



PRO-FORMA
ARIZONA BOARD OF REGENTS
AGREEMENT FOR CONSULTANT SERVICES
Project Name: Name of the Project Campus Location
Project Number: 2XXX-XXXX

DATE:

PARTIES: **THE ARIZONA BOARD OF REGENTS** (hereinafter referred to as ("The UNIVERSITY"))
for and on behalf of
ARIZONA STATE UNIVERSITY

and **DESIGN PROFESSIONAL** (herein after referred to as ("CONSULTANT"))
Street Address
Suite
City, AZ Zip Codes

AGREEMENT

The UNIVERSITY desires to retain CONSULTANT, and CONSULTANT desires to provide services to the UNIVERSITY, in his/her capacity as an independent contractor, upon the terms and conditions set forth in this Agreement.

II

CONSULTANT shall provide those services set forth in Exhibit A and Attachment A of this Agreement.

III

The term of this Agreement shall commence on **00 Month, 2006** and shall conclude on **00 Month, 2006**, unless sooner terminated by either party. The UNIVERSITY may terminate this Agreement with or without cause upon ten (10) days written notice to the CONSULTANT. If this Agreement is terminated the UNIVERSITY shall have no further obligations other than payment for services already rendered and for expenses previously incurred.

IV

The UNIVERSITY agrees to pay CONSULTANT, as consideration for performance of the consulting services, the sums as set forth in Exhibit A.

V

The UNIVERSITY agrees to reimburse CONSULTANT for expenses as set forth and outlined on **Exhibit A** of this Agreement.

VI

For all purposes under the terms of this Contract, CONSULTANT shall be an independent contractor, and not an officer or employee of the UNIVERSITY. The UNIVERSITY shall provide no employee benefits, including but not limited to Workmen's Compensation coverage, regularly afforded to staff, faculty, administrative or professional employees. In performance of services hereunder, CONSULTANT shall determine his/her necessary hours of work. CONSULTANT shall provide whatever tools, equipment, vehicles and supplies CONSULTANT may determine to be necessary in performance of services hereunder. CONSULTANT may establish offices in such locations within or outside Arizona, as CONSULTANT may determine to be necessary for the performance of services hereunder, and shall be responsible for all expenses of operation of said office, including expenses incurred in hiring employees and assistants to CONSULTANT.

VII

The conduct and control of work under this Contract lies solely with CONSULTANT, and the UNIVERSITY is interested only in final results to be achieved. The UNIVERSITY shall be permitted to retain other consultants performing the same or similar tasks, and CONSULTANT shall be permitted to provide services to other parties, consistent with CONSULTANT's obligation to complete the services undertaken pursuant to the terms of this Agreement.

VIII

CONSULTANT shall provide such interim written reports concerning the performance of services and research under this Contract as the UNIVERSITY may request in writing, and upon expiration or other termination of the Agreement shall at the request of the UNIVERSITY provide a written report to the UNIVERSITY setting forth the results of the work performed hereunder.

IX

All reports, drawings and other work products produced by CONSULTANT as a part of the services rendered under this Agreement shall be provided to and be the sole property of the UNIVERSITY. CONSULTANT shall not release such work product or other information obtained or produced pursuant to this Agreement without the prior written consent of the UNIVERSITY.

X

The parties agree to comply with all applicable laws, rules regulations and executive orders relating to nondiscrimination, equal employment opportunity, immigration, affirmative action and the Americans With Disabilities Act.

XI

The parties agree that this Agreement may be canceled for conflict of interest in accordance with A.R.S. Statute 38-511.

XII

The parties agree to submit all disputes arising hereunder to the claims resolution procedures of the Arizona Board of Regents Procurement Policies Section 3-809C.

XIII

Without limiting any liabilities or any other obligation of the Contractor, the Contractor shall purchase and maintain (and cause its subcontractors to purchase and maintain), in a company or companies lawfully authorized to do business in the State of Arizona, and rated at least A VII in the current A.M. Best's, the minimum insurance coverage below:

1. Commercial General Liability, with minimum limits of \$1,000,000 per occurrence, products and completed operations aggregate limit, and general aggregate minimum limit of \$2,000,000. Coverage shall be at least as broad as the Insurance Service Office, Inc. Form CG00010196, issued on an Occurrence basis, and endorsed to add the State of Arizona, its departments, agencies, boards and commissions as an Additional Insured with reference to this contract. The policy shall include coverage for:

- Bodily Injury;
- Broad Form Property Damage (including completed operations);(This Amount Is Part Of The \$1,000,000)
- Independent Contractors Coverage;
- Personal Injury;
- Blanket Contractual Liability;
- Products and Completed Operations, and this coverage shall extend for one year past acceptance, cancellation or termination of the services or work defined in this contract; and
- Fire Legal Liability.

2. Business Automobile Liability, with minimum limits of \$1,000,000 per occurrence combined single limit, with Insurance Service Office Inc. Declarations to include Symbol One (Any Auto) applicable to claims arising from bodily injury, death or property damage arising out of the ownership, maintenance or use of any auto. The policy shall

be endorsed to add the State of Arizona, its departments, agencies, boards and commissions as an Additional Insured with reference to this contract.

3. Workers Compensation and Employers Liability insurance as required by the State of Arizona Workers Compensation statutes, as follows:

Workers Compensation (Coverage A):	Statutory Arizona benefits
Employers Liability (Coverage B):	\$500,000 each accident
	\$500,000 each employee/disease
	\$1,000,000 policy limit/disease

Policy shall include endorsement for All State coverage for state of hire.

Professional Errors & Omissions Insurance. Professional liability or errors and omissions insurance with minimum limits of **\$1,000,000.00** each claim, wrongful act or loss The Consultant shall procure and maintain during the life of this contract, Professional Liability insurance with a minimum limit and an aggregate limit as outlined in the chart below. Coverage, which meets or exceeds the minimum requirements, shall be maintained for **TWO (2)** years following completion of the Project as evidenced by Certificates of Insurance

- Directors and Officers
- Errors and Omissions
- Medical Malpractice
- Druggists Professional
- Architects/Engineers Professional
- Lawyers Professional
- Teachers Professional
- Accountants Professional
- Social Workers Professional
- Other (Specify profession from Scope of Work)

The policy shall contain an Extended Claim Reporting Provision of not less than one year following termination of the policy.

5. The State of Arizona, its departments, agencies, boards and commissions reserves the right to request and receive certified copies of all policies and endorsements within ten calendar days of contract signature.

6. Certificates of Insurance acceptable to the State of Arizona, its departments, agencies, boards and commissions shall be issued and delivered prior to the commencement of the work defined in this contract, and shall identify this contract and include certified copies of endorsements naming the State of Arizona, its departments, agencies, boards and commissions as Additional Insured for liability coverages. The certificates, insurance policies and endorsements required by this paragraph shall contain a provision that coverages afforded will not be cancelled until at least 30 days prior written notice has been given to the State of Arizona, its departments, agencies, boards and commissions. All coverages, conditions, limits and endorsements shall remain in full force and effect as required in this contract.

7. Failure on the part of the Contractor to meet these requirements shall constitute a material breach of contract, upon which the State of Arizona, its departments, agencies, boards and commissions may immediately terminate this agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by the State of Arizona, its departments, agencies, boards and commissions shall be repaid by the Contractor upon demand, or the State of Arizona, its departments, agencies, boards and commissions may offset the cost of the premiums against any monies due to the contractor. Costs for coverages broader than those required or for limits in excess of those required shall not be charged to the State of Arizona, its departments, agencies, boards and commissions. Contractor and its insurer(s) providing the required coverages shall waive their rights of recovery against the State of Arizona, its departments, agencies, boards, commissions, employees and officers.

XIV

To the fullest extent permitted by law, the Contractor or Design Professional shall indemnify, defend, and hold

the Owner (Arizona State University-ASU) harmless from any loss or damage, claim of damage, lawsuit, or loss arising from or alleged to have arisen from the negligence of the Contractor or Design Professional, its agents, employees, officers, or subcontractors. This indemnity shall not be construed to include loss, claims, lawsuits, or claims of loss alleged to have arisen from the negligence of the Owner, its authorized agents, employees, contractors, or subcontractors. (Statutory Reference: A.R.S. #41-2586)

XV

This Agreement may be canceled without any further obligation on the part of THE ARIZONA BOARD OF REGENTS and the UNIVERSITY in the event that sufficient appropriated funding is unavailable to assure full performance of its terms. CONSULTANT shall be notified in writing of any such non-appropriation at the earliest opportunity.

XVI

All books, accounts, reports, files and other records relating to this Agreement shall be maintained and shall be subject at all reasonable times to inspection and audit by the UNIVERSITY for five (5) years after completion of this Agreement. Such records shall be produced at a place designated by the UNIVERSITY, upon reasonable notice to the CONSULTANT.

XVII

Notice is provided in Sections 12-1518 and 12-133, Arizona Revised Statutes.

XVIII

The UNIVERSITY and CONSULTANT recognize that in actual economic practice overcharges resulting from antitrust violations are in fact borne by the UNIVERSITY. Therefore, the CONSULTANT hereby assigns to the UNIVERSITY any and all claims for such overcharges.

XIX

Failure by CONSULTANT to perform as specifically provided herein shall be an event of default permitting UNIVERSITY to pursue all remedies affordable by law or in equity, including termination of this Agreement.

XX

CONSULTANT shall not assign this Agreement without the prior written consent of UNIVERSITY.

XXI

YEAR 2000 COMPLIANCE. Design Professionals, Consultants, and or Contractors must warrant that all products delivered, systems developed, and/or services provided shall be fault-free in performance and results with respect to the processing, storage and use of dates and all date-related data, including without limitation the successful transition into the year 2000, and successful operation prior to, during and after the year 2000.

XXII

This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter. No prior or contemporaneous agreement or understanding will be effective. This Agreement may not be modified or amended except by written instrument signed by both parties. This Agreement shall be governed by the laws of Arizona, the courts of which shall have jurisdiction over its subject matter.

XXIII

The individual signing below on behalf of CONSULTANT hereby represents and warrants that s/he is duly authorized to execute and deliver this Agreement on behalf of CONSULTANT and that this Agreement is binding upon CONSULTANT in accordance with its terms.

WHEREFORE, the parties have executed this Agreement the date set forth above.

THE ARIZONA BOARD OF REGENTS
for and on behalf of
ARIZONA STATE UNIVERSITY

(UNIVERSITY)

By Matt Marino, Senior Buyer
(Printed Name)

Signature _____

Title Sr. Buyer

Date _____

(CONSULTANT)

By _____
(Printed Name)

Signature _____

Title _____

Date: _____

EXHIBIT A

TO

AGREEMENT FOR CONSULTANT SERVICES

I SERVICES:

The Design Professional shall furnish all labor, materials, equipment, supplies and other items necessary to perform consulting and direction of process development for master planning and conceptual design services for the Project described as; Name of the Project and Campus Location. The Design Professional shall work within the scope and budget of the project in coordination with the UNIVERSITY. Work shall be in accordance with the proposal dated **Month 00, 2006**.

II FEES FOR SERVICES:

The UNIVERSITY agrees to pay CONSULTANT, as consideration for performance of the consulting services as set forth in the preceding paragraph, the total sum of **\$00,000**, payable as follows:

DP's Basic Compensation is based on a stipulated sum, the payments for Basic Services shall be allocated to each phase or subphase as follows:

Program Subphase	_____ %
Schematic Design Subphase	_____ %
Design Development Subphase	_____ %
Construction Documents Subphase	_____ %
Bidding and Bid Award Phase	_____ %
Construction Administration Phase	_____ %
Closeout & Occupancy Phase	_____ %

The Consultant/Design Professional shall furnish all labor, materials, equipment, supplies and other items necessary to perform design and construction administration services for the Project described as: Name of the Project and which campus location. The Design Professional shall work within the scope and budget of the project in coordination with the UNIVERSITY. Work shall be in accordance with the attached proposal, dated Month 00, 2006.

III REIMBURSEMENT FOR EXPENSES:

The UNIVERSITY AGREES TO REIMBURSE CONSULTANT up to a maximum of **\$X** for expenses as follows:

OR:

No reimbursables for this part are authorized

Prior approval is required for any individual expenses in excess of \$X. Each request for reimbursement must be itemized and accompanied by receipts. Reimbursement for auto travel will be made at the rate permitted State employees.

EXHIBIT B
GOVERNOR'S EXECUTIVE ORDER NO. 99-4
Amending 75-5

PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS
NONDISCRIMINATION IN EMPLOYMENT BY GOVERNMENT CONTRACTORS AND SUBCONTRACTORS

PART I: Nondiscrimination in employment by government contractors and subcontractors. All government contracting agencies shall include in every government contract hereinafter entered into the following provisions: During the performance of this contract, the contractor agrees as follows:

- A. The contractor will not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, sexual orientation or national origin. The contractor will take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, age, color, religion, sex, sexual orientation or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places available to employees and applicants for employment notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

A continued Executive Order No. 75-5 is hereby amended to permit government contractors and subcontractors that are religious organizations to provide employment preferences based upon religion when dealing with a bona fide occupational qualification reasonably necessary to the operation of the religious organization, in accordance with the requirements of Title 41, chapter 9, article 4, Arizona Revised Statutes.

Executive Order No. 75-5 prohibits all government contractors and subcontractors for discriminating against any employee or applicant for employment because of race, age, color, religion, sex, sexual orientation or national origin. Executive Order No. 75-5 further requires all government contractors and subcontractors to take affirmative action to insure that applicants are employed and employees are treated during employment without regard to their race, age, color, religion, sex, sexual orientation or national origin.

Arizona's Civil Rights Act, Title 41, chapter 9, article 4, does not apply to religious organizations with respect to the employment of individuals of a particular religion to perform work connected with the activities of the employer. It also provides that religious organizations may provide employment preferences based upon a religion when dealing with a bona fide occupational qualification reasonable necessary to the operation of the religious organization. This is consistent with the provisions of the Civil Rights Act of 1964 (42 U.S.C. 2000e, et seq.). In addition, in the Personal Responsibility and Work Opportunity Reconciliation Act, P.L. 104-193, Congress provided that religious organizations are eligible for the receipt of federal funds on the same basis as other private organizations.

- B. The contractor will in all solicitations or advertisement for employees placed by or on behalf of the contractor state that all qualified applicants will receive consideration for employment without regard to race, age, color, religion, sex, sexual orientation or national origin.
- C. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this Executive Order and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The contractor will furnish all information and reports required by the contracting agency and will permit access to his books, records and accounts by the contracting agency and the Civil Rights Division for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- E. In the event of the contractor's noncompliance with the non-discrimination clauses of the contract or with any of such rules, regulations or orders of the Arizona Civil Rights Division said noncompliance will be considered a material breach of the contract and this contract may be cancelled, terminated or

suspended in whole or in part, and the contractor may be declared ineligible for future government contracts until said contractor has been found to be in compliance with the provisions of this order and the rules and regulations of the Arizona Civil Rights Division, and such sanctions may be imposed and remedies revoked as provided in Part II of this order, and the rules and regulations of the Arizona Civil Rights Division.

- F. The contractor will include the provisions of paragraphs A through E in every subcontractor purchase order so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect in the subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the State of Arizona to enter into such litigation to protect the interests of the State of Arizona.
- G. Each contractor having a contract containing the provisions prescribes in the section shall file and shall cause each of his subcontractors to file compliance reports with the contracting agency or the Civil Rights Division, as may be directed. Compliance reports shall be filed within such times and shall contain such information as the practices, policies, programs and employment policies, programs and employment statistics of the contractor and each subcontractor and shall be in such form as the Arizona Civil Rights Division may prescribe.
- H. Bidders or prospective contractors or subcontractors shall be required to state whether they have participated in any previous contract subject to the provisions of this order or any preceding similar Executive Order and in the event to submit on behalf of themselves and the proposed subcontractors compliance reports prior to, or as in initial part of negotiation of a contract.
- I. Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the compliance report shall include such information from such labor unions or agency practices and policies affecting compliance as the contracting agency or Civil Rights Division may prescribe; provided that, to the extent such information is within the exclusive possession of labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify the contracting agency as part of its compliance report and shall set forth what efforts he has made to obtain such information.
- J. The contracting agency or the Civil Rights Division shall require that the bidder or prospective contractor or subcontractor shall submit as part of his compliance report a statement in writing signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training with which the bidder or prospective contractor deals with supporting information to the effect that the signer's practices and policies do not discriminate on the ground of race, color, religion, sex, sexual orientation or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this order or that it consents and agrees that recruitment employment and the terms and conditions of employment under the proposed contract shall be in accordance with the purpose and provisions of this order. In the event that the union or the agency shall refuse to execute such a statement, the compliance shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the contracting agency or the Civil Rights Divisions may require.

PART II. Enforcement

- C. Each contracting agency shall be primarily responsible for obtaining compliance with this Executive Order with respect to contracts entered into by such agency or its contractors. All contracting agencies shall comply with the rules of the Civil Rights Division in discharging their primary responsibility for securing compliance with the provisions of contracts and otherwise with the terms of this order and the rules and regulations and orders of the Civil Rights Division issued pursuant to this order. They are directed to cooperate with the Civil Rights Division and to furnish the Division such information and assistance as it may require in the performance and assistance of the Division's functions under this

order. They are further directed to appoint or designate from among the agency personnel compliance officers. It shall be the duty of such officers to first seek compliance with the objective of this order by conference, conciliation, mediation or persuasion.

- D. The Civil Rights Division may investigate the employment practices of any government contractor or subcontractor or initiate such investigation by the appropriate contracting agency or determine whether or not the contractual provisions specified in this order have been violated. Such investigations shall be conducted in accordance with the procedures establishment by the Civil Rights Division and the investigating agencies shall report to the Civil Rights Division any action taken or recommended. The Civil Rights Division may receive and investigate or cause to be investigated complaints by employees or prospective employees of a government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Part I of this order. If the investigation is conducted for the Civil Rights Division by a contracting agency that agency shall report to the Civil Rights Division what action has been taken or its recommended with regard to such complaint.
- E. The Civil Rights Division shall use its best efforts directly and through contracting agencies, other interested state and local agencies, contractors and all other available instrumentalities to cause any labor union engaged in work under government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work or cooperate in the implementation of the purposes of this order.
- F. The Civil Rights Division or any agency, officer or employee in the executive branch of the government designated by rule, regulation or order of the Civil Rights Division may hold such hearings, public or private as the Division may deem advisable for compliance, enforcement of educational purposes. The Civil Rights Division may hold or cause to be held hearings in accordance with rules and regulations issued by the Civil Rights Division prior to imposing, ordering or recommending the imposition of penalties and sanctions under this order.
- G. No order for debarment of any contractor from further government contracts under this order shall be made without affording the contractor an opportunity for a hearing.
- H. Sanctions and Penalties. In accordance with such rules, regulations or orders as the Civil Rights Division may issue or adopt, the Civil Rights Division or the appropriate contracting agency may publish or cause to be published the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this order and with the rules, regulations and orders of the Civil Rights Division.
 - 0. Contracts may be cancelled in whole or in part, terminated, or suspended absolutely, or continuation of contracts may be condition upon a program for future compliance approved by the contracting agency or the Civil Rights Division; provided that any contracting agency shall refrain from entering into further contracts, extensions or other modifications of existing contracts with any non-complying contractor until such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this order.
 - 0. Under rules and regulations prescribed by the Civil Rights Division, each contracting agency shall make reasonable efforts within a reasonable time limitation to secure compliance with the contract provisions of this order by methods of conference, conciliation, mediation and persuasion before proceedings shall be instituted under this order or before a contract shall be cancelled or terminated in whole or in part under this order for failure of a contractor or subcontractor to comply with the contract provisions of this order.
- I. This Executive Order shall become effective within (60) days of its issuance.