



**PURCHASING ITEM
FOR
COUNCIL AGENDA**

1. Agenda Item Number:

28

2. Council Meeting Date:
March 22, 2007

TO: MAYOR & COUNCIL

3. Date Prepared: March 2, 2007

THROUGH: CITY MANAGER

4. Requesting Department: Community Services—Center for the Arts

5. SUBJECT: Approval of agreement CA7-961-2408 for the Chandler Center for the Arts Facility Review & Expansion Feasibility Study with Architekton in an amount not to exceed \$139,650 for Phases I and II of the project.

6. RECOMMENDATION: Staff recommends approval of the agreement with Architekton in an amount not to exceed \$139,650 for Phases I and II of the project.

7. HISTORICAL BACKGROUND/DISCUSSION: Much of the infrastructure and technology at the Chandler Center for the Arts was installed as part of the original construction that was completed in 1989 and is due for replacement in the near future. Additionally, Chandler's population has grown from 89,000 in 1989 when the Center opened to more than 242,000 today. Demand for performance space has grown over the years to the point that requests for performance space are frequently turned away. A Cultural Planning Committee was developed in the spring of 2006 to examine growth issues, the Center's aging infrastructure and options for expansion. The committee was comprised of City of Chandler and Chandler Unified School District staff and representatives from the Chandler Cultural Foundation Board. The committee concluded that a thorough analysis was necessary in order to assess the Center's capacity to meet current and future arts and cultural needs in Chandler. Accordingly, the committee developed a scope of work for a Facility Review and Expansion Feasibility Study. That scope of work was incorporated into a Request For Proposals that was issued on November 13, 2006.

The scope of work also includes Phase III, which may be proposed to Council in the future depending on the outcome of Phase I & II. Phase III involves site planning and preliminary concept plans for expansion, at cost not to exceed \$99,960. This would result in a total project cost not to exceed \$239,610. However, staff proposes moving forward only with Phase I and Phase II at this time. Following evaluation of Phase I and II, staff may come forward with a recommendation for approval of Phase III.

8. EVALUATION PROCESS: A Request for Proposals (RFP) for a Chandler Center for the Arts Facility Review & Expansion Feasibility Study was advertised and issued to registered City vendors along with suggested vendors from the Department. The Purchasing Office received five (5) offers.

The evaluation committee was comprised of the following individuals: Mark Eynatten, Community Services Director; Katrina Mueller, Arts Center Manager; Jerry Brooks, Citizen; Harriet Rickert, Citizen; Jeanette Polvani, Associate Superintendent, Chandler Unified Schools; and Robert Descheemaker, Purchasing Supervisor.

The selection process was conducted in accordance with established City policies and the recommendation for award is based on the evaluation criteria in the RFP.

9. FINANCIAL IMPLICATIONS:

Funds for Phase I and Phase II in the amount of \$139,650 will be from the General Fund, Professional Services Account 101-1100-0000-5219; \$46,550 of which reflects an agreed upon payment from the Chandler Cultural Foundation in participation with this project.

10. PROPOSED MOTION: Move to approve agreement CA7-961-2408, per staff recommendation, and authorize the Mayor to sign the agreement for Phases I & II in an amount not to exceed \$139,650.

APPROVALS

11. Requesting Department
Katriña Mueller, Arts Center Manager



12. Department Head
Mark M. Eynatten, Director



13. Procurement Officer
Robert Descheemaker, CPPB



14. City Manager
W. Mark Pentz



**CITY OF CHANDLER SERVICES AGREEMENT
CHANDLER CENTER FOR THE ARTS—FACILITY REVIEW AND EXPANSION FEASIBILITY STUDY
CONTRACT NO.: CA7-961-2408**

THIS AGREEMENT is made and entered into this [REDACTED] day of [REDACTED], 2007, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and ARCHITEKTON, a Corporation of the State of Arizona, hereinafter referred to as "CONTRACTOR".

WHEREAS, CONTRACTOR represents that CONTRACTOR has the expertise and is qualified to perform the services described in the Agreement.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. CONTRACT ADMINISTRATOR:

1.1. **Contract Administrator.** CONTRACTOR shall act under the authority and approval of the **Arts Center Manager /designee** (Contract Administrator), to provide the services required by this Agreement.

1.2. **Key Staff.** This Contract has been awarded to CONTRACTOR based partially on the key personnel proposed to perform the services required herein. CONTRACTOR shall not change nor substitute any of these key staff for work on this Contract without prior written approval by CITY.

1.3. **Subcontractors.** During the performance of the Agreement, CONTRACTOR may engage such additional SUBCONTRACTORS as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with CONTRACTOR.

1.4. **Subcontracts.** CONTRACTOR shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of CITY. The subcontract shall incorporate by reference the terms and conditions of this Contract.

2. SCOPE OF WORK: CONTRACTOR shall conduct a facility review and expansion feasibility study for the Chandler Center for the Arts all as more specifically set forth in the Scope of Work, labeled Exhibit A, attached hereto and made a part hereof by reference and as set forth in the Scope of Work and details included therein.

2.1. **Non-Discrimination.** The CONTRACTOR shall comply with State Executive Order No. 99-4 and all other applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.

2.2. **Licenses.** CONTRACTOR shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by the CONTRACTOR as applicable to this contract.

2.3. **Advertising, Publishing and Promotion of Contract.** The CONTRACTOR shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the CITY.

2.4. **Compliance With Applicable Laws.** CONTRACTOR shall comply with all applicable Federal, state and local laws.

3. ACCEPTANCE AND DOCUMENTATION: Each task shall be reviewed and approved by the Contract Administrator to determine acceptable completion.

- 3.1. **Records.** The CONTRACTOR shall retain and shall contractually require each SUBCONTRACTOR to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.
- 3.2. **Audit.** At any time during the term of this Contract and five (5) years thereafter, the CONTRACTOR'S or any SUBCONTRACTOR'S books and records shall be subject to audit by the City to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, the CONTRACTOR shall produce a legible copy of any or all such records.
- 3.3. **Property of CITY.** Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of CITY. CONTRACTOR is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. CONTRACTOR shall not use or release these materials without the prior written consent of CITY.
4. **PRICE:** CITY shall pay to CONTRACTOR an amount not to exceed \$62,720 for the completion of all Phase I work and services described herein, \$76,930 for the completion of all Phase II work, which sum shall include all costs or expenses incurred by CONTRACTOR, payable as set forth in Exhibit B, attached hereto and made a part hereof by reference. Should the City Manager/designee, at his option, determine that Phase III is in the best interest of the CITY, a Contract Amendment will be executed by the CITY in an amount not to exceed \$99,960.
- 4.1. **IRS W9 Form.** In order to receive payment CONTRACTOR shall have a current I.R.S.W9 Form on file with CITY, unless not required by law.
5. **TERM:** The work (Phases I and II) must be completed within seventeen (17) weeks from the Notice to Proceed. See Project Timeline in Attachment A. Should the CITY execute a Contract Amendment for Phase III at its option, the Phase III work must be completed by the CONTRACTOR within twelve (12) weeks from the Notice to Proceed.
6. **CITY'S CONTRACTUAL REMEDIES:**
 - 6.1 **Right to Assurance.** If the City in good faith has reason to believe that the CONTRACTOR does not intend to, or is unable to perform or continue performing under this Contract, the Contract Administrator may demand in writing that the CONTRACTOR give a written assurance of intent to perform. Failure by the CONTRACTOR to provide written assurance within the number of Days specified in the demand may, at the City's option, be the basis for terminating the Contract in addition to any other rights and remedies provided by law or this Contract.
 - 6.2 **Stop Work Order.** The City may, at any time, by written order to the CONTRACTOR, require the CONTRACTOR to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the City after the order is delivered to the CONTRACTOR. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the CONTRACTOR shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
 - 6.2.1 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the CONTRACTOR shall resume work. The Contract Administrator shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
 - 6.3. **Non-exclusive Remedies.** The rights and the remedies of the City under this Contract are not exclusive.
 - 6.4. **Nonconforming Tender.** Services and materials supplied under this Contract shall fully comply with Contract requirements and specifications. Services or materials that do not fully comply constitute a breach of contract.

- 6.5. Right of Offset.** The City shall be entitled to offset against any sums due CONTRACTOR, any expenses or costs incurred by the City, or damages assessed by the City concerning the CONTRACTOR'S non-conforming performance or failure to perform the Contract, including expenses to complete the work and other costs and damages incurred by CITY.
- 7. TERMINATION:**
- 7.1 Termination for Convenience.** CITY reserves the right to terminate this Agreement or any part thereof for its sole convenience with thirty (30) days written notice. In the event of such termination, CONTRACTOR shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and SUBCONTRACTORS to cease such work. As compensation in full for services performed to the date of such termination, the CONTRACTOR shall receive a fee for the percentage of services actually performed. This fee shall be in the amount to be mutually agreed upon by the CONTRACTOR and CITY, based on the agreed Scope of Work. If there is no mutual agreement, the **Management Services Director** shall determine the percentage of work performed for each task detailed in the Scope of Work and the CONTRACTOR'S compensation shall be based upon such determination and CONTRACTOR'S fee schedule included herein.
- 7.2 Termination for Cause.** CITY may, upon written notice, terminate this Agreement for CONTRACTOR'S failure to comply with the terms of this Agreement.
- 8.1. Cancellation for Conflict of Interest.** Pursuant to A.R.S. § 38-511, CITY may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.
- 8.2. Gratuities.** CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by CONTRACTOR or a representative of CONTRACTOR to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by CONTRACTOR.
- 8.3. Suspension or Debarment.** CITY may, by written notice to the CONTRACTOR, immediately terminate this Contract if CITY determines that CONTRACTOR has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a SUBCONTRACTOR of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the CONTRACTOR is not currently suspended or debarred. If CONTRACTOR becomes suspended or debarred, CONTRACTOR shall immediately notify CITY.
- 8.4. Continuation of Performance Through Termination.** The CONTRACTOR shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.
- 8.5. No Waiver.** Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
- 9. FORCE MAJEURE:** Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of

war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.

- 10. ALTERNATE DISPUTE RESOLUTION:** Notwithstanding anything to the contrary provided elsewhere in the Contract documents, the alternate dispute resolution (ADR) process provided herein shall be the exclusive means for resolution of claims or disputes and other matters in question between the City and the CONTRACTOR arising out of, or relating to the Contract documents, interpretation of the Contract, or the performance of or the breach by any party thereto, including but not limited to, original claims or disputes asserted as cross claims, counterclaims, third party claims or claims for indemnity or subrogation, in any threatened or ongoing litigation or arbitration with third parties, if such disputes involve parties to contracts containing this ADR provision.
- 10.1. **Notice.** CONTRACTOR shall submit written notice of any claim or dispute to the Contract Administrator within thirty (30) days of the occurrence, event or disputed response from CITY for immediate resolution pursuant to these provisions. Each claim or dispute shall be submitted and resolved as it occurs and not postponed until the end of the Contract nor lumped together with other pending claims.
- 10.2. **Forfeiture.** Failure to submit a notice of any claim, dispute, or other issue within such thirty (30) days shall constitute CONTRACTOR'S forfeiture of its right to dispute the issue, raise the claim or make the request and shall also constitute CONTRACTOR'S agreement and acceptance of the CITY'S position.
- 10.3. **CITY Response.** The Contract Administrator will provide to CONTRACTOR a written response to any claim, request for clarification or dispute on or before thirty (30) days from receipt of CONTRACTOR'S written claim.
- 10.4. **Appeal.** If CONTRACTOR disagrees with the response of the Contract Administrator, within fifteen days of the date of the response by the Contract Administrator, CONTRACTOR shall file with the Contract Administrator, written notice of appeal. The Contract Administrator shall provide copies of all relevant information concerning the Contract and claim or dispute to the Assistant Management Services Director who will determine the appeal. The Assistant Management Services Director may request additional information from either party, may hold an informal informational hearing or may make the determination based on the information provided. The Assistant Management Services Director shall make a final determination of the appeal and provide written notice to CONTRACTOR within sixty (60) days from the date of CONTRACTOR'S written notice of appeal.
- 10.5. **Arbitration.** If CONTRACTOR is not satisfied with the determination of the Assistant Management Services Director, the following binding arbitration procedure shall serve as the exclusive method to resolve all unresolved disputes. If CONTRACTOR chooses not to accept the decision of the Assistant Management Services Director, CONTRACTOR shall notify the Contract Administrator in writing within ten (10) business days of receipt of the Assistant Management Services Director's decision of a request for arbitration. The CONTRACTOR shall post a cash bond with the Arbitrator in the amount of \$5,000, or a greater amount as determined by the Arbitrator, that will defray the cost of the arbitration as set forth in paragraph M, Fees and Costs, and proceeds from said bond shall be allocated in accordance with said paragraph by the Arbitrator.
- A. **Arbitration Panel:** The Arbitration Panel shall consist of the arbitrators selected by the parties involved in the dispute, (i.e., CITY will select one arbitrator, CONTRACTOR will select one arbitrator, and any other CONTRACTOR who has a contract with the CITY which contains this ADR provision and is a party to the same dispute will also select an arbitrator), and the foregoing arbitrators shall select a neutral Arbitrator who will hear the matter and make a final determination, as set forth herein.
- B. **Expedited Hearing:** The parties have structured this procedure with the goal of providing for the prompt and efficient resolution of all disputes falling within the purview of this ADR process. To that end, any party can petition the Arbitrator to set an expedited hearing if circumstances justify it. The Arbitrator shall contact the parties and schedule the arbitration at the earliest possible date. In any

event, the hearing of any dispute not expedited will commence as soon as practical, but in no event later than sixty (60) days after notification of request for arbitration having been submitted. This deadline can be extended only with the consent of all the parties to the dispute, or by decision of the Arbitrator upon a showing of emergency circumstances.

- C. **Procedure:** The Arbitrator shall conduct the hearing that will resolve disputes in a prompt, cost efficient manner giving due regard to the rights of all parties. Each party shall supply to the Arbitrator a written pre-hearing statement, which shall contain a brief statement of the nature of the claim or defense, a list of witnesses and exhibits, a brief description of the subject matter of the testimony of each witness who will be called to testify, and an estimate as to the length of time that will be required for the arbitration hearing. The Arbitrator shall determine the nature and scope of discovery, if any, and the manner of presentation of relevant evidence consistent with the deadlines provided herein, and the parties' objective that disputes be resolved in a prompt and efficient manner. No discovery may be had of privileged materials or information. The Arbitrator, upon proper application, shall issue such orders as may be necessary and permissible under law to protect confidential, proprietary, or sensitive materials or information from public disclosure or other misuse. Any party may make application to the Maricopa County Superior Court to have a protective order entered as may be appropriate to conform to such orders of the Arbitrator.
- D. **Hearing Days:** To effectuate the parties' goals, the hearing once commenced, will proceed from business day to business day until concluded, absent a showing of emergency circumstances.
- E. **Award:** The Arbitrator shall within ten (10) days from the conclusion of any hearing issue its award. The award shall include an allocation of fees and costs pursuant to the Binding Arbitration Procedure paragraph herein. Any award providing for deferred payment shall include interest at the rate of ten (10%) percent per annum. The award is to be rendered in accordance with the Contract and the laws of the State of Arizona.
- F. **Scope of Award:** The Arbitrator shall be without authority to award punitive damages, and any such punitive damage award shall be void. The Arbitrator shall also be without authority to issue an award against any individual party in excess of \$500,000, exclusive of interest, arbitration fees, costs, and attorney's fees. If an award is made against any individual party in excess of \$50,000, exclusive of interest, arbitration fees, costs and attorneys' fees, it must be supported by written findings of fact, conclusions of law and statement as to how damages were calculated.
- G. **Jurisdiction:** The Arbitrator shall not be bound for jurisdictional purposes by the amount asserted in any party's claim, but shall conduct a preliminary hearing into the question of jurisdiction upon application of any party at the earliest convenient time, but not later than the commencement of the arbitration hearing.
- H. **Entry of Judgment:** Any party can make application to the Maricopa County Superior Court for confirmation of any award and for entry of judgment on it.
- I. **Severance and Joinder:** To reduce the possibility of inconsistent adjudications, the Arbitrator, may at the request of any party, join and/or sever parties, and/or claims arising under other contracts containing this ADR provision, and the Arbitrator may, on his own authority, join or sever parties and/or claims subject to this ADR process as they deem necessary for a just resolution of the dispute, consistent with the parties' goal of the prompt and efficient resolution of disputes. Nothing herein shall create the right by any party to assert claims against another party not recognized under the substantive law applicable to the dispute. The Arbitrator is not authorized to join to the proceeding parties not in privity with the CITY.
- J. **Appeal:** Any party may appeal errors of law by the Arbitrator if, but only if, the errors arise in an award in excess of \$100,000; the exercise by the Arbitrator of any powers contrary to or inconsistent with the Contract; or any of the grounds provided in A.R.S. 12-1512. Appeals shall be to the Maricopa County Superior Court within fifteen (15) days of entry of the award. The standard of review in such cases

shall be that applicable to the consideration of a motion for judgment notwithstanding the verdict, and the Maricopa County Superior Court shall have the authority to confirm, vacate, modify or remand an award appealed under this section.

- K. **Uniform Arbitration Act:** Except as otherwise provided herein, binding arbitration pursued under this provision shall be governed by the Uniform Arbitration Act as enacted in Arizona in A.R.S. I2-1501, et. seq.
 - L. **Fees and Costs:** Each party shall bear its own fees and costs in connection with any informal hearing before the Assistant Management Services Director. All fees and costs associated with any arbitration before the Arbitrator, including without limitation, the Arbitrator's fees, the prevailing party's attorneys' fees, expert witness fees and costs, will be paid by the nonprevailing party, except as provided for herein. The determination of prevailing and nonprevailing parties, and the appropriate allocation of fees and costs, will be included in the award by the Arbitrator.
 - M. **Equitable Litigation:** Notwithstanding any other provision of ADR to the contrary, any party may petition the Maricopa County Superior Court for interim equitable relief as necessary to preserve the status quo and prevent immediate and irreparable harm to a party or to ongoing work pending resolution of a dispute pursuant to ADR provided for herein. No court may order any permanent injunctive relief except as may be necessary to enforce an order or award entered by the Arbitrator. The fees and costs incurred in connection with any such equitable proceeding shall be determined and assessed in ADR.
- 11. INDEMNIFICATION:** To the fullest extent permitted by law, CONTRACTOR shall defend, indemnify and hold harmless the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees individually and collectively; from and against all losses, claims, suits, actions, payments and judgments, demands, expenses, damages, including consequential damages and loss of productivity, attorney's fees, defense costs, or actions of any kind and nature relating to, arising out of, or alleged to have resulted from CONTRACTOR'S work or services. CONTRACTOR'S duty to defend, hold harmless and indemnify the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees shall arise in connection with any claim or amounts arising or recovered under Worker Compensation Laws, damage, loss or expenses relating to, arising out of or alleged to have resulted from any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of CONTRACTOR, anyone directly or indirectly employed by them or anyone for whose acts CONTRACTOR may be liable, regardless of whether it is caused in part by a party indemnified hereunder, including the City of Chandler. IT IS THE INTENTION OF THE PARTIES to this contract that the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees, individually and collectively, are to be indemnified against their own negligence unless and except their negligence is found to be the sole cause of the injury to persons or damages to property. 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.
- 12. INSURANCE:**
- 12.1. Insurance Representations and Requirements:**
- A. CONTRACTOR, at its own expense, shall purchase and maintain insurance of the types and amounts required in this section, with companies possessing a current A.M. Best, Inc. rating of B++6, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY.
 - B. Policies written on a "Claims made" basis are not acceptable without written permission from the City's Risk Manager.

- C. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this 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 and may result in termination of this contract.
- D. If any of the insurance policies are not renewed prior to expiration, payments to the CONTRACTOR may be withheld until these requirements have been met, or at the option of the City, the City may pay the Renewal Premium and withhold such payments from any monies due the CONTRACTOR.
- E. All insurance policies, except Workers' Compensation required by this Agreement, and self-insured retention or deductible portions, shall name, to the fullest extent permitted by law for claims arising out of the performance of this contract, the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insureds.
- F. CONTRACTOR'S insurance shall be primary insurance over any insurance available to the CITY and as to any claims resulting from this contract, it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.
- G. The insurance policies, except Workers' Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against CITY, its agents, representatives, officers, directors, officials and employees for any claims arising out of CONTRACTOR'S acts, errors, mistakes, omissions, work or service.
- H. The insurance policies may provide coverage, which contain deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall be assumed by and be for the account of, and at the sole risk of CONTRACTOR. CONTRACTOR shall be solely responsible for the deductible and/or self-insured retention. The amounts of any self-insured retentions shall be noted on the Certificate of Insurance. CITY, at its option, may require CONTRACTOR to secure payment of such deductibles or self-insured retentions by a Surety Bond or an irrevocable and unconditional letter of credit. Self-insured retentions (SIR) in excess of \$25,000 will only be accepted with the permission of the Management Services Director/Designee.
- I. All policies and certificates shall contain an endorsement providing that the coverage afforded under such policies shall not be reduced, canceled or allowed to expire until at least thirty (30) days prior written notice has been given to CITY.
- J. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the CONTRACTOR with reasonable promptness in accordance with the CONTRACTOR'S information and belief.
- K. In the event that claims in excess of the insured amounts provided herein, are filed by reason of any operations under this contract, the amount of excess of such claims, or any portion thereof, may be withheld from payment due or to become due the CONTRACTOR until such time as the CONTRACTOR shall furnish such additional security covering such claims as may be determined by the CITY.

12.2. **Proof of Insurance – Certificates of Insurance**

- A. Prior to commencing work or services under this Agreement, CONTRACTOR shall furnish to CITY Certificates of Insurance, issued by CONTRACTOR'S insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Agreement are in full force and effect and obtain from the City's Risk Management Division approval of such Certificates.
- B. If a policy does expire during the life of this Agreement, a renewal certificate must be sent to the City of Chandler five (5) days prior to the expiration date.

- C. All Certificates of Insurance shall identify the policies in effect on behalf of CONTRACTOR, their policy period(s), and limits of liability. Each Certificate shall include the job site and project number and title. Coverage shown on the Certificate of Insurance must coincide with the requirements in the text of the contract documents. Information required to be on the certificate of Insurance may be typed on the reverse of the Certificate and countersigned by an authorized representative of the insurance company.
- D. REQUIRED 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/or endorsements. CITY shall not be obligated, however, to review same or to advise CONTRACTOR of any deficiencies in such policies and endorsements, and such receipt shall not relieve CONTRACTOR from, or be deemed a waiver of CITY'S right to insist on, strict fulfillment of CONTRACTOR'S obligations under this Agreement.

12.3. Coverage

- A. Such insurance shall protect CONTRACTOR from claims set forth below which may arise out of or result from the operations of CONTRACTOR under this Contract and for which CONTRACTOR may be legally liable, whether such operations be by the CONTRACTOR or by a SUBCONTRACTOR by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Coverage under the policy will be at least as broad as Insurance Services Office, Inc., policy form CG00011093 or equivalent thereof, including but not limited to severability of interest and waiver of subrogation clauses.
- B. Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
- C. Claims for damages because of bodily injury, occupational sickness or disease, or death of the CONTRACTOR'S employees;
- D. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the CONTRACTOR'S employees;
- E. Claims for damages insured by usual personal injury liability coverage;
- F. Claims for damages, other than to Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- G. Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; Coverage will be at least as broad as Insurance Service Office, Inc., coverage Code "I" "any auto" policy form CA00011293 or equivalent thereof.
- H. Claims for bodily injury or property damage arising out of completed operations;
- I. Claims involving contractual liability insurance applicable to the CONTRACTOR'S obligations under the Indemnification Agreement;
- J. Claims for injury or damages in connection with one's professional services;

12.4. Commercial General Liability - Minimum Coverage Limits.

The Commercial General Liability insurance required herein shall be written for not less than \$500,000 limits of liability or ten percent (10%) of the Contract Price, whichever coverage is greater. Any combination between general liability and excess general liability alone amounting to a minimum of \$1,000,000 per occurrence (or 10% per occurrence) and an aggregate of \$2,000,000 (or 20% whichever is greater) in coverage will be acceptable. The Commercial General Liability additional insured endorsement shall be as broad as the Insurance Services, Inc's (ISO) Additional Insured, Form

B, CG 20101001, and shall include coverage for CONTRACTOR'S operations and products, and completed operations.

12.5. Automobile Liability

CONTRACTOR 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 any owned, hired, and non-owned vehicles assigned to or used in performance of the CONTRACTOR'S work. Coverage shall be at least as broad as coverage code 1, "any auto", (Insurance Service Office, Inc. Policy Form CA 00011293, or any replacements thereof).

12.6. Worker's Compensation and Employer's Liability

CONTRACTOR shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over CONTRACTOR'S employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease coverage for each employee, and \$1,000,000 disease policy limit.

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

13. **NOTICES:** All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of the CITY		In the case of the CONTRACTOR	
Contract Administrator:	<u>Arts Center Manager</u>	Firm Name:	<u>Architekton</u>
Contact:	<u>Katrina Mueller</u>	Contact:	<u>Joseph Salvatore,</u> <u>Principal</u>
Mailing Address:	<u>PO Box 4008 – MS 201</u>	Address:	<u>464 S. Farmer Ave.,</u> <u>Ste. 101</u>
Physical Address:	<u>250 N. Arizona Avenue</u>	City, State, Zip	<u>Tempe, AZ 85281</u>
City, State, Zip	<u>Chandler, AZ 85225</u>	Phone:	<u>480-894-4637</u>
Phone:	<u>480-782-2676</u>	FAX:	<u>480-894-4638</u>
FAX:	<u>480-782-2684</u>		

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

14. CONFLICT OF INTEREST:

- 14.1. **No Kickback.** CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in CONTRACTOR'S proposal to the CITY.
- 14.2. **Kickback Termination.** CITY may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the CITY is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a CONTRACTOR to any other party to the Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when written notice from CITY is received by all other parties, unless the notice specifies a later time (A.R.S. §38-511).

14.3. **No Conflict:** CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

15. GENERAL TERMS:

15.1. **Entire Agreement.** This Agreement, including Exhibits A and B attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.

15.2. **Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.

15.3. **Assignment:** Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the CITY.

15.4. **Amendments.** The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the CONTRACTOR are violations of the Contract. Any such changes, including unauthorized written Contract Amendments shall be void and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on such changes.

15.5. **Independent CONTRACTOR.** The CONTRACTOR under this Contract is an independent CONTRACTOR. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

15.6. **No Parole Evidence.** This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

15.7 Authority: Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this
day of 20 .

FOR THE CITY OF CHANDLER

MAYOR

ATTEST:

City Clerk

Approved as to form:

City Attorney *JR*

FOR THE CONTRACTOR

By: _____
Signature

ATTEST: If Corporation

SEAL _____
Secretary

EXHIBIT A SCOPE OF WORK

Scope Of Work

CONTRACTOR shall perform and provide to CITY a multi-phase study and may use subcontractors for additional expertise if CONTRACTOR so desires. The first phase (Phase I), consists of a facility review study of the Chandler Center for the Arts to assess functionality of existing equipment and to recommend a capital replacement schedule.

The second phase (Phase II), consists of an expansion feasibility study to determine the need for expansion of cultural facilities in Chandler. CONTRACTOR shall provide a realistic assessment of prospective facility use and community interest in expanded cultural facilities in Chandler and define suitable configurations for meeting these needs and interests.

Following the evaluation of phase two results, at the option of the Advisory Committee, phase three (Phase III) will consist of the CONTRACTOR defining a recommended building program, financial projections for construction and operation, and staffing recommendations.

Description of CONTRACTOR Tasks:

1. Phase I, Facility Review Study

The CONTRACTOR shall review the Chandler Center for the Arts facility, take measurements where required, photograph existing conditions in detail, review current facility improvement plan and make recommendations for any additions, verify and note interior finishes and their condition, verify and note mechanical, electrical, security and life safety systems and their condition, etc., for the following areas:

a) FIRE ALARM SYSTEM

- i. Review existing system for code compliance.
- ii. Make recommendations as needed to meet current codes.

b) SECURITY SYSTEM

- i. Review alarm system for functionality.
- ii. Review smoke hatch control system.
- iii. Make recommendations for upgrades or improvements including relocation and redesign of security control systems as well as changing from "zone" reporting to specific doors. Also to expand the system to cover exterior doors that are not currently attached to the system, and interior areas that require a higher level of security: visual arts storage, audio equipment, etc.

c) HVAC SYSTEM

- i. Review system and recommend possible modifications or replacement.
- ii. Review current energy management system and recommend modifications or replacement

d) THEATRICAL SYSTEMS

- i. Review rigging systems including the feasibility of changing to a counter-weight system.
- ii. Review stage power for road show equipment.
- iii. Review house and stage dimmer systems
- iv. Recommend replacement options as needed.

e) TURNTABLES

- i. Review functionality of Hal Bogle and Recital Hall turntables.
- ii. Recommend repairs or modifications as needed.

- f) INTERIOR AND EXTERIOR SIGNAGE
 - i. Review interior and exterior of facility and recommend signage options for identification, code compliance and way finding.

- g) REVIEW FINISHES, FURNISHINGS AND FIXTURES AND MAKE RECOMMENDATIONS FOR MAINTENANCE, IMPROVEMENTS AND CHANGES
 - i. Review maintenance related issues and any general materials that might negatively affect the positive image of the facility, or that have reached their useful life expectancy. In addition to interior features, this review shall also include exterior items such as the outdoor fountain, sidewalks, landscaping and lighting.
 - ii. Make recommendations for changes or replacement.

- h) EXHIBIT HALL/BOX OFFICE DESIGN
 - i. Review layout of existing exhibit hall and box office design.
 - ii. Develop and make recommendations for expansion options to include the need for improved exhibition space, a permanent box office and additional square footage for office, storage and possible classroom space.

- i) ORCHESTRA PIT DESIGN
 - i. Review existing orchestra pit and determine feasibility of adding a lift.
 - ii. Develop options for installing a pit lift. Estimate general cost of each option.

- j) GRAND PIANO STORAGE
 - i. Evaluate existing piano storage space at stage left and determine feasibility and options for relocation at stage-right area.

- k) SEATING
 - i. Review existing accessible seating design and distribution.
 - ii. Conduct material testing on underlying concrete to assess solidity
 - iii. Recommend modifications and/or seating products to better accommodate patrons with special needs.
 - iv. Investigate potential of adding seating by expanding the balconies or some other method.

- l) DEVELOP A CAPITAL REPLACEMENT SCHEDULE
 - i. Review preliminary plan developed by staff and establish a prioritized list of projects as related to safety and functionality of the facility.
 - ii. Provide a cost estimate for recommended work, broken down by project, in an Excel spreadsheet showing all items, location of items, description, quantity, unit, unit cost, total cost, project management mark-up factor, and project duration. Consultant shall also estimate an annual inflation percentage for budgeting purposes. Include life expectancy of major facility and theatrical systems.
 - iii. Note projects requiring facility closure and expected duration of closure.
 - iv. If facility closure requires complete vacancy, provide recommendations for temporary housing of staff and equipment, including options for continuing limited operations.

CONTRACTOR shall prepare a draft Chandler Center for the Arts Facility Review Study Report and present it to the Advisory Committee. CONTRACTOR shall then prepare a Final Report incorporating any necessary modifications.

2. Phase II, Expansion Feasibility Study

The CONTRACTOR shall conduct interviews, focus groups and meetings as needed to gather community needs, market data, user needs and comparable facility information as described in

sections a) – d) below; and shall make recommendations addressing the needs outlined in section e) below:

a) NEEDS ASSESSMENT

- i. Gather specific needs of citizens, arts groups, patrons of the arts, the City, and Chandler Unified School District relating to cultural facility amenities and desired programs.
- ii. Interview downtown business owners and members of the Downtown Chandler Community Partnership to determine the Center's role in the development of downtown and the Arizona Avenue and the Chandler Boulevard retail corridors, and how the Center's expansion might impact their business.
- iii. Interview community leaders to gain an understanding of the community's expectations in cultural facilities and to identify potential partnerships in facility development and use.
- iv. Interview local non-profit and service groups to assess need for civic meeting/banquet space.

b) MARKET ASSESSMENT

- i. Gather relevant data on the population and current arts audiences in Chandler and the surrounding market area; assess awareness level and perception of the Chandler Center for the Arts, attendance patterns, and barriers to attendance, etc.
- ii. Gather relevant data on benchmark facilities within 50 miles of the Chandler Center for the Arts to determine available dates for booking, number of events held annually, range of programs and facility amenities.
- iii. Determine if the Chandler Center for the Arts fills a niche in the arts market and if that niche has contributed to the Center's success. Determine the implications of expanding services or operational scope beyond that niche, if it exists.
- iv. Review activity and attendance at the Vision Gallery in historic downtown Chandler.

c) USER NEEDS

- i. Survey local and regional arts and cultural organizations to gather data on current audiences and programs, venues utilized, organizational data, needs for facilities, and financial information. Specific groups shall include, but are not limited to: Chandler Symphony, Ballet Etudes, Salt River Brass, Christian Dance Company and Phoenix Girls Chorus.

d) MODEL CASE STUDIES

- i. Conduct comparative studies of relevant cultural facilities in similar markets to identify issues related to cultural facility development that has been addressed by other communities.
- ii. Include funding matrix in model case studies, demonstrating how comparable cultural facilities are funded.

e) RECOMMENDATIONS

- i. Based on the above assessment findings, determine feasibility of expansion.
- ii. If expansion is warranted, identify the best approach for meeting the needs of the community, either through expansion of existing campus or through the creation of satellite location(s). Conversely, recommend whether existing satellite space, the Vision Gallery, should continue in its current downtown location or relocate to the main campus as part of the expansion. Identify advantages and disadvantages of each approach.
- iii. Recommend conceptual elements of expansion, i.e., addition of performance theatres, rehearsal space, etc., and estimated range of construction cost.

3. Phase III, Facility Planning (At option of the City—must be executed by Contract Amendment)

Based on the outcome of phase II, and if directed by the Advisory Committee, CONTRACTOR shall work with the appropriate stakeholder groups to create a facility development plan aligned with the results of the Phase II research. If required, CONTRACTOR shall assist the Advisory Committee in the required solicitation process to select and retain appropriate architectural services to address master planning and design aspects of facilities concepts. The CONTRACTOR shall perform the following:

a) BUILDING PROGRAM

- i. Determine physical space requirements along with site considerations and parking needs.
- ii. Prepare a functional building program that defines seating capacities, configuration, exhibit and educational facilities, public spaces, technical support facilities, offices and amenities such as food service or retail space.
- iii. Determine capability and impact of alcohol sales.

b) SITE ANALYSIS

- i. Based on the building program, determine if existing site is sufficient to accommodate the facilities and/or whether or not satellite locations should be considered.

c) PRELIMINARY CONCEPT AND DESIGN

- i. Prepare preliminary concept sketches based on site direction given by City.

d) COST ESTIMATE

- i. Prepare construction cost estimate based on recommended facilities. The estimate shall include construction, design fees, furnishings, equipment and owners' costs. Conduct an analysis of the impact on construction cost related to alternate location(s).

e) MANAGEMENT AND OPERATING ESTIMATES

- i. Recommend ownership, governance and scheduling priority model to meet the needs identified in phase II.
- ii. Forecast schedule of activities and events that will take place in the facilities, with projection of income from operations, including ticket sales/admissions, rentals, fees, concessions and commissions. Projected concession income is to include the sale of alcoholic beverages.
- iii. Delineate appropriate staffing structure.
- iv. Forecast of revenues from ancillary services such as food and beverage service (to include wine and beer sales), retail, special programs, etc.
- v. Projection of operating expenses, including salaries, wages, benefits, payroll costs, advertising, administration, maintenance and repairs, utilities, presentation costs, equipment rental costs, insurance, overhead and capital reserves.
- vi. Analysis of net gain/loss based on all funding sources.

f) FUNDING ANALYSIS

- i. Prepare financial analysis and forecast documenting the project's capital and

annual operating needs.

- ii. Evaluate current funding model to determine its capacity to meet recommended expansion. Determine additional funding levels needed in order to accommodate the project's capital and annual operating needs.
- iii. Based on funding matrix developed from model case studies in section d) ii, identify and recommend a realistic mix of funding sources to accommodate the project's capital and annual operating needs.

4. Summary of Deliverables—the CONTRACTOR shall provide the following:

- a) PHASE I--FACILITY REVIEW REPORT - Provide a draft report, 36 copies, to the Advisory Committee for review and comment. After receipt of Advisory Committee comments, provide 36 copies of the final report.
- b) PHASE II--EXPANSION FEASIBILITY REPORT - Provide a draft report, 36 copies, to the Advisory Committee for review and comment. After receipt of Advisory Committee comments, provide 36 copies of the final report.
- c) PHASE III--FACILITY DEVELOPMENT PLAN (IF APPLICABLE) – Provide a draft plan, 36 copies, including drawings to the Advisory Committee for review and comment. After receipt of Advisory Committee comments, provide 36 copies of the final plan.

THE CONTRACTOR SHALL PERFORM THE CITY'S ABOVE REQUIREMENTS SPECIFICALLY AS FOLLOWS:

Method of Approach

Our design team was specifically “designed” to accomplish the individual tasks identified in the scope of work outline presented in the RFP. It may appear we have a large number of individual consultants but we have assembled the best team available for each task.

This proposal includes services required by the City of Chandler as outlined in Exhibit A “Scope of Work” whether implied below or not.

Project Management Approach

Project management is a key component of the design, technical and management triumvirate on which all project structures are based. We have structured our team and established our project plan to ensure that the City will receive the highest level of service and the most expedient project execution. We offer a detailed understanding of current arts practice and technology, as well as the ability to explore new solutions.

Our team will take a highly interactive and hands-on approach to working with the City and user group representatives. This collaboration goes well beyond facility assessment and engages the departments through the study and concept process. Taking the time to explain what we are doing and why we are doing it creates trust and buy-in. But most important, it gets people to envision how they can best utilize their space and helps them to think beyond their current operations.

From an overall organizational standpoint, our approach is to have a single point of contact: Tom Brown. His recent assignment providing design and construction administration services on the Tempe Center for the Arts project, and his team leadership and communication skills, makes him best suited to provide the City of Chandler with direct control of our activities for the entire project. Tom will collaborate with his team to address the needs of the entire facility and all who visit the site.

We intend to fill in related tasks that we feel may be necessary to provide the City of Chandler the best information necessary to make informed decision on their cultural facilities into the future. Below is our methodology to accomplish the Scope of Work on a point-by-point basis.

Phase 1 Facility Review Study

Generally our process for each of the systems listed is to provide Programming, Examination and Recommendations. In general terms for each our team will provide the following routine:

- **Programming:** Our team will meet with the city's personnel responsible for the operation and maintenance of these systems. They will document its design and operation history, its performance over the years, modifications made to it, positives and negatives of its operation.
- **Examination:** Our team will examine the system, run it through several trials, document its performance, identify positives and negative aspects, check the system for efficient use of manpower and technology, check the system against the current code requirements and documents system inadequacies.
- **Recommendations:** Our team will write a report documenting its findings from the above exercise and make recommendations to bring the system to state of the art standards, code compliance and to make it efficient in manpower utilization and automation.

Scope of Work Requirements—Phase I: Facility Review Study

Of course each system has its own unique characteristics that have effect on theatrical performances and art display. Aside from the general routine our team follows we pay specific attention to the follow items for each system:

1(a): Fire Alarm System

(Lead by Henderson Engineers Special Systems Division with Theatre Projects Consultants and Architekton)

Code requirements and technology for fire alarm systems have changed significantly over the last 25 years. The incidence of false alarms during performances and sudden auditory and visual impact on audiences during performances can lead to unsatisfactory audience experiences. Our team will review the existing systems with this in mind and make recommendations to bring the systems to current code requirements and eliminate false alarming conditions.

1(b): Security Systems

(Lead by Henderson Engineers Special Systems Division with Theatre Projects Consultants and Architekton)

If there is any are of building automation that has advances over the last 25 years, it is in security systems. Access control down to individual doors has become commonplace, economical and essential, especially in performance and art venues. We can anticipate recommendations for significant changes to the existing facilities to give the City and operators maximum flexibility in security control.

1(c): HVAC Systems

(Lead by Henderson Engineers Mechanical Systems Division with Theatre Projects Consultants and Architekton)

Mechanical systems are another area that has made dramatic advances in operating efficiencies and quiet operation. Again our goal is to provide your audience with the best performance experience. We are also looking for the center to use a lot less energy while doing so. We believe both are possible with today's technologies.

1(d): Theatrical Systems:

(Lead by Theatre Projects Consultants with Henderson Engineers, James Baudoin, Barton Myers Associates and Architekton)

There is no better lead for this effort in the world than Theatre Projects Consultants. Millie Dixon and her company will engage your group like no other, with hands on testing of your existing theatrical systems. She and James will work together anticipating the variety of performances the future hold for your facility. They will run all the equipment through trials while bringing their experience to bear on each piece. Some equipment will obviously be obsolete some may have life enough to see you into the future. Henderson and Barton Myers Associates will provide architectural and engineering oversight. Architekton will manage the process.

1(e): Turntables

(Lead by Theatre Projects Consultants with Henderson Engineers, James Baudoin, Barton Myers Associates and Architekton)

Theatre Projects Consultants and James Baudoin lead the study of these unique features. James has first hand knowledge of these turntables and will assist Millie Dixon in her review. Henderson and Barton Myers Associates will provide architectural and engineering oversight. Architekton will manage the process.

1(f): Interior and Exterior Signage

(Lead by Thinking Caps with Theatre Projects Consultants and Architekton)

Following our concept of providing the best consultants for the task, Thinking Caps will undertake this task. Not only are they experts at wayfinding and graphics but they do it with tremendous panache. Of course the new ADA requirements will be met but with style.

1(g): Finishes, Furnishings and Fixtures

(Lead by Theatre Projects Consultants with Barton Myers Associates)

Theatre Projects Consultants actually has several FFE models of various performing and cultural facilities in their databases while Barton Myers is an expert on fabrics and textiles. Regardless of the direction this project takes, one basic recommendation will be to renovate the appearance of the interior spaces to provide a fresh new look and to replace inefficient equipment. Theatre Projects Consultants has tried and true tools that will make this process easy for the City of Chandler.

1(h): Exhibit Hall/Box Office Design

(Barton Myers, James Baudoin and Theatre Projects Consultants will lead)

Art has moved into areas of expression that engage a variety of media. Modern exhibit spaces need to respond by seamlessly providing power, data and proper lighting. Flexibility is key. The existing space must be scrutinized to ensure it is viable for a variety of art media. Barton Myers is a master of analyzing and designing exhibit space so that the patron never is affected by the infrastructure supporting the art they are viewing.

James Baudoin will assist Theatre Projects Consultants in analyzing the box office function looking for ways to increase sales. Not only for the marketing perspective but through technology as well.

1(i): Orchestra Pit Design

(Lead by Theatre Projects Consultants with Barton Myers Associates)

Lift mechanisms have advanced significantly over the last 25 years. Many of which do not require deep shafts and make retrofit into existing theaters more feasible. Of course the lift must function flawlessly, effortlessly and silently. Theatre Projects Consultants will provide the City of Chandler with a variety of lift options to choose from but only after they have determined they will perform to their highest standards.

1(j): Grand Piano Storage

(Lead By Theatre Projects Consultants with Henderson and Barton Myers Associates)

Again Theatre Projects Consultants and Barton Myers Associates have the depth of experience of designing many grand piano storage rooms. They will analyze the room for environmental conditions using Henderson Engineers to humidification system analysis. They will also explore the physical storage and movement of the piano from the storage to the stage, rehearsal room and back. Ensuring the very expensive and fragile piece of equipment is never in danger of being damages.

1(k): Seating

(Lead By Theatre Projects Consultants with Henderson and Barton Myers Associates)

Again Theatre Projects Consultants and Barton Myers Associates have the depth of experience and databases on numerous theater seat manufacturer's specifications. They will examine the existing seating for optimal sightlines, durability, function, anchorage, fabric longevity, acoustic absorption. Proper compliance the ADA seating requirements for theaters will be documented or recommendations to bring the facility to full compliance will be made. Computer models may need to be developed studying the sightlines. All of these studies may result in re-raking the floor, which would involve removing the existing slabs.

1(l): Capital Replacement Schedule

(All Team Members)

Theatre Projects Consultants has done similar projects such as this in the past and have several models to base this schedule upon. The information contained there in provides dates when the work is most optimal, schedule of costs associated with the work and period of time this work should take. It will be an invaluable roadmap for the city to **follow when considering updating a replacement of their equipment and possible facilities.**

Additional scope element, Phase I(m): Review of Operations. **This exercise will allow us to evaluate the activity and operations of existing facilities and benchmark their performance, informing the next two phases of work. More specifically, it will provide an accurate basis for the development of an expanded operational model in Phase III of this study.**

I(m): Review of Operations

Activity Review: Review 7 years of activity, addressing the level and types of programs, attendance and financial performance (subject to our ability to access this information). This would include interviews with any current (and previous, if applicable) operators, board members or other volunteer leadership, past and current users and sponsors.

Financial Review: Review 7 years of financial performance based on the books and records of current (and past, if applicable) operators of the Chandler Center for the Arts and seeking out historical financial information (subject to our ability to access this information).

Comparable Facilities: Benchmark use and operational performance against comparable facilities. These comparable facilities would be located in busy markets of comparable size, be similarly situated within the community, and be of relative size and shape.

Presentation and Report: Deliver a report and present findings to the Client in conjunction with the presentation of the Expansion Feasibility Study (scope below).

The Expansion Feasibility Study will determine the fundamental feasibility of expanding the Chandler Center for the Arts, and describe any recommended additions/venues in terms of size, shape and purpose.

Scope of Work Requirements—Phase II: Expansion Feasibility Study

II(a): Needs Assessment

Materials Review: Review any previous studies on the Chandler-region arts market, arts activity and the need for cultural facilities, including plans for indoor or outdoor facilities for performance, production, exhibition or education. This would also include any Master Plans, community plans, or other studies done by the City or other community leadership groups.

Chandler-Community Goals: Assess community and regional goals based on the review of materials and interviews with community leaders including Downtown Chandler Community Partnership, Chandler Unified School District and key arts leaders. Understand the basic question of where the City, and arts, community and business leaders want Chandler – specifically downtown – to be in five, ten and twenty years. Then determine if and how expanded arts facilities can play a role in the achievement of those goals, addressing such issues as economic impact, educational opportunities and cultural tourism.

Community Buy-in and Public Forums: Work with Chandler Center leadership to develop and manage a plan for community awareness and buy-in, including a series of Public Forums held intermittently through the project, designed to solicit input and generate community interest,

opinion and support. These forums would be advertised in advance by the City and held in City facilities, ideally within the Chandler Center for the Arts or a large public meeting room.

II(b): Market Assessment

Market Area Definition: Test the definition of the proposed facility's market areas (primary and secondary) by performing a mapping analysis based on address lists provided by the Chandler Center for the Arts or key performing arts organizations that use the Center.

Market Area Demographic and Lifestyles Analysis: Conduct a demographic and lifestyles analysis of the market area, focusing on characteristics associated with cultural participation. Discuss the area in terms of its size and quality for supporting cultural programs, including:

- **demographic analysis:** Demographic indicators of cultural participation, including population, households with children, numbers of households in certain income cohorts, and numbers of adults with college education.
- **audience estimate:** Infer audience size based on participation rates from the National Endowment for the Arts Survey of Public Participation in the Arts, including a discussion of participation rates for various racial/ethnic groups.
- **potential support for community arts programs:** Discuss the potential support for participatory arts programs for children and adults (i.e., classes, community dance, community theater, etc.), in light of a national trend towards more active, participatory engagement.
- **summary:** Synthesize the data and contrasting existing activity levels for cultural groups vs. potential activity levels.

Regional Facility Assessment: Consider the use and evaluate the condition of other existing performing facilities in the immediate region to suggest how well they serve audiences, users and the community, and to identify gaps in that inventory. Also consider the impact of expanded facilities on the market and operation of existing facilities. This would include facilities within a 50-mile radius, and other significant regional facilities.

II(c): User Needs

Arts Community Assessment: Meet with representatives of key arts organizations in Chandler, including current users of the Center as well as any others identified as potential users or stakeholders, to assess:

- The history of attendance, funding and growth
- Their demand for more or different facilities
- Their capacity to grow, expand and work together
- Their capacity to afford expanded facilities
- The leadership and funding of the arts

Other Facility Uses and Users: Meet individually or in a workshop setting with businesses, independent artists, regional presenters, entertainment providers, facility operators, educators, and community leaders to assess their demand for facilities (cultural, social, business, etc.) and potential levels of use. This would include sessions with Chandler Unified School District.

II(d): Model Case Projects

Comparable Projects: Research facilities similar to the Chandler Center for the Arts in communities with parallels to Chandler, particularly in the rapidly growing Southwest and those with strong City-School District partnerships. Key areas of research include history of the arts and arts development (infrastructure, facilities, funding), programming, capacity and market potential, development models (funding included), governance, formation of partnerships and the relative strength of the arts communities.

II(e): Recommendations

Facility Concept: Based on the analysis described above, provide conclusions and recommendations on if expansion is viable and what that expansion should include. Describe the size, shape and combination of facilities recommended, what programs they would support, and how they would be used by local, regional and touring users.

Workshop One and Report: Present and discuss the findings and recommendations of Phase II to the Client, Advisory Committee and other constituents in a workshop setting. Incorporate feedback and deliver a report including all findings, conclusions and recommendations. Assist the client in the evaluation of possible directions for the project.

Report and Presentation: Present the findings and recommendations of Phase II and deliver a report including all findings, conclusions and recommendations. Assist the client in the evaluation of possible directions for the project.

Development of a preliminary business plan that suggests how recommended facilities should be owned and operated, projects their financial performance, and begins the process of understanding available funding scenarios. This work would be completed alongside the physical planning in order that key decisions are made with reference to physical, operational and financial perspectives.

Scope of Work Requirements—Phase III: Facility Planning

III(a): Building Program

Publish a Project Programming Guide to include design narrative, general program spreadsheet listing the major spaces and the required support spaces, specific program spreadsheet including the name of the space, capacities, area allotment, critical dimensions, grossing factors, equipment lists, etc.

III(b): Site Analysis

Understand the site's inherent acoustic levels and ground characteristics essential to creating performance spaces. Determine the effects of noise generators by conducting a acoustic study of the site using ultra-sensitive sound measuring equipment. Provide written report on findings and make sure recommendations for shell construction ensures acoustic levels are within performance ranges.

III(c): Preliminary Concept and Design

Conduct workshops to refine building program based upon site analysis. Develop site plan, building elevations, sections, floor plans, ceiling plans, theater plans in various configurations, rehearsal room plan, fire protection and ADA compliance concept plans, exiting plans, traffic flow plans (mass exiting after shows, service vehicles, fire access, patron access), study models, acoustical review of design, equipment list, possible material palettes, and interior and exterior computer renderings. All user

groups, maintenance staff, management staff, and Foundation members to be in attendance at workshops.

III(d): Cost Estimate

Summarize general spaces, their areas, the general grossing factor, and probable cost per square foot value. Spread sheet will be developed based on the information gathered describing all theater, acoustic, audio, equipment allocations, site development, and parking.

III(e): Management and Operating Estimates

Define Goals and Practices: Define the vision and operating goals for Center and proposed expansion, covering such areas as community access, cost-recovery objectives and maximizing community benefits.

Activity Profile: Prepare an activity profile for the expanded facilities, listing types and levels of use by art and cultural organizations, educators, School District and other specific groups, including the identification of non-arts related uses.

Governance and Operations: Propose an operating model for expanded facilities, addressing ownership, governance, staffing requirements, and operating issues such as community access, scheduling and public events.

The Building and the Organization: Address the basic challenge of understanding what is required for the Center to succeed and work with the Client to develop a path to opening of expanded facilities. This effort would consider the following components:

Facility Management Plan: Propose how the Center should be operated in such areas as ticketing, facility repairs and maintenance, safety, the internal management of outside rentals, booking horizons, front of house operations, production management, capital planning, financial systems and controls, concessions and other services to address the needs identified in previous phases of work.

Staffing Plan: Identify staffing requirements for the expansion, considering any needs for the development of programming, audiences, fundraising, and community relations. Set compensation ranges for those positions and recommend hiring dates relative to the development and opening of the expansion.

Pro-forma Operating Budget: Construct a pro-forma operating budget for five years of operations, starting the year before expanded facilities open and extending through the fourth year of operation, identifying all sources of operating revenues and expenses, an appropriate capital reserve and the likely result of operations. This will include concessions,

III (f): Funding Analysis

Funding Options: Examine the current funding model and develop a preliminary strategy to pursue funds for the construction and continuing operation of expanded facilities from identified sources, including local and regional government, federal government, corporations, foundations and individuals. Offer preliminary guidance on the creation of a funding plan, and how to use the study as a fundraising tool.

Workshop Two & Presentation: Present and discuss the findings and recommendations of Phase III to the Client, Advisory Committee and other constituents in a workshop setting. Incorporate feedback and deliver a final report including all findings, conclusions and recommendations.

Final Report & Presentation: Present the findings and recommendations of the study and deliver a final report including all findings, conclusions and recommendations.

Contractor, Subcontractors and Key Personnel

Architekton—Contractor

Key Personnel—Joseph Salvatore, Tom Brown

Barton Myers Associates—subcontractor

Key Personnel—Barton Myers, John Kane, Peter Rutti

Theatre Project Consultants—subcontractor

Key Personnel—Millie Dixon, John Coyne, Michael Nishball

Webb Management—subcontractor

Key Personnel—Duncan Webb, Carrie Blake

Davis Langdon—subcontractor

Key Personnel—Rick Lloyd

Henderson Engineers—subcontractor

Key Personnel—Rich Smith, Marcus Sanchez, Omid Mottahed, Doug Weis, Darrell Stein, Julie Pierce, Mark Maurer

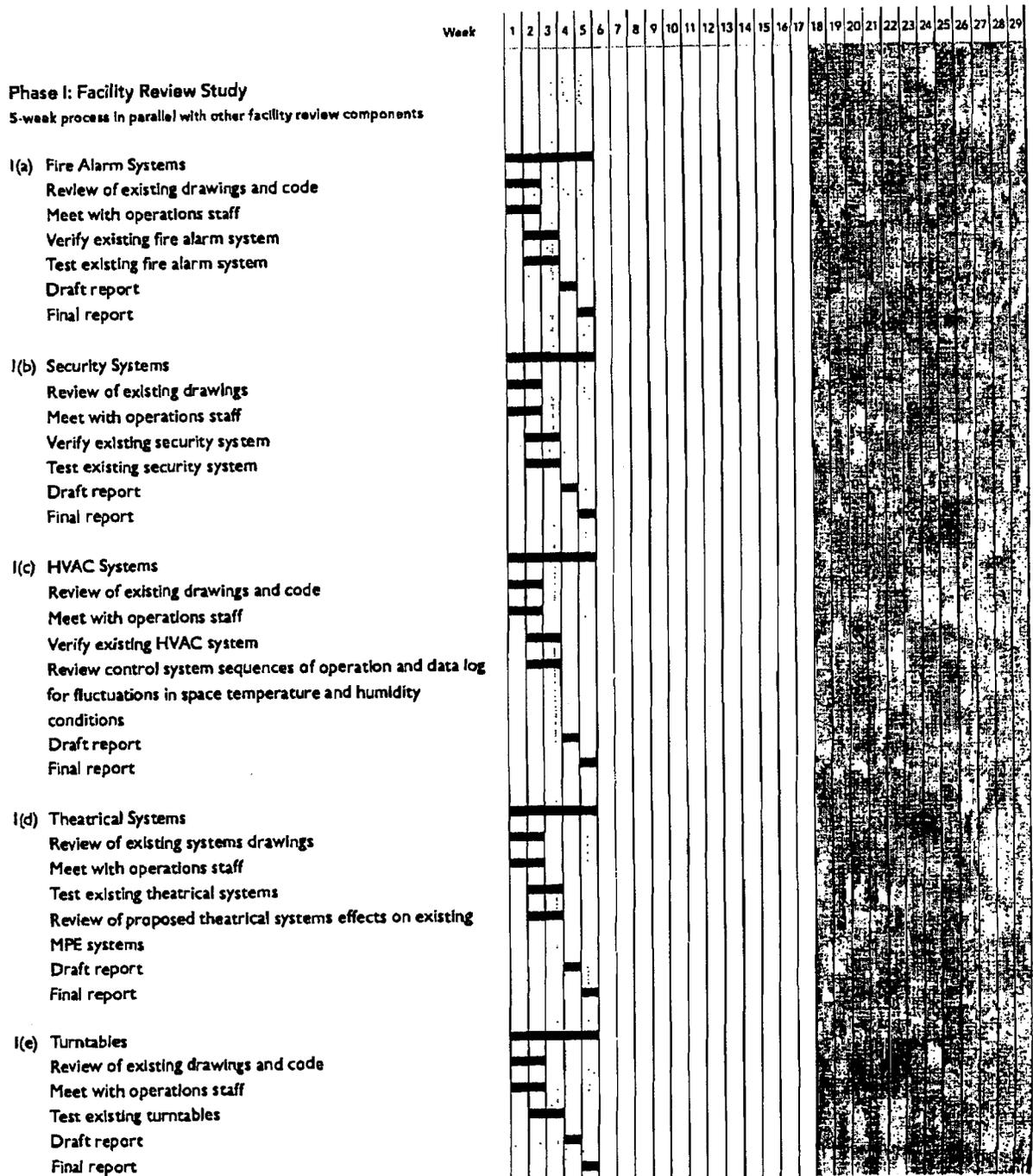
Thinking Caps—subcontractor

Key Personnel—Julie Hensen

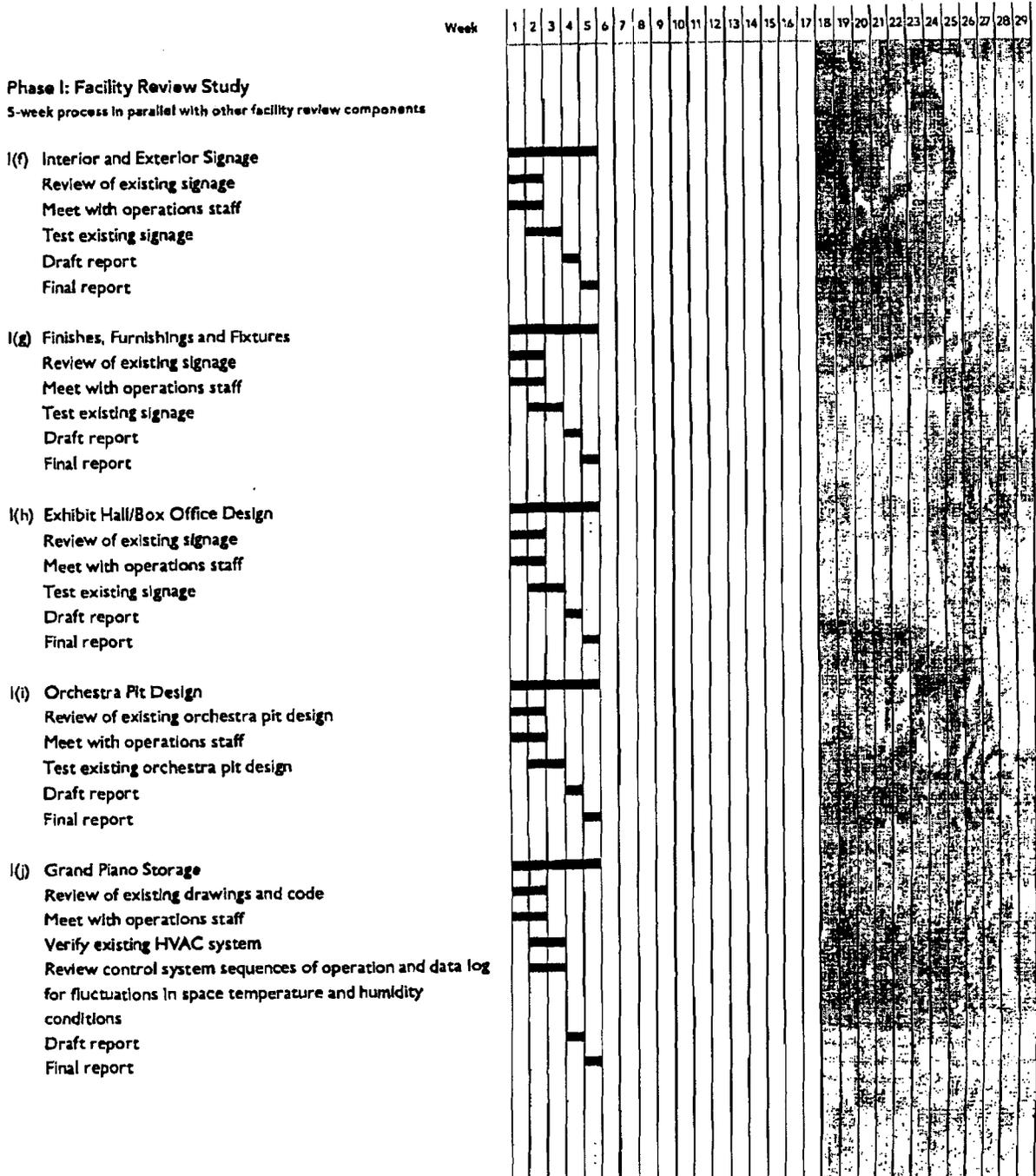
James Baudoin, Consultant

PROJECT TIMELINE

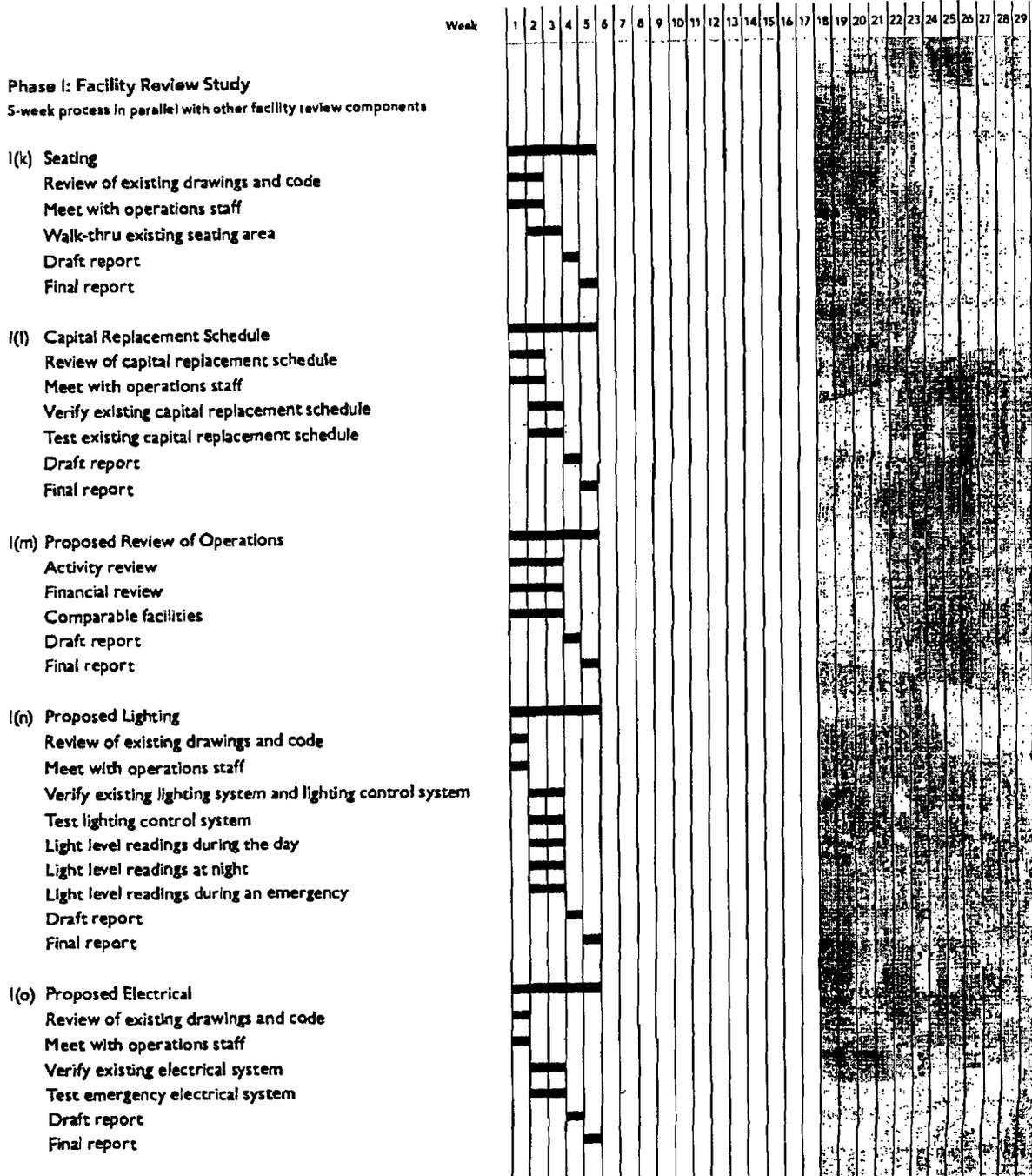
Work Schedule



Work Schedule



Work Schedule



Work Schedule

Phase II: Expansion Feasibility Study
 12-week process to begin at conclusion of Facility Review Study

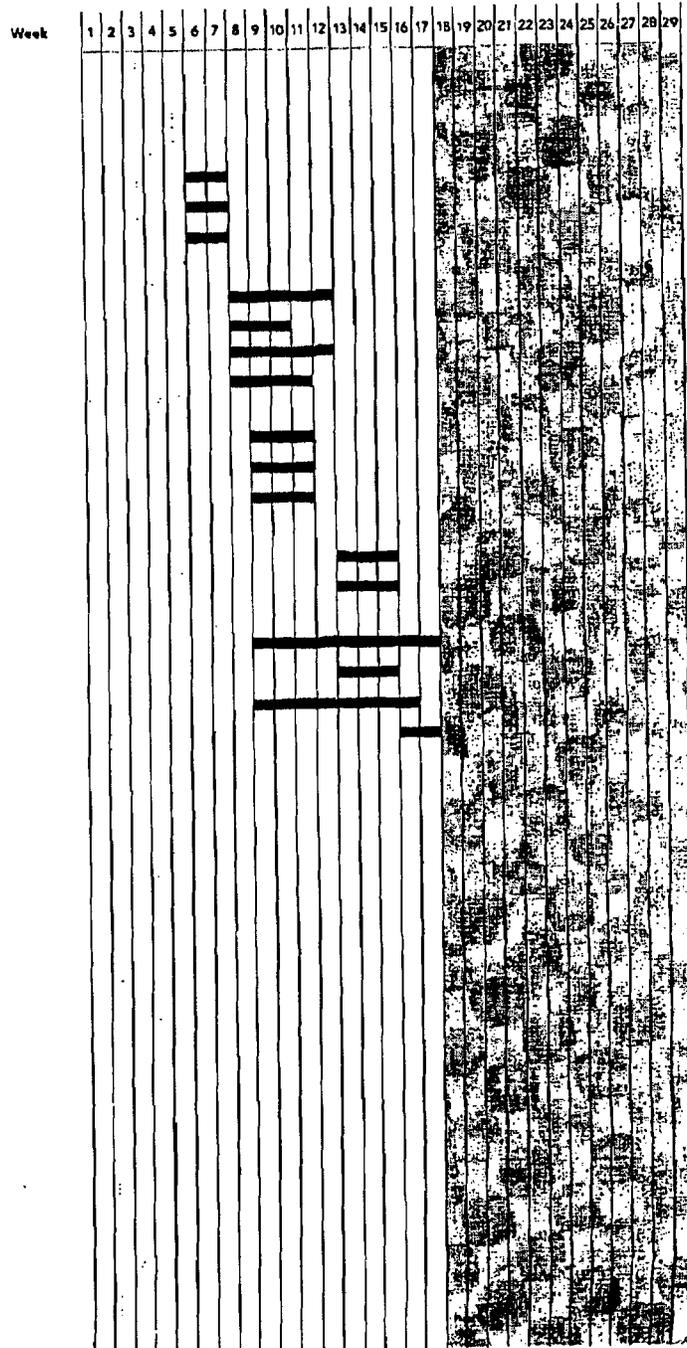
II(a) Needs Assessment
 Materials review
 Chandler community goals

II(b) Market Assessment
 Market area definition
 Demographic/lifestyles analysis
 Regional facility assessment

II(c) User Needs
 Arts community assessment
 Other facility uses and users

II(d) Model Case Projects
 Comparable projects

II(e) Recommendations
 Facility concept
 Draft report
 Report and presentation



**EXHIBIT B
PRICING**

PHASE I Not to exceed amount of \$62,720

PHASE II Not to exceed amount of \$76,930

PHASES I and II—total not to exceed amount of \$139,650

PHASE III, at the option of the City Manager/designee—Not to exceed amount of \$99,960

PHASES I, II and III—Not to exceed amount of \$239,610