



**PURCHASING ITEM
FOR
COUNCIL AGENDA
Memo No. CA07-273**

1. Agenda Item Number:

41

2. Council Meeting Date:
June 14, 2007

TO: MAYOR & COUNCIL

3. Date Prepared: May 24, 2007

THROUGH: CITY MANAGER

4. Requesting Department: Public Works

5. SUBJECT: Award of a professional services contract to PinnacleOne for Utility Coordination of the AGL Networks Fiber Project, Project No. GG0604-101, in an amount not to exceed \$47,190.

6. RECOMMENDATION: Staff recommends that Council award a professional services contract to PinnacleOne for Utility Coordination of the AGL Networks Fiber Project, Project No. GG0604-101, in an amount not to exceed \$47,190.

7. BACKGROUND/DISCUSSION: On April 16, Council approved Ordinance 3786, authorizing the approval of an Agreement For The Use Of Public Property with AGL Networks to install, operate and maintain approximately 25 miles of underground optical fiber-based communications network in the City in areas of public right of way. As a condition of that agreement, AGL Networks has committed to install 18 miles of conduit and fiber for the City's traffic engineering system. AGL Networks will also prepay the City for the utility coordination staff to accommodate this project.

Due to the size of the fiber network project, City Staff will require supplemental utility coordination. This contract is to engage the services of PinnacleOne to supplement City staff. This consultant will provide utility coordination services for the City and operate under the supervision of the City's Development Project Administrator.

8. EVALUATION: The City selection process was developed in accordance with the state law for selecting professional services. The Engineering Project Manager, Joshua Plumb, reviewed three Statements of Qualifications from qualified firms in the City's Statement of Qualifications Log. The Project Manager recommended PinnacleOne for utility coordination services. Staff has reviewed the fee and the billing rates for this contract and determined that the fee is consistent with similar types of projects.

9. FINANCIAL IMPLICATIONS:

Cost: \$47,190
Savings: AGL Networks will prepay the City to fund the cost of utility coordination
Long Term Costs: N/A

Fund Source:

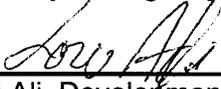
<u>Acct. No.:</u>	<u>Fund Name:</u>	<u>Program Name:</u>	<u>CIP Funded:</u>	<u>Amount:</u>
101.3020.0000.5219	General Fund	N/A	N/A	\$47,190

10. PROPOSED MOTION: Move that Council award a professional services contract to PinnacleOne for Utility Coordination of the AGL Networks Fiber Project, Project No. GG0604-101, in an amount not to exceed \$47,190, and authorize the Mayor to sign the contract documents.

ATTACHMENTS: Contract

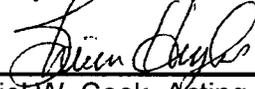
APPROVALS

11. Requesting Department



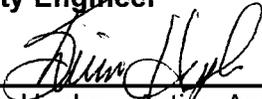
Lori Ali, Development Project Administrator/Utility Coordinator

13. Department Head



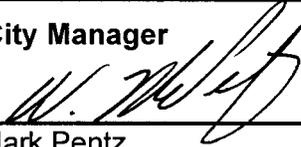
Daniel W. Cook, Acting Public Works Director

12. City Engineer



Sheina Hughes, Acting Assistant Public Works Director/City Engineer

14. City Manager



W. Mark Pentz

PROFESSIONAL SERVICES CONTRACT

Project Name: Utility Coordination on the AGL Networks Fiber Project

Project No. GG0604-101

THIS AGREEMENT is made and entered into this _____ day of _____, 2007, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and PinnacleOne, Inc., a Delaware Corporation, licensed to do business in Arizona, 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 City Engineer 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 A 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 Seven One Hundred Ninety Thousand dollars (\$47,190) in accordance with the fee schedule attached hereto as Exhibit B 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 within Sixty (60) calendar days from the date hereof.

6. **TERMINATION:** CITY reserves the right to terminate this Agreement or any part thereof for its sole convenience with fifteen (15) 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 subconsultants 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 completed.

7. **INDEMNIFICATION:** To the fullest extent permitted by law, CONSULTANT shall defend, indemnify and hold harmless the City of Chandler, its agents, representatives, officers, directors, officials and employees, individually and collectively, (hereinafter CoC) from and against all losses, claims, damages, suits, actions, payments, judgments, demands, expenses and costs, including, but not limited to, attorney's fees, defense costs, court costs, and the cost of appellate proceedings, or actions of any kind and nature, wages or overtime compensation due employees in rendering service under this Contract and whether to any person or property, including natural resources and any claim made under the Fair Labor Standards Act or any other federal or state laws, related to, arising out of, or alleged to have resulted from acts, errors, mistakes, omissions, work or services of the CONSULTANT, its employees, agents, or any tier of subconsultants in the performance of this Contract or of any other person for whose acts, errors, mistakes or omissions CONSULTANT may be legally liable, and from any claims or amounts arising or recovered under Workers' Compensation laws or any other law, bylaw, or ordinance, order or decree or any failure on the part of CONSULTANT, its agents, employees or representatives to fulfill CONSULTANT'S obligations under this Contract. IT IS THE INTENTION OF THE PARTIES to this contract that the CoC, 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 provisions of this paragraph shall survive termination of this Contract.

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

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

9. **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.

10. **CONFLICT OF INTEREST:** 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 Agreement.

Pursuant to A.R.S. Section 38-511, CITY may cancel this Agreement within three (3) years after its execution, without penalty or further obligation by CITY if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of CITY is, at any time while this Agreement is in effect, an employee of any other party to this Agreement in any capacity, or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement

- 11. **ARIZONA LAW:** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 12. **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
 Public Works/Contract Administration
 P.O. Box 4008, MS 407
 Chandler, AZ 85244-4008
 480.782.3307

In the case of CONSULTANT:
 Jeffrey A. Cook
 PinnacleOne
 1620 W. Fountainhead Pkwy, Ste. 202
 Tempe, AZ 85282

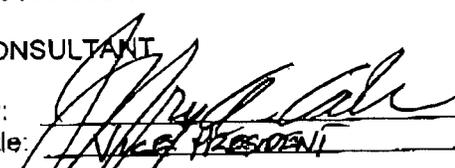
Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this
 day of _____ 2007.
 CITY OF CHANDLER

 MAYOR Date

ADDRESS FOR NOTICE
 City of Chandler
 P.O. Box 4008, Mail Stop 407
 Chandler, AZ 85244-4008
 480-782-3307

CONSULTANT

By: 
 Title: VICE PRESIDENT

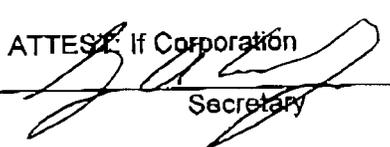
ADDRESS FOR NOTICE
 PinnacleOne
 1620 W. Fountainhead Pkwy, Ste. 202
 Tempe, AZ 85282

Phone: 480.394.0335

APPROVE AS TO FORM

City Attorney by: 

ATTEST: If Corporation


 Secretary

ATTEST:

 City Clerk

SEAL

EXHIBIT A SCOPE OF WORK

Project Understanding:

The City of Chandler has entered into a Telecommunications Fiber License Agreement with the firm of AGL Networks and is currently discussing a similar license agreement with another firm, Above-Net. These agreements allow the firms access and space within the City's public rights-of-way and public utility easements for the construction and provision of service to fiber optics infrastructure within the City of Chandler.

The City of Chandler proposes to use outside consulting services to assist in the utility coordination. The projected start of utility coordination is June 15 for duration of one to two months.

Scope of Work – Utility Coordination

1. CONSULTANT shall work under the general direction of the City of Chandler Development Project Administrator and provide 1 person on a full time basis for 1-2 months to review the plans and permits submitted for approval by AGL and Above-Net.
 - CONSULTANT shall facilitate red-line reviews and comments from various City departments including but not limited to: Traffic Engineering, Public Works, and Development Services, and submit to AGL and Above-Net for changes, corrections, or additions; determine the route of joint trench; and determine the age of pavement in the project area.

**EXHIBIT B
FEE SCHEDULE**

Cal. Year	CY 2007									HOURS	RATE	FEE
	A	M	J	J	A	S	O	N	D			
<i>Position</i>												
Senior Staff			\$8	\$8						\$16	\$140	\$2,240
Permit Review Coordinator			\$165	\$165						\$330	\$135	\$44,550
												\$0
												\$0
												\$0
												\$0
Hrs/Month	-	-	\$173	\$173	\$0	\$0	\$0	\$0	\$0	\$346	-	\$46,790
Fee/Month	\$0	\$0	\$23,395	\$23,395	\$0	\$0	\$0	\$0	\$0	-	-	
Expenses			\$200	\$200	\$0	\$0	\$0	\$0	\$0			\$400
Monthly total			\$23,595	\$23,595	\$0	\$0	\$0	\$0	\$0			\$47,190

EXHIBIT C
INSURANCE REQUIREMENTS

1. CONSULTANT, 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.
2. Policies written on a "Claims made" basis are not acceptable without written permission from the City's Risk Manager.
3. 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.
4. If any of the insurance policies are not renewed prior to expiration, payments to the CONSULTANT 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 CONSULTANT.
5. All insurance policies, except Workers' Compensation and Professional Liability 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.
6. CONSULTANT'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.
7. 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 CONSULTANT's acts, errors, mistakes, omissions, work or service.
8. 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 CONSULTANT. CONSULTANT 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 CONSULTANT 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..
9. 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.

10. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the CONSULTANT with reasonable promptness in accordance with the CONSULTANT's information and belief.
11. 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 CONSULTANT until such time as the CONSULTANT shall furnish such additional security covering such claims as may be determined by the CITY.

C.1 PROOF OF INSURANCE - CERTIFICATES OF INSURANCE

1. Prior to commencing work or services under this Agreement, CONSULTANT shall furnish to CITY Certificates of Insurance, issued by CONSULTANT's insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Agreement are in full force and effect and obtain from the City's Risk Management Division approval of such Certificates.
2. 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.
3. All Certificates of Insurance shall identify the policies in effect on behalf of CONSULTANT, 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.
4. 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 CONSULTANT of any deficiencies in such policies and endorsements, and such receipt shall not relieve CONSULTANT from, or be deemed a waiver of CITY's right to insist on, strict fulfillment of CONSULTANT's obligations under this Agreement.

C.2 REQUIRED COVERAGE

1. Such insurance shall protect CONSULTANT from claims set forth below which may arise out of or result from the operations of CONSULTANT under this Contract and for which CONSULTANT may be legally liable, whether such operations be by the CONSULTANT or by a Sub-consultant or subconsultant or 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.
2. Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
3. Claims for damages because of bodily injury, occupational sickness or disease, or death of the CONSULTANT's employees;

4. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the CONSULTANT's employees;
5. Claims for damages insured by usual personal injury liability coverage;
6. Claims for damages, other than to Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
7. 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.
8. Claims for bodily injury or property damage arising out of completed operations;
9. Claims involving contractual liability insurance applicable to the CONSULTANT's obligations under the Indemnification Agreement;
10. Claims for injury or damages in connection with one's professional services;
11. Claims involving construction projects while they are in progress. Such insurance shall include coverage for loading and off loading hazards. If any hazardous material, as defined by any local, state or federal authorities are to be transported, MCS 90 endorsement shall be included.

C.2.1 Commercial General Liability - Minimum Coverage Limits

The Commercial General Liability insurance required herein shall be written for not less than \$1,000,000 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 CONSULTANT's operations and products, and completed operations.

C.2.2 General Liability - Minimum Coverage Limits

The General Liability insurance required herein, including, Comprehensive Form, Premises-Operations, Explosion and Collapse, Underground Hazard, Products/Completed Operations, Contractual Insurance, Broad Form Property Damage, Independent CONSULTANTs, and Personal Injury shall be written for Bodily Injury and Property Damage Combined shall be written for not less than \$1,000,000 or 10% of the contract cost and with a \$2,000,000 aggregate.

C.2.3 Automobile Liability

CONSULTANT shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any owned, hired, and non-owned vehicles assigned to or used in performance of the CONSULTANT'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). Such insurance shall include coverage for loading and off loading hazards if hazardous substances, materials or wastes are to be transported and a

MCS 90 endorsement shall be included with coverage limits of \$5,000,000 per accident for bodily injury and property damage.

C.2.4 Worker's Compensation and Employer's Liability

CONSULTANT shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over CONSULTANT'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, CONSULTANT will require the subconsultant to provide Workers' Compensation and Employer's Liability to at least the same extent as required of CONSULTANT.

C.2.5 Professional Liability

CONSULTANT shall maintain Professional Liability insurance covering acts, errors, mistakes and omissions arising out of the work or services performed by DESIGN CONSULTANT, or any person employed by CONSULTANT, with a claims made policy limit of not less than \$1,000,000.