

**PROFESSIONAL SERVICES AGREEMENT FOR
PREPARATION OF A DEVELOPMENT FEE STUDY INCLUDING: LAND USE
ASSUMPTIONS, AN INFRASTRUCTURE IMPROVEMENTS PLAN, DEVELOPMENT
FEE REPORT, ORDINANCE UPDATE, STAFF COORDINATION, PUBLIC
INVOLVEMENT AND PRESENTATIONS
FOR THE CITY OF APACHE JUNCTION
RFP PROJECT NO. DSD-2018-02**

This Agreement is made as of the 6th day of November 2018 (the “Effective Date”) by and between THE CITY OF APACHE JUNCTION, an Arizona municipal corporation (“City”), and TISCHLERBISE, INC, a Washington D.C. Subchapter S Corporation, (“Consultant”), both of which may be hereinafter referred to collectively as the “Parties”, for the project entitled Preparation of a Development Fee Study Including: Land Use Assumptions, An Infrastructure Improvements Plan, Development Fee Report, Ordinance Update, Staff Coordination, Public Involvement And Presentations.

RECITALS

A. City desires to retain a consultant to assist in a comprehensive Development Fee Study – Land Use Assumptions, IIP, Development Fee Report, Ordinance Update, staff coordination, public involvement, presentations and to make payment for the same in accordance with the terms and conditions set forth in this Agreement, including all attachments and addenda which are appended hereto by mutual agreement of the Parties.

B. The open market procedures set forth in the Apache Junction City Code have been satisfied.

C. The Parties have set forth below contemplated services Consultant will provide City, including payment terms for such services and products.

AGREEMENT

NOW, THEREFORE, in consideration of the Recitals noted above, the mutual covenants and conditions below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **CONSULTANT’S DUTIES:** Consultant agrees to perform the professional services detailed in Exhibit A.

2. **COMPENSATION:** In accordance with the terms and conditions of this Agreement, City shall compensate Consultant for professional services in an amount not to exceed \$68,600.00.

December 26, 2017

3. **CONSULTANT BILLING:** Consultant shall bill City on a time and expense basis in a total amount not to exceed Section 2 above. City shall pay such billings within thirty (30) calendar days of the date of receipt.

4. **TERM/RENEWAL:** This Agreement shall be effective beginning on November 7, 2018 and shall remain in full force and effect until August 31, 2019 is complete, unless otherwise terminated as set forth herein. Following the initial term, the Parties may not renew or extend this Agreement.

5. **CITY'S STANDARD OF PERFORMANCE:** City shall furnish Consultant with all data, information and other supporting services specified in Exhibit A.

6. **CONSULTANT'S STANDARD OF PERFORMANCE:** While performing the services, Consultant shall exercise the reasonable professional care and skill customarily exercised by reputable members of Consultant's profession practicing in the Phoenix Metropolitan Area, and shall use reasonable diligence and best judgment while exercising its professional skill and expertise. Consultant shall be responsible for all errors and omissions Consultant commits in the performance of this Agreement.

7. **NOTICES:** All notices to the a Party required under this Agreement shall be in writing and sent by first class certified mail, postage prepaid, return receipt requested, addressed to the following:

If to City: City of Apache Junction
Lawrence J. Kirch, AICP
300 East Superstition Boulevard
Apache Junction, AZ 85119

And copy to: City Attorney
Same address as noted above

If to Consultant: L. Carson Bise
TischlerBise, Inc.
4701 Sangamore Road
Bethesda, Maryland 20816

8. **INSURANCE:** Consultant, at its own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly licensed, possessing a current A.M. Best, Inc. Rating of B++6, or approved unlicensed in the State of Arizona with policies and forms satisfactory to City.

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 Agreement is satisfactorily completed and formally accepted; failure to do so may, at the sole discretion of City, constitute a material breach of this Agreement.

Consultant's insurance shall be primary insurance as respects the City, and any insurance or self-insurance maintained by 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 City.

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

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

City reserves the right to request and to receive, within ten (10) working days, certified copies of any or all of the herein required insurance policies and/or endorsements. 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, City's right to insist on strict fulfillment of Consultant's obligations under this Agreement.

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

REQUIRED COVERAGE

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 Agreement, which coverage will be at least as broad as that on Insurance Service Office, Inc. Policy Form No. CG 00011093, or any replacements thereof.

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 20101185, and shall include coverage for Consultant's operations and products and completed operations.

If required by this Agreement, if Consultant sublets any part of the work, services or operations, Consultant shall purchase and maintain, at all times during prosecution of the work, services or operations under this Agreement, an Owner and Consultant's Protective Liability insurance policy for bodily injury and property damage, including death, which may arise in the prosecution of Consultant's work, service or operations under this Agreement. 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 Consultant's Commercial General Liability insurance.

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 Consultant's owned, hired, and non-owned vehicles assigned to or used in performance of Consultant's work. Coverage will be at least as broad as coverage code 1, "any auto", (Insurance Service Office, Inc. Policy Form CA 00011293, or any replacements thereof). Such insurance shall include coverage for loading and off loading hazards. If hazardous substances, materials or wastes are to be transported, MCS 90 endorsement shall be included and \$5,000,000 per accident limits for bodily injury and property damage shall apply.

Workers' Compensation

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.

By execution of this Agreement, Consultant certifies as follows:

"I am aware and understand the provisions of A.R.S. § 23-900 *et seq.* which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of this chapter, and I will comply with such

provisions before commencing the performance of the work of this Agreement.”

If Consultant has no employees for whom workers’ compensation insurance is required, Consultant shall submit a declaration or affidavit to City so stating and covenanting to obtain such insurance if and when Consultant employs any employees subject to coverage.

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

Professional Liability

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

Certificates of Insurance

Prior to commencing work or services under this Agreement, Consultant shall furnish City with Certificates of Insurance, or formal endorsements as required by the Agreement, issued by Consultant’s insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Agreement are in full force and effect. The form of the certificates of insurance and endorsements shall be subject to the approval of the Apache Junction City Attorney’s Office, shall comply with the terms of this Agreement, and shall be issued and delivered to City Attorney, City of Apache Junction, 300 East Superstition Boulevard, Apache Junction, AZ 85119.

In the event any insurance policies required by this Agreement are written on a “claims made” basis, coverage shall extend for two (2) years past completion and acceptance of Consultant’s work or services and as evidenced by annual Certificates of Insurance.

If a policy does expire during the life of the Agreement, a renewal certificate must be sent to City thirty (30) calendar days prior to the expiration date.

All Certificates of Insurance shall be identified with bid serial number and title. Policies or certificates and completed forms of City’s Additional Insured Endorsement (or a substantially equivalent insurance company form acceptable to the City Attorney) evidencing the coverage required by this section shall be filed with the City and shall include the City as an additional insured. The policy or policies shall be in the usual form of a public liability insurance, but shall also include the following provision:

“Solely as respects work done by or on behalf of the named insured for the City of Apache Junction, it is agreed that the City of Apache Junction and its officers and employees are added as additional insureds under this policy.”

Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) calendar days’ prior written notice to City.

9. APPLICABLE LAW AND VENUE: The terms and conditions of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona. Any action at law or in equity brought by either party for the purpose of enforcing a right or rights provided for in this Agreement, shall be tried in a court of competent jurisdiction in Pinal County, State of Arizona. The parties hereby waive all provisions of law providing for a change of venue in such proceeding to any other county. In the event either party shall bring suit to enforce any term of this Agreement or to recover any damages for and on account of the breach of any term or condition in this Agreement, it is mutually agreed that the prevailing party in such action shall recover all costs including: all litigation and appeal expenses, collection expenses, reasonable attorneys’ fees, necessary witness fees and court costs to be determined by the court in such action.

10. FORCE MAJEURE: Neither City nor Consultant, as the case may be, shall be considered not to have performed its obligations under this Agreement in the event of enforced delay (an “Enforced Delay”) due to causes beyond its control and without its fault or negligence or failure to comply with applicable laws, including, but not restricted to, acts of God, fires, floods, epidemics, pandemics, quarantine, restrictions, embargoes, labor disputes, and unusually severe weather or the delays of subcontractors or materialmen due to such causes, acts of a public enemy, war, terrorism or act of terror (including but not limited to bio-terrorism or eco-terrorism), nuclear radiation, blockade, insurrection, riot, labor strike or interruption, extortion, sabotage, or similar occurrence or any exercise of the power of eminent domain of any governmental body on behalf of any public entity, or a declaration of moratorium or similar hiatus (whether permanent or temporary) by any public entity directly affecting the obligations under this Agreement. In no event will Enforced Delay include any delay resulting from unavailability for any reason of labor shortages, or the unavailability for any reason of particular Consultants, subcontractors, vendors or investors desired by Consultant in connection with the obligations under this Agreement. Consultant agrees that Consultant alone will bear all risks of delay which are not Enforced Delay. In the event of the occurrence of any such Enforced Delay, the time or times for performance of the obligations of the Party claiming delay shall be extended for a period of the Enforced Delay; provided, however, that the Party seeking the benefit of the provisions of this Section shall, within thirty (30) calendar days after such Party knows or should know of any such Enforced Delay, first notify the other Party of the specific delay in writing and claim the right to an extension for the period of

the Enforced Delay; and provided further that in no event shall a period of Enforced Delay exceed ninety (90) calendar days.

11. **TERMINATION AND LIQUIDATED DAMAGES:** This Agreement may be terminated by either Party for any reason upon two (2) months' written notice. If this Agreement is terminated, City shall be reimbursed from Consultant the amount paid for any undelivered and/or unaccepted products or services. Upon termination, City agrees to pay for all delivered, accepted, and properly invoiced services that were provided up to the announced Termination Date. Consultant shall be subject to liquidated damages in the amount of \$500 each day consultant failed to perform the agreed upon work set forth in Exhibit A. The parties agree this is a reasonable amount of damages suffered by the city and is not a penalty.

12. **INDEMNIFICATION:** To the fullest extent permitted by law, Consultant shall defend, indemnify and hold harmless City, its elected and appointed officers, officials, agents, and employees from and against any and all liability including but not limited to demands, claims, actions, fees, costs and expenses, including attorney and expert witness fees, arising from or connected with or alleged to have arisen from or connected with, relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of Consultant, its agents, employees, or any tier of Consultant's subcontractors in the performance of this Agreement. Consultant's duty to defend, hold harmless and indemnify City, its Special Districts, elected and appointed officers, officials, agents, and employees shall arise in connection with any tortious claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by an Consultant's acts, errors, mistakes, omissions, work or services in the performance of this Agreement including any employee of Consultant, any tier of Consultant's subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services Consultant may be legally liable.

13. **TAXES:** Consultant shall pay all license, sales, consumer, transaction privilege, use and other similar taxes for services provided by Consultant which are legally enacted at the time the obligations under this Agreement are performed.

14. **PERMITS & FEES:** Unless otherwise provided in this Agreement, Consultant shall secure and pay for all applicable permits, government fees, licenses and inspections necessary for the proper execution and completion of services which are customarily secured after execution of the Agreement. Consultant shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the obligations. Consultant represents and warrants that any license necessary to perform the services under this Agreement is current and valid. Consultant understands that the activity described herein constitutes "doing business in the City of Apache Junction" and Consultant agrees to obtain a business license pursuant to Article 8-2 of the Apache Junction City Code, Vol. I, and keep such license current during the term of this Agreement. Consultant also acknowledges

that the tax provision of the Apache Junction Tax Code, Chapter 8A, may also apply and if so, shall obtain a transaction privilege license and/or other licenses as may be required by all applicable laws. If there are taxable activities, a business license shall be converted to a transaction privilege tax license by the Consultant through the City of Apache Junction City Clerk's Office. Further, Consultant agrees to pay all applicable privilege and use taxes that are applicable to the activities, products and services provided under this Agreement.

15. **RECORDS:** Records of Consultant's labor, payroll, and other costs pertaining to this Agreement shall be kept on a generally recognized accounting basis and made available to City for inspection on request. Consultant shall maintain records for a period of at least two (2) years after termination of this Agreement, and shall make such records available during that retention period for examination or audit by City personnel during regular business hours.

16. **RIGHT OF CITY TO CONTRACT WITH OTHERS:** Nothing in this Agreement shall imply City is obligated to obtain the services described herein with only this particular Consultant.

17. **INDEPENDENT CONTRACTOR:** City and Consultant agree and understand that the relationship between both Parties is that of an independent contractor.

18. **WAIVER OF TERMS AND CONDITIONS:** The failure of City or Consultant to insist in any one or more instances on performance of any of the terms or conditions of this Agreement or to exercise any right or privilege contained herein shall not be considered as thereafter waiving such terms, conditions, rights or privileges, and they shall remain in full force and effect.

19. **COMPLIANCE WITH FEDERAL AND STATE LAWS:** Consultant understands and acknowledges the applicability of the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989 to the services performed under this Agreement.

As required by A.R.S. § 41-4401, Consultant hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Consultant further warrants that after hiring an employee, Consultant will verify the employment eligibility of the employee through the E-Verify program. If Consultant uses any subcontractors in performance of services, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of the Agreement that is subject to penalties up to and including termination of this Agreement. Consultant is subject to a penalty of \$100 per day for the first violation, \$500 per day for the second violation, and \$1,000 per day for the third violation. City at its option may terminate this Agreement after

the third violation. Consultant shall not be deemed in material breach of this Agreement if the Consultant and/or subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 23-214(A). City retains the legal right to inspect the papers of any Consultant or subcontractor employee who works under this Agreement to ensure that the Consultant or subcontractor is complying with the warranty. Any inspection will be conducted after reasonable notice and at reasonable times. If state law is amended, the Parties may modify this paragraph consistent with state law.

20. **ENTIRE AGREEMENT**: This Agreement and any attachments represent the entire agreement between City and Consultant and supersede all prior negotiations, representations or agreements, either express or implied, written or oral. It is mutually understood and agreed that no alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the parties hereto. Written and signed amendments shall automatically become part of the Supporting Documents, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.

21. **SEVERABILITY**: City and Consultant each believe that the execution, delivery and performance of this Agreement are in compliance with all applicable laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring City to do any act in violation of any applicable laws, including any constitutional provision, law, regulation, or City Code), such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. Unless prohibited by applicable laws, the Parties further shall perform all acts and execute, acknowledge and/or deliver all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

22. **SUCCESSORS & ASSIGNS**: City and Consultant each bind themselves, their partners, successors, assigns and legal representatives to the other Party hereto and to the partners, successors, assigns and legal representatives of such other Party in respect to all covenants, agreements and obligations contained in this Agreement. Neither Party to the Agreement shall assign the Agreement or sublet it as a whole without the written consent of the other, nor shall Consultant assign any monies due or to become due to or to become due to it without the previous written consent of City.

23. **ACCURACY OF WORK:** Acceptance of services or work by City shall not relieve Consultant of the responsibility for subsequent correction of any such errors and the clarification of any ambiguities. Consultant shall make all necessary revisions or corrections resulting from errors and omissions on the part of Consultant without additional compensation.

24. **TIME IS OF THE ESSENCE:** Time is of the essence with respect to all provisions in this Agreement. Any termination by consultant shall result in liquidated damages set forth in Section 11 above.

25. **PROHIBITION TO CONTRACT WITH CONSULTANTS WHO ENGAGE IN BOYCOTT OF THE STATE OF ISRAEL:** The Parties acknowledge A.R.S. §§ 35-393 through 35-393.03, as amended, which forbids public entities from contracting with Consultants who engage in boycotts of the State of Israel. Should Consultant under this Agreement engage in any such boycott against the State of Israel, this Agreement is automatically terminated. Any such boycott is a material breach of contract and will subject Consultant to monetary damages, including but not limited to, consequential and liquidated damages.

26. **CONFLICTS OF INTEREST:** This Agreement is subject to, and may be terminated by City in accordance with, the provisions of A.R.S. § 38-511.

IN WITNESS WHEREOF, Consultant and City have executed this Agreement as of the date first set forth above.

CONSULTANT:

TISCHLERBISE, INC, a Washington D.C.
Subchapter S Corporation

By: _____
Its: _____

CITY:

CITY OF APACHE JUNCTION, ARIZONA,
an Arizona municipal corporation

By: Jeff Serdy
Its: Mayor

ATTEST:

Kathleen Connelly, City Clerk

APPROVED AS TO FORM:

R. Joel Stern, City Attorney

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing was subscribed and sworn to before me this _____
day of _____, 20____, by _____ as _____ of
[Company Name], an Arizona [corporation/limited liability company].

Notary Public

My Commission Expires:

STATE OF ARIZONA)
) ss.
COUNTY OF PINAL)

The foregoing was subscribed and sworn to before me this _____
day of _____, 20____, by Jeff Serdy, as Mayor of the City of Apache
Junction, Arizona, an Arizona municipal corporation.

Notary Public

My Commission Expires:

December 26, 2017

EXHIBIT A
SCOPE OF WORK

SECTION D: PROJECT APPROACH AND SCOPE

Project Approach

TischlerBise considers the information provided in this section of the proposal proprietary and therefore requests that the information in this section remain confidential and separate from any Freedom of Information Act requests.

Development fees are simple in concept, but complex in delivery. Generally, the jurisdiction imposing the fee must: (1) identify the purpose of the fee, (2) identify the use to which the fee is to be put, (3) show a reasonable relationship between the fee's use and the type of development project, and (4) account for and spend the fees collected only for the purpose(s) used in calculating the fee.

Reduced to its simplest terms, the process of calculating development fees involves the following two steps:

1. Determine the cost of development-related capital improvements, and
2. Allocate those costs equitably to various types of development.

There is, however, a fair degree of latitude granted in constructing the actual fees, as long as the outcome is "proportionate and equitable." Fee construction is both an art and a science, and it is in this convergence that TischlerBise excels in delivering products to clients.

Any one of several legitimate methods may be used to calculate development fees for Apache Junction. Each method has advantages and disadvantages given a particular situation, and to some extent they are interchangeable because they all allocate facility costs in proportion to the needs created by development.

In practice, the calculation of development fees can become quite complicated because of the many variables involved in defining the relationship between development and the need for capital facilities. The following paragraphs discuss the three basic methods for calculating development fees and how those methods can be applied.

Plan-Based Method - The plan-based method allocates costs for a specified set of future improvements to a specified amount of development. The improvements are identified by a CIP. In this method, the total cost of relevant facilities is divided by total demand to calculate a cost per unit of demand. The plan-based method is often the most advantageous approach for facilities that require engineering studies, such as roads and utilities.

Cost Recovery Method - The rationale for the cost recovery approach is that new development is paying for its share of the useful life and remaining capacity of facilities from which new growth will benefit. To calculate a development fee using the cost recovery approach, facility cost is divided by the ultimate number of demand units the facility will serve. An oversized wastewater treatment plant.

Incremental Expansion Method - The incremental expansion method documents the current level of service (LOS) for each type of public facility in both quantitative and qualitative measures, based on an existing service standard such as square feet per capita or park acres per capita. An incremental expansion cost method is best suited for public facilities that will be expanded in regular increments with LOS standards based on current conditions in the community.

Evaluation of Alternatives. Designing the optimum development fee approach and methodology is what sets TischlerBise apart from our competitors. Unlike most consultants, we routinely consider each of the three methodologies for each component within a fee category. The selection of the methodology for each component of a development fee category will be dependent on which is most beneficial for the City. In some cases, we will prepare the development fee using several methodologies and will discuss the various trade-offs with the City. There will likely be policy and revenue tradeoffs. We recognize that "one size does not fit all" and we create the optimum format that best achieves our clients' goals.

Lending a Sense of Market Reality to the Development Projections. Projecting future residential and nonresidential development is more difficult now than in the past due to shifting trends in the housing and retail markets as a result of changing demographics and lifestyle choices. TischlerBise's extensive national experience conducting market analysis and real estate feasibility studies is invaluable in determining the appropriate development projections used in the development fee calculations. These projections include both the amount of development and the geographic location. Depending on the methodology employed, overly optimistic development projections can increase the City's financial exposure if development fee revenue is less than expected.

Improved Infrastructure Improvement Plan Flexibility. Many of our Arizona clients elected for plan-based approaches for their IIPs. An unintended consequence of these decisions is a relative lack of flexibility with the individual IIPs as they relate to changes in the market and other conditions. As part of our Round 2 SB1525 assignments we have prepared IIPs that incorporate a hybrid approach. Using transportation as an example, we can project the number of lane miles needed to maintain current levels of service (in this example, let's assume 10.4 lane miles). However, rather than use a purely plan-based approach, the solution is to identify improvements that exceed 10.4 lane miles (let's assume 22 lane miles). Rather than being tied to a defined plan, the City can respond to the market and funding arrangements at the time (federal or state money may be identified in the future for one or more projects making them development fee ineligible) and select projects over the 10-year time horizon that equal the required 10.4 lane miles.

Implementing Land Use Policy. Past conversations with Apache Junction staff indicate a desire to encourage and incentivize development activity in the Core Downtown Zone, as reflected in the Downtown Overlay District Design Guidelines. In addition, the City would like to encourage mixed-use development in other areas of the City. Many communities don't realize that development fees are a form of land use

regulation rather than strictly a revenue source. To that end, it is possible to craft development fee methodologies to help a community implement land use and economic development policy objectives. For example, current transportation planning thought recognizes that significant national demographics changes, shifting market preferences for walkable urbanism, and the importance of place making are compelling local governments to encourage redevelopment in urban and suburban centers. On average, higher density, mixed use residential development has fewer persons and vehicles available per unit, relative to lower density suburban and rural residential development; thus, lowering vehicular trip generation rates. Higher density, mixed use settings also provide options for walking, biking, and transit travel, thus lowering the vehicular mode share. Finally, mixed land use (vertical and horizontal), more compact development, and a better jobs-housing balance work together to reduce average trip lengths in higher density areas.

Traditional transportation development fees were designed with a suburban worldview and designed to increase capacity for vehicle travel. Traditional development fees are typically uniform across the entire jurisdiction, are driven by generic formulas, tend to focus on 20-year master plans or build-out guesstimates, and are designed to fund infrastructure that will move vehicles. In contrast, TischlerBise is calculating "next-generation" transportation development fees that function as a land-use regulation to help shape development patterns. Planning and policy objectives drive next generation transportation development, which vary geographically (e.g., mixed-use areas and downtown) to reflect mode share and cost differences and are intended to move people rather than vehicles alone. As part of this analysis, TischlerBise will evaluate the feasibility of including not only needed road capacity and intersection improvements, but also bike lanes, sidewalks, trails, and other multi-modal improvements.

Public Outreach. The importance of public outreach when considering development fees should not be overlooked. Based upon our team's experience with development fees in Arizona, we anticipate this study may attract controversy. Therefore, it is important to

build a coalition of support early in the process, to educate and inform the public and other key stakeholders about the purpose of the various components of the study, and to explain how it will benefit both key constituents (developers) and the public. It is critical to develop a communication strategy that will offset and correct any misinformation that might proliferate, and to provide a clear and compelling logic for public adoption of an IIP and development fee program. Our seasoned project team has actively participated in legislative body meetings and citizen committees to educate stakeholders regarding the technical process of developing an IIP and the development fee calculations. We will work with staff to create appropriate collateral and other materials as part of this assignment.

Scope of Work

The following scope of work provides detailed steps to ensure this project is completed successfully and meets the legal requirements for development fees, based the State's enabling legislation (SB1525), as well as national case law. The development fees categories are assumed to include library, parks and recreation, police, and streets.

Task 1: Project Initiation/Data Acquisition

During this task, we will meet with City staff to establish lines of communication, review and discuss project goals and expectations related to the project, request data and documentation related to new proposed development, identify relevant policy objectives and discuss staff's role in the project.

Meetings:

One (1) on-site visit to meet with City staff as appropriate.

Deliverables:

Data request memorandum (prepared in advance of meeting).

Task 2: Prepare Land Use Assumptions

TischlerBise will review and update annual projections of population, employment, housing, commercial, industrial and other nonresidential square footage data for at least ten (10) years. This will be based on discussions with City staff, review of recent development activity, approved development plans and review of published information from the Maricopa

Association of Governments, and other relevant data sources. The Consultant will prepare a memorandum discussing the recommended land use projections (Land Use Assumptions Document) that will serve as the basis for the IIP and development fee schedule, including any relevant service areas. TischlerBise will prepare a plan that includes projections of changes in land uses, densities, intensities, and population for a specific service area. A map of the area(s) to which the land use assumptions apply will also be included in this task.

Meetings:

Discussions with the Development Services Department will be held as part of Task 1.

Deliverables:

TischlerBise will prepare a draft technical memorandum discussing the recommended Land Use Assumptions. After review and sign-off by the City, a final memorandum will be issued, which will become part of the final IIP and Development Fee Report.

Task 3: Ascertain Demand Factors and Levels-of-Service for "Necessary Public Services"

Communities in Arizona may assess development fees for "necessary public services" which have a useful life of more than three years and that are owned and operated on behalf of the City and within the incorporated boundary. There are several important subtasks that are outlined below:

- **Proportionate Share** – Determine the proportionate share of the cost of "necessary public services," based on service units needed to provide such services to new development.
- **Determine Existing Levels-of-Service** – The costs for the "necessary public services" required to serve new development are based on the same level-of-service being provided to existing development in the service area. We will determine the existing level-of-service by conducting onsite interviews, evaluating the appropriate studies, and analyzing relevant local data. These onsite interviews will also include discussions about and defining of the infrastructure components to be included in the IIP and development fees.

- **Determine Service Areas** – Specify the area(s) within the City's boundaries in which development will be served by the "necessary public services" or facility expansions and that a substantial nexus exists between the necessary public services or facility expansions and the development being served as prescribed in the IIP.

The above subtasks will enable us to ensure that three important development fee requirements are met, collectively referred to as rational nexus requirements: demonstration of impact, benefit, and proportionality.

Meetings:

Two (2) meetings with City staff to discuss capital facility needs and levels-of-service.

Deliverables:

Technical Memorandum Discussing Recommended Service Areas by Fee Category.

Task 4: Identify Capital Needs and Costs

This task will determine the relevant capital needs and costs due to growth.

- **Long-Range Capital Need** – TischlerBise will focus on relevant documents such as relevant master plans, relevant development agreements, the current Capital Improvements Plan, and other mapping and data that is available. Discussions will aim not only to understand the specific costs, but also to assess the size and scope of projects and whether capital facility needs are due to normal replacement, catch-up, or new demand.
- **Service Units** – TischlerBise will define the standardized measures of consumption, use, or generation attributable to an individual unit of development for each category of "necessary public services" or facility expansions.
- **Review Cost Estimates** – TischlerBise will review the costs of infrastructure improvements, real property, financing, engineering, and architectural services associated with the "necessary public services" to be included in the IIP and development fees.

- **Financing Costs** – TischlerBise will identify projected interest charges and other financial costs which are to be used for repayment of principal and interest of debt used to finance construction of "necessary public services" identified in the IIP.

- **Identify Ineligible Costs** – TischlerBise will identify costs that are not eligible for inclusion in the IIP and development fees. Ineligible costs include projects not included in the IIP; repair, maintenance, or operation of existing facilities; projects which serve existing development in order to meet stricter regulatory requirements; projects which provide a higher level-of-service to existing development; and administrative, maintenance, and operating costs.

As part of calculating the fee, costs for infrastructure improvements, real property, financing, engineering, and architectural services will be considered. TischlerBise will consider all of these components in developing an equitable allocation of costs.

Meetings:

Two (2) meetings with City staff.

Deliverables:

See Task 5

Task 5: Discuss Preliminary Methodologies and Policy Options

The requirement that development fees be based on an IIP does not equate to a requirement that only the plan-based methodology can be used in the calculations. The IIP can reflect the past capacity investments in infrastructure that will be repaid by new development with development fee revenue. Likewise, the City can plan to provide new development the same level-of-service being currently provided to existing development.

TischlerBise will evaluate different allocation methodologies for each IIP and development fee component to determine which methodology is the most appropriate measure of the demand created by new development. As discussed under the Project Approach, these methodologies include the cost recovery, incremental expansion and plan-based approaches.

This comprehensive approach and consideration of alternative methodologies will allow maximization of the development fees. TischlerBise to prepare draft levels-of-service tables and methodology recommendations for each infrastructure category and component. We will discuss this information with City staff to ensure understanding and acceptance. Policy alternatives will be discussed as appropriate. This should help ensure "sign-off" and prevent time delays in finalizing the analysis.

Meetings:

One (1) meeting with City staff and City Council (if desired) to discuss and explain the preliminary findings, assumptions, and results.

Deliverables:

TischlerBise will prepare a "story board" for staff review and comment detailing proposed levels-of-service, cost estimates, service areas, credits and recommended calculation methodologies.

Task 6: Prepare Draft and Final Land Use Assumptions and Infrastructure Improvements Plan (IIP)

In this task, TischlerBise's qualified professionals will prepare an IIP using generally accepted engineering and planning practices for each "necessary public service" for which a development fee can be assessed. Development of the IIP will include the following subtasks:

- **Reserve Capacity** – The IIP will identify infrastructure capacity to be reserved to serve future development.
- **Description of Existing Necessary Public Services in the Service Area(s)** – The IIP will include a description of the existing "necessary public services" in the service area(s) and the costs to upgrade, update, improve, expand, correct, or replace those services to meet existing needs and usage and stricter safety, efficiency, environmental, and regulatory standards.
- **Analysis of Total Capacity** - The IIP will identify the current usage and commitments for usage of capacity of the existing "necessary public services."

- **Description of "Necessary Public Services" Attributable to New Development** – The IIP will describe all parts of the "necessary public services" of facility expansions and their costs necessitated by and attributable to development in the service area(s) based on the approved land use assumptions. Cost forecasts will include the costs of infrastructure improvements, real property, financing, engineering, and architectural services.
- **Equivalency/Conversion Table** – The IIP will include a table establishing the specific level or quantity of use, consumption, or generation of a service unit for each category of "necessary public services" or facility expansions. The table will include the ratio of a service unit to various types of residential, commercial, and industrial land uses.
- **Projected Service Units** – The IIP will include the total number of projected service units necessitated by and attributable to new development in the service area(s), based on the approved land use assumptions.
- **Projected Demand for Necessary Public Services** – The IIP will include a ten-year projection of the demand for "necessary public services" or facility expansions required by new service units.
- **Forecast of Non-Development Fee Revenues from New Service Units** – The IIP will forecast revenues other than development fees generated by new service units, such as state-shared revenue, highway user revenue, federal revenue, ad valorem property taxes, construction contracting or similar excise taxes, and the capital recovery portion of utility fees attributable to development based on the approved land use assumptions. This subtask will include a plan to include these contributions in determining the extent of the burden created by new development.

These subtasks will result in a written plan that identifies each "necessary public service" or facility expansion that is to be the subject of a development fee and complies with the requirements of State law.

Meetings:

One (1) meeting with City staff to discuss the Draft Report. Two (2) presentations/worksessions with the City Council to present and discuss Land Use Assumptions, and Infrastructure Improvements Plan as part of the legislatively required adoption process.

Deliverables:

Draft and Final Land Use Assumptions and Infrastructure Improvement Plan.

Task 7: Determine Need for Credits to be Applied Against Capital Costs

A consideration of "credits" is integral to the development of a legally valid development fee methodology. There is considerable confusion among those who are not immersed in development fee law about the definition of a credit and why it may be required.

There are two types of "credits" that are included in the calculation of development fees, each with specific, distinct characteristics. The first is a credit due to possible double payment situations. This could occur when a property owner will make future contributions toward the capital costs of a public facility covered by a 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. Both types of credits will be considered and addressed in the development fee study.

Deliverables:

Memoranda as appropriate. See Task 10.

Task 8: Conduct Funding and Cash Flow Analysis; Estimate Annual Operating Costs

In order to prepare a meaningful IIP, it is important to evaluate the anticipated funding sources. In this task, TischlerBise will prepare a ten-year cash flow analysis. This calculation will allow the City to better understand the revenue potential of the development fees and the amount which would be needed if the fees were discounted. It will also provide a good understanding of the cash flow needed to cover the infrastructure costs for new development. The cash flow analysis will 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. Development fee revenues can only be spent on capital projects that add capacity. Operating and maintenance costs associated with these capital improvements will have to be funded from other revenue sources, mostly likely from the General Fund. To estimate the annual operational and maintenance costs of the projected infrastructure, TischlerBise will utilize several data sources, including:

- Most recently adopted operating budget.
- Most recently adopted CIP.
- Capital project/program submittal sheets from departments.

Meetings:

None.

Deliverables:

See Task 10.

Task 9: Complete Development Fee Methodology and Calculations

The completion of the previous task will enable the development fee methodology and calculations to be finalized. TischlerBise will calculate the maximum justifiable development fee for commercial, residential, and industrial development that can be charged and conform to fee requirements.

Meetings:

None.

Deliverables:

Draft Development Fee Report.

Task 10: Prepare Final Land Use Assumptions, IIP and Development Fee Report

TischlerBise will prepare a written report for the City that summarizes the need for development fees for the "necessary public services" category and the relevant methodologies employed, as well as documentation for all assumptions and cost factors. The report will include at a minimum the following information:

- Executive Summary.
- A detailed description of the methodologies used during the study.
- A detailed description of all level-of-service standards and cost factors used and accompanying rationale.

- An IIP spanning a maximum ten-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 which adequately explains and justifies the resulting recommended fee schedule.

Analysis of Peer Community Fee Structures. In this Task, TischlerBise will prepare a comparative analysis of peer communities' development fee structures. The analysis will compare how the proposed development fee structure for the City of Apache Junction compares to other peer communities, including noting any differences in fee schedules and methodologies.

Meetings:

One (1) presentations/worksessions with the City Council to present and discuss final Development Fee Report and IIP as part of the legislatively required adoption process.

Deliverables:

Final Land Use Assumptions, IIP and Development Fee Report and presentation materials for meetings.

Task 11: Stakeholder Outreach

In addition to the meetings with staff and City Council described in the Tasks above, TischlerBise will meet with stakeholders a minimum of two (2) times during the study process (given our volume of Arizona work, we are available for additional meetings at no charge since we are able to "piggyback" on another trip). The purpose of this committee is to allow interested parties 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 development of the land use assumptions, IIP and the calculation of development fees.

Meeting #1 - The first meeting will describe the study process and will allow the participants to identify and communicate any potential issues which may affect them, discuss any administrative or implementation issues with the administration of the current fee schedule. In addition, TischlerBise will present the proposed land use assumptions, explain the preliminary findings, assumptions, credits and revenue projections.

Meeting #2 - The second meeting will be a presentation and discussion of final recommendations.

Meetings:

Two (2) meetings with Stakeholder Group.

Deliverables:

Presentation Materials as Appropriate.

Task 12: Revisions to Current Development Fee Ordinance

In this Task, TischlerBise will review the City's current development fee ordinance for consistency with SB1525 and best practices in general. Additionally, TischlerBise will make necessary amendments for consistency with the new Land Use Assumptions, Infrastructure Improvement Plan and Development Study, as well input received during meetings with the Stakeholder Committee. These will be coordinated in draft form, first with staff and, as directed, with City legal counsel, before finalizing for consideration of adoption by the City Council.

Meetings:

Meetings/teleconferences with City Legal staff as needed.

Deliverables:

Draft and Final Development Fee Ordinance.

Project Schedule

The table below indicates our proposed schedule for this assignment, assuming a start date of November 7. Based on our unsurpassed experience under SB1525, the City's desire to begin the adoption process less than two months after the start date is overly ambitious, especially in light of the Thanksgiving, Christmas and New Years' holiday periods. Fortunately, we are in the home stretch for most of our current SB1525 updates, which will be completed at the end of October, and we will devote firm President, Carson Bise as our Project Manager. We will devote the necessary resources to meet an early-January completion date. However, we feel that the number of holidays, combined with policy issues that may arise, make a three-month timeframe more realistic, so we have proposed a more realistic project schedule.

PROPOSED SCHEDULE- LAND USE ASSUMPTIONS, IIP AND DEVELOPMENT FEE STUDY			
Tasks	Anticipated Dates	Meetings*	Meetings/Deliverables
Task 1: Project Initiation/Data Acquisition	November, 2018	1	Data Request Memorandum
Task 2: Develop Land Use Assumptions	November, 2018	1*	Land Use Assumptions Document
Task 3: Ascertain Demand Factors and LOS for "Necessary Public Services"	November - December, 2018	2	Technical Memorandum Discussing Recommended Service Areas by Fee
Task 4: Identify Capital Needs and Costs	November - December, 2018	2*	See Task 5
Task 5: Discuss Preliminary Methodologies and Policy Options	December, 2018	1	"Storyboard" Presentation Outlining Preliminary Methodologies and Policy
Task 6: Prepare Draft and Final Land Use Assumptions and IIP	December, 2018 - January, 2019	1	Draft Land Use Assumptions and Infrastructure Improvement Plan
Task 7: Determine Need for Credits	December, 2018	0	Memoranda as Appropriate. See Task 4
Task 8: Conduct Funding and Cash Flow Analysis; Estimate Annual Operating Costs	January, 2019	0	See Task 10
Task 9: Complete Development Fee Methodologies and Calculations	December, 2018 - January, 2019	0	Draft Development Fee Report
Task 10: Prepare Final Land Use Assumptions, IIP and Development Fee Report	January, 2019	1	Final Land Use Assumptions, IIP and Development Fee Report
Task 11: Stakeholder Outreach	November, 2018 - January, 2019	2	Presentation Materials as Appropriate
Task 12: Revisions to Current Development Fee Ordinance	January, 2019		
Publish Land Use Assumptions and IIP on City Website	February, 2019	0	Land Use Assumptions and IIP Document
Public Hearing on Land Use Assumptions and IIP	mid April, 2019	1	Presentation Materials as Appropriate
Approve Land Use Assumptions and IIP	mid May, 2019	1	Final Land Use Assumptions and IIP
Publish Development Fee Report on City Website	mid-May, 2019	0	Development Fee Report
Public Hearing on Land Use Assumptions and IIP	mid-June, 2019	1	Presentation Materials as Appropriate
Approve Development Fee Report	mid-July, 2019	0	Final Development Fee Report
New Development Fees go into Effect	mid-October, 2019	0	N/A

*In several cases it is assumed meetings are held with multiple departments over one (1) trip.

Project Management Approach

TischlerBise utilizes a project management process which ensures that our projects are completed on time, within budget, and most importantly, that they yield results that match our clients' expectations. Our project management plan utilizes the following principles common to successful projects:

1. First, we begin by defining the project to be completed. Based on discussions that occur as part of our Project Initiation task, Carson Bise will identify the project goals and objectives in collaboration with City staff, list potential challenges to the process, and develop a plan to ensure successful outcomes and effective communication.
2. Second, we will plan the project schedule. As part of the Project Initiation task, Mr. Bise will work with City staff to create an agreed-upon timetable to meet the project schedule. Prior to beginning the project, Mr. Bise will assign roles that will ensure that the project schedule is met on time and within budget.
3. Third, we will actively manage the project process. Mr. Bise and Ms. Herlands both have a long history of past project successes (we encourage you to contact our references regarding this aspect) that are supported by strong project management skills. Mr. Bise will manage the work in progress, provide guidance and oversight to staff, and will be accountable to you for meeting the schedule, budget, and technical requirements of the project.
4. Finally, we will review all project deliverables and communication through a formal quality assurance process that requires review at the peer level, project manager level, and chief executive officer level. Prior to the delivery of work product to you and staff, deliverables will go through a structured quality assurance process involving up to three levels of review and utilizing a formal checklist tool. The first level involves a peer-to-peer review of work products and computer models. Next, Mr. Bise will be responsible for the second set of reviews comparing the work product to the completed quality checklist form.