Chandler · Arizona Where Values Make The Difference	**PURCHASING ITEM FOR COUNCIL AGENDA**	**1. Agenda Item Number:** 18 **2. Council Meeting Date:** November 7, 2013

TO: MAYOR & COUNCIL	**3. Date Prepared:** October 22, 2013
THROUGH: CITY MANAGER	**4. Requesting Department:** City Manager

5. SUBJECT: Professional Services Agreement for Classification/Compensation Study for Citywide Information Technology (IT) related positions

6. RECOMMENDATION: Approval of Professional Services Agreement with Segal Company (Western States), Inc., for a Classification/Compensation Study for Citywide Information Technology (IT) related positions in an amount not to exceed $42,900.00.

7. BACKGROUND/DISCUSSION: City staff is seeking assistance of Segal Company to perform a classification and compensation study for the Information Technology (IT) related positions citywide. The last classification study of Information Technology positions was conducted in 2002. There have been significant changes in technology as well as the organizational structure since then that warrant a comprehensive review. The project will cover 59 employees covered by 36 classifications. This study will also review positions in departments that perform information technology related tasks. Over the past few years, the City has moved to Enterprise systems and many of the job descriptions and titles are now outdated. Recruitment efforts have been challenging and at times, have been closed without a hire and re-opened several times before a hire can be made. City staff believes that an in-depth study of all IT positions coupled with updated job classifications and an evaluation of appropriate pay grades will improve recruitment and retention. The study is projected to be completed by December 31, 2013.

8. EVALUATION PROCESS: The City received proposals for the scope of work for this project from two consultants. Human Resources staff evaluated the responses received in accordance with established city policies and procedures and is recommending award to Segal Company due to their breadth of experience and qualifications in classification and compensation studies for Information Technology in both the public and private sector.

9. FINANCIAL IMPLICATIONS: Funds for this agreement have been appropriated in account 101.1290.5219, General Fund-Non-Departmental-Professional Services.

10. PROPOSED MOTION: Move to award Professional Services Agreement with Segal Company (Western States), Inc., for a Classification/Compensation Study for Citywide Information Technology (IT) related positions in an amount not to exceed $42,900.00.

ATTACHMENT: Agreement

APPROVALS

11. Requesting Department Stacey Hempleman, Sr Human Resources Analyst	**12. Department Head** Debra Stapleton, Human Resources Director
13. Procurement Officer Kristy Garcia, CPPB	**14. City Manager** Rich Dlugas

CITY OF CHANDLER
PROFESSIONAL SERVICES AGREEMENT

Project No. 3324-IT

Project Name: Classification/Compensation Study: Information Technology

THIS AGREEMENT is made and entered into this _____ day of _____, 2013, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and Segal Company (Western States), Inc., hereinafter referred to as "CONSULTANT".

WHEREAS, the Mayor and City Council of the City of Chandler is authorized and empowered by provisions of the City Charter to execute contracts for professional services; and

WHEREAS, CONSULTANT represents that CONSULTANT 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. To provide the professional services required by this Agreement CONSULTANT shall act under the authority and approval of the Human Resources Director or designee, (the Contract Administrator), who shall oversee the execution of this Agreement, assist the CONSULTANT with any necessary information, audit billings, and approve payments. The CONSULTANT shall channel reports and special requests through the Contract Administrator.

1.2. CITY reserves the right to review and approve any/all changes to CONSULTANT'S key staff assigned to the CITY project by the firm during the term of this Agreement.

2. SCOPE OF WORK: CONSULTANT shall provide those services described in Exhibit B attached hereto and made a part hereof by reference.

3. ACCEPTANCE AND DOCUMENTATION: Each task shall be reviewed and approved by CITY to determine acceptable completion. All documents, including but not limited to, data compilations, studies, and reports which are prepared in the performance of this Agreement, shall be and remain the property of CITY and shall be delivered to CITY before final payment is made to CONSULTANT.

4. FEE SCHEDULE: For the services described in paragraph 2 of this Agreement, CITY shall pay CONSULTANT a fee not to exceed the sum of Forty Two Thousand Nine Hundred dollars ($42,900.00) in accordance with the fee schedule attached hereto as Exhibit C and incorporated herein by reference.

5. TERM: Following execution of this Agreement by CITY, CONSULTANT shall immediately commence work and shall complete all services described herein by December 31, 2013.

6. TERMINATION:

6.1. Termination for Convenience: CITY reserves the right to terminate this Contract or any part thereof for its sole convenience with thirty (30) days written notice. In the event of such termination, CONSULTANT 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT's compensation shall be based upon such determination and CONSULTANT's fee scheduled included herein.

6.2 Termination for Cause: City may terminate this Contract for Cause upon the occurrence of any one or more of the following events:

1) If CONSULTANT fails to perform pursuant to the terms of this Agreement after having been provided with written notice of said failure and not less than ten days to cure same;

2) If CONSULTANT is adjudged a bankrupt or insolvent;

3) If CONSULTANT makes a general assignment for the benefit of creditors;

4) If a trustee or receiver is appointed for CONSULTANT or for any of CONSULTANT'S property;

5) If CONSULTANT files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws;

6) If CONSULTANT disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction;

7) Where Agreement has been so terminated by CITY, the termination shall not affect any rights of CITY against CONSULTANT then existing or which may thereafter accrue.

6.3. Availability of Funds for the next Fiscal Year. Funds may not presently be available under this agreement beyond the current fiscal year. No legal liability on the part of the CITY for services may arise under this agreement beyond the current fiscal year until funds are made available for performance of this agreement. The CITY may reduce services or terminate this agreement without further recourse, obligation, or penalty in the event that insufficient funds are appropriated. The City Manager shall have the sole and unfettered discretion in determining the availability of funds.

7. INSURANCE REQUIREMENTS: CONSULTANT shall provide and maintain the insurance as listed in Exhibit D attached hereto and made a part hereof by reference.

8. ENTIRE AGREEMENT: This Agreement 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.

9. ARIZONA LAW: This Agreement shall be governed and interpreted according to the laws of the State of Arizona.

9.1. Pursuant to the provisions of A.R.S. § 41-4401, the Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").

9.2. A breach of the Contractor Immigration Warranty (Exhibit A) shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.

9.3. The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.

9.4. The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verification.

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

9.6. In accordance with A.R.S. §35-393.06, the Contractor hereby certifies that the offeror does not have scrutinized business operations in Iran.

9.7. In accordance with A.R.S. §35-391.06 the Contractor hereby certifies that the offeror does not have scrutinized business operations in Sudan.

10. CONFLICT OF INTEREST:

10.1. No Kickback. CONSULTANT warrants that no person has been employed or retained to solicit or secure the 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 CONSULTANT'S proposal to the CITY.

10.2. 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 CONSULTANT to any other party to the Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when written notice for CITY is received by all other parties, unless the notice specifies a later time (A.R.S. 38-511).

10.3. No Conflict. CONSULTANT 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.

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

10.5. **Jurisdiction and Venue.** The parties agree that this Agreement is made in and shall be performed in Maricopa County. Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of Maricopa County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.

10.6. **Fees and Costs.** Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this Agreement is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication.

11. **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 City:
City of Chandler
Purchasing Division
P.O. Box 4008, Mail Stop 901
Chandler, AZ 85244-4008
480.782. 2400

In the case of CONSULTANT:
Segal Consulting
Carol Mercer, Vice President
1230 W. Washington St., Suite 501
Tempe, AZ 85281-1248
602.381.4045

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.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this ____ day of _____ 2013.

CITY OF CHANDLER

_____
Mayor Date

CONSULTANT

By: Carol L Mercer
Title: Vice President

APPROVE AS TO FORM

_____
City Attorney TM

ATTEST: If Corporation

_____
Secretary

ATTEST:

_____
City Clerk

SEAL

EXHIBIT A

Contractor Immigration Warranty
To Be Completed by Contractor Prior to Execution of Contract

A.R.S. § 41-4401 requires as a condition of your contract verification of compliance by the contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

By completing and signing this form the contractor shall attest that it and all subcontractors performing work under the cited contract meet all conditions contained herein.

Contract Number: 3324-IT Classification/Compensation Study: IT		
Name (as listed in the contract): Segal Consulting		
Street Name and Number: 1230 W. Washington St., Suite 501		
City: Tempe	**State: AZ**	**Zip Code: 85281-1248**

I hereby attest that:

1. The contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this contract;

2. All subcontractors performing work under this contract comply with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of their employees.

Signature of Contractor (Employer) or Authorized Designee:

Carol L. Mercer

Printed Name: Carol L. Mercer

Title: Vice President

Date (month/day/year): 10/30/13

EXHIBIT B
SCOPE OF WORK

Information Technology: Classification/Compensation Study

BACKGROUND/SCOPE

This project will cover 58 regular Information Technology employees covered by 36 classifications.

The City of Chandler has had several challenges with the current Information Technology classification titles and pay grades, including:

- The City has moved to Enterprise related systems and several of the job descriptions and job titles are now outdated.
- Human Resources and the Division have struggled over the past two years in their recruitment efforts to attract the right candidate based on our current classifications. There have been several occasions where recruitments have been closed without hire and then re-opened two to three times over the past few years.
- Information Technology Management staff indicated that there are employees in job classifications and pay grades higher than the employees "technical" abilities.
- In addition, Human Resources have found a need for varied "super-user" information technology classifications to be housed in Divisions and Departments outside of the IT Division with varied levels of skill sets.

WORK PLAN

PHASE I: Conduct Classification Study

Consultant shall assist City with job analysis and recommendations for a classification structure that reflects the current distinguishing characteristics, essential functions, working conditions, and minimum qualifications required to do the jobs, including knowledge and abilities, as well as the appropriate FLSA status.

In this phase, Consultant will take the following steps:

1. Analyze jobs based on PDQs received from the City
2. Conduct employee interviews either individually or in groups as determined appropriate
3. Make recommendations to update and create classification descriptions to reflect the distinguishing characteristics, essential functions, working conditions, and minimum qualifications required to do the job, including knowledge and abilities.
4. Determine new classification titles and map current titles to new titles, as needed

5. Conduct FLSA analysis and provide recommendation on exemption status

Phase II: Conduct Market Study

1. Verify matches and identify and collect compensation data for additional benchmark jobs as determined appropriate

2. Determine City's competitiveness compared to market data

3. Provide recommendations based on survey findings

Phase III: Prepare Final Recommendations and Report

In this phase, Consultant will prepare the final recommendations for the Project Team. Consultant will review at least the following elements:

- The background and reasons for the project
- The project's primary objectives and goals
- The methodology used to conduct our analysis
- The key findings and outcomes
- Recommendations, including potential implications of those recommendations

Consultant will prepare a draft for the Project Team's review, and then will finalize the document based on City comments and input.

EXHIBIT C
FEE SCHEDULE

Fees for this project shall not exceed $42,900 including charges for all professional, analytic, and administrative services, as well as all expenses associated with materials, supplies, overhead, and travel for all tasks outlined in the Scope of Work.

The fee shall be based on the CONSULTANT'S current hourly rates billed monthly for services rendered during the previous month and payable within thirty (30) days of the invoice date.

EXHIBIT D
INSURANCE REQUIREMENTS

Indemnification:

1. **Indemnification.** To the fullest extent permitted by law, CONSULTANT, its successors, assigns and guarantors, shall defend, indemnify and hold harmless City and any of its elected or appointed officials, officers, directors, commissioners, board members, agents or employees from and against that portion of any allegations, demands, claims, proceedings, suits, actions, damages, including, without limitation, property damage, environmental damages, personal injury and wrongful death claims, losses, expenses (including claim adjusting and handling expenses), penalties and fines (including, but not limited to, reasonable attorney fees, court costs, and the cost of appellate proceedings), judgments or obligations, incurred by or asserted against the City that result from any willful misconduct, negligent, acts, errors, or mistakes by CONSULTANT, or any of its subcontractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, in connection with the performance of this Agreement.

Insurance:

1. General.

A. At the same time as execution of this Agreement, the CONSULTANT shall furnish the City of Chandler a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY. Provided, however, the A.M. Best rating requirement shall not be deemed to apply to required Workers' Compensation coverage.

B. The CONSULTANT and any of its subcontractors, subconsultants or sublicensees shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.

C. The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.

D. The City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect CONSULTANT from liabilities that might arise out of the performance of the Agreement services under this Agreement by CONSULTANT, its agents, representatives, employees, subcontractors, sublicensees or subconsultants and the CONSULTANT is free to purchase any additional insurance as may be determined necessary.

E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve the CONSULTANT from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.

F. Use of SubContractors: If any work is subcontracted in any way, the CONSULTANT shall execute a written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the City requires of the CONSULTANT in this Agreement. The CONSULTANT is responsible for executing the

Agreement with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.

2. Minimum Scope And Limits Of Insurance. The CONSULTANT shall provide coverage with limits of liability not less than those stated below.

A. *Commercial General Liability-Occurrence Form.* CONSULTANT must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than $2,000,000 for each occurrence, $4,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent contractors, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

B. *Automobile Liability for Hired and Non-Owned Vehicles*
Vehicle Liability: CONSULTANT must maintain Business/Automobile Liability insurance with a limit of $1,000,000 each accident on CONSULTANT hired, and non-owned vehicles assigned to or used in the performance of the CONSULTANT's work or services under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance. CONSULTANT represents that it does not maintain any company-owned vehicles.

C. *Workers Compensation and Employers Liability Insurance*: CONSULTANT must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of CONSULTANT employees engaged in the performance of work or services under this Agreement and must also maintain Employers' Liability insurance of not less than $1,000,000 for each accident and $1,000,000 disease for each employee. This limit will be satisfied through a combination of named insurance and umbrella insurance.

D. *Professional Liability.* If the Agreement is the subject of any professional services or work performed by the CONSULTANT, or if the CONSULTANT engages in any professional services or work adjunct or residual to performing the work under this Agreement, the CONSULTANT must maintain Professional Liability insurance covering errors and omissions arising out of the work or services performed by the CONSULTANT, or anyone employed by the CONSULTANT, or anyone whose acts, mistakes, errors and omissions the CONSULTANT is legally liable, with a liability limit of $1,000,000 each claim and $2,000,000 all claims. In the event the Professional Liability insurance policy is written on a "claims made" basis, coverage must extend for 3 years past completion and acceptance of the work or services, and the CONSULTANT, or its selected Design Professional will submit Certificates of Insurance as evidence the required coverage is in effect.

3. Additional Policy Provisions Required.

A. *Self-Insured Retentions Or Deductibles.* Any self-insured retentions and deductibles must be declared and approved by the City. If not approved, the City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to the City, its officers, officials, agents, employees, and volunteers.

B. *City as Additional Insured.* The policies are to contain, or be endorsed to contain, the following provisions:

1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the CONSULTANT including the City's general supervision of the CONSULTANT; Products and Completed operations of the CONSULTANT; and automobiles leased, hired, or borrowed by the CONSULTANT.

2. The CONSULTANT's insurance must contain broad form contractual liability coverage.

3. The City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the CONSULTANT even if those limits of liability are in excess of those required by this Agreement.

4. The CONSULTANT's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, and employees shall be in excess of the coverage provided by the CONSULTANT and must not contribute to it.

5. The CONSULTANT's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. Coverage provided by the CONSULTANT must not be limited to the liability assumed under the indemnification provisions of this Agreement.

7. The policies must contain a severability of interest clause and waiver of subrogation against the City, its officers, officials, agents, and employees, for losses arising from Work performed by the CONSULTANT for the City.

8. The CONSULTANT, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of 3 years following completion and acceptance of the Work. The CONSULTANT must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this 3 year period containing all the Agreement insurance requirements, including naming the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insured as required.

9. If a Certificate of Insurance is submitted as verification of coverage, the City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the required policies expire during the life of this Agreement, the CONSULTANT must forward renewal or replacement Certificates to the City within 10 days after the renewal date containing all the necessary insurance provisions.