, a southeastern suburb of Phoenix, Duncan Associates updated the City's system development fees for arterial streets, parks, fire, police and public buildings. In addition, an option was developed to reinstate a library fee that had been eliminated as part of the 2005 update and had not been charged since February 2006. While all libraries needed at build-out were already in service, the City could use impact fees to purchase a library building that was being leased. A separate report provided the infrastructure improvements plan for non-utility system development fees required by Arizona State law. The most significant change was to perform an analysis of the existing level of service to ensure that the fees were not based on a higher level of service than currently provided to existing development. This change responded to criticism raised during the last update that remaining growth was being charged for more than its fair share. The updated fees and infrastructure improvements plan were adopted by the City Council.

Duncan Associates was retained in August 2011 to assist the City in complying with the requirements of SB 1525. The first phase, which included recalculating the City's fees to remove components no longer authorized after the end of the year and revising the ordinance to comply with the League of Cities and Town's model ordinance, was completed in November.

### City of Tucson, Arizona

For Tucson, the second largest city in Arizona, Duncan Associates studied impact fees for roads, drainage, parks, libraries; police facilities; fire facilities, and general government facilities. The analysis found that impact fees would be difficult to develop for only one of the types of facilities under consideration—drainage. The review of the City's 10-year-old drainage master plan revealed that the capital improvements identified were limited to watersheds covering less than half of the City's jurisdiction and tended to be needed to address existing drainage problems, rather than growth-related impacts. Following the feasibility study, the City directed the firm to proceed with development of road and park impact fees. Analysis of census data revealed that residents in the Central Core area of the city were more likely to utilize transit and other modes of transportation and also had shorter commutes. There were no significant differences in travel time or modal split between other areas. Based on these data, road impact fees for residential development in the Central Core were reduced by 23 percent. Road and park impact fees were adopted in September 2004. The firm subsequently provided peer review for the City's new impact fees for fire, police and public buildings, which were developed in-house.



#### Multi-Facility Impact Fee Study

June 2007 - Sep 2008  
Aug 2011 - present

**Contact:**

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#### Road and Park Impact Fee Study

Apr 2003 - Sept 2004  
Apr 2007 - July 2007

**Contact:**

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## **Town of Florence, Arizona**

For Florence, the county seat of Pinal County, Duncan Associates was asked to recommend measures to bring the Town's impact fee system into compliance with the requirements of SB 1525. As the home to three state prisons, it is interesting to note that over half of the Town's 25,000 residents are incarcerated. In order to comply with SB 1525 requirements, the firm recommended that fees for general government and sanitation facilities be terminated since they are now prohibited. It was found that unauthorized improvement costs within fees for parks, fire, police and library facilities should be removed. The major problem with fire and police fees was that they included ineligible administrative vehicles or equipment. Overall, it was found that the Town's residential non-utility fees needed to drop by about 30 percent. The January 1, 2010 compliance recommendations were completed in November 2011.

The firm is now in the process of preparing infrastructure improvements plans and conducting a comprehensive update of all the Town's remaining impact fees, which include roads, water, wastewater, parks, libraries, fire and police.



### **Multi-Facility Impact Fee Study**

Oct 2011 - present

*Contact:*

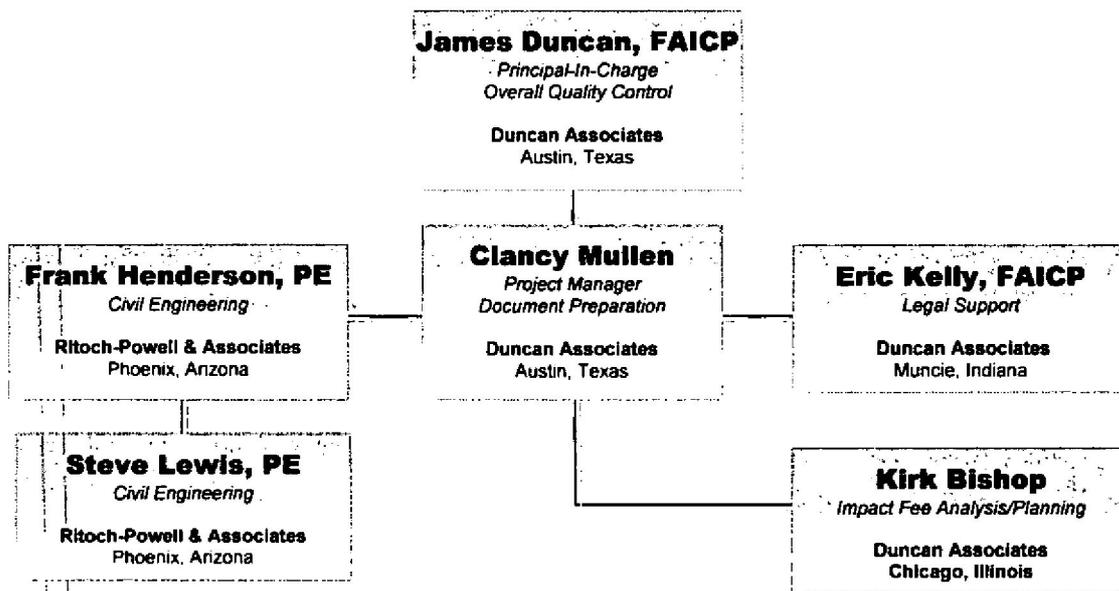
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## 5. Staff Capabilities and Assignments

The consultant team consists of Duncan Associates, who will be the lead firm, and Ritoch-Powell & Associates, who will provide engineering support.

**Duncan Associates** is a consulting firm with a national practice specializing in plan implementation. President **Jim Duncan**, a pioneer in impact fee practice, will be principal-in-charge for this project. **Clancy Mullen**, the firm's impact fee director, will serve as project manager. **Eric Kelly**, a professor of planning at Ball State University and a national authority on land use law, will provide legal guidance and draft the required ordinance amendments. **Kirk Bishop**, a planner who has assisted on numerous impact fee projects, will provide planning support.

**Ritoch-Powell & Associates**, a full-service Phoenix civil engineering firm that has assisted the City with numerous projects over the last ten years, will provide engineering support in the areas of water, wastewater and transportation. The firm's efforts will be headed by **Frank Henderson, PE**, and **Steve Lewis, PE**. Mr. Henderson worked with Duncan Associates on previous impact fee projects for Mesa, Florence and Apache Junction, and has more than 30 years of civil engineering experience in transportation, water and wastewater system design. Mr. Lewis, a Peoria resident, has over 17 years of utility and transportation engineering experience.



**Duncan Associates** provides exceptional continuity of service. The firm's key impact fee professionals, Jim Duncan, Clancy Mullen, Kirk Bishop and Eric Kelly, have all been with the firm for more than 20 years. **Jim Duncan**, who will be principal-in-charge for this project, is a past-president of the American Planning Association, and managed one of the nation's first multi-facility impact fee programs when he was director of growth management for Broward County in the early 1980s. **Clancy Mullen**, who has been with the firm since 1989 and has managed most of the firm's impact fee projects, will serve as project manager. Clancy is an authority on impact fee methodology and serves as a board member of the Growth & Infrastructure Consortium (formerly National Impact Fee Roundtable). **Eric Kelly**, a professor of planning at Ball State University and a national authority on land use law, will provide legal guidance and draft the required ordinance amendments. **Kirk Bishop**, who has assisted on numerous impact fee projects, will provide planning assistance.

Jim Duncan served as principal-in-charge, Clancy Mullen served as project manager and Eric Kelly provided legal review for the following relevant impact fee projects, among many others. Kirk Bishop provided assistance on the Chandler and Mesa projects.

**City of Phoenix, Arizona:** *Impact Fee System Policy Evaluation* (Nov. 2007 – May 2008); *Road, Parks, Trails and Open Space Impact Fee Study and Infrastructure Improvements Plan* (June 2008 – March 2009); *Police, Fire, Library and Drainage Impact Fee Study and Infrastructure Improvements Plan* (March 2009 - February 2010)

**City of Chandler, Arizona:** *Non-Utility System Development Fee Update Study and Infrastructure Improvements Plan for Arterial Streets, Parks, Library, Fire, Police and General Government* (June 2007 – September 2008); *SB 1525 January 1, 2012 Compliance Study and Ordinance Revisions to Comply with League Model Ordinance* (Oct. 2011 – Nov. 2011)

**City of Mesa, Arizona:** *Impact Fee Update Study for Water, Wastewater, Parks, Cultural Facilities, Libraries, Fire, Public Safety, General Government and Drainage*, with Ritoch-Powell & Associates (Aug. 2006 – Sep. 2007); *Ordinance Revisions to Comply with League Model Ordinance and SB 1525 January 1, 2012 Compliance Analysis* (Oct. 2011 – Nov. 2011)

**City of Tucson, Arizona:** *Impact Fee Feasibility Study and Road and Park Impact Fee Study* (April 2003 – September 2004)

**Town of Florence, Arizona:** *SB 1525 January 1, 2012 Compliance Study*, with Ritoch-Powell & Associates (Oct. 2011 – Nov. 2011)

**Town of Buckeye, Arizona:** *SB 1525 January 1, 2012 Compliance Peer Review* (Nov. 2011)

**Ritoch-Powell & Associates** specializes in transportation projects, park design, site civil, utility coordination, water, wastewater, drainage, and surveying for public works, and has provided these services to the City of Peoria for over 10 years. They have a superior working relationship with City staff and are knowledgeable of the City's design standards and processes. The firm's recent projects for the City include:

- Lake Pleasant Parkway – Westwing Parkway to SR303 24" Waterline and Dry Utilities
- Happy Valley Median Improvements, LPP to 107th Avenue (Completed 2010)
- 83rd Ave – Pinnacle Peak to Camino del Oro Surveying (Survey Completed 2010)
- Community Works Project – Sidewalk and Pedestrian Improvements (Constructed 2010)
- Edwards Tract Waterline Improvements (Constructed 2010)
- Happy Valley Road, 67th Ave to Lake Pleasant Parkway (Constructed 2009)