



# City of Glendale

5850 West Glendale Avenue  
Glendale, AZ 85301

## Voting Meeting Agenda City Council

*Mayor Jerry Weiers*  
*Vice Mayor Ian Hugh*  
*Councilmember Jamie Aldama*  
*Councilmember Joyce Clark*  
*Councilmember Ray Malnar*  
*Councilmember Lauren Tolmachoff*  
*Councilmember Bart Turner*

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Tuesday, February 28, 2017

6:00 PM

Council Chambers

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### Voting Meeting

One or more members of the City Council may be unable to attend the Council Meeting in person and may participate telephonically, pursuant to A.R.S. § 38-431(4).

#### **AMENDED VOTING MEETING AGENDA**

**On February 27, 2017 at 1:47 p.m., the agenda was amended to add an Executive Session.**

#### **CALL TO ORDER**

#### **ROLL CALL**

#### **POSTING OF COLORS**

#### **PLEDGE OF ALLEGIANCE**

#### **PRAYER/INVOCATION**

Any prayer/invocation that may be offered before the start of regular Council business shall be the voluntary offering of a private citizen, for the benefit of the Council and the citizens present. The views or beliefs expressed by the prayer/invocation speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the religious beliefs or views of this, or any other speaker. A list of volunteers is maintained by the Mayor's Office and interested persons should contact the Mayor's Office for further information.

#### **CITIZEN COMMENTS**

If you wish to speak on a matter concerning Glendale city government that is not on the printed agenda, please fill out a Citizen Comments Card located in the back of the Council Chambers and give it to the City Clerk before the meeting starts. The City Council can only act on matters that are on the printed agenda, but may refer the matter to the City Manager for follow up. When your name is called by the Mayor, please proceed to the podium. State your name and the city in which you reside for the record. If you reside in the City of Glendale, please state the Council District you live in (if known) and begin speaking. Please limit your comments to a period of three minutes or less.

**APPROVAL OF THE MINUTES OF FEBRUARY 14, 2017**

1. [17-066](#) APPROVAL OF THE MINUTES OF FEBRUARY 14, 2017 VOTING MEETING  
Staff Contact: Julie K. Bower, City Clerk  
**Attachments:** [Meeting Minutes of February 14, 2017](#)

**BOARDS, COMMISSIONS AND OTHER BODIES**

2. [17-049](#) APPROVE RECOMMENDED APPOINTMENTS TO BOARDS, COMMISSIONS & OTHER BODIES  
Staff Contact: Brent Stoddard, Director, Public Affairs  
Presented By: Councilmember Jamie Aldama

**CONSENT AGENDA**

Items on the consent agenda are of a routine nature or have been previously studied by the City Council. Items on the consent agenda are intended to be acted upon in one motion unless the Council wishes to hear any of the items separately.

3. [17-035](#) RECOMMEND APPROVAL OF SPECIAL EVENT LIQUOR LICENSE, RIDER RELIEF RESOURCES  
Staff Contact: Vicki Rios, Director, Budget and Finance  
**Attachments:** [Application](#)  
[Calls for Service](#)
4. [17-036](#) RECOMMEND APPROVAL OF SPECIAL EVENT LIQUOR LICENSE, LUMP BUSTERS  
Staff Contact: Vicki Rios, Director, Budget and Finance  
**Attachments:** [Application](#)  
[Calls for Service](#)
5. [17-014](#) RECOMMEND APPROVAL OF LIQUOR LICENSE NO. 5-22095, NINO'S MARKET  
Staff Contact: Vicki Rios, Director, Budget and Finance  
**Attachments:** [Map](#)  
[Calls for Service](#)
6. [17-039](#) RECOMMEND APPROVAL OF LIQUOR LICENSE NO. 5-22014, DOLCE VINO WINE BAR ITALIAN CUISINE  
Staff Contact: Vicki Rios, Director, Budget and Finance  
**Attachments:** [Map](#)  
[Calls for Service](#)
7. [17-046](#) AUTHORIZATION FOR THE EXPENDITURE OF FUNDS AND TO ENTER INTO A LINKING AGREEMENT WITH SHI INTERNATIONAL CORP., FOR SOFTWARE

Staff Contact: Chuck Murphy, Chief Information Officer, Innovation and Technology

**Attachments:** [Linking Agreement](#)

8. [17-057](#) AUTHORIZATION TO ENTER INTO AMENDMENT NO. 1 TO THE LINKING AGREEMENT C-11262 WITH ELITE SPORTS BUILDERS, LLC, THROUGH THE NATIONAL IPA/TCPN COOPERATIVE PURCHASING CONTRACT  
Staff Contact: Erik Strunk, Director, Public Facilities, Recreation and Special Events

**Attachments:** [Amendment No. 1](#)  
[Proposal #468-2](#)  
[Proposal #519](#)  
[Site Plan Map](#)

9. [17-050](#) AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH PRIMATECH, L.L.C., FOR SEWER LINE AND MANHOLE REHABILITATION (PHASE IV)  
Staff Contact: Craig Johnson, P.E., Director, Water Services

**Attachments:** [Professional Services Agreement](#)

10. [17-051](#) AUTHORIZATION TO ENTER INTO A CONSTRUCTION AGREEMENT WITH ACTION DIRECT LLC, DOING BUSINESS AS REDPOINT CONTRACTING, FOR SEWER LINE AND MANHOLE REHABILITATION (PHASE IV)  
Staff Contact: Craig Johnson, P.E., Director, Water Services

**Attachments:** [Construction Agreement](#)  
[Bid Tabulation](#)

11. [17-053](#) AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH LAYTON CONSTRUCTION CO., INC., FOR GENERAL MAINTENANCE AND REPAIR SERVICES  
Staff Contact: Jack Friedline, Director, Public Works

**Attachments:** [Linking Agreement](#)

12. [17-058](#) AUTHORIZATION TO ENTER INTO A CONSTRUCTION AGREEMENT WITH MCKENNA CONTRACTING, LLC, FOR THE RELOCATION OF THE POWER WASHER AND PROPANE TANK AT THE FIELD OPERATIONS COMPLEX  
Staff Contact: Jack Friedline, Director, Public Works

**Attachments:** [Construction Agreement](#)  
[Bid Tabulation](#)

13. [17-059](#) AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH J. BANICKI CONSTRUCTION, INC., FOR THE CITY BRIDGE REPAIR PROGRAM  
Staff Contact: Jack Friedline, Director, Public Works

**Attachments:** [Linking Agreement](#)

14. [17-063](#) AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH PREMIER ENGINEERING CORPORATION FOR THE DESIGN OF 83RD AVENUE HALF STREET IMPROVEMENTS AT HEROES REGIONAL PARK  
Staff Contact: Jack Friedline, Director, Public Works  
**Attachments:** [Professional Services Agreement](#)
15. [17-064](#) AUTHORIZATION TO ENTER INTO A COMMUNICATIONS FACILITIES LICENSE AGREEMENT WITH COX COMMUNICATIONS ARIZONA, LLC, FOR THE INSTALLATION OF FACILITIES AT 9380 WEST GLENDALE AVENUE  
Staff Contact: Jack Friedline, Director, Public Works  
**Attachments:** [Communications Facilities License Agreement](#)
16. [17-065](#) AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH B & F CONTRACTING, INC., FOR THE 83RD AND GEORGIA AVENUES DRAINAGE PROJECT  
Staff Contact: Jack Friedline, Director, Public Works  
**Attachments:** [Linking Agreement](#)

#### CONSENT RESOLUTIONS

17. [17-054](#) RESOLUTION NO. R17-13  
  
A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, ACCEPTING THE FY2016-17 INTERNET CRIMES AGAINST CHILDREN SUB-GRANT FUNDED BY THE U.S. DEPARTMENT OF JUSTICE ON BEHALF OF THE GLENDALE POLICE DEPARTMENT.  
Staff Contact: Rick St. John, Police Chief  
**Attachments:** [Resolution No. R17-13](#)  
[Grant Documents](#)
18. [17-055](#) RESOLUTION NO. R17-14  
  
A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY TO ENTER INTO A GRANT AGREEMENT WITH THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY AND THE OVERSIGHT COUNCIL ON DRIVING OR OPERATING UNDER THE INFLUENCE ABATEMENT ON BEHALF OF THE GLENDALE POLICE DEPARTMENT.  
Staff Contact: Rick St. John, Police Chief  
**Attachments:** [Resolution No. R17-14](#)  
[Grant Agreement](#)

#### ORDINANCES



19. [17-060](#) ORDINANCE NO. 017-07

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF SIX CONVEYANCE OF SEWERLINE EASEMENTS FOR SEWERLINES IN THE CITY OF GLENDALE AS PART OF THE PHASE FOUR WASTEWATER COLLECTION SYSTEM AND MANHOLE REHABILITATION CAPITAL IMPROVEMENT PROJECT AND DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE.

Staff Contact: Jack Friedline, Director, Public Works

**Attachments:** [Ordinance No. O17-07 with Exhibits 1-6](#)

20. [17-061](#) ORDINANCE NO. 017-08

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF SEVEN CONVEYANCE OF SEWERLINE EASEMENTS FOR SEWERLINES LOCATED AT SEVEN LOCATIONS IN THE CITY OF GLENDALE AS PART OF THE PHASE FOUR WASTEWATER COLLECTION SYSTEM AND MANHOLE REHABILITATION CAPITAL IMPROVEMENT PROJECT AND DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE.

Staff Contact: Jack Friedline, Director, Public Works

**Attachments:** [Ordinance No. O17-08 with Exhibits 1-7](#)

21. [17-062](#) ORDINANCE NO. 017-09

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF NINE CONVEYANCE OF SEWERLINE EASEMENTS FOR SEWERLINES LOCATED AT NINE LOCATIONS IN THE CITY OF GLENDALE AS PART OF THE PHASE FOUR WASTEWATER COLLECTION SYSTEM AND MANHOLE REHABILITATION CAPITAL IMPROVEMENT PROJECT AND DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE.

Staff Contact: Jack Friedline, Director, Public Works

**Attachments:** [Ordinance No. O17-09 with Exhibits 1-9](#)

## REQUEST FOR FUTURE WORKSHOP AND EXECUTIVE SESSION

## COUNCIL COMMENTS AND SUGGESTIONS

## MOTION AND CALL TO ENTER INTO EXECUTIVE SESSION

## EXECUTIVE SESSION

## 1. LEGAL MATTERS

A. The City Council will meet with the City Attorney for legal advice, discussion and consultation regarding the city's position in pending or contemplated litigation, including settlement discussions conducted in order to avoid or resolve litigation. (A.R.S. § 38-431.03(A)(3)(4))

B. Council will meet to discuss and consider records exempt by law from public inspection and are specifically required to be maintained as confidential by state or federal law. (A.R.S. § 38-431.03(A)(4))

## **2. LEGAL MATTERS - PROPERTY AND CONTRACTS**

A. Discussion/consultation with the City Attorney to receive an update, to consider its position, and to provide instruction/direction to the City Attorney regarding Glendale's position in connection with a contract relating to property in the area of 91st Avenue and Glendale Avenue. (A.R.S. §§ 38-431.03 (A)(3)(4)(7))

## **ADJOURNMENT**

Upon a public majority vote of a quorum of the City Council, the Council may hold an executive session, which will not be open to the public, regarding any item listed on the agenda but only for the following purposes:

- (i) discussion or consideration of personnel matters (A.R.S. § 38-431.03(A)(1));
- (ii) discussion or consideration of records exempt by law from public inspection (A.R.S. § 38-431.03(A)(2));
- (iii) discussion or consultation for legal advice with the city's attorneys (A.R.S. § 38-431.03(A)(3));
- (iv) discussion or consultation with the city's attorneys regarding the city's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation, or in settlement discussions conducted in order to avoid or resolve litigation (A.R.S. § 38-431.03(A)(4));
- (v) discussion or consultation with designated representatives of the city in order to consider its position and instruct its representatives regarding negotiations with employee organizations (A.R.S. § 38-431.03(A)(5)); or
- (vi) discussing or consulting with designated representatives of the city in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property (A.R.S. § 38-431.03(A)(7)).

## **SPECIAL ACCOMMODATIONS**

For special accommodations please contact the City Clerk's Office at 623-930-2252 extension 1 at least 3 business days prior to the meeting.



# City of Glendale

5850 West Glendale Avenue  
Glendale, AZ 85301

## Legislation Description

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**File #:** 17-066, **Version:** 1

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**APPROVAL OF THE MINUTES OF FEBRUARY 14, 2017 VOTING MEETING**

Staff Contact: Julie K. Bower, City Clerk

# City of Glendale

5850 West Glendale Avenue  
Glendale, AZ 85301



## Meeting Minutes - Draft

Tuesday, February 14, 2017

6:00 PM

Voting Meeting

Council Chambers

### City Council

*Mayor Jerry Weiers*

*Vice Mayor Ian Hugh*

*Councilmember Jamie Aldama*

*Councilmember Joyce Clark*

*Councilmember Ray Malnar*

*Councilmember Lauren Tolmachoff*

*Councilmember Bart Turner*

**CALL TO ORDER****ROLL CALL**

**Present:** 7 - Mayor Jerry Weiers, Vice Mayor Ian Hugh, Councilmember Jamie Aldama, Councilmember Joyce Clark, Councilmember Lauren Tolmachoff, Councilmember Ray Malnar, and Councilmember Bart Turner

Also present were Kevin Phelps, City Manager; Tom Duensing, Assistant City Manager; Michael Bailey, City Attorney; Julie K. Bower, City Clerk; and Darcie McCracken, Deputy City Clerk.

**PLEDGE OF ALLEGIANCE****PRAYER/INVOCATION**

The invocation was offered by Pastor Dave Tomb of Bellevue Heights Church.

Mayor Weiers recognized Boy Scout Troop 262 and troop leader Jim McHenry. He recognized troop members Alec McHenry, Clay McHenry and Austin Fingerson.

**CITIZEN COMMENTS**

James Deibler, a Phoenix resident, spoke about a birthday gift he received that is for disabled people. The gift was a recording program so he could record his thoughts. He spoke about immigration and abortion. He also discussed the Glendale economy.

Mayor Weiers said that it was interesting technology.

Billy Gipanga, a Glendale resident, spoke about moving to the United States a few years ago as a refugee. He was interested in helping refugees learn about the United States by creating a soccer team. He said he has been working with schools in the Valley to keep those kids in school. He asked if the City could help the kids to have a permanent field to play on.

Mayor Weiers suggested he make an appointment and speak with the Councilmembers or Mayor Weiers about this issue.

**APPROVAL OF THE MINUTES OF JANUARY 24, 2017**

1. [17-034](#) APPROVAL OF THE MINUTES OF THE JANUARY 24, 2017 VOTING MEETING

Staff Contact: Julie K. Bower, City Clerk

**A motion was made by Councilmember Aldama, seconded by Councilmember Clark, that this agenda item be approved. The motion carried by the following vote:**

**Aye:** 7 - Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Clark, Councilmember Tolmachoff, Councilmember Malnar, and Councilmember Turner

**PROCLAMATIONS AND AWARDS**

2.     [17-048](#)     ON FEBRUARY 8, 2017 AT 3:28 P.M., AGENDA ITEM #2 WAS REMOVED AT THE REQUEST OF THE HISTORIC PRESERVATION COMMISSIONER.  
RECOGNITION OF SERVICE FOR HISTORIC PRESERVATION COMMISSIONER LILLIAN "MICKEY" LUND  
Presented by:     Office of the Mayor  
Staff Contact: Jon M. Froke, AICP, Planning Director

**CONSENT AGENDA**

Mayor Weiers said a request was made to vote on items 4 and 5 separately.

Ms. Bower read Consent Resolution items 14 through 20.

3.     [17-016](#)     RECOMMEND APPROVAL OF LIQUOR LICENSE NO. 5-22025, XTC NIGHTCLUB  
Staff Contact: Vicki Rios, Director, Budget and Finance
6.     [17-044](#)     POSITION RECLASSIFICATIONS  
Staff Contact: Jim Brown, Director, Human Resources and Risk Management
7.     [17-040](#)     AUTHORIZATION TO ENTER INTO A CONSTRUCTION AGREEMENT WITH G & G SPECIALTY CONTRACTORS INCORPORATED FOR PARK AND FACILITY ACCESSIBILITY IMPROVEMENTS  
Staff Contact: Erik Strunk, Director, Public Facilities, Recreation and Special Events
8.     [17-007](#)     AUTHORIZATION TO ENTER INTO AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING, INC., FOR ASSESSMENT OF THE WEST AREA WATER RECLAMATION FACILITY RECHARGE STORAGE  
Staff Contact: Craig Johnson, P.E., Director, Water Services
9.     [17-020](#)     AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH CINTAS CORPORATION NO. 2 FOR UNIFORM AND LINEN RENTAL SERVICES  
Staff Contact: Craig Johnson, P.E., Director, Water Services
10.    [17-032](#)     AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH SDB INC., DOING BUSINESS AS SDB CONTRACTING SERVICES, FOR GENERAL MAINTENANCE AND REPAIR SERVICES  
Staff Contact: Jack Friedline, Director, Public Works
11.    [17-037](#)     AUTHORIZATION TO ENTER INTO AMENDMENT NO. 1 TO THE

PROFESSIONAL SERVICES AGREEMENT WITH AECOM TECHNICAL SERVICES, INC., FOR DESIGN SERVICES FOR OLIVE AND 59TH AVENUE INTERSECTION CAPACITY IMPROVEMENTS

Staff Contact: Jack Friedline, Director, Public Works

12. [17-038](#) AUTHORIZATION TO ENTER INTO AMENDMENT NO. 2 TO THE LINKING AGREEMENT WITH EATON SALES AND SERVICE, LLC, FOR INSTALLATION, REPAIR AND MAINTENANCE OF PETROLEUM STORAGE TANK SYSTEMS

Staff Contact: Jack Friedline, Director, Public Works

13. [17-043](#) AUTHORIZATION TO ENTER INTO A SERVICES AGREEMENT WITH PHOENIX NATIONAL LABORATORIES, INC., FOR STREETLIGHT INSPECTION AND ASSESSMENT SERVICES

Staff Contact: Jack Friedline, Director, Public Works

#### CONSENT RESOLUTIONS

14. [16-341](#) RESOLUTION NO. R17-06

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT FOR FIRE AND MEDICAL SERVICES RESPONSE TO THE DESERT DIAMOND CASINO WITH THE CITY OF PEORIA AND THE SUN CITY FIRE DISTRICT ON BEHALF OF THE GLENDALE FIRE DEPARTMENT.

Staff Contact: Terry Garrison, Fire Chief

15. [17-023](#) RESOLUTION NO. R17-07

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ACCEPTANCE AND EXPENDITURE OF FFY 2016-2017 HOMELAND SECURITY PROGRAM AWARD-REALLOCATION FROM THE STATE OF ARIZONA, ARIZONA DEPARTMENT OF HOMELAND SECURITY, IN THE APPROXIMATE AMOUNT OF \$20,000 FUNDED UNDER THE URBAN AREA SECURITY INITIATIVE FOR THE PROJECT ENTITLED "GLENDALE FIRE DEPARTMENT RRT" ON BEHALF OF THE GLENDALE FIRE DEPARTMENT.

Staff Contact: Terry Garrison, Fire Chief

16. [17-018](#) RESOLUTION NO. R17-08

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF PUBLIC SAFETY FOR GLENDALE

POLICE DEPARTMENT PARTICIPATION IN LAW ENFORCEMENT AND SECURITY SERVICES AT THE UNIVERSITY OF PHOENIX STADIUM.

Staff Contact: Rick St. John, Police Chief

17. [16-665](#)

RESOLUTION NO. R17-09

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF A SUBRECIPIENT CONTRACT WITH HABITAT FOR HUMANITY CENTRAL ARIZONA FOR EMERGENCY REPAIR PROGRAM AND RATIFYING THE EXPENDITURE OF FUNDS IN THE AMOUNT OF \$23,898.32.

Staff Contact: Elaine Adamczyk, Interim Director, Community Services

18. [17-026](#)

RESOLUTION NO. R17-10

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AMENDMENT NO. 2 TO THE INTERGOVERNMENTAL AGREEMENT WITH THE MARICOPA COUNTY, HUMAN SERVICES DEPARTMENT, CONCERNING THE CITY OF GLENDALE'S HOME INVESTMENT PARTNERSHIP (HOME) PROGRAM.

Staff Contact: Elaine Adamczyk, Interim Director, Community Services

19. [17-030](#)

RESOLUTION NO. R17-11

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT AND AUTHORIZING THE ACCEPTANCE AND EXPENDITURE OF PROJECT FUNDS FROM THE ARIZONA DEPARTMENT OF TRANSPORTATION (IGA/JPA 16-0006063-I) FOR THE GLENDALE SRTS SUPPORT PROGRAM FY17 IN THE CITY OF GLENDALE.

Staff Contact: Jack Friedline, Director, Public Works

20. [17-031](#)

RESOLUTION NO. R17-12

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION (IGA/JPA 16-0006250-I) FOR DESIGN OF THE FLASHING YELLOW ARROWS PROJECT IN THE CITY OF GLENDALE.

Staff Contact: Jack Friedline, Director, Public Works

Approval of the Consent Agenda



**A motion was made by Clark, seconded by Tolmachoff, to approve the recommended actions on Consent Agenda Item Numbers 3, 6 through 13 and Consent Resolutions 14 through 20. The motion carried by the following vote:**

**Aye:** 7 - Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Clark, Councilmember Tolmachoff, Councilmember Malnar, and Councilmember Turner

4. [17-022](#)

AUTHORIZATION FOR THE EXPENDITURE OF FUNDS AND TO ENTER INTO A LINKING AGREEMENT WITH CUSTOM STORAGE INC., DOING BUSINESS AS CSTOR, FOR TECHNOLOGY HARDWARE, SOFTWARE AND SERVICES

Staff Contact: Chuck Murphy, Chief Information Officer, Innovation and Technology

Ms. Bower read Consent Agenda item 4.

Mayor Weiers asked the Councilmembers how they voted on item 4.

Mr. Bailey said a motion and a second should be taken before the vote.

**A motion was made by Councilmember Clark, seconded by Councilmember Tolmachoff, that this agenda item be approved. The motion carried by the following vote:**

**Aye:** 6 - Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Tolmachoff, Councilmember Malnar, and Councilmember Turner

**Nay:** 1 - Councilmember Clark

5. [17-033](#)

AUTHORIZATION FOR THE EXPENDITURE OF FUNDS WITH SECURELINK, INC., A SOLE SOURCE PROVIDER, FOR SOFTWARE AND SERVICES

Staff Contact: Chuck Murphy, Chief Information Officer, Innovation and Technology

Ms. Bower read Consent Agenda item 5.

**A motion was made by Councilmember Aldama, seconded by Vice Mayor Hugh, that this agenda item be approved. The motion carried by the following vote:**

**Aye:** 6 - Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Tolmachoff, Councilmember Malnar, and Councilmember Turner

**Nay:** 1 - Councilmember Clark

## NEW BUSINESS

21. [17-009](#)

REAPPOINTMENT OF CITY JUDGE MANUEL DELGADO

Staff Contact: Jim Brown, Director, Human Resources and Risk Management

Mr. Brown said this was a request to reappoint City Judge Manuel Delgado to a new four-year term. His current term expired March 25, 2017. He said Judge Delgado had

served as City Judge since 2013 and was eligible for reappointment to a four-year term. Judge Delgado's reappointment was unanimously recommended by the Judicial Selection Advisory Board based on his reappointment interview, letters of recommendation, results of a confidential survey and other reappointment materials.

**A motion was made by Councilmember Tolmachoff, seconded by Councilmember Aldama, that this agenda item be approved. The motion carried by the following vote:**

**Aye:** 7 - Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Clark, Councilmember Tolmachoff, Councilmember Malnar, and Councilmember Turner

**22.**     [17-010](#)

**REAPPOINTMENT OF PRESIDING CITY JUDGE ELIZABETH FINN**  
Staff Contact: Jim Brown, Director, Human Resources and Risk Management

Mr. Brown said this was a request to reappoint Presiding Judge Elizabeth Finn to a new two-year term. Her current term expired March 25, 2017. He said Judge Finn had served as Presiding Judge since 2003 and was eligible for reappointment to a two-year term. Judge Finn's reappointment was unanimously recommended by the Judicial Selection Advisory Board based on her reappointment interview, letters of recommendation, results of a confidential survey and other reappointment materials.

Councilmember Turner said the Councilmembers recently reviewed their values and mission statement, which included integrity, excellence, innovation, community driven and being a learning organization. He saw all those values reflected in Judge Finn. He said she was an innovative leader and was willing to explore new learning opportunities. He said you couldn't have lifelong learners if you didn't have lifelong teachers and Judge Finn had been a lifelong teacher.

**A motion was made by Councilmember Turner, seconded by Councilmember Tolmachoff, that this agenda item be approved. The motion carried by the following vote:**

**Aye:** 6 - Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Tolmachoff, Councilmember Malnar, and Councilmember Turner

**Nay:** 1 - Councilmember Clark

**REQUEST FOR FUTURE WORKSHOP AND EXECUTIVE SESSION**

**A motion was made by Vice Mayor Hugh, seconded by Councilmember Turner, to hold the next regularly scheduled City Council Workshop on Tuesday, February 21, 2017 at 1:30 p.m. in the City Council Chambers, to be followed by an Executive Session pursuant to A.R.S. 38-431.03. The motion carried by the following vote:**

**Aye:** 7 - Mayor Weiers, Vice Mayor Hugh, Councilmember Aldama, Councilmember Clark, Councilmember Tolmachoff, Councilmember Malnar, and Councilmember Turner

**COUNCIL COMMENTS AND SUGGESTIONS**

Councilmember Aldama thanked the Parks and Recreation staff for hosting "Movie in the Park" on February 24th at 7 p.m. in Murphy Park. He invited everyone to come and enjoy the event. He said the next budget workshop would be held on March 7th at 9 a.m. in the Council Chambers. He said the Glendale Farmer's Market had about 400 visitors each month. He encouraged residents to attend. He said his third annual Hook-a-Kid on Fishing event was on April 8th from 8 a.m. to 12 p.m. at Bonsall Park. He said one

thousand fishing licenses would be issued to kids free of cost. He congratulated Judge Delgado and said he was an inspiration. He thanked him for serving. He also spoke about the 500-foot radius for zoning and rezoning, and said this requirement might be cause for lack of input from residents. He was very concerned about this, and hoped the Council would consider this when it comes back.

Councilmember Clark agreed with Councilmember Aldama's comment about the 500-foot radius. She spoke about an article called Upgrade Glendale that she was about to publish and asked employees to think about that when they performed their duties. She said it was time to use the city's capabilities to look at every project and new idea to see if it would help upgrade a neighborhood and/or the lives of Glendale citizens. She spoke about projects that might downgrade neighborhoods including pawn shops, loan shops and liquor stores. She said it was time to upgrade Glendale.

Councilmember Malnar thanked everyone involved in the identity theft prevention event. He said another shred event was scheduled soon.

Councilmember Tolmachoff thanked the Police Department, Shred-It and the police academy alumni for helping with the shred event. She said 18,000 pounds were shredded. She thanked Councilmember Malnar for partnering with her for the event.

Councilmember Turner said the annual tractor show was a success and a lot of fun. He encouraged everyone to attend next year. He wished his mother a Happy Valentine's Day.

Vice Mayor Hugh said the Chocolate Affaire was successful. He spoke about the art show and said many great things happened in Glendale over the last month.

Mayor Weiers said they had a great city and they had made a remarkable recovery. He thanked citizens and employees for participating in the city's success.

## **ADJOURNMENT**

The City Council adjourned at 6:33 p.m.



## Legislation Description

**File #:** 17-049, **Version:** 1

### **APPROVE RECOMMENDED APPOINTMENTS TO BOARDS, COMMISSIONS & OTHER BODIES**

Staff Contact: Brent Stoddard, Director, Public Affairs

Presented By: Councilmember Jamie Aldama

#### **Purpose and Recommended Action**

This is a request for City Council to approve the recommended appointments to the following boards, commissions and other bodies that have a vacancy or expired term and for the Mayor to administer the Oath of Office to those appointees in attendance.

#### **Aviation Advisory Commission**

Tim Topliff	Sahuaro	Appointment	02/28/2017	11/24/2018
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#### **Board of Adjustment**

Michael Wilson	Cactus	Appointment	02/28/2017	06/30/2018
Eric Fitzer	Yucca	Appointment	02/28/2017	06/30/2017

#### **Citizens Bicycle Advisory Committee**

Anthony Pratcher	Cholla	Reappointment	02/28/2017	01/16/2019
Marie Nesfield (CTOC Rep)	Sahuaro	Appointment	02/28/2017	03/25/2019

#### **Citizens Transportation Oversight Commission**

John Fernandes	Yucca	Appointment	03/25/2017	03/25/2019
Marie Nesfield	Sahuaro	Reappointment	03/25/2017	03/25/2019
Tom Schmitt - Chair	Yucca	Reappointment	03/26/2017	03/26/2018
John Geurs - Vice Chair	Ocotillo	Reappointment	03/26/2017	03/26/2018

#### **Community Development Advisory Committee**

Leslee Miele (GESD)	Yucca	Reappointment	03/22/2017	03/22/2019
Marcia Hopp-Newman	Cactus	Appointment	02/28/2017	07/01/2018

#### **Judicial Selection Advisory Board**

Larry Sandigo	Yucca	Appointment	02/28/2017	04/23/2017
Justin Beresky - Chair	Maricopa Court	Appointment	02/28/2017	11/29/2017
Chuck Whitehead - Vice Chair	Superior Crt	Appointment	02/28/2017	11/29/2017

#### **Library Advisory Board**

Victoria Fernandes - Teen	Mayoral	Appointment	02/28/2017	05/27/2019
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**Parks & Recreation Advisory Commission**

Dan Huston	Cactus	Appointment	02/28/2017	04/09/2018
Barbara Cole - Vice Chair	Mayoral	Appointment	02/28/2017	04/09/2017

**Personnel Board**

Davita Solter - Chair	Sahuaro	Appointment	02/28/2017	12/22/2017
Linda Gomez - Vice Chair	Cholla	Appointment	02/28/2017	12/22/2017

**Planning Commission**

Jack Gallegos	Ocotillo	Reappointment	03/25/2017	03/25/2019
Arthur Dobbelaere - Chair	Cholla	Appointment	02/28/2017	03/26/2017
Gary Hirsch - Vice Chair	Mayoral	Appointment	02/28/2017	03/26/2017



## Legislation Description

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**File #:** 17-035, **Version:** 1

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**RECOMMEND APPROVAL OF SPECIAL EVENT LIQUOR LICENSE, RIDER RELIEF RESOURCES**

Staff Contact: Vicki Rios, Director, Budget and Finance

**Purpose and Recommended Action**

This is a request for City Council to recommend approval to the Arizona Department of Liquor Licenses and Control of a special event liquor license for Rider Relief Resources, submitted by Marshall Clayton Learned. The event will be held at Westgate Entertainment District located at 6751 North Sunset Boulevard on Saturday, March 25, 2017, from 3 p.m. to 7 p.m. The purpose of this special event liquor license is for fundraising at the Professional Bull Riders beer garden tailgate.

**Background Summary**

Westgate Entertainment District is zoned PAD (Planned Area Development) and located in the Yucca District. If this application is approved, the total number of events expended at this location will be one of the allowed 12 events per calendar year. Under the provisions of A.R.S. § 4-203.02, the Arizona Department of Liquor Licenses and Control may issue a special event liquor license only if the Council recommends approval of such license.

The City of Glendale Development Services, Police, and Fire Departments have reviewed the application and determined that it meets all technical requirements.

Arizona Department of Liquor Licenses and Control  
800 W Washington 5th Floor  
Phoenix AZ 85007-2934  
www.azliquor.gov  
(602) 542-5141

FOR DLLC USE ONLY

Event date(s):

Event time start/end:

### APPLICATION FOR SPECIAL EVENT LICENSE

Fee= \$25.00 per day for 1-10 days (consecutive)

A service fee of \$25.00 will be charged for all dishonored checks (A.R.S. §44-6852)

**IMPORTANT INFORMATION: This document must be fully completed or it will be returned.**

The Department of Liquor Licenses and Control must receive this application ten (10) business days prior to the event. If the special event will be held at a location without a permanent liquor license or if the event will be on any portion of a location that is not covered by the existing liquor license, this application must be approved by the local government before submission to the Department of Liquor Licenses and Control (see Section 15).

**SECTION 1** Name of Organization: Rider Relief Resources f/k/a Resistol Relief Resources, Inc.

**SECTION 2** Non-Profit/IRS Tax Exempt Number: [REDACTED]

**SECTION 3** The organization is a: (check one box only)

- Charitable (501.C)  Fraternal (must have regular membership and have been in existence for over five (5) years)  
 Religious  Civic (Rotary, College Scholarship)  Political Party, Ballot Measure or Campaign Committee

**SECTION 4** Will this event be held on a currently licensed premise and within the already approved premises?  
 Yes  No

Westgate Entertainment District

N/A

623 385-7506

Name of Business

License Number

Phone (include Area Code)

**SECTION 5** How is this special event going to conduct all dispensing, serving, and selling of spirituous liquors? Please read R-19-318 for explanation (look in special event planning guide) and check one of the following boxes.

- Place license in non-use  
 Dispense and serve all spirituous liquors under retailer's license  
 Dispense and serve all spirituous liquors under special event  
 Split premise between special event and retail location

(If not using retail license, submit a letter of agreement from the agent/owner of the licensed premise to suspend the license during the event. If the special event is only using a portion of premise, agent/owner will need to suspend that portion of the premise.)

**SECTION 6** What is the purpose of this event?  On-site consumption  Off-site (auction)  Both

**SECTION 7** Location of the Event: Westgate Entertainment District

Address of Location: 6751 N. Sunset Blvd. Glendale, AZ 85305

Street

City

County/State

Zip

**SECTION 8** Will this be stacked with a wine festival/craft distiller festival?  Yes  No

**SECTION 9** Applicant must be a member of the qualifying organization and authorized by an Officer, Director or Chairperson of the Organization named in Section 1. (Authorizing signature is required in Section 13.)

1. Applicant: Learned Marshall Clayton [REDACTED]  
President<sup>ast</sup> First Middle Date of Birth

2. Applicant's mailing address: 101 W. Riverwalk Pueblo CO 81003  
Street City State Zip

3. Applicant's home/cell phone: [REDACTED] Applicant's business phone: (360) 757-3888

4. Applicant's email address: [REDACTED]

**SECTION 10**

1. Has the applicant been convicted of a felony, or had a liquor license revoked within the last five (5) years?  
 Yes  No (If yes, attach explanation.)

2. How many special event licenses have been issued to this location this year? 0  
 (The number cannot exceed 12 events per year; exceptions under A.R.S. §4-203.02(D).)

3. Is the organization using the services of a promoter or other person to manage the event?  Yes  No  
 (If yes, attach a copy of the agreement.)

4. List all people and organizations who will receive the proceeds. Account for 100% of the proceeds. The organization applying must receive 25% of the gross revenues of the special event liquor sales. Attach an additional page if necessary.

Name Rider Relief Resources f/k/a Resistol Relief Resources, Inc. Percentage 25%  
 Address 101 W. Riverwalk, Pueblo, CO 81003  
Street City State Zip

Name Westgate Entertainment District Percentage 75%  
 Address 6770 North Sunrise Blvd, Glendale, Arizona 85305  
Street City State Zip

5. Please read A.R.S. §4-203.02 Special event license; rules and R19-1-205 Requirements for a Special Event License.

**Note: ALL ALCOHOLIC BEVERAGE SALES MUST BE FOR CONSUMPTION AT THE EVENT SITE ONLY.**

"NO ALCOHOLIC BEVERAGES SHALL LEAVE SPECIAL EVENT UNLESS THEY ARE IN AUCTION SEALED CONTAINERS OR THE SPECIAL EVENT LICENSE IS STACKED WITH WINE /CRAFT DISTILLERY FESTIVAL LICENSE"

6. What type of security and control measures will you take to prevent violations of liquor laws at this event?  
 (List type and number of police/security personnel and type of fencing or control barriers, if applicable.)

6-8 Number of Police 15-20 Number of Security Personnel  Fencing  Barriers

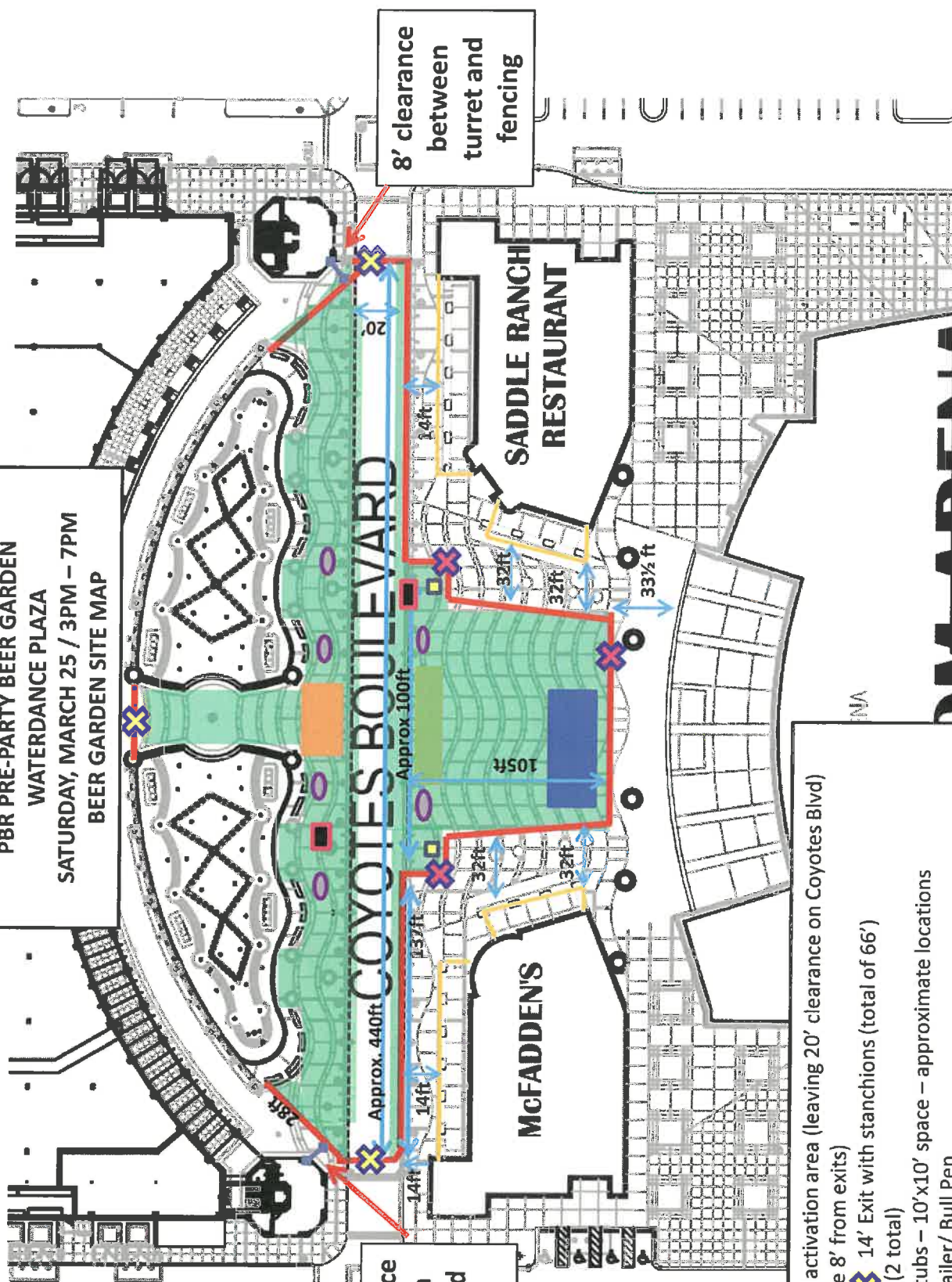
Explanation: \_\_\_\_\_  
Wristband and ID stations will be set up within licensed area, along with security and police personnel. Bike rack barricades will be used to enclose the beer garden area.

**SECTION 11** Date(s) and Hours of Event. May not exceed 10 consecutive days.  
 See A.R.S. §4-244(15) and (17) for legal hours of service.

	Date	Day of Week	Event Start Time AM/PM	License End Time AM/PM
DAY 1:	<u>3/25/17</u>	<u>Saturday</u>	<u>3:00 PM</u>	<u>7:00 PM</u>
DAY 2:	_____	_____	_____	_____
DAY 3:	_____	_____	_____	_____
DAY 4:	_____	_____	_____	_____
DAY 5:	_____	_____	_____	_____
DAY 6:	_____	_____	_____	_____
DAY 7:	_____	_____	_____	_____
DAY 8:	_____	_____	_____	_____
DAY 9:	_____	_____	_____	_____
DAY 10:	_____	_____	_____	_____



**PBR PRE-PARTY BEER GARDEN  
WATERDANCE PLAZA  
SATURDAY, MARCH 25 / 3PM – 7PM  
BEER GARDEN SITE MAP**



8' clearance between turret and fencing

8' clearance between turret and fencing

- Display and activation area (leaving 20' clearance on Coyotes Blvd)
- ATMs (to be 8' from exits)
- 8' Exit / 14' Exit with stanchions (total of 66')
- ID Stations (2 total)
- Beer sales tubs – 10'x10' space – approximate locations
- PBR Bull Trailer/ Bull Pen
- Beer garden fencing (bike rack barricade + stanchions)
- Existing tenant patio fencing
- Corn Hole Turf + Giant Jenga set up on Red Bull cocktail tables
- Live Music Stage

**Total Beer Garden Area (not including fountains): Approx. 19,920 SF**  
**Total Maximum Occupant Load: 3,984**  
**Expected event attendance: 1,000 – 2,000**  
**Minimum exiting width (at 0.1 ratio): 33 feet**

**SECTION 13** This section is to be completed only by an Officer, Director or Chairperson of the organization named in Section 1.

I, Marshall Clayton Learned declare that I am an OFFICER, DIRECTOR, or CHAIRPERSON  
(Print full name)

appointing the applicant listed in Section 9, to apply on behalf of the foregoing organization for a Special Event  
Liquor License.

X [Signature] president 1/10/17 3607701388  
(Signature) Title/ Position Date Phone #

The foregoing instrument was acknowledged before me this 10<sup>th</sup> January 2017  
Day Month Year

State Washington County of Skagit

My Commission Expires on: 6-9-18 Tricia Cisneros  
Date Signature of Notary Public



**SECTION 14** This section is to be completed only by the applicant named in Section 9.

I, Marshall Clayton Learned declare that I am the APPLICANT of this application as  
(Print full name)  
listed in Section 9. I have read the application and the contents and all statements are true and correct and  
complete.

X [Signature] president 1/10/17 3607701388  
(Signature) Title/ Position Date Phone #

The foregoing instrument was acknowledged before me this 10<sup>th</sup> January 2017  
Day Month Year

State Washington County of Skagit

My Commission Expires on: 6-9-18 Tricia Cisneros  
Date Signature of Notary Public

The local governing body may require additional applications to be completed and submitted. Please check with local government as to how far in advance they require these applications to be submitted. Additional licensing fees may also be required before approval may be granted. For more information, please contact your local jurisdiction: [http://www.azliquor.gov/assets/documents/homepage\\_docs/spec\\_event\\_links.pdf](http://www.azliquor.gov/assets/documents/homepage_docs/spec_event_links.pdf).

**SECTION 15** Local Governing Body Approval Section

I, \_\_\_\_\_ recommend  APPROVAL  DISAPPROVAL  
(government official) (Title)

on behalf of \_\_\_\_\_  
(City, Town, County) Signature Date Phone

**FOR DEPARTMENT OF LIQUOR LICENSES AND CONTROL USE ONLY**

APPROVAL  DISAPPROVAL BY: \_\_\_\_\_ DATE: \_\_\_\_\_

17-6

# GLENDALE POLICE DEPARTMENT

## Liquor Application Worksheet

Date: 01-25-17

License Type: **Series 15 Special Event (Temporary License)**

Definition: Allows a charitable, civic, fraternal, political or religious organization to sell and serve spirituous liquor for consumption only on the premises where the spirituous liquor is sold, and only for the period authorized on the license. This is a temporary license.

Application Type: **New License**

Definition: New license

Business Name: **Rider Relief Resources**

Business Address: **101 W. Riverwalk, Pueblo, CO (Event at Westgate 6770 N. Sunrise Blvd.- Westgate)**

### Applicant/s Information

Name: **Learned, Marshall Clayton**

Name:

Name:

Name:

### Background investigation of applicant/s completed.

Calls for Service History:	Call history for location beginning: 1/25/2016	Other Suites	New ownership call history beginning:
Liquor Related		19	
Vice Related			
Drug Related		1	
Fights / Assaults		38	
Robberies			
Burglary / Theft		43	
911 calls			
Trespassing		11	
Accidents		13	
Fraud / Forgery		2	
Threats		2	
Criminal damage		4	
Other non-criminal*		111	
Other criminal		9	
Total calls for service	<b>N/A</b>	<b>253</b>	<b>N/A</b>

\* Other non-criminal includes calls such as suspicious persons, juveniles disturbing and other information only reports that required Police response or phone call.

# GLENDALE POLICE DEPARTMENT

## Liquor Application Worksheet

### Applicant Background Synopsis:

All proceeds from this event go to the Rider Relief Resources and Westgate Entertainment District.

Event is scheduled for 03-25-17 (Sat).

None of the listed applicant(s) have any known felony convictions within the past five years or any other known criminal history that would lead to police department recommendation for denial.

### Current License Holder:

N/A

### Location History:

No significant Calls for Service history at this location.

Calls for Service are for all Suites that share the address.

### Special Concerns:

None found.

### Background investigation complete:

Police Department recommendation has No Cause for Denial.

		Date
Investigating Officer – M. Ervin	<u>M. ERVIN</u>	<u>1-25-17</u>
CID Lieutenant or Commander	<u>A. [Signature]</u>	<u>1-30-17</u>
Deputy City Attorney	<u>[Signature]</u>	<u>[Signature]</u>
Chief of Police or designee	<u>[Signature]</u>	<u>1-30-17</u>



## Legislation Description

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**File #:** 17-036, **Version:** 1

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### **RECOMMEND APPROVAL OF SPECIAL EVENT LIQUOR LICENSE, LUMP BUSTERS**

Staff Contact: Vicki Rios, Director, Budget and Finance

#### **Purpose and Recommended Action**

This is a request for City Council to recommend approval to the Arizona Department of Liquor Licenses and Control of a special event liquor license for Lump Busters, submitted by Terri Dee Gall. The event will be held at the University of Phoenix Stadium's Great Lawn located at 1 North Cardinals Drive on Friday, March 3, from 2 p.m. to 10 p.m.; Saturday, March 4 from 10 a.m. to 11 p.m.; and Sunday, March 5, 2017 from noon to 10 p.m. The purpose of this special event liquor license is for fundraising at the West Valley Fair.

#### **Background Summary**

The University of Phoenix Stadium is zoned PAD (Planned Area Development) and located in the Yucca District. Under the provisions of A.R.S. § 4-203.02, it allows for an unlimited amount of special event liquor licenses to be issued at locations controlled by the state, therefore, the allowed 12 events per calendar year rule does not apply to this special event liquor license application. Under the provisions of A.R.S. § 4-203.02, the Arizona Department of Liquor Licenses and Control may issue a special event liquor license only if the Council recommends approval of such license.

The City of Glendale Development Services, Police, and Fire Departments have reviewed the application and determined that it meets all technical requirements.



Arizona Department of Liquor Licenses and Control  
 800 W Washington 5th Floor  
 Phoenix, AZ 85007-2934  
 www.azliquor.gov  
 (602) 542-5141

FOR DLLC USE ONLY

Event Date(s):
Event time start/end:
CSR:
License:

**APPLICATION FOR SPECIAL EVENT LICENSE**  
 Fee= \$25.00 per day for 1-10 days (consecutive)  
 Cash Checks or Money Orders Only

A service fee of \$25.00 will be charged for all dishonored checks (A.R.S. § 44-6852)

**IMPORTANT INFORMATION: This document must be fully completed or it will be returned.**

The Department of Liquor Licenses and Control must receive this application ten (10) business days prior to the event. If the special event will be held at a location without a permanent liquor license or if the event will be on any portion of a location that is not covered by the existing liquor license, this application must be approved by the local government before submission to the Department of Liquor Licenses and Control (see Section 15).

**SECTION 1** Name of Organization: LUMP BUSTERS

**SECTION 2** Non-Profit/IRS Tax Exempt Number: [REDACTED]

**SECTION 3** The organization is a: (check one box only)

- Charitable  Fraternal (must have regular membership and have been in existence for over five (5) years)  
 Religious  Civic (Rotary, College Scholarship)  Political Party, Ballot Measure or Campaign Committee

**SECTION 4** Will this event be held on a currently licensed premise and within the already approved premises?  Yes  No

Name of Business

License Number

Phone (include Area Code)

**SECTION 5** How is this special event going to conduct all dispensing, serving, and selling of spirituous liquors? Please read R-19-318 for explanation (look in special event planning guide) and check one of the following boxes.

- Place license in non-use  
 Dispense and serve all spirituous liquors under retailer's license  
 Dispense and serve all spirituous liquors under special event  
 Split premise between special event and retail location

(IF NOT USING RETAIL LICENSE, SUBMIT A LETTER OF AGREEMENT FROM THE AGENT/OWNER OF THE LICENSED PREMISE TO SUSPEND THE LICENSE DURING THE EVENT. IF THE SPECIAL EVENT IS ONLY USING A PORTION OF PREMISE, AGENT/OWNER WILL NEED TO SUSPEND THAT PORTION OF THE PREMISE.)

**SECTION 6** What is the purpose of this event?  On-site consumption  Off-site (auction)  Both

**SECTION 7** Location of the Event: UNIVERSITY OF PHOENIX STADIUM - GREAT LAWN

Address of Location: 1 CARDINALS DRIVE GLENDALE MARICOPA AZ 85305  
Street City COUNTY State Zip

**SECTION 8** Will this be stacked with a wine festival/craft distiller festival?  Yes  No

**SECTION 9** Applicant must be a member of the qualifying organization and authorized by an Officer, Director or Chairperson of the Organization named in Section 1. (Authorizing signature is required in Section 13.)

1. Applicant: GALL TERRI DEE [REDACTED]  
Last First Middle Date of Birth
2. Applicant's mailing address: 3640 W. GRANDVIEW PHOENIX AZ 85053  
Street City State Zip
3. Applicant's home/cell phone: [REDACTED] Applicant's business phone: (\_\_\_\_) \_\_\_\_\_
4. Applicant's email address: [REDACTED]

**SECTION 10**

1. Has the applicant been convicted of a felony, or had a liquor license revoked within the last five (5) years?  
 Yes  No (If yes, attach explanation.)

2. How many special event licenses have been issued to this location this year? 1  
 (The number cannot exceed 12 events per year; exceptions under A.R.S. §4-203.02(D).)

3. Is the organization using the services of a promoter or other person to manage the event?  Yes  No  
 (If yes, attach a copy of the agreement.)

4. List all people and organizations who will receive the proceeds. Account for 100% of the proceeds. The organization applying must receive 25% of the gross revenues of the special event liquor sales. Attach an additional page if necessary.

Name LUMP BUSTERS Percentage: 25%

Address 3640 W. GRANDVIEW RD PHOENIX AZ 85053  
Street City State Zip

Name ARIZONA CARDINALS FOOTBALL CLUB Percentage: 47%

Address 8701 S. HARDY DRIVE TEMPE AZ 85284  
Street City State Zip

5. Please read A.R.S. § 4-203.02 Special event license; rules and R19-1-205 Requirements for a Special Event License.

**Note: ALL ALCOHOLIC BEVERAGE SALES MUST BE FOR CONSUMPTION AT THE EVENT SITE ONLY.**

**"NO ALCOHOLIC BEVERAGES SHALL LEAVE SPECIAL EVENT UNLESS THEY ARE IN AUCTION SEALED CONTAINERS OR THE SPECIAL EVENT LICENSE IS STACKED WITH WINE /CRAFT DISTILLERY FESTIVAL LICENSE"**

6. What type of security and control measures will you take to prevent violations of liquor laws at this event?  
 (List type and number of police/security personnel and type of fencing or control barriers, if applicable.)

Number of Police 20 Number of Security Personnel  Fencing  Barriers

Explanation: AREA WILL BE FENCED IN AND MONITORED BY SECURITY AND AN ALCOHOL COMPLIANCE TEAM FROM ROJO HOSPITALITY

**SECTION 11** Dates and Hours of Event. Days must be consecutive but may not exceed 10 consecutive days.  
 See A.R.S. § 4-244(15) and (17) for legal hours of service.

**PLEASE FILL OUT A SEPARATE APPLICATION FOR EACH "NON-CONSECUTIVE" DAY**

	Date	Day of Week	Event Start Time AM/PM	License End Time AM/PM
DAY 1:	<u>3-3-17</u>	<u>FRI</u>	<u>2 pm</u>	<u>10 pm</u>
DAY 2:	<u>3-4-17</u>	<u>SAT</u>	<u>10 AM</u>	<u>11 PM</u>
DAY 3:	<u>3-5-17</u>	<u>SUN</u>	<u>12 pm</u>	<u>10 pm</u>
DAY 4:	_____	_____	_____	_____
DAY 5:	_____	_____	_____	_____
DAY 6:	_____	_____	_____	_____
DAY 7:	_____	_____	_____	_____
DAY 8:	_____	_____	_____	_____
DAY 9:	_____	_____	_____	_____
DAY 10:	_____	_____	_____	_____

Section 10

4. List all people and organizations who will receive the proceeds. Account for 100% of the proceeds. The organization applying must receive 25% of the gross revenues of the special event liquor sales. Attach an additional page if necessary.

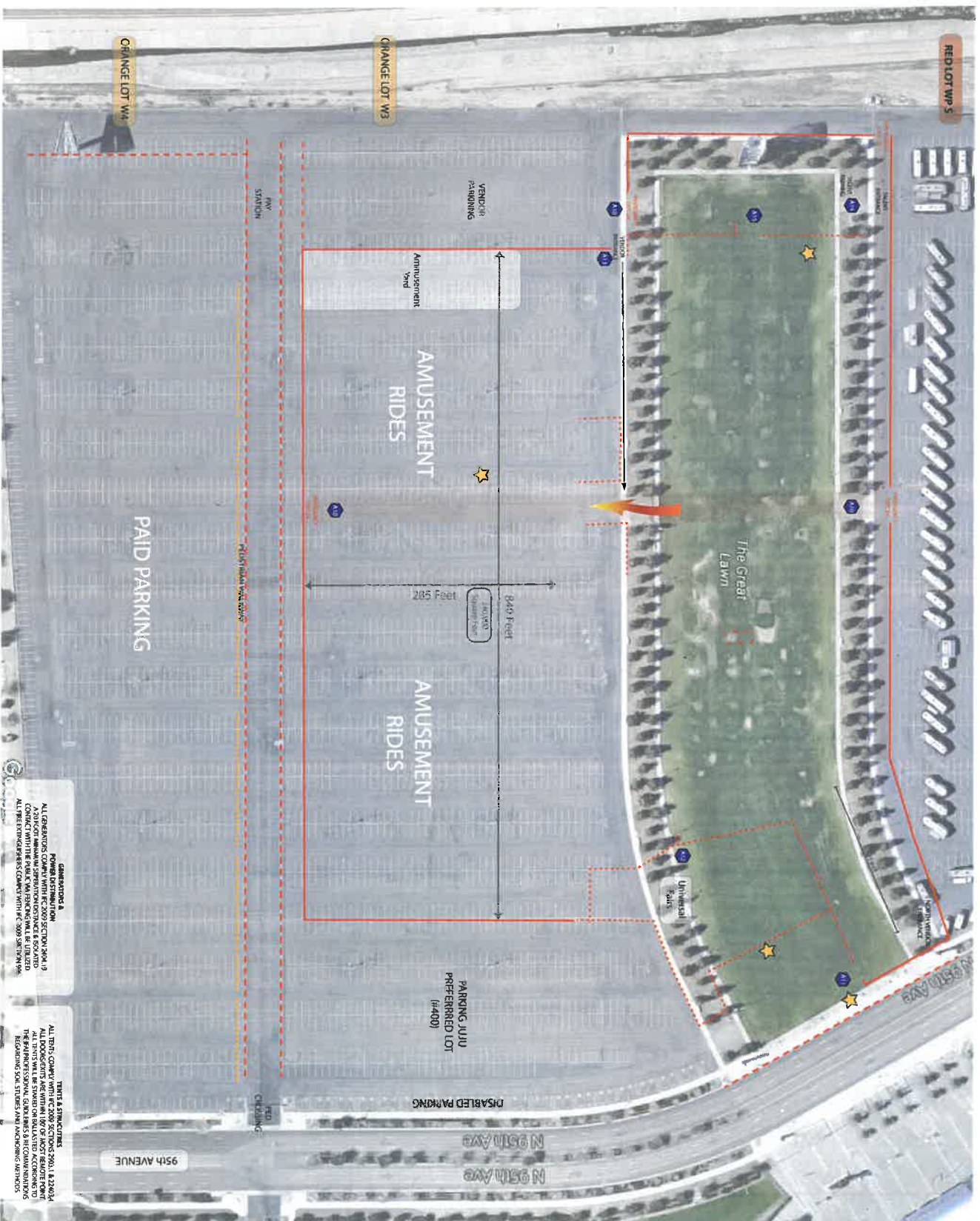
Name	Rojo Hospitality Group	Percentage	28%
Address	1 Cardinals Drive Glendale, AZ 85305		



RED LOT WP 5

CHANGE LOT W3

CHANGE LOT W4



**CONTRACTORS & PERMITS**  
 ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF PHOENIX PERMITS DEPARTMENT. ALL PERMITS MUST BE OBTAINED PRIOR TO THE START OF CONSTRUCTION. ALL PERMITS MUST BE MAINTAINED THROUGHOUT THE DURATION OF THE PROJECT. ALL PERMITS MUST BE CANCELLED AT THE END OF THE PROJECT. ALL PERMITS MUST BE MAINTAINED THROUGHOUT THE DURATION OF THE PROJECT.

**THIRD PARTY CONTRACTORS**  
 ALL THIRD PARTY CONTRACTORS MUST BE LICENSED AND INSURED. ALL THIRD PARTY CONTRACTORS MUST BE MAINTAINED THROUGHOUT THE DURATION OF THE PROJECT. ALL THIRD PARTY CONTRACTORS MUST BE CANCELLED AT THE END OF THE PROJECT. ALL THIRD PARTY CONTRACTORS MUST BE MAINTAINED THROUGHOUT THE DURATION OF THE PROJECT.



**CLIENT**  
 Universal  
 Falls

**EVENT**  
 West Valley Fair & Music  
 Festival 2017

**LOCATION**  
 University of Phoenix  
 Stadium, Glendale, AZ

**EVENT DATES(S)**  
 March 3 - 5, 2017  
 Friday - Sunday

**LEGEND**

- Event Fence
- - - Crowd Control Fence
- Mesh Fence Scrim
- ☒ Tent
- Vendor Space
- Stage
- ⚡ Generator
- Ⓛ Light Towers
- ♻️ Restrooms
- ➡️ Mobile Restroom Suites
- 🗑️ Dumpster
- 📄 Mobile Ticket Office
- 👤 Pride Group Associate
- 🚑 EMS/POLICE/FIRE

**DRAWING NAME:**  
 COMPLETE OVERVIEW

**LAYER:**  
 REVISION F

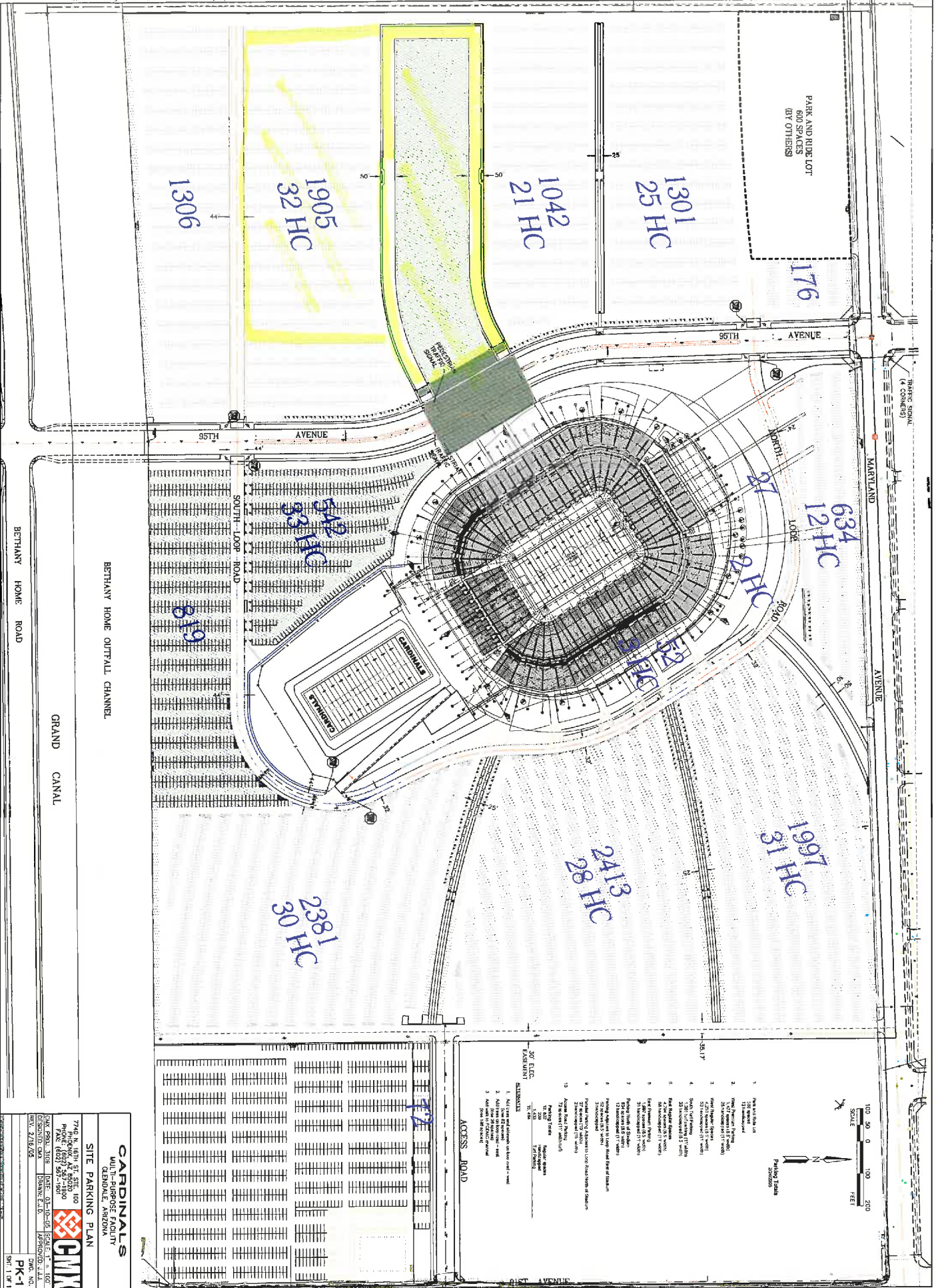
**REVISION DATE:**  
 January 23, 2017

**SCALE:**  
 50 Feet



© copyright Pride Group, LLC





**CARDINALS**  
 MULTI-PURPOSE FACILITY  
 GLENDALE, ARIZONA

**SITE PARKING PLAN**

7740 N. 16TH ST. SEC. 108  
 PHOENIX, AZ 85020  
 PHONE: 602.971.1600  
 FAX: 602.971.1600

CMX PERM. 3108 DATE: 03-10-05 SCALE: 1" = 100'  
 DESIGNED BY: SHAWN E.L.D. APPROVED: J.L.L.  
 REV. 2/18/05 DWG. NO. PK-1  
 SHEET 1 OF 1

- 30' ELEC. EXHAUSTION**
- LEGEND**
1. Multi-Purpose Facility (20)
  2. Multi-Purpose Facility (20)
  3. Multi-Purpose Facility (20)
  4. Multi-Purpose Facility (20)
  5. Multi-Purpose Facility (20)
  6. Multi-Purpose Facility (20)
  7. Multi-Purpose Facility (20)
  8. Multi-Purpose Facility (20)
  9. Multi-Purpose Facility (20)
  10. Multi-Purpose Facility (20)
  11. Multi-Purpose Facility (20)
  12. Multi-Purpose Facility (20)
  13. Multi-Purpose Facility (20)
  14. Multi-Purpose Facility (20)
  15. Multi-Purpose Facility (20)
  16. Multi-Purpose Facility (20)
  17. Multi-Purpose Facility (20)
  18. Multi-Purpose Facility (20)
  19. Multi-Purpose Facility (20)
- Parking Spaces**
1. Park and Ride Lot (12)
2. Multi-Purpose Facility (20)
3. Multi-Purpose Facility (20)
4. Multi-Purpose Facility (20)
5. Multi-Purpose Facility (20)
6. Multi-Purpose Facility (20)
7. Multi-Purpose Facility (20)
8. Multi-Purpose Facility (20)
9. Multi-Purpose Facility (20)
10. Multi-Purpose Facility (20)
11. Multi-Purpose Facility (20)
12. Multi-Purpose Facility (20)
13. Multi-Purpose Facility (20)
14. Multi-Purpose Facility (20)
15. Multi-Purpose Facility (20)
16. Multi-Purpose Facility (20)
17. Multi-Purpose Facility (20)
18. Multi-Purpose Facility (20)
19. Multi-Purpose Facility (20)

**SECTION 13** To be completed only by an Officer, Director or Chairperson of the organization named in Section 1.

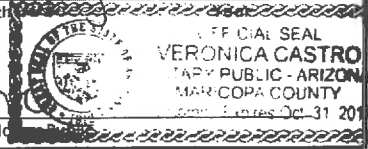
I, (Print Full Name) Terri Dee Gull declare that I am an Officer, Director or Chairperson of the organization filing this application as listed in Section 9. I have read the application and the contents and all statements are true, correct and complete.

x Jenni A. Hall Signature Title/ Position Founder Date 1-25-17 Phone Number 602.670.8484

The foregoing instrument was acknowledged before me this 25<sup>th</sup> Day January Month 2017 Year

State Arizona County of Maricopa

My Commission Expires on: 10/31/17 Date Veronica Castro Signature of Notary Public



**SECTION 14** This section is to be completed only by the applicant named in Section 9.

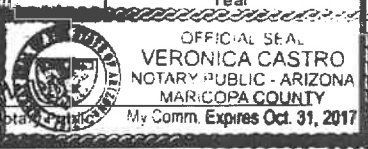
I, (Print Full Name) Terri Dee Gull declare that I am the APPLICANT filing this application as listed in Section 9. I have read the application and the contents and all statements are true, correct and complete.

x Jenni A. Hall Signature Title/ Position Founder Date 1-25-17 Phone Number 602.670.8484

The foregoing instrument was acknowledged before me this 25<sup>th</sup> Day January Month 2017 Year

State Arizona County of Maricopa

My Commission Expires on: 10/31/17 Date Veronica Castro Signature of Notary Public



Please contact the local governing board for additional application requirements and submission deadlines. Additional licensing fees may also be required before approval may be granted. For more information, please contact your local jurisdiction: [http://www.azliquor.gov/assets/documents/homepage\\_docs/spec\\_event\\_links.pdf](http://www.azliquor.gov/assets/documents/homepage_docs/spec_event_links.pdf).

**SECTION 15** Local Governing Body Approval Section.

I, \_\_\_\_\_ recommend  APPROVAL  DISAPPROVAL  
 (Government Official) (Title)

On behalf of \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_ Phone \_\_\_\_\_  
 (City, Town, County)

**SECTION 16** For Department of Liquor Licenses and Control use only.

APPROVAL  DISAPPROVAL BY: \_\_\_\_\_ DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

**A.R.S. § 41-1030. Invalidity of rules not made according to this chapter; prohibited agency action; prohibited acts by state employees; enforcement; notice**

B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.

D. THIS SECTION MAY BE ENFORCED IN A PRIVATE CIVIL ACTION AND RELIEF MAY BE AWARDED AGAINST THE STATE. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, DAMAGES AND ALL FEES ASSOCIATED WITH THE LICENSE APPLICATION TO A PARTY THAT PREVAILS IN AN ACTION AGAINST THE STATE FOR A VIOLATION OF THIS SECTION.

E. A STATE EMPLOYEE MAY NOT INTENTIONALLY OR KNOWINGLY VIOLATE THIS SECTION. A VIOLATION OF THIS SECTION IS CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO THE AGENCY'S ADOPTED PERSONNEL POLICY.

F. THIS SECTION DOES NOT ABROGATE THE IMMUNITY PROVIDED BY SECTION 12-820.01 OR 12-820.02.



## ROJO HOSPITALITY GROUP

January 23, 2017

Dear Ms. Gall,

The purpose of this letter is to confirm our agreement to donate 25% of the alcohol sales from the West Valley Fair to Lump Busters. In return for the donation, Lump Busters will pay for the license fees, insurance and provide labor for the selling of the alcohol at the event.

This three day event will take place at the University of Phoenix Stadium Great Lawn on March 3-5, 2017. The hours of operation are as follows:

March 3, 2017	2pm-10pm
March 4, 2017	10am-11pm
March 5, 2017	12pm-10pm

We will reconcile the event ten (10) days after it is concluded and forward the 25% payment to Lump Busters .

Thank you in advance for your assistance. We look forward to working with your organization.

Sincerely,

Mike Stevenson  
AGM  
623.433.7636

17-10

# GLENDALE POLICE DEPARTMENT

## Liquor Application Worksheet

Date: 2-1-17

License Type: **Series 15 Special Event (Temporary License)**

Definition: Allows a charitable, civic, fraternal, political or religious organization to sell and serve spirituous liquor for consumption only on the premises where the spirituous liquor is sold, and only for the period authorized on the license. This is a temporary license.

Application Type: **New License**

Definition: New license

Business Name: **Lump Busters**

Business Address: **3640 W. Grandview Rd. (Event at Cardinals Stadium-Great Lawn)**

### Applicant/s Information

Name: **Gall, Terri Dee**

Name:

Name:

Name:

### Background investigation of applicant/s completed.

Calls for Service History:	Call history for location beginning: 1/31/2016	Other Suites	New ownership call history beginning:
Liquor Related	8		
Vice Related			
Drug Related	1		
Fights / Assaults	50		
Robberies			
Burglary / Theft	39		
911 calls	1		
Trespassing	16		
Accidents	21		
Fraud / Forgery	8		
Threats	2		
Criminal damage	5		
Other non-criminal*	49		
Other criminal	16		
<b>Total calls for service</b>	<b>216</b>	<b>N/A</b>	<b>N/A</b>

\* Other non-criminal includes calls such as suspicious persons, juveniles disturbing and other information only reports that required Police response or phone call.

**GLENDALE POLICE DEPARTMENT**  
Liquor Application Worksheet

**Applicant Background Synopsis:**

None of the listed applicant(s) have any known felony convictions within the past five years or any other known criminal history that would lead to police department recommendation for denial.

**Current License Holder:**

N/A

**Location History:**

No significant Calls for Service history at this location.

**Special Concerns:**

None found.

**Background investigation complete:**

Police Department recommendation has No Cause for Denial.

		Date
Investigating Officer – M. Ervin	<u>M. ERVIN</u>	<u>2-1-17</u>
CID Lieutenant or Commander	<u>[Signature] 6698</u>	<u>2-1-17</u>
Deputy City Attorney	_____	_____
Chief of Police or designee	<u>[Signature] 9616</u>	<u>2-1-17</u>



Legislation Description

**File #:** 17-014, **Version:** 1

**RECOMMEND APPROVAL OF LIQUOR LICENSE NO. 5-22095, NINO’S MARKET**

Staff Contact: Vicki Rios, Director, Budget and Finance

**Purpose and Recommended Action**

This is a request for City Council to recommend approval to the Arizona Department of Liquor Licenses and Control of a new, non-transferable series 10 (Liquor Store - Beer and Wine) license for Nino's Market located at 15414 North 67<sup>th</sup> Avenue. The Arizona Department of Liquor Licenses and Control application (No. 10076835) was submitted by Hannah Oshana Covarrubias.

**Background Summary**

The location of the establishment is in the Sahuaro District. This location is 182 feet from a church, however, a license is allowed at this location (grandfathered-in) because it has been a convenience store since 1993. The property is zoned C-2 (General Commercial). The population density within a one-mile radius is 10,936 per the 2010 U.S. Census. Nino's Market is currently operating with an interim permit, therefore, the approval of this license will not increase the number of liquor licenses in the area by one. The current number of liquor licenses within a one-mile radius is as listed below.

Series	Type	Quantity
03	Domestic Microbrewery	1
06	Bar - All Liquor	3
07	Bar - Beer and Wine	1
09	Liquor Store - All Liquor	2
10	Liquor Store - Beer and Wine	4
12	Restaurant	6
	<b>Total</b>	<b>17</b>

Pursuant to A.R.S. § 4-203(A), when considering this new, non-transferable series 10 license, Council may take into consideration the applicant’s capability, qualifications, and reliability.

The City of Glendale Development Services, Police, and Fire Departments have reviewed the application and determined that it meets all technical requirements.

**Community Benefit/Public Involvement**

No public protests were received during the 20-day posting period, December 23 thru January 12, 2017.







16-171

# GLENDALE POLICE DEPARTMENT

## Liquor Application Worksheet

Date: 12-29-16

License Type: **Series 10 Beer and Wine Store (Beer and Wine only)**

Definition: Allows a retail store to sell beer and wine (no other spirituous liquors), only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises.

Application Type: **New License**

Definition: New license

Business Name: **Ninos Market**

Business Address: **15414 N. 67<sup>th</sup> Ave**

### Applicant/s Information

Name: **Covarrubias, Hannah Oshana**

Name:

Name:

Name:

### Background investigation of applicant/s completed.

Calls for Service History:	Call history for location beginning: 12/29/2011	Other Suites	New ownership call history beginning: 12/16/2016
Liquor Related			
Vice Related			
Drug Related	1		
Fights / Assaults			
Robberies			
Burglary / Theft	4		
911 calls	10		
Trespassing			
Accidents			
Fraud / Forgery			
Threats			
Criminal damage	1		
Other non-criminal*	7		
Other criminal			
<b>Total calls for service</b>	<b>23</b>	<b>N/A</b>	<b>0</b>

\* Other non-criminal includes calls such as suspicious persons, juveniles disturbing and other information only reports that required Police response or phone call.





Legislation Description

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**File #:** 17-039, **Version:** 1

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**RECOMMEND APPROVAL OF LIQUOR LICENSE NO. 5-22014, DOLCE VINO WINE BAR ITALIAN CUISINE**

Staff Contact: Vicki Rios, Director, Budget and Finance

**Purpose and Recommended Action**

This is a request for City Council to recommend approval to the Arizona Department of Liquor Licenses and Control of a new, non-transferable series 12 (Restaurant) license for Dolce Vino Wine Bar Italian Cuisine located at 4935 West Glendale Avenue, Suite 17-18. The Arizona Department of Liquor Licenses and Control application (No. 1207A877) was submitted by Ernesto Mazzoni.

**Background Summary**

The location of the establishment is in the Cactus District. The property is zoned C-2 (General Commercial). The population density within a one-mile radius is 19,905 per the 2010 U.S. census. Dolce Vino Wine Bar Italian Cuisine is currently operating with an interim permit, therefore, the approval of this license will not increase the number of liquor licenses in the area by one. The current number of liquor licenses within a one-mile radius is as listed below.

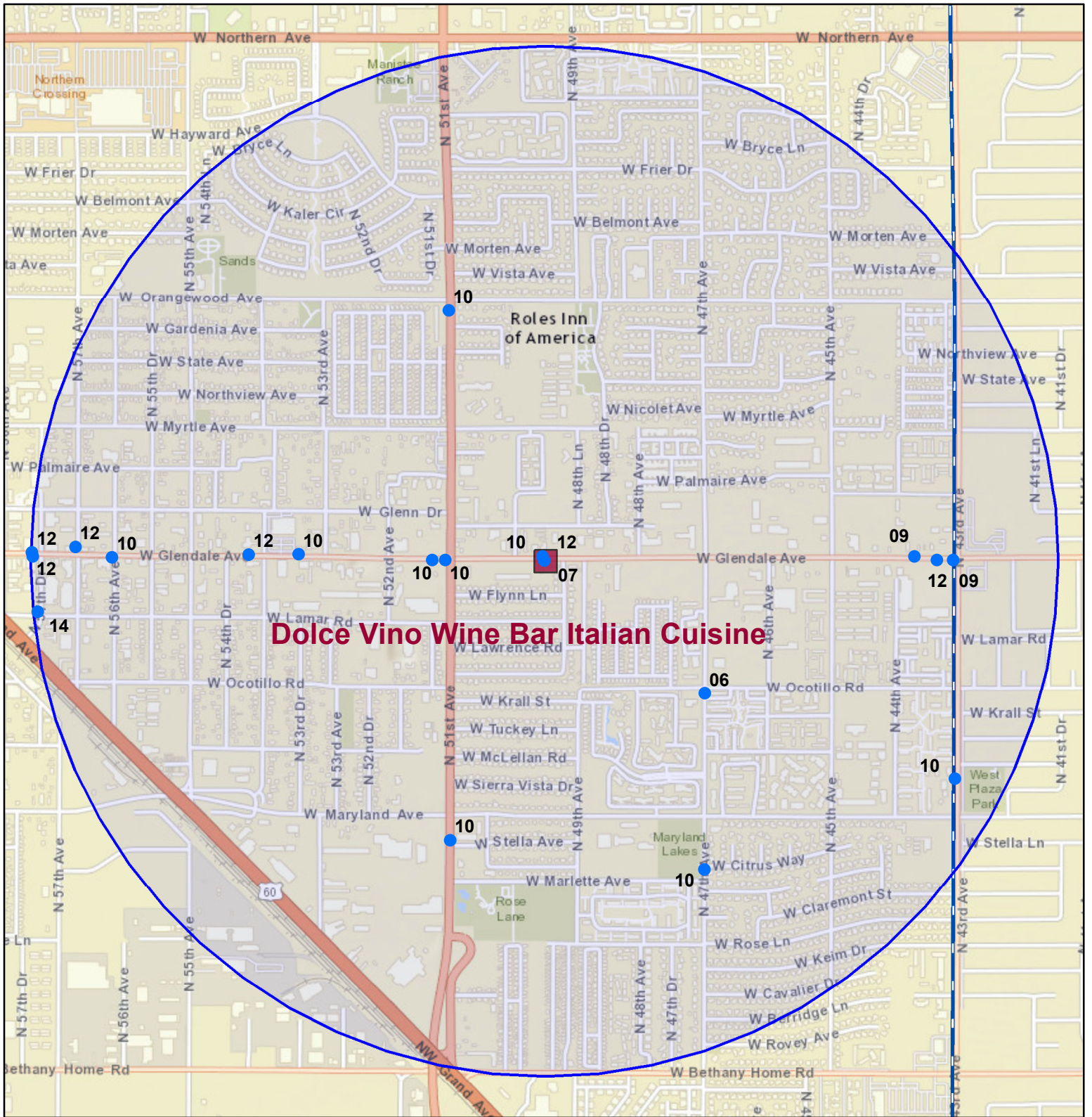
<b>Series</b>	<b>Type</b>	<b>Quantity</b>
06	Bar - All Liquor	1
07	Bar - Beer and Wine	1
09	Liquor Store - All Liquor	2
10	Liquor Store - Beer and Wine	9
12	Restaurant	6
14	Private Club	<u>1</u>
	<b>Total</b>	<b>20</b>

Pursuant to A.R.S. § 4-203(A), when considering this new, non-transferable series 12 license, Council may take into consideration the applicant's capability, qualifications, and reliability.

The City of Glendale Development Services, Police, and Fire Departments have reviewed the application and determined that it meets all technical requirements.

**Community Benefit/Public Involvement**

No public protests were received during the 20-day posting period, January 4 thru January 24, 2017.



**BUSINESS NAME:** Dolce Vino Wine Bar Italian Cuisine

**LOCATION:** 4935 W. Glendale Avenue, Suite 17-18

**APPLICANT:** Ernesto Mazzoni

**ZONING:** C-2

**APPLICATION NO:** 5-22014

**SALES TAX AND LICENSE DIVISION  
CITY OF GLENDALE, AZ**



17-1

# GLENDALE POLICE DEPARTMENT

## Liquor Application Worksheet

Date: 01-17-17

License Type: **Series 12 Restaurant**

Definition: Allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

Application Type: **New License**

Definition: New license

Business Name: **Dolce Vino Wine Bar Italian Cuisine**

Business Address: **4935 W. Glendale Ave**

### Applicant/s Information

Name: **Mazzoni, Ernesto**

Name: **Bulger, Timothy Gene**

Name:

Name:

### Background investigation of applicant/s completed.

Calls for Service History:	Call history for location beginning: 1/17/2012	Other Suites	New ownership call history beginning: 12/30/2016
Liquor Related			
Vice Related			
Drug Related		2	
Fights / Assaults		3	
Robberies		4	
Burglary / Theft		14	
911 calls		1	
Trespassing		8	
Accidents		1	
Fraud / Forgery		3	
Threats			
Criminal damage	1	3	
Other non-criminal*		37	
Other criminal		7	
<b>Total calls for service</b>	<b>1</b>	<b>83</b>	<b>0</b>

\* Other non-criminal includes calls such as suspicious persons, juveniles disturbing and other information only reports that required Police response or phone call.

**GLENDALE POLICE DEPARTMENT**  
Liquor Application Worksheet

**Applicant Background Synopsis:**

None of the listed applicant(s) have any known felony convictions within the past five years or any other known criminal history that would lead to police department recommendation for denial.

**Current License Holder:**

Sonia Blanco (Agent)  
Polo's Italian Cuisine LLC (Owner)

There are no known concerns with the current license holder.

**Location History:**

No significant Calls for Service history at this location.

**Special Concerns:**

None found

**Background investigation complete:**

Police Department recommendation has No Cause for Denial.

		Date
Investigating Officer – M. Ervin	<u>M. ERVIN</u>	<u>1-18-17</u>
CID Lieutenant or Commander	<u>[Signature]</u>	<u>1-19-17</u>
Deputy City Attorney	<u>_____</u>	<u>_____</u>
Chief of Police or designee	<u>[Signature]</u>	<u>1/23/17</u>





## Legislation Description

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**File #: 17-046, Version: 1**

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### **AUTHORIZATION FOR THE EXPENDITURE OF FUNDS AND TO ENTER INTO A LINKING AGREEMENT WITH SHI INTERNATIONAL CORP., FOR SOFTWARE**

Staff Contact: Chuck Murphy, Chief Information Officer, Innovation and Technology

#### **Purpose and Recommended Action**

This is a request for City Council to authorize the City Manager to enter into a Linking Agreement with SHI International Corp. (SHI), for a term commencing upon approval of the agreement and ending on August 31, 2018 and to authorize the City Manager, at their discretion, to renew the agreement for three additional one-year period until August 31, 2021. Through an RFP process by Maricopa County, SHI has been awarded a S.A.V.E. Cooperative purchasing agreement. This request also includes approval of expenditure authority in an amount not to exceed \$4,250,000 over the life of the agreement.

#### **Background**

The City previously used SHI as the State's Software Value Added Reseller (SVAR) agreement for the procurement of software license and maintenance and support from many vendors including but not limited to Adobe, Oracle, Microsoft, VMware, Sophos, and ManageEngine. The State has issued their SVAR agreement to another vendor (CDW-G) and the City must establish a new linking agreement with SHI to continue utilizing their services.

Cooperative purchasing allows counties, municipalities, schools, colleges and universities in Arizona to use a contract that was competitively procured by another governmental entity or purchasing cooperative. Such purchasing helps reduce the cost of procurement, allows access to a multitude of competitively bid contracts, and provides the opportunity to take advantage of volume pricing. The Glendale City Code authorizes cooperative purchases when the solicitation process utilized complies with the intent of Glendale's procurement processes. This cooperative purchase is compliant with Chapter 2, Article V, Division 2, Section 2-149 of the Glendale City Code, per review by Purchasing.

#### **Analysis**

The State has chosen CDW-G as their sole SVAR vendor replacing SHI. While the SVAR pricing is anticipated to be the lowest cost available, the City is pursuing a Linking Agreement with SHI utilizing the S.A.V.E. cooperative purchasing agreement to evaluate the pricing and vendor services from both resellers. This will be beneficial to the City from a competitive pricing perspective in addition to establishing purchasing relationships with two major vendors. These agreements with multiple vendors will ensure that the City can continue maintenance on critical enterprise software, and reduce the risk of experiencing any interruption in service from a single vendor.

**Previous Related Council Action**

On August 12, 2014, Council approved Linking Agreement C-9179 with SHI International Corp., the purchase of the renewal of the City's Microsoft EA Agreement in the amount of \$275,661.78, and the City's Oracle PeopleSoft renewal in the amount of \$540,252.64.

On March 24, 2015, Council approved expenditure authority with SHI in the amount of \$1,087,000 per year.

On January 26, 2016, Council approved an increase in expenditure authority with SHI in the amount of \$265,054.

**Community Benefit/Public Involvement**

The ability to obtain competitive pricing from multiple vendors provides a higher level of cost saving potential when acquiring products and services.

**Budget and Financial Impacts**

The amount budgeted in the Information Technology Fund will fluctuate based on annual budget capacity and replacement needs. It is estimated to be approximately \$850,000 per year.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$850,000</b>	<b>2591-18402-522700, Information Technology</b>

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?



**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
SHI INTERNATIONAL CORP.**

THIS LINKING AGREEMENT (this "Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017, between the City of Glendale, an Arizona municipal corporation (the "City"), and SHI International Corp., a New Jersey corporation authorized to do business in Arizona ("Contractor"), collectively, the "Parties."

**RECITALS**

- A. On September 7, 2016, under the S.A.V.E. Cooperative Purchasing Agreement, the County of Maricopa entered into a contract with Contractor to purchase the goods and services described in the Technology Products and Services Serial 16076 RFP ("Cooperative Purchasing Agreement"), which is attached hereto as Exhibit A. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the City.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Linking Agreement, the parties agree as follows:

1. Term of Agreement. The City is purchasing supplies and/or services from Contractor pursuant to the Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement, purchases can be made by governmental entities from the date of award, which was September 7, 2016, until the date the contract expires on August 31, 2021, unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not be extended beyond August 31, 2026. The initial period of this Agreement, therefore, is the period from the Effective Date of this Agreement until August 31, 2018. The City Manager or designee, however, may renew the term of this Agreement for three (3)

additional one-year periods until the Cooperative Purchasing Agreement expires on August 31, 2021. Renewals are not automatic and shall only occur if the City gives the Contractor notice of its intent to renew. The City may give the Contractor notice of its intent to renew this Agreement 30 days prior to the anniversary of the Effective Date to effectuate such renewal.

2. Scope of Work; Terms, Conditions, and Specifications.

- A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as Exhibit B.
- B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.

3. Compensation.

- A. City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit C.
- B. The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed four million two hundred and fifty thousand dollars (\$4,250,000) for the entire term of the Agreement (initial term plus any renewals).

4. Attestation of PCI Compliance. The City of Glendale requires its Contractors to be PCI compliant if the City makes any payments using a Pro Card or credit card. If payments are made by the City using one of these methods, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility. If the Contractor is not PCI compliant and cannot make the required attestation, Contractor shall not accept payment from the City using a Pro Card or credit card. Acceptance of City Pro Card or credit card payments by the Contractor without such attestation is considered a breach of this Agreement and the City may: (i) subject Contractor to penalties or damages that result from such breach; and (ii) terminate this Agreement.

5. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.

6. Non-discrimination. Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

7. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.

8. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.
9. No Boycott of Israel. The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.
10. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale  
 c/o  
 Innovation & Technology  
 6835 N 57th Drive  
 Suite 100  
 Glendale, Arizona 85301  
 623-930-

and

SHI International Corp.  
 Amelia Jakubczyk  
 290 Davidson Avenue  
 Somerset, NJ 08873

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

“City”

“Contractor”

City of Glendale, an Arizona  
 municipal corporation

SHI International Corp.,  
 a New Jersey corporation

By: \_\_\_\_\_  
 Kevin R. Phelps  
 City Manager



By: \_\_\_\_\_  
 Name: Cassie Skelton  
 Title: Sr. Contracts Specialist

ATTEST:

\_\_\_\_\_  
 Julie K. Bower (SEAL)  
 City Clerk

APPROVED AS TO FORM:

---

Michael D. Bailey  
City Attorney

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
SHI INTERNATIONAL CORP.**

**EXHIBIT A**  
Serial 16076 RFP, Technology Products and Services

**SERIAL 16076 RFP TECHNOLOGY PRODUCTS AND SERVICES  
Contract - SHI International Corp**

**DATE OF LAST REVISION: November 17, 2016 CONTRACT END DATE: August 31, 2021**

**CONTRACT PERIOD THROUGH AUGUST 31, 2021**

TO: All Departments  
FROM: Office of Procurement Services  
SUBJECT: Contract for **TECHNOLOGY PRODUCTS AND SERVICES**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **September 07, 2016**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.



---

Kevin Tyne, Chief Procurement Officer  
Office of Procurement Services

BW/at  
Attach

Copy to: Office of Procurement Services  
Kevin Westover, Office of Enterprise Technology



## CONTRACT PURSUANT TO RFP

**SERIAL 16076-RFP**

This Contract is entered into this seventh (7<sup>th</sup>) day of August, 2016 by and between Maricopa County ("County"), a political subdivision of the State of Arizona, and SHI International Corp., an Arizona corporation ("Contractor") for the purchase of Technology Products and Services.

### 1.0 CONTRACT TERM:

- 1.1 This Contract is for a term of Five (5) years, beginning on the seventh (7<sup>th</sup>) day of September, 2016 and ending the 31st day of August, 2021.
- 1.2 The County may, at its option and with the agreement of the Contractor, renew the term of this Contract for additional terms up to a maximum of five (5) additional years, (or at the County's sole discretion, extend the contract on a month-to-month bases for a maximum of six (6) months after expiration). The County shall notify the Contractor in writing of its intent to extend the Contract term at least sixty (60) calendar days prior to the expiration of the original contract term, or any additional term thereafter.

### 2.0 FEE ADJUSTMENTS:

- 2.1 Any request for a fee adjustment must be submitted sixty (60) days prior to the current Contract expiration date. Requests for adjustment in cost of labor and/or materials must be supported by appropriate documentation. If County agrees to the adjusted fee, County shall issue written approval of the change. The reasonableness of the request will be determined by comparing the request with the (Consumer Price Index) or by performing a market survey.

### 3.0 PAYMENTS:

- 3.1 As consideration for performance of the duties described herein, County shall pay Contractor the sum(s) stated in Exhibit "A or Task Order."
- 3.2 Payment shall be made upon the County's receipt of a properly completed invoice.

### 3.3 INVOICES:

- 3.3.1 The Contractor shall submit one (1) legible copy of their detailed invoice before payment(s) can be made. Incomplete invoices will not be processed. At a minimum, the invoice must provide the following information:
  - Company name, address and contact
  - County bill-to name and contact information
  - Contract Serial Number
  - County purchase order number
  - Invoice number and date
  - Payment terms
  - Date of service or delivery
  - Quantity (number of days or weeks if services)

- Contract Item number(s)
- Description of Purchase (product or services, including project number if applicable)
- Pricing per unit of purchase
- Freight (if applicable)
- Extended price
- Mileage w/rate (if applicable)
- Arrival and completion time (if applicable)
- Total Amount Due

3.3.2 Problems regarding billing or invoicing shall be directed to the using agency as listed on the Purchase Order.

3.3.3 Payment shall be made to the Contractor by Accounts Payable through the Maricopa County Vendor Express Payment Program. This is an Electronic Funds Transfer (EFT) process. After Contract Award the Contractor shall complete the Vendor Registration Form located on the County Department of Finance Vendor Registration Web Site (<http://www.maricopa.gov/Finance/Vendors.aspx>).

3.3.4 Discounts offered in the contract shall be calculated based on the date a properly completed invoice is received by the County (ROI).

3.3.5 EFT payments to the routing and account numbers designated by the Contractor will include the details on the specific invoices that the payment covers. The Contractor is required to discuss remittance delivery capabilities with their designated financial institution for access to those details.

3.4 PAYMENT RETENTION: (As required by County based on project)

3.4.1 Ten percent (10%) of monies paid for Project Management and Project Labor earned by CONTRACTOR related to work under this agreement shall be retained by COUNTY until Final Completion of the services herein described in accordance with Section 2.13. COUNTY may elect to release specific retention payments based on mutually agreed milestones, but in no case shall retention be released prior to Final Completion. All other payment terms and conditions shall not be affected by the retention. In the event of termination or cancellation of this contract by County through no fault of CONTRACTOR, CONTRACTOR shall be entitled to the refund of any funds in the retention account.

3.4.2 After fifty percent (50%) of the work has been completed, the Maricopa County Executive Steering Committee may reduce the retainage to five percent (5%) of all monies previously earned and all monies earned thereafter. Any reduction in retainage shall be in the discretion of the Maricopa County Executive Steering Committee. Any interest earned on retainage shall accrue solely to the benefit of COUNTY.

3.5 APPLICABLE TAXES:

3.5.1 **Payment of Taxes:** The Contractor shall pay all applicable taxes. With respect to any installation labor on items that are not attached to real property performed by Contractor under the terms of this Contract, the installation labor cost and the gross receipts for materials provided shall be listed separately on the Contractor's invoices.

3.5.2 **State and Local Transaction Privilege Taxes:** Maricopa County is subject to all applicable state and local transaction privilege taxes. To the extent any state and local transaction privilege taxes apply to sales made under the terms of this contract\_it is the responsibility of the seller to collect and remit all applicable taxes to the proper taxing jurisdiction of authority.



3.5.3 **Tax Indemnification:** Contractor and all subcontractors shall pay all Federal, state, and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold Maricopa County harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

3.6 TAX: (SERVICES)

No tax shall be levied against labor. It is the responsibility of the Contractor to determine any and all taxes and include the same in proposal price.

3.7 TAX (COMMODITIES):

Tax shall not be levied against labor. Sales/use tax will be determined by County. Tax will not be used in determining low price.

3.8 STRATEGIC ALLIANCE for VOLUME EXPENDITURES (\$AVE):

3.8.1 The County is a member of the \$AVE cooperative purchasing group. \$AVE includes the State of Arizona, many Phoenix metropolitan area municipalities, and many K-12 unified school districts. Under the \$AVE Cooperative Purchasing Agreement, and with the concurrence of the successful Respondent under this solicitation, a member of \$AVE may access a contract resulting from a solicitation issued by the County. If you **do not** want to grant such access to a member of \$AVE, **please so state** in your proposal. In the absence of a statement to the contrary, the County will assume that you do wish to grant access to any contract that may result from this Request for Proposal.

3.9 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENTS (ICPA's)

3.9.1 County currently holds ICPA's with numerous governmental entities throughout the State of Arizona. These agreements allow those entities, with the approval of the Contractor, to purchase their requirements under the terms and conditions of the County Contract. Please indicate on Attachment A, your acceptance or rejection regarding such participation of other governmental entities. Your response will not be considered as an evaluation factor in awarding a contract

3.10 VOLUNTARY EMPLOYEE DISCOUNTS

3.10.1 Vendors may voluntarily offer discounts to County employees for products or services provided under this contract. Whether a vendor offers or does not offer an employee discount is not a factor in nor considered in the evaluation of responses to this solicitation.

3.10.2 Any discount offered is part of a commercial transaction between the vendor and individual County employees and the County is not a party to the transaction. Any disputes or issues arising from an individual commercial transaction between the vendor and an individual County employee are a matter between the vendor and the employee. If a discount is offered, the terms will be announced to County employees.

4.0 AVAILABILITY OF FUNDS:

4.1 The provisions of this Contract relating to payment for services shall become effective when funds assigned for the purpose of compensating the Contractor as herein provided are actually available to County for disbursement. The County shall be the sole judge and authority in determining the availability of funds under this Contract. County shall keep the Contractor fully informed as to the availability of funds.

- 4.2 If any action is taken by any state agency, Federal department or any other agency or instrumentality to suspend, decrease, or terminate its fiscal obligations under, or in connection with, this Contract, County may amend, suspend, decrease, or terminate its obligations under, or in connection with, this Contract. In the event of termination, County shall be liable for payment only for services rendered prior to the effective date of the termination, provided that such services are performed in accordance with the provisions of this Contract. County shall give written notice of the effective date of any suspension, amendment, or termination under this Section, at least ten (10) days in advance.

**5.0 DUTIES:**

- 5.1 The Contractor shall perform all duties stated in Exhibit "B", Project Task Order or as otherwise directed in writing by the Procurement Officer.
- 5.2 During the Contract term, County may provide Contractor's personnel with adequate workspace for consultants and such other related facilities as may be required by Contractor to carry out its contractual obligations as required.

**5.3 LIMITATION OF LIABILITY**

5.3.1 (i) NEITHER PARTY WILL BE LIABLE FOR ANY SPECIAL, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF OR DAMAGE TO DATA, LOSS OF ANTICIPATED REVENUE OR PROFITS, WORK STOPPAGE OR IMPAIRMENT OF OTHER ASSETS, WHETHER OR NOT FORESEEABLE AND WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

5.3.2 (ii) EXCEPT IN THE CASE OF BREACH OF EACH PARTY'S LIABILITY FOR PERSONAL INJURY/PROPERTY DAMAGE UNDER ARTICLE ENTITLED, "HOLD HARMLESS/INDEMNITY", EITHER PARTY'S TOTAL CUMULATIVE LIABILITY TO THE OTHER IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHER THEORY, WILL NOT EXCEED THE TOTAL AMOUNT OF FEES ACTUALLY PAID OR PAYABLE BY THE CITY TO THE CONTRACTOR UNDER THIS AGREEMENT FOR THE YEAR PREVIOUS TO THE INCIDENT WHICH GAVE CAUSE FOR SUCH LIABILITY.

**6.0 TERMS and CONDITIONS:**

**6.1 INDEMNIFICATION:**

To the fullest extent permitted by law, and to the extent that claims, damages, losses or expenses are not covered and paid by insurance purchased by the Contractor, the Contractor shall defend indemnify and hold harmless the County (as Owner), its agents, representatives, agents, officers, directors, officials, and employees from and against all claims, damages, losses, and expenses (including, but not limited to attorneys' fees, court costs, expert witness fees, and the costs and attorneys' fees for appellate proceedings) arising out of, or alleged to have resulted from the negligent acts, errors, omissions, or mistakes relating to the performance of this Contract.

Contractor's duty to defend, indemnify, and hold harmless the County, its agents, representatives, agents, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss, or expense that is attributable to bodily injury, sickness, disease, death or injury to, impairment of, or destruction of tangible property, including loss of use resulting there from, caused by negligent acts, errors, omissions, or mistakes in the performance of this Contract, but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, any one directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder.

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.

The scope of this indemnification does not extend to the sole negligence of County.

6.2 INSURANCE.

- 6.2.1 Contractor, at Contractor's own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of B++. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of County. The form of any insurance policies and forms must be acceptable to County.
- 6.2.2 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of County, constitute a material breach of this Contract.
- 6.2.3 Contractor's insurance shall be primary insurance as respects County, and any insurance or self-insurance maintained by County shall not contribute to it for Contractor's negligence.
- 6.2.4 Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the County's right to coverage afforded under the insurance policies.
- 6.2.5 The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to County under such policies. Contractor shall be solely responsible for the deductible and/or self-insured retention and County, 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.
- 6.2.6 The insurance policies required by this Contract, except Workers' Compensation and Errors and Omissions, shall name County, its agents, representatives, officers, directors, officials and employees as Additional Insureds.
- 6.2.7 The policies required hereunder, except Workers' Compensation and Errors and Omissions, shall contain a waiver of transfer of rights of recovery (subrogation) against County, its agents, representatives, officers, directors, officials and employees for any claims arising out of Contractor's work or service.
- 6.2.8 **Commercial General Liability.**
- Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 Products/Completed Operations Aggregate, and \$4,000,000 General Aggregate Limit. The policy shall include coverage for premises liability, bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provisions which would serve to limit third party action over claims. There shall be no endorsement or modifications of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.
- 6.2.9 **Automobile Liability.**
- Commercial/Business Automobile Liability insurance and, if necessary, Commercial Umbrella 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 of the Contractor's

owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services or use or maintenance of the Premises under this Contract.

**6.2.10 Workers' Compensation.**

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

Contractor, its contractors and its subcontractors waive all rights against Contract and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Contractor, its contractors and its subcontractors pursuant to this Contract.

**6.2.11 Errors and Omissions (Professional Liability) Insurance as required by project.**

Errors and Omissions (Professional Liability) insurance and, if necessary, Commercial Umbrella insurance, which will insure and provide coverage for errors or omissions or professional liability of the **CONTRACTOR**, with limits of no less than \$2,000,000 for each claim.

**6.2.12 Professional Liability. (As required by project)**

Contractor shall maintain Professional Liability insurance which will provide coverage for any and all acts arising out of the work or services performed by the Contractor under the terms of this Contract, with a limit of not less than \$1,000,000 for each claim, and \$3,000,000 aggregate claims.

**6.2.13 Certificates of Insurance.**

6.2.13.1 Prior to Contract **AWARD**, Contractor shall furnish the County with valid and complete certificates of insurance, or formal endorsements as required by the Contract in the form provided by the County, issued by Contractor's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this contract number and title.

6.2.13.2 In the event any insurance policy (ies) required by this contract is (are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of Contractor's work or services and as evidenced by annual Certificates of Insurance.

6.2.13.3 If a policy does expire during the life of the Contract, a renewal certificate must be sent to County fifteen (15) days prior to the expiration date.

**6.3 FORCE MAJEURE**

6.3.1 Neither party shall be liable for failure of performance, nor incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Contract if such delay or failure is caused by events, occurrences, or causes beyond the reasonable control and without negligence of the parties. Such events, occurrences, or causes will include Acts of God/Nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, riots, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, lockout, blockage, embargo, labor dispute, strike, interruption or failure of electricity or telecommunication service.

- 6.3.2 Each party, as applicable, shall give the other party notice of its inability to perform and particulars in reasonable detail of the cause of the inability. Each party must use best efforts to remedy the situation and remove, as soon as practicable, the cause of its inability to perform or comply.
- 6.3.3 The party asserting *Force Majeure* as a cause for non-performance shall have the burden of proving that reasonable steps were taken to minimize delay or damages caused by foreseeable events, that all non-excused obligations were substantially fulfilled, and that the other party was timely notified of the likelihood or actual occurrence which would justify such an assertion, so that other prudent precautions could be contemplated.
- 6.3.4 The County shall reserve the right to terminate this Contract and/or any applicable order or contract release purchase order upon non-performance by Contractor. The County shall reserve the right to extend the Contract and time for performance at its discretion.

6.4 WARRANTY OF SERVICES:

- 6.4.1 The Contractor warrants that all services performed by Contractor hereunder will conform to the requirements of the Contract, including all descriptions, specifications and attachments made a part of this Contract. County's acceptance of services or goods provided by the Contractor shall not relieve the Contractor from its obligations under this warranty.

6.5 REMEDY:

- 6.5.1 If any of the services do not conform to Contract requirements under the warranty in 6.4.1, County may require the Contractor to perform the services again in conformity with Contract requirements, at no cost to the County. When the defects in services cannot be corrected by re-performance, County may:
  - 6.5.1.1 Require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements; and
  - 6.5.1.2 Reduce the Contract price to reflect the reduced value of the services performed.
  - 6.5.1.3 If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with Contract requirements, County may:
  - 6.5.1.4 By Contract or otherwise, perform the services and charge to the Contractor, through direct billing or through payment reduction, any cost incurred by County that is directly related to the performance of such service; or
  - 6.5.1.5 Terminate the Contract for default.

6.6 REQUIREMENTS CONTRACT:

- 6.6.1 Contractors signify their understanding and agreement by signing a bid submittal, that the Contract resulting from the bid is a requirements contract. However, the Contract does not guarantee any minimum or maximum number of purchases will be made. It only indicates that if purchases are made for the materials or services contained in the Contract, they will be purchased from the Contractor awarded that item if the Contractor can meet all the delivery requirements of the County. Orders will only be placed when the County identifies a need and proper authorization and documentation have been approved.
- 6.6.2 County reserves the right to cancel Purchase Orders within a reasonable period of time after issuance. Should a Purchase Order be canceled, the County agrees to reimburse the Contractor for actual and documentable costs incurred by the Contractor in response to the Purchase Order. The County will not reimburse the Contractor for any costs incurred

after receipt of County notice of cancellation, or for lost profits, shipment of product prior to issuance of Purchase Order, etc.

- 6.6.3 Contractors agree to accept verbal notification of cancellation of Purchase Orders from the County Procurement Officer with written notification to follow. By submitting a bid in response to this Invitation for Bids, the Contractor specifically acknowledges to be bound by this cancellation policy.

6.7 Background Check:

Contractors need to be aware that there may be multiple background checks (Sheriff's Office, County Attorney's Office, Courts as well as Maricopa County general government) to determine if the respondents employees are acceptable for the contractor to do business with the County. This applies to (but is not limited to) the company and sub-contractors. Employees or others who fail to pass these checks shall not be allowed to work on County projects. Failure to meet these requirements may lead to termination of the contract.

6.8 Suspension of Work

The Procurement Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Procurement Officer determines appropriate for the convenience of the County. No adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor. No request for adjustment under this clause shall be granted unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

6.9 Stop Work Order

The Procurement Officer 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 a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. 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. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Procurement Officer shall either—

- 6.9.1 Cancel the stop-work order; or
- 6.9.2 Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the County, clause of this contract.
- 6.9.3 The Procurement Officer may make an equitable adjustment in the delivery schedule and/or contract price, or otherwise, and the contract shall be modified, in writing, accordingly, if the Contractor demonstrates that the stop work order resulted in an increase in costs to the Contractor.

6.10 UNCONDITIONAL TERMINATION FOR CONVENIENCE:

Maricopa County may terminate the resultant Contract for convenience by providing sixty (60) calendar days advance notice to the Contractor.

6.11 TERMINATION FOR DEFAULT:

The County may, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to:

- 6.11.1 Deliver the supplies or to perform the services within the time specified in this contract or any extension;
- 6.11.2 Make progress, so as to endanger performance of this contract; or
- 6.11.3 Perform any of the other provisions of this contract.
- 6.11.4 The County's right to terminate this contract under these subparagraph may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the County) after receipt of the notice from the Procurement Officer specifying the failure.

**6.12 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:**

Notice is given that pursuant to A.R.S. § 38-511 the County may cancel any Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S § 38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the Contract.

**6.13 CONTRACTOR LICENSE REQUIREMENT:**

- 6.13.1 The Respondent shall procure all permits, insurance, licenses and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any required certification requirements, required by any and all governmental or non-governmental entities as mandated to maintain compliance with and in good standing for all permits and/or licenses. The Respondent shall keep fully informed of existing and future trade or industry requirements, Federal, State and Local laws, ordinances, and regulations which in any manner affect the fulfillment of a Contract and shall comply with the same. Contractor shall immediately notify both Office of Procurement Services and the using agency of any and all changes concerning permits, insurance or licenses.
- 6.13.2 Respondents furnishing finished products, materials or articles of merchandise that will require installation or attachment as part of the Contract, shall possess any licenses required. A Respondent is not relieved of its obligation to possess the required licenses by subcontracting of the labor portion of the Contract. Respondents are advised to contact the Arizona Registrar of Contractors, Chief of Licensing, at (602) 542-1525 to ascertain licensing requirements for a particular contract. Respondents shall identify which license(s), if any, the Registrar of Contractors requires for performance of the Contract.

**6.14 SUBCONTRACTING:**

- 6.14.1 The Contractor may not assign to another Contractor or Subcontract to another party for performance of the terms and conditions hereof without the written consent of the County. All correspondence authorizing subcontracting must reference the Bid Serial Number and identify the job project.
- 6.14.2 The Subcontractor's rate for the job shall not exceed that of the Prime Contractor's rate, as bid in the pricing section, unless the Prime Contractor is willing to absorb any higher rates or the County has approved the increase. The Subcontractor's invoice shall be invoiced directly to the Prime Contractor, who in turn shall pass-through the costs to the County, without mark-up. A copy of the Subcontractor's invoice must accompany the Prime Contractor's invoice.

6.15 AMENDMENTS:

All amendments to this Contract shall be in writing and approved/signed by both parties. Maricopa County Office of Procurement Services shall be responsible for approving all amendments for Maricopa County.

6.16 ADDITIONS/DELETIONS OF SERVICE:

6.16.1 The County reserves the right to add and/or delete materials and services to a Contract. If a service requirement is deleted, payment to the Contractor will be reduced proportionately, to the amount of service reduced in accordance with the bid price. If additional materials or services are required from a Contract, prices for such additions will be negotiated between the Contractor and the County.

6.16.2 The County reserves the right of final approval on proposed staff for all Task Orders. Also, upon request by the County, the Contractor will be required to remove any employees working on County projects and substitute personnel based on the discretion of the County within two business days, unless previously approved by the County.

6.17 VALIDITY:

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of the Contract.

6.18 SEVERABILITY:

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

6.19 RIGHTS IN DATA:

The County shall have the use of data and reports resulting from a Contract without additional cost or other restriction except as may be established by law or applicable regulation. Each party shall supply to the other party, upon request, any available information that is relevant to a Contract and to the performance thereunder.

6.20 NON-DISCRIMINATION:

CONTRACTOR agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 including flow down of all provisions and requirements to any subcontractors. Executive Order 2009-09 supersedes Executive order 99-4 and amends Executive order 75-5 and may be viewed and downloaded at the Governor of the State of Arizona's website <http://azmemory.azlibrary.gov/cdm/singleitem/collection/execorders/id/680/rec/1> which is hereby incorporated into this contract as if set forth in full herein. During the performance of this contract, CONTRACTOR shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

6.21 ISRAEL BOYCOTT:

Per House Bill 2617 Contractor certifies that they are not currently engaged in, and agrees for the duration of the Contract to not engage in, a boycott of Israel.

6.22 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

6.22.1 The undersigned (authorized official signing for the Contractor) certifies to the best of his or her knowledge and belief, that the Contractor



- 6.21.1.1 is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;
  - 6.21.1.2 have not within 3-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - 6.21.1.3 are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
  - 6.21.1.4 have not within a 3-year period preceding this Contract had one or more public transaction (Federal, State or local) terminated for cause of default.
- 6.22.2 The Contractor agrees to include, without modification, this clause in all lower tier covered transactions (i.e. transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this Contract.
- 6.23 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS:
- 6.23.1 By entering into the Contract, the Contractor warrants compliance with the Immigration and Nationality Act (INA using e-verify) and all other federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214(A). The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the Contract and verify employee compliance using the E-verify system and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer. I-9 forms are available for download at USCIS.GOV.
  - 6.23.2 The County retains the legal right to inspect contractor and subcontractor employee documents performing work under this Contract to verify compliance with paragraph 6.22 of this Section. Contractor and subcontractor shall be given reasonable notice of the County's intent to inspect and shall make the documents available at the time and date specified. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County will consider this a material breach of the contract and may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.
- 6.24 INFLUENCE
- As prescribed in MC1-1202 of the Maricopa County Procurement Code, any effort to influence an employee or agent to breach the Maricopa County Ethical Code of Conduct or any ethical conduct may be grounds for Disbarment or Suspension under MC1-902. An attempt to influence includes, but is not limited to:

- 6.24.1 A Person offering or providing a gratuity, gift, tip, present, donation, money, entertainment or educational passes or tickets, or any type valuable contribution or subsidy,
- 6.24.2 That is offered or given with the intent to influence a decision, obtain a contract, garner favorable treatment, or gain favorable consideration of any kind.

If a Person attempts to influence any employee or agent of Maricopa County, the Chief Procurement Officer, or his designee, reserves the right to seek any remedy provided by the Maricopa County Procurement Code, any remedy in equity or in the law, or any remedy provided by this contract.

6.25 **CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLERBLOWER RIGHTS (APPLIES TO PROJECTS THAT MAYBE FEDERALLY FUNDED).**

- 6.25.1 The Parties agree that this Contract and employees working on this Contract will be subject to the whistleblower rights and remedies in the pilot program on contractor employee whistleblower protections established at 41 U.S.C. § 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239) and section 3.908 of the Federal Acquisition Regulation;
- 6.25.2 Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. § 4712, as described in section 3.908 of the Federal Acquisition Regulation. Documentation of such employee notification must be kept on file by Contractor and copies provided to County upon request.
- 6.25.3 Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold (\$150,000 as of September 2013).

6.26 **ACCESS TO AND RETENTION OF RECORDS FOR THE PURPOSE OF AUDIT AND/OR OTHER REVIEW:**

- 6.26.1 In accordance with section MCI 371 of the Maricopa County Procurement Code the Contractor agrees to retain all books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is latest. The County, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of, any and all said materials.
- 6.26.2 If the Contractor's books, records , accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract are not sufficient to support and document that requested services were provided, the Contractor shall reimburse Maricopa County for the services not so adequately supported and documented.
- 6.26.3 If at any time it is determined by the County that a cost for which payment has been made is a disallowed cost, the County shall notify the Contractor in writing of the disallowance. The course of action to address the disallowance shall be at sole discretion of the County, and may include either an adjustment to future invoices, request for credit, request for a check or deduction from current billings Submitted by the Contractor by the amount of the disallowance, or to require reimbursement forthwith of the disallowed amount by the Contractor by issuing a check payable to Maricopa County.

6.27 **AUDIT DISALLOWANCES:**

If at any time, County determines that a cost for which payment has been made is a disallowed cost, such as overpayment, County shall notify the Contractor in writing of the disallowance.

County shall also state the means of correction, which may be but shall not be limited to adjustment of any future claim submitted by the Contractor by the amount of the disallowance, or to require repayment of the disallowed amount by the Contractor.

6.28 OFFSET FOR DAMAGES;

In addition to all other remedies at Law or Equity, the County may offset from any money due to the Contractor any amounts Contractor owes to the County for damages resulting from breach or deficiencies in performance of the contract.

6.29 PUBLIC RECORDS:

Under Arizona law, all Offers submitted and opened are public records and must be retained by the Records Manager at the Office of Procurement Services. Offers shall be open to public inspection and copying after Contract award and execution, except for such Offers or sections thereof determined to contain proprietary or confidential information. by the Office of Procurement Services. If an Offeror believes that information in its Offer or any resulting Contract should not be released in response to a public record request under Arizona law, the Offeror shall indicate the specific information deemed confidential or proprietary and submit a statement with its offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise from disclosure. The Records Manager of the Office of Procurement Services shall determine whether the identified information is confidential pursuant to the Maricopa County Procurement Code.

6.30 PRICES:

Contractor warrants that prices extended to County under this Contract are no higher than those paid by any other customer for these or similar services.

6.31 INTEGRATION:

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, proposals, communications, understandings, representations, or agreements, whether oral or written, express or implied.

6.32 RELATIONSHIPS:

In the performance of the services described herein, the Contractor shall act solely as an independent contractor, and nothing herein or implied herein shall at any time be construed as to create the relationship of employer and employee, co-employee, partnership, principal and agent, or joint venture between the County and the Contractor.

6.33 GOVERNING LAW:

This Contract shall be governed by the laws of the state of Arizona. Venue for any actions or lawsuits involving this Contract will be in Maricopa County Superior Court or in the United States District Court for the District of Arizona, sitting in Phoenix, Arizona

6.34 ORDER OF PRECEDENCE:

In the event of a conflict in the provisions of this Contract and Contractor's license agreement, if applicable, the terms of this Contract shall prevail.

6.35 INCORPORATION OF DOCUMENTS:

The following are to be attached to and made part of this Contract:

6.35.1 Exhibit A, Pricing;

6.35.2 Exhibit B, Scope of Work

6.35.3 Exhibit C, Office of Procurement Services Contractor Travel and Per Diem Policy.

**NOTICES:**

All notices given pursuant to the terms of this Contract shall be addressed to:

For County:

Maricopa County  
Office of Procurement Services  
ATTN: Contract Administration  
320 West Lincoln Street  
Phoenix, Arizona 85003-2494

For Contractor:

SHI International Corp.  
ATTN: Contracts  
290 Davidson Avenue  
Somerset, NJ 08873

IN WITNESS WHEREOF, this Contract is executed on the date set forth above.

**CONTRACTOR**

Natalie Slowik

AUTHORIZED SIGNATURE

Natalie Slowik, Senior Manager - Contracts & RFPs

PRINTED NAME AND TITLE

290 Davidson Ave, Somerset, NJ 08873

ADDRESS

7/28/16

DATE

**MARICOPA COUNTY**

[Signature]

CHAIRMAN, BOARD OF SUPERVISORS

SEP 07 2015

DATE

**ATTESTED:**

[Signature]

CLERK OF THE BOARD

SEP 07 2015

DATE

**APPROVED AS TO FORM:**

Randell B. Pennings

DEPUTY COUNTY ATTORNEY

09 01 2016

DATE

**EXHIBIT A  
PRICING**

SERIAL 16076-RFP

NIGP CODE: 20300, 204

RESPONDENT'S NAME: SHI International Corp

COUNTY VENDOR NUMBER : ~~2011001031-0~~ VC0000002259

ADDRESS: 290 Davidson Ave. Somerset NJ 08873

P.O. ADDRESS: 290 Davidson Ave. Somerset NJ 08873

TELEPHONE NUMBER: 303-882-8012

FACSIMILE NUMBER: 303-723-5257

WEB SITE: www.shi.com

CONTACT (REPRESENTATIVE): Amelia Jakubczyk

REPRESENTATIVE'S E-MAIL ADDRESS: Amelia\_Jakubczyk@SHI.com

**PAYMENT TERMS.**

NET 30 DAYS - SHI

**1.0 PRICING (discount off PUBLISHED PRICE)**

	<b>MINIMUM DISCOUNT PERCENTAGE OFF CURRENT PUBLISHED PRICE</b>
1.1 Cisco Products, Services and Solutions:	
1.1.1 Cisco Products:	4%
1.1.2 Cisco Services and Solutions:	4%
1.2 HP Products, Services and Solutions:	
1.2.1 Computers:	4%
1.2.2 Networking:	4%
1.2.3 Servers:	4%
1.2.4 Software:	4%
1.2.5 Storage	4%
1.2.6 HP Services and Solutions:	4%
1.3 Dell Products, Services and Solutions:	
1.3.1 General Products	4%
1.3.2 Software:	4%
1.3.3 Dell Services and Solutions	4%
1.4 CommVault Products, Services and Solutions:	
1.4.1 CommVault Products:	4%
1.4.2 CommVault Solutions: Services and Support:	4%
1.5 Symantec Products, Services and Solutions:	
1.5.1 Symantec Products:	4%
1.5.2 Symantec Services and Solutions:	4%

**All discounts represent minimum discounts off SHI Advertised List Price; actual discounts may be significantly higher. See notes below for additional information SHI's pricing offer.**

1.6 Veritas Products, Services and Solutions:	
1.6.1 Veritas Products:	4%
1.6.2 Veritas Services and Solutions:	4%
1.7 VMware Products, Services and Solutions:	
1.7.1 VMware Products:	4%
1.7.2 VMware Services and Solutions:	4%
1.8 Apple Products, Services and Solution:	4%
1.9 Google Products, Services and Solutions:	4%
1.10 Amazon Web Services Products, Services and Solutions:	
1.10.1 Amazon Web Services Products and Services:	4%
1.10.2 Amazon Web Services Solutions:	4%
1.11 Microsoft Products, Services and Solutions:	
1.11.1 Devices:	4%
1.11.2 Software and Applications	4%
1.11.3 Microsoft Services and Solutions:	4%
1.11.4 Related Products, Services and Solutions (PROPOSERS CATALOG):	4%

**EFFECTIVE 11/17/16**

<b>1.12 Juniper Products, Services and Solutions:</b>	
<b>1.12.1 Juniper Products</b>	<b>4%</b>
<b>1.12.2 Juniper Services and Solutions:</b>	<b>4%</b>

**EXHIBIT B  
SCOPE OF WORK**

**1.0 INTENT:**

The Intent of this contract is to provide following products and services.

This shall be a multiple award arrangement in an effort to bring the most competitive pricing, value, opportunity, and speed to market to the County. All projects may be competed but all projects over \$150,000.00 shall be competed to all awarded proposers for that product line Selection criteria may include the following ( Available staff, contractors current qualifications, project timeline, price and other factors determined by the County to be relevant to the project).

Other governmental entities under agreement with the County may have access to products and services provided hereunder (see also Section 3.8 and 3.9 of contract).

The County reserves the right to add additional contractors, at the County’s sole discretion, in cases where the currently listed contractors are of an insufficient number or skill-set to satisfy the County’s needs or to ensure adequate competition on any project or task order work.

**2.0 GENERAL DEFINITION OF PRODUCTS AND/OR SERVICES**

The intent of this contract is to provide Maricopa County network infrastructure products and services as follows:

**2.1 Technology Services and Solutions:** A complete portfolio of technology services and solutions related to the design, use or operation of the products being purchased such as systems configuration, testing, software copying, hardware and software installation, upgrades and/or maintenance, system, network, security, engineering and architecture and any other related services from Contractor. Specific requirements will be developed on a task order basis and may include, but is not limited to, services and solutions such as:

**2.1.1 Technology Products:** A complete portfolio of network infrastructure equipment and services including, but not limited to, routers, switches, and security products.

**2.1.2 Software Defined Network:** Transform physical network to virtual to consolidate resources, reduce energy consumption, reduce complexity, increase IT capacity, add system flexibility, and to further support cloud computing.

**2.1.3 Virtualization:** Transform data center with virtualization to consolidate servers, reduce energy consumption, increase IT capacity, add system flexibility, and to further support cloud computing.

**2.1.4 Virtual Desktop Infrastructure:** Transform desktop environment to improve customer experience, reduce energy consumption, increase IT capacity, and to add system flexibility.

**2.1.5 Security:** Security solutions for critical infrastructure, perimeter defense, physical and logical access control, identity management, antiterrorism protection, monitoring, automated alarms and alerts, integration with databases containing critical information, cyber security and asset management, endpoint security and other network security.

**2.1.6 Communications:** Communication solutions to converge voice, data and video communications onto a single, secure IP-based network.

**2.1.7 Cloud:** Cloud solutions for scalable computing and storage capacity and rapid self-provisioning computing capabilities. This may include, but is not limited to, Cloud Infrastructure as a Service (IaaS), Cloud Software as a Service (SaaS) and Cloud



Platform as a Service (PaaS).

- 2.1.8 **Infrastructure:** Infrastructure solutions such as data center management, network modernization and migration, desktop virtualization, Remote Network Operations Center (RNOC) services, risk and vulnerability management, and IT service management.
- 2.1.9 **Data Management:** Data management solution which uses technologies such as thin provisioning, de-duplication and automated multi-tiered storage to improve storage utilization.
- 2.1.10 **UCC (Unified Communications and Collaboration):** UCC video teleconferencing solutions that provide for critical infrastructure, emergency operations centers, command rooms, fusion centers, and training rooms. Also, visual communications that integrate audio, video, voice and presentation capabilities.
- 2.1.11 **Mobility:** Mobility services to keep users connected, responsive and secure such as email protection, download prevention, containerize content on devices, self-destructing content, and content linked back to the user.
- 2.1.12 **Asset Management:** Asset management solutions to identify and manage installed software, hardware and license entitlements.
- 2.1.13 **Data Protection:** Data protection to protect, backup, recover and archive data and applications.
- 2.1.14 **Financial Services:** Financing options such as lease, lease to own, lease with option to own, and IT as a Service.
- 2.1.15 **Managed Services:** Managed services that cover all disciplines within a typical information technology department.
- 2.1.16 **Monitoring:** Resources capable of enterprise monitoring and network operation center services.
- 2.1.17 **Other Services and Solutions:** Services and solutions not listed above that may be proposed by Contractor. **PROPOSER MAY INCLUDE THEIR ENTIRE CATALOG FOR CONSIDERATION IF THEY ARE AWARDED ONE OF THE NAMED PRODUCT LINES SECTIONS 2.2 THROUGH 2.13.**

## 2.2 **Cisco Products, Services and Solutions:**

- 2.2.1 **Cisco Products:** A complete offering of Cisco products including, but not limited to, application networking services products, blade switches, cloud and systems management, collaboration endpoints, conferencing, connected safety and security, customer collaboration, data center management and automation, data center switches, infrastructure software, interfaces and modules, networking software, optical networking, routers, security, servers, service exchange, storage networking, switches, unified communications, video, wireless, and any other products offered by Cisco.
- 2.2.2 **Cisco Services and Solutions:** A complete offering of Cisco services and solutions including, but not limited to, cloud and systems management services, collaboration services, collaboration endpoints services, conferencing services, data center and virtualization services, enterprise network services, routing services, security services, services for application networking services, storage networking services, switching services, unified communication services, unified computing services, video services, wireless services and any other services and solutions offered by Cisco.

- 2.3 **Juniper Products, Services and Solutions:**
- 2.3.1 **Juniper Products:** A complete offering of Juniper products including, but not limited to, application networking services products, blade switches, cloud and systems management, collaboration endpoints, conferencing, connected safety and security, customer collaboration, data center management and automation, data center switches, infrastructure software, interfaces and modules, networking software, optical networking, routers, security, servers, service exchange, storage networking, switches, video, wireless, and any other products offered by Juniper.
- 2.3.2 **Juniper Services and Solutions:** A complete offering of Cisco services and solutions including, but not limited to, cloud and systems management services, collaboration services, collaboration endpoints services, conferencing services, data center and virtualization services, enterprise network services, routing services, security services, services for application networking services, storage networking services, switching services, unified communication services, unified computing services, video services, wireless services and any other services and solutions offered by Juniper.
- 2.4 **HP Products, Services and Solutions:** A complete offering of HP products including, but not limited to:
- 2.4.1 **Computers:** Desktops, laptops, tablets, monitors, workstations, accessories, thin client software portfolio, digital signage and any other computer equipment and software available from HP.
- 2.4.2 **Networking:** Data center networking, software-defined networking, switches, wireless networking, campus networking and any other networking available from HP.
- 2.4.3 **Servers:** Blade servers, scalable servers, integrity mission-critical servers, rack and tower servers and any other servers available from HP.
- 2.4.4 **Software:** Application lifecycle management, big data analytics, business service management, enterprise security, hybrid cloud management, information governance, information management, IT service management, mobile solutions, operations management, software-defined data center, DevOps solutions and any other software available from HP.
- 2.4.5 **Storage:** Primary storage, backup, recovery and archive storage, enterprise application storage, primary storage, software-defined storage, and any other storage available from HP.
- 2.4.6 **HP Services and Solutions:** A complete offering of HP services and solutions including, but not limited to, analytics and data management, applications services, business process services, data center, workload and cloud services, enterprise security services, IT financing and asset recovery services, mobility and workplace services, support services, technology consulting, computing services, big data solutions, cloud solutions, mobility solutions, security solutions, converged systems solutions, small and midsize organization solutions, total access education solutions, and any other services and solutions offered by HP.
- 2.5 **Dell Products, Services and Solutions:**
- 2.5.1 **General Products:** A complete offering of Dell products including, but not limited to, laptops, notebooks, desktops, workstations, thin clients, monitors, servers, accessories, battery back-up, power or surge, cables, data storage and drives, networking, digital imaging such as cameras and scanners, memory and system components, office equipment, sound and multimedia, telecommunications products,

video monitors, cards and projectors, and interactive whiteboards.

2.5.2 **Software:** A complete offering of Dell software including, but not limited to, information management, data protection, data center and cloud management, mobile workforce management, security, platforms and any other software offered by Dell.

2.5.3 **Dell Services and Solutions:** A complete offering of Dell services and solutions including, but not limited to, support services, application modernization, application services, business process outsourcing, digital business services, cloud-based services, information security services, financing and leasing, IT consulting, managed services, training services, cloud solutions, data center solutions, security solutions, big data, information and data management, mobility and security solutions and any other services and solutions offered by Dell.

2.6 **CommVault Products, Services and Solutions:**

2.6.1 **CommVault Products:** A complete offering of CommVault software including Simpana software, but not limited to, backup and recovery, virtual machine, integration, replication, OnePass Backup and Archive, deduplication, reporting and insights, workflow automation, content-based retention, self-service access, search and eDiscovery, legal hold, ContentStore, and any other products offered by CommVault.

2.6.2 **CommVault Services and Solutions:** A complete offering of CommVault solutions, services and support including, but not limited to, data and information management, enterprise applications, bundled appliances, solutions for specialized industries such as healthcare, government and education, consulting services, professional services, support and training and any other solutions, services and support offered by CommVault.

2.7 **Symantec Products, Services and Solutions:**

2.7.1 **Symantec Products:** A complete offering of Symantec security products including, but not limited to, advanced threat protection, code signing, control compliance suite, data loss prevention, DeepSight security intelligence, email security, encryption, endpoint management (Altiris), internet of things, endpoint protection, incident response, managed security services, mobile security and management, Norton, protection suite, SSL certificates, user authentication and any other security products offered by Symantec.

2.7.2 **Symantec Services and Solutions:** A complete offering of Symantec services and solutions including, but not limited to, consulting, education services, managed services, support services, appliance services, licensing, technical support, training and certification, threat protection solutions, information protection solutions, cyber security services, enterprise mobility management, and any other services and solutions offered by Symantec.

2.8 **Veritas Products, Services and Solutions:**

2.8.1 **Veritas Products:** A complete offering of Veritas Information Management products including, but not limited to, archiving and eDiscovery, Backup Exec, information fabric technology platform, InfoScale, NetBackup, NetBackup appliances, storage foundation high availability, system recovery and any other offered by Veritas.

2.8.2 **Veritas Services and Solutions:** A complete offering of Veritas services and solutions including, but not limited to, consulting, education services, managed services, support services, appliance services, licensing, technical support training and certification, and any other services and solutions offered by Veritas.

**2.9 VMware Products, Services and Solutions:**

2.9.1 **VMware Products:** A complete offering of VMware products including, but not limited to, data center and cloud infrastructure, networking and security, storage and availability, hyper-converged infrastructure, data center and cloud management, personal desktop software, business mobility software, desktop and application virtualization software, enterprise mobility management software and any other products offered by VMware.

2.9.2 **VMware Services and Solutions:** A complete offering of VMware services and solutions including, but not limited to, cloud computing, software-defined data center, virtualization, business mobility, data center virtualization and hybrid cloud extensibility, streamlined and automated data center operations, application and infrastructure delivery automation, security controls native to infrastructure, high availability and resilient infrastructure, and any other services and solutions offered by VMware.

**2.10 Apple Products, Services and Solution:**

A complete offering of Apple products, services and solutions including, but not limited to, MacBook, MacBook Air, MacBook Pro, iMac, Mac Pro, Mac mini, ipad mini, ipad, iphone, watch, ipod, Apple TV, accessories for all products, apps, servers, support and any other products, services or solutions offered by Apple.

**2.11 Google Products, Services and Solutions:**

A complete offering of Google product, services and solutions including, but not limited to, Apps for Work, cloud platform, Maps for Work, Search for Work, Chrome for Work, Android for Work, Google business solutions and any other products, services and solutions offered by Google.

**2.12 Amazon Web Services Products, Services and Solutions:**

2.12.1 **Amazon Web Services Products and Services:** A complete offering of Amazon Web Services products and services including, but not limited to, global compute, storage, database, analytics, application and deployment services to power web and mobile applications, data processing and warehousing, storage and archive, as well as any other products and services offered by Amazon Web Services.

2.12.2 **Amazon Web Services Solutions:** A complete offering of Amazon Web Services solutions including, but not limited to, cloud based solutions for websites, backup and recovery, archiving, disaster recovery, development and test, big data, high performance, databases, digital marketing, e-commerce, media and entertainment, mobile services, internet of things, enterprise IT, business applications, content delivery, health and any other solutions offered by Amazon Web Services.

**2.13 Microsoft Products, Services and Solutions:**

2.13.1 **Devices:** A complete offering of Microsoft devices including, but not limited to, Surface products, PCs and tablets, phones, Microsoft Surface Hub, accessories and any other devices offered by Microsoft.

2.13.2 **Software and Applications:** A complete offering of Microsoft software and applications, including but not limited to, Office, Windows, other software and services such as Microsoft Health, Microsoft Security Essentials, Skype, Internet Explorer, OneDrive, Outlook, OneNote, Bing, Visual Studio, Visio, Project, and MSN, Developer and IT Pro, Business and Enterprise such as cloud platform, data availability, business analytics, customer relationship management, Enterprise Mobility Suite, Enterprise resource and planning, business software and apps such as

Microsoft Dynamics, Microsoft Power BI, Microsoft SQL Server, Windows Server, Microsoft System Center, Visual Studio, Microsoft Azure, Microsoft Social Engagement, Windows Embedded, Microsoft Intune, OneDrive for Business, Exchange Server, SharePoint and any other software and apps offered by Microsoft.

2.13.3 **Microsoft Services and Solutions:** A complete offering of Microsoft services and solutions including, but not limited to, support, licensing and any other services and solutions offered by Microsoft.

2.13.4 **Related Products Services and Solutions:** Microsoft's related products, services and solutions available from Contractor.

2.14 **Customer Service:**

2.14.1 Maricopa County is focused on customer service with a philosophy to provide all customers with quality Products and Services in a manner that is courteous, responsive, accessible and seamless. The Products and Services will be delivered with patience, understanding, goodwill, and with primary regard being convenience and business needs of customer. The selected Contractor(s) shall follow these guidelines in developing the proposed solution:

2.14.1.1 Accessible, courteous, responsive and seamless customer service is of the highest priority for Maricopa County;

2.14.1.2 Accessible service means that citizens have easy access to the organization;

2.14.1.3 Seamless customer service means that the Contractors' employees are skilled with right aptitude, attitude, initiative, and talent. Also, that they provide accurate and easily consumable information, have a good understanding of how to solve problems and make decisions, and that they are trained and evaluated for their job performance;

2.15 **Financing Options:**

2.15.1 Contractor should include any financing solutions and payment options available to Maricopa County.

2.15.2 Contractor shall provide submissions that allow the County to easily weigh procurement options including financing, capital expenditures, and operational expenditures.

2.15.3 Contractor shall provide proposal for making co-terminuses support and maintenance contracts.

2.16 **Reporting Requirements:**

2.16.1 **Monthly Reports:** Upon request, the Contractor shall furnish monthly reports to Maricopa County to include the following information:

2.16.1.1 New product information;

2.16.1.2 Price sheets showing price decreases on discontinued Products;

2.16.1.3 Decreases on manufacturer's prices on Products still being manufactured;

2.16.1.4 System upgrades;

2.16.1.5 Current pricing and Product lists;

2.16.1.6 Software upgrades; and

2.16.1.7 Special sales or promotions.

2.16.2 As reporting needs may change during the term of the Agreement, Maricopa County reserve the right to request changes to the timing and content of the reports as well as

additional reports.

- 2.16.3 **Quarterly Reports:** Upon request, the Contractor shall furnish electronic quarterly usage reports that provide relevant and concise information about purchases, projects, and initiatives. Maricopa County reserves the right to request additional information, if required, when reviewing such data.

**2.17 Support And Maintenance:**

Upon request, each Contractor must provide a complete maintenance and support plan for purchased products including emergency and non-emergency intervals, as well as periodic routine schedules. Routine maintenance and associated costs must be quoted and shall include, but not be limited to:

- 2.17.1 Error or defect correction;
- 2.17.2 Updates;
- 2.17.3 Telephone assistance; and
- 2.17.4 Service hours and response times.

**2.18 Representations And Warranties:**

The Contractor represents warrants and covenants that:

- 2.18.1 The Products and Services shall satisfy all requirements set forth in the Agreement;
- 2.18.2 Neither the Products and Services nor any software or hardware provided by the Contractor under the Agreement will infringe or misappropriate any patent, copyright, trademark or trade secret rights of any third party;
- 2.18.3 The Contractor has taken and will continue to take precautions sufficient to ensure that it will not be prevented from performing all or part of its obligations under the Agreement by virtue of interruptions in the computer systems used by the Contractor;
- 2.18.4 All software and documentation provided by the Contractor or its subcontractors will have sufficient information and capabilities to enable the County to permit the public inspection and examination and to provide electronic copies of public records stored, manipulated or retrieved by the Products; and
- 2.18.5 All software and documentation provided by the Contractor or its subcontractors will have sufficient information to enable the County to create an index containing the following information without extraordinary commitments of staff or resources:
  - 2.18.5.1 Annotated list of data fields: name, description, and restricted field indicator;
  - 2.18.5.2 Description of the format or record layout;
  - 2.18.5.3 Frequency with which related database(s) is updated;
  - 2.18.5.4 Description of each form in which database(s) can be copied or reproduced;
  - 2.18.5.5 Title of database(s);
  - 2.18.5.6 Owner of the data;
  - 2.18.5.7 Narrative description of the database(s); and
  - 2.18.5.8 Purpose of the database(s).

**2.19 TASK ORDER AWARD:**

This contract will be awarded to multiple vendors. All County requirements for IT technology and services estimated to exceed \$150,000.00 in total cost shall be competed among all awardees for the products and services in Paragraphs 2.2 through 2.14 and awarded as a Task Order. The County may compete IT technology and service requirements estimated to be less than \$150,000.00 in total cost but is not required to do so. The selection criteria for each Task Order shall be determined at the time it is issued:

**3.0 PROCUREMENT REQUIREMENTS:**

**3.1 DELIVERY:**

It shall be the Contractor's responsibility to meet the proposed delivery requirements. Maricopa County reserves the right to obtain services on the open market in the event the Contractor fails to make delivery and any price differential will be charged against the Contractor.

**3.2 SHIPPING TERMS:**

Bid price(s) and terms shall be F.O.B. Destination at Phoenix, Arizona 85003.

**3.3 OPERATING MANUALS: (AS APPLICABLE)**

Upon delivery, Contractor shall provide comprehensive operational manuals, service manuals and schematic diagrams, if required by the Using Agency.

**3.4 ACCEPTANCE: (AS APPLICABLE)**

For the County's Initial purchase of each Equipment and Software product the Licensor (contractor) shall provide an acceptance test period (the "Test Period") that commences upon Installation. Installation shall be defined as: a.) the Equipment, if any, is mounted; b.) the Software is installed on the server(s) and/or personal computer(s); and c.) implementation team training, if any, is complete. During the Test Period, Customer shall determine whether the Equipment and Software meet the Licensor (contractor/) published electronic documentation, ("Specifications"). The Test Period shall be for 90 days. If Customer has not given Licensor (contractor/) a written deficiency statement specifying how the Equipment or Software fails to meet the Specification ("Deficiency Statement") within the Test Period, the Equipment and Software shall be deemed accepted. If Customer provides a Deficiency Statement within the Test Period, Licensor shall have 30 days to correct the deficiency, and the Customer shall have an additional 60 days to evaluate the Equipment and Software. If the Equipment or Software does not meet the Specifications at the end of the second 60 day period, the County may terminate this Contract. Upon any such termination, Contractor shall, at Contractor's cost, remove all equipment and software from County premises and equipment. Customer shall return all Equipment and Software to Licensor, and Licensor shall refund any monies paid by Customer to Licensor therefore (are we saying we get a complete refund of any monies paid to date?). Upon completion of these terms, neither party shall then have any further liability to the other for the products that were the subject of the Acceptance Test.

**3.5 INFRINGEMENT DEFENSE INDEMNIFICATION: (AS APPLICABLE)**

**3.5.1 Defense and Indemnity:** Contractor shall defend, Participate and Share in the Cost, as defined below, in the full defense of the County against any Claim, as defined below, and will indemnify and hold harmless the County as provided for in this Section for any judgments, settlements and court awarded attorney's fees resulting from a Claim where the claimant is adjudged the successful party in the Claim. Contractor's obligations under this Section are conditioned on the following: (i) County promptly notifies Contractor of the Claim in writing upon made aware of the Claim; (ii) County gives Contractor lead authority and County being control of the defense and (if applicable) settlement of the Claim, provided that County's legal counsel may participate in such defense and settlement, at County's expense, and (iii) County provides all information and assistance reasonably requested by Contractor to handle the defense or settlement of the Claim. For purposes of this Section, "Claim" means any cause of action in a third party action, suit or proceeding against County alleging that CONTRACTOR software, or its upgrades, modifications, or revisions, as of its delivery date under this Agreement, infringes a valid U.S. patent, copyright or trademark. For the purposes of this section, "Participate and Share in the Costs" means Contractor will assist the County in the defense of the claim,

to the extent agreed to by the parties, except that Contractor shall be solely responsible for any and all costs adjudged in a successful Claim against the County.

3.5.2 Remedial Measures: If software becomes, or Contractor reasonably believes use of software may become, the subject of a Claim, Contractor may, at its own expense and option: (i) procure for County the right to continue use of the Product; (ii) replace or modify the software; or to the extent that neither (i) nor (ii) are deemed commercially practicable, (iii) refund to County a pro-rated portion of the applicable fees for software based on a linear depreciation monthly over 10 year useful life, in which case County will cease all use of software and return it to Contractor.

3.5.2.1 Exceptions: Contractor will have no defense or indemnity obligation for any Claim based on: (i) modifications by someone other than Contractor; (ii) software has been modified by Contractor in accordance with County-provided specifications or instructions; (iii) use or combination by the County of software with Third Party Products, open source or freeware technology; (iv) Third Party Products, open source or freeware technology; (v) a product that is used or located by County in a country other than the country in which or for which it was supplied by Contractor; (vi) possession or use of a product after Contractor has informed County of modifications or changes required to avoid such Claim and offered to implement those modifications or changes, if such Claim would have been avoided by implementation of Contractor's suggestions and to the extent County did not provide Contractor with a reasonable opportunity to implement Contractor's suggestions; or (vii) the amount of revenue or profits earned or other value obtained by the use of Products, or the amount of use of the Products. "Third Party Products" means any products made by a party other than Contractor, and may include, without limitation, products ordered by County from third parties. However, components of Contractor-branded Products are not Third Party Products if they are both: (i) embedded in Third Party Products (i.e., not recognizable as standalone items); and (ii) not identified as separate items on Contractor's price list, quotes, order specifications forms or Documentation.

3.5.3 The foregoing states Contractor's entire liability, and County's sole and exclusive remedy except as provided at law or equity, with respect to any infringement or misappropriation of any intellectual property rights of another party.

3.6 SOURCE CODE ESCROW REQUIREMENT (IF REQUIRED):

3.6.1 The Contractor shall provide all source code and any updates or fixes for the Contractor Commercial Off the Shelf ("COTS") application software that Maricopa County has purchased from Contractor for safekeeping with a mutually acceptable escrow agent within thirty (30) days of award. The software source deposited with the escrow agent will be a snapshot of all source code maintained by Contractor in the form of a Microsoft Visual Source Safe Archive. In this way, as beneficiary of the escrow agreement between Contractor and escrow agent, Maricopa County will have access to all source code of the products that they license for all versions of the software. Furthermore, the escrowed code shall include all code specifically developed for Maricopa County including, but not limited to: interfaces, Extraction-Transformation-Loading (ETL) routines for data conversion, and all custom code. Upon taking possession of the source code, Maricopa County will have the right to use the source for products that they license in the versions currently installed on the System or any subsequent versions in the archive. Contractor will make a deposit of the Source Safe Archive with the escrow agent once every six (6) months.

3.6.2 Maricopa County hereby agrees to pay the yearly standard fee for a beneficiary of the source code.



- 3.6.3 Maricopa County shall have access to the source code in the event any of the following circumstances:
- 3.6.3.1 The sale, assignment, or transfer to any third party of any of Contractor's rights in the licensed product (or any portion thereof) if such sale, assignment, or transfer would prevent Contractor from fully performing any of its obligations under any agreement with Maricopa County;
  - 3.6.3.2 Contractor becomes insolvent or commits any affirmative act of insolvency, or generally fails to pay, or admits in writing its inability to pay, debts as they become due, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under, or case in, any bankruptcy or insolvency law, or Contractor takes any action to authorize, or in the furtherance of, any of the foregoing;
  - 3.6.3.3 Contractor discontinues providing full support and maintenance services for the licensed product in accordance with its obligations pursuant to any agreement with Maricopa County;
  - 3.6.3.4 Contractor has ceased to do business or improperly refuses to provide any services pursuant to any agreement with Maricopa County;
  - 3.6.3.5 Contractor has breached (and if subject to a cure period, has not cured such breach within such period) any material term or condition of any agreement with Maricopa County;
  - 3.6.3.6 Any change of control of Contractor or Contractor's parent company, where such party is acquired, directly or indirectly, in a single transaction or series of related transactions, or all or substantially all of the assets of such party are acquired by any entity, or such party is merged with or into another entity to form a new entity; or
  - 3.6.3.7 Any other circumstance in which Maricopa County is entitled to access or use the applicable deposit materials (including, but not limited to, the source code) under the express terms of any agreement between Contractor and Maricopa County.
- 3.6.4 Upon Maricopa County taking possession of the source code, Maricopa County hereby agrees as follows:
- 3.6.4.1 Maricopa County accepts full and total responsibility for the safekeeping of the source code. Maricopa County agrees that such source code shall be subject to the restrictions of transfer, sale, and reproduction placed on the software itself as stated in the software license signed by all parties.
  - 3.6.4.2 Maricopa County agrees to only use source code related to applications for which they own a license. There will be source from other applications in the archive.
  - 3.6.4.3 Maricopa County agrees, if so ordered by a court of competent jurisdiction, to compensate Contractor for any and all damages Contractor suffers, to include reasonable attorney's fees, resulting directly or indirectly from, but not limited to, the mishandling, misuse, or theft of the source code, regardless of intent, or the absence thereof, by Maricopa County, its employees, agents and third-party contractors..
  - 3.6.4.4 No license under any trademark, patent, copyright, or any other intellectual property right, is either granted or implied by the disclosure of the source

code to Maricopa County. The Contractor's disclosure of the source code to Maricopa County shall not constitute any representation, warranty, assurance, guarantee or inducement by the Contractor to Maricopa County of any kind, and, in particular, with respect to the non-infringement of trademarks, patents, copyrights, or any other intellectual property rights, or other rights of third persons or of Contractor.

- 3.6.4.5 Contractor will not be responsible for maintaining the source code. Furthermore, Contractor will not be liable for any consequences related to the use of source code modified by Maricopa County.

3.7 TRAINING:

The Contractor shall provide a minimum of (TBD BY PROJECT) (hours or days) to completely train County personnel in the use and care of the equipment. All training to take place on-site at Maricopa County.

3.8 WARRANTY:

3.8.1 All items furnished under this Contract shall conform to the requirements of this Contract and shall be free from defects in design, materials and workmanship.

3.8.2 The warranty period for workmanship and materials shall be for an initial period of twelve (12) months and commence upon acceptance by County.

3.8.2.1 The Contractor shall indicate on the Price Sheet the duration of the warranty and any applicable limitations or conditions which may apply.

3.8.2.2 The Contractor agrees that he will, at his own expense, provide all labor and parts required to remove, repair or replace, and reinstall any such defective workmanship and/or materials which becomes or is found to be defective during the term of this warranty. The Contractor shall guarantee the equipment to be supplied complies with all applicable regulations.

3.9 FACTORY AUTHORIZED SERVICE AVAILABILITY: (AS APPLICABLE)

The Contractor shall have and maintain a local factory authorized service facility within the Phoenix, Arizona metropolitan area. The facility shall be capable of supplying and installing component parts, troubleshooting, repairing and maintaining the material(s). Minimum service hours shall be from 8:00 A.M. through 5:00 P.M., Arizona Time, Monday through Friday.

3.10 USAGE REPORT:

The Contractor shall furnish the County a usage report upon request delineating the acquisition activity governed by the Contract. The format of the report shall be approved by t

EXHIBIT C

**OFFICE OF PROCUREMENT SERVICES CONTRACTOR TRAVEL AND PER DIEM POLICY**

- 1.0 All contract-related travel plans and arrangements shall be prior-approved by the County Contract Administrator.
- 2.0 Lodging, per diem and incidental expenses incurred in performance of Maricopa County/Special District (County) contracts shall be reimbursed based on current U.S. General Services Administration (GSA) domestic per diem rates for Phoenix, Arizona. Contractors must access the following internet site to determine rates (no exceptions): [www.gsa.gov](http://www.gsa.gov)
  - 2.1 Additional incidental expenses (i.e., telephone, fax, internet and copying charges) shall not be reimbursed. They should be included in the contractor's hourly rate as an overhead charge.
  - 2.2 The County will not (under no circumstances) reimburse for Contractor guest lodging, per diem or incidentals.
- 3.0 Commercial air travel shall be reimbursed as follows:
  - 3.1 Coach airfare will be reimbursed by the County. Business class airfare may be allowed only when preapproved in writing by the County Contract Administrator as a result of the business need of the County when there is no lower fare available.
  - 3.2 The lowest direct flight airfare rate from the Contractors assigned duty post (pre-defined at the time of contract signing) will be reimbursed. Under no circumstances will the County reimburse for airfares related to transportation to or from an alternate site.
  - 3.3 The County will not (under no circumstances) reimburse for Contractor guest commercial air travel.
- 4.0 Rental vehicles may only be used if such use would result in an overall reduction in the total cost of the trip, not for the personal convenience of the traveler. Multiple vehicles for the same set of travelers for the same travel period will not be permitted without prior written approval by the County Contract Administrator.
  - 4.1 Purchase of comprehensive and collision liability insurance shall be at the expense of the contractor. The County will not reimburse contractor if the contractor chooses to purchase these coverage.
  - 4.2 Rental vehicles are restricted to sub-compact, compact or mid-size sedans unless a larger vehicle is necessary for cost efficiency due to the number of travelers. (NOTE: contractors shall obtain pre-approval in writing from the County Contract Administrator prior to rental of a larger vehicle.)
  - 4.3 County will reimburse for parking expenses if free, public parking is not available within a reasonable distance of the place of County business. All opportunities must be exhausted prior to securing parking that incurs costs for the County. Opportunities to be reviewed are the DASH; shuttles, etc. that can transport the contractor to and from County buildings with minimal costs.
  - 4.4 County will reimburse for the lowest rate, long-term uncovered (e.g. covered or enclosed parking will not be reimbursed) airport parking only if it is less expensive than shuttle service to and from the airport.
  - 4.5 The County will not (under no circumstances) reimburse the Contractor for guest vehicle rental(s) or other any transportation costs.
- 5.0 Contractor is responsible for all costs not directly related to the travel except those that have been pre-approved by the County Contract Administrator. These costs include (but not limited to) the following: in-room movies, valet service, valet parking, laundry service, costs associated with storing luggage at a hotel, fuel costs associated with non-County activities, tips that exceed the per diem allowance, health club fees,

and entertainment costs. Claims for unauthorized travel expenses will not be honored and are not reimbursable.

- 6.0 Travel and per diem expenses shall be capped at 15% of project price unless otherwise specified in individual contracts.
- 7.0 Contractor shall provide, (upon request) with their invoice(s), copies of receipts supporting travel and per diem expenses, and if applicable with a copy of the written consent issued by the Contract Administrator. No travel and per diem expenses shall be paid by County without copies of the written consent as described in this policy and copies of all receipts.

SHI INTERNATIONAL CORP, 290 DAVIDSON AVENUE, SOMERSET, NJ 08873

NIGP CODE 20300

Terms:

NET 30

Vendor Number:

VC0000002259

Certificates of Insurance

Required

Contract Period:

To cover the period ending **August 31, 2021.**

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
SHI INTERNATIONAL CORP.**

**EXHIBIT B**  
Scope of Work

**PROJECT**

City will purchase software, technology products, and professional services on an as needed basis.

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
SHI INTERNATIONAL CORP.**

**EXHIBIT C**

**METHOD AND AMOUNT OF COMPENSATION**

A quote must be provided with each order.

**NOT TO EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project must not exceed \$4,250,000 for the entire term of the Agreement.

**DETAILED PROJECT COMPENSATION**

The discount for software and professional services is listed at a minimum discount in the Cooperative Purchasing Agreement. The vendor may provide additional discounts for products and services. The City will work with the vendor to retain the lowest pricing available for software, technology products, and professional services.



## Legislation Description

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**File #: 17-057, Version: 1**

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**AUTHORIZATION TO ENTER INTO AMENDMENT NO. 1 TO THE LINKING AGREEMENT C-11262 WITH ELITE SPORTS BUILDERS, LLC, THROUGH THE NATIONAL IPA/TCPN COOPERATIVE PURCHASING CONTRACT**

Staff Contact: Erik Strunk, Director, Public Facilities, Recreation and Special Events

### **Purpose and Recommended Action**

This is a request for City Council to authorize the City Manager to amend the existing linking agreement C-11262 with Elite Sports Builders, LLC, procured through the National IPA/TCPN cooperative purchasing contract, for the resurfacing of two existing basketball courts and the construction of one additional post tension concrete court including surfacing; and to approve the increase of expenditure of funds in an amount not to exceed \$85,000 for this amendment.

### **Background**

On October 25, 2016 the City Council authorized a linking agreement with Elite Sports Builders and the expenditure of funds for the reconstruction of 19 tennis courts at the Paseo Racquet Center in an amount not to exceed \$400,000. The agreement was approved as a part of the City's participation in the National Intergovernmental Purchasing Alliance (National-IPA), which links the need for certain procurement with awarded supply partners. All agreements offered through National-IPA have been awarded a thorough Request for Proposal (RFP) competitive solicitation by a public agency (Principal Procurement Agency, PPA).

This specific request is to amend the existing agreement with Elite Sports Builders for the planned construction of an additional basketball court as previously approved in the FY 16-17 Capital Improvement Plan and the needed resurfacing of the two existing basketball courts at Heroes Regional Park. The total amount of the additional work would not exceed \$85,000.

### **Analysis**

The National Intergovernmental Purchasing Alliance, (National-IPA), serves as liaisons between the public purchasing professional and awarded supply partners. Public agencies may register with National-IPA for utilization of agreements; which provide reduced procurement costs through cooperative contracting.

All agreements offered through National-IPA have been awarded a thorough Request for Proposal (RFP) competitive solicitation by a public agency (Principal Procurement Agency, PPA). In order for even the most restrictive agencies nationwide to realize the best value offered by cooperative procurement, National-IPA ensures that industry best practices, processes and procedures are applied.

Participation in the National-IPA allows the city to make reduced purchases based on the combined volume of



all members of the cooperative rather than a city's individual needs. The consolidation of the combined purchasing power of the cooperative's membership produces the lowest possible volume prices and makes for the most effective use of available funding.

**Community Benefit/Public Involvement**

The existing courts at Heroes Regional Park have not been resurfaced since they were built ten years ago and the addition of the one new court at the Heroes Regional Park will provide needed relief for overcrowding at the existing park basketball courts and further develop the park. The resurfacing will provide an improved and safer playing surface and the addition of another basketball court will continue to meet the citizen requested park improvements that are part of the Park and Recreation Master Plan.

The addition of a new court was previously discussed and reviewed by the Parks and Recreation Advisory Commission, was presented to the City Council as part of conversation of Heroes Regional Park improvements in January 2016, and was later presented to Council for inclusion into the FY 16-17 Capital Improvement Plan (which was subsequently approved by City Council as part of the City's budget process).

**Budget and Financial Impacts**

The funding for the proposed contract amendment is available in the General Fund budget 1000-13040-518200 in the amount of \$12,262 (for the resurfacing) and development impact fee (DIF) funds; Fund 1580 in the amount of \$44,000 and Fund 1581 in the amount of \$31,000 (for the new court construction) for a total of \$87,262.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$12,262</b>	<b>1000-13040-518200, Parks Maintenance Professional &amp; Contractual</b>
<b>\$44,000</b>	<b>1580-73705-518200, DIF-Parks Dev Zone 3 pre SB1525</b>
<b>\$31,000</b>	<b>1581-73851-518200, DIF-Parks Dev Zone 3</b>

Capital Expense? Yes

Budgeted? No

Requesting Budget or Appropriation Transfer? Yes

Attachments

## AMENDMENT NO. 1

Linking Agreement between the City of Glendale, Arizona and Elite Sports Builders  
( , Contract No. C-11262)

This Amendment No. 1 ("Amendment") to the Linking Agreement between the City of Glendale, Arizona and Elite Sports Builders ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2017, ("Effective Date"), by and between the City of Glendale, an Arizona municipal corporation ("City") and Elite Sports Builders, an Arizona Limited Liability Company authorized to do business in Arizona ("Contractor").

## RECITALS

- A. City and Elite Sports Builders ("Contractor") previously entered into Linking Agreement between the City of Glendale, Arizona and Elite Sports Builders, Contract No. C-11262, dated October 25, 2016 ("Agreement"); and
  - B. The Agreement has a dollar limit not to exceed \$400,000; and
  - C. This Amendment is to raise the dollar limit of the Agreement to \$485,000
- . City and Contractor wish to modify and amend the Agreement subject to and strictly in accordance with the terms of this Amendment.

## AGREEMENT

In consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Contractor hereby agree as follows:

1. **Recitals.** The recitals set forth above are not merely recitals, but form an integral part of this Amendment.
2. **Term.** The term of the Agreement is unchanged and shall expire on May 31, 2017.
3. **Scope of Work.** Contractor will resurface two existing basketball courts and construct one additional post tension concrete basketball court at Heroes Regional Park including basketball standards and benches and court surfacing per attached Proposals.
4. **Compensation.** \$85,000
5. **Insurance Certificate.** Current certificate will expire on May 31, 2017 and a new certificate applying to the extended term must be provided prior to this date to Materials Management and the Contract Administrator.

6. **Non-discrimination.** Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.
7. **No Boycott of Israel.** The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.
8. **Attestation of PCI Compliance.** When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.
9. **Ratification of Agreement.** City and Contractor hereby agree that except as expressly provided herein, the provisions of the Agreement shall be, and remain in full force and effect and that if any provision of this Amendment conflicts with the Agreement, then the provisions of this Amendment shall prevail.

[Signatures on the following page.]

CITY OF GLENDALE, an Arizona  
municipal corporation

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Kevin R. Phelps, City Manager

ATTEST:

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Julie K. Bower, City Clerk (SEAL)

APPROVED AS TO FORM:

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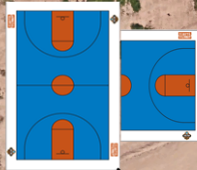
Michael D. Bailey, City Attorney

Elite Sports Builders, LLC  
an Arizona Limited Liability Company

  
By: TED C. RUDOLPH  
Its: PRESIDENT



**Heroes Park  
NCAA Basketball Court Addition  
Detailed Site Map**



Alternate price for and addition half court measuring 70' x 57'.

New 70' x 104' Post Tensioned Basketball Court with Plexipave Coatings

- Scope of work**
- Grade existing base to drain .83% to the west (retention area existing)
  - 4" aggregate base course compacted to 98%
  - Porter 00176540 Basketball standards with 6" offset gooseneck standard, steel rectangular backboard and heavy duty double rim.
  - Double 6 mil. vapor barrier
  - 5" post-tensioned concrete slab per standard Elite Sports engineered drawing and design.
  - California Products Plexipave Surfacing systems in the colors Bruin Blue and Orange (Custom order)
  - Standard NCAA Striping
  - 2 Custom Vinyl NCAA Logos
  - 2 Custom Vinyl Glendale Logos
  - 4 bolt base benches w/ backs
  - Parkway grading around court to blend down to surround grades

Nearest water and power.





## Legislation Description

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**File #: 17-050, Version: 1**

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**AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH PRIMATECH, L.L.C., FOR SEWER LINE AND MANHOLE REHABILITATION (PHASE IV)**

Staff Contact: Craig Johnson, P.E., Director, Water Services

**Purpose and Recommended Action**

This is a request for City Council to authorize the City Manager to enter into a Professional Services Agreement with Primatch, L.L.C. (Primatch) for construction administration services in an amount not to exceed \$467,461 for sewer line and manhole rehabilitation (phase IV).

**Background**

The city's wastewater collection system consists of over 707 miles of pipes, 14,400 manholes and cleanouts designed to transport wastewater from residential and commercial customers to treatment facilities. As the system ages, it is necessary to replace and/or rehabilitate the sewer lines and attached manholes to ensure continued compliance with existing regulations, increase efficiencies, reduce maintenance issues, and extend the life of the system.

Proactive rehabilitation and replacement efforts minimize maintenance issues, and assists with maintaining the integrity of the collection system. This project is part of an on-going proactive preventive maintenance effort to maintain the operational reliability of the city's wastewater collection system in accordance with the city's comprehensive Sewer Evaluation and Master Plan.

The city has identified various sewer lines, manholes, and related structures in the collection system that are in need of rehabilitation. The Sewer Line Replacement program is a multi-phase/multi-year project to address priority areas in an efficient, economical, and timely manner. Phase IV of this project includes 12 various locations throughout the city. This phase will replace and/or rehabilitate approximately 7,463 linear-feet of 8-inch diameter sewer lines and attached manholes.

**Analysis**

A Request for Proposal was advertised in March 2014 for design and construction administration services. Four submittals were received on April 11, 2014. Primatch was selected as the best qualified firm by a selection committee composed of Water Services, Engineering, and external industry personnel. The city entered into a design agreement at that time with the intention of amending the agreement for the construction administration services. Due to the time between the design services agreement and now, a new agreement is required for the construction administration services instead of an amendment to the original.

Staff will be requesting at this Council meeting, on another agenda item, Council to approve the Construction Services Agreement for phase IV.

**Previous Related Council Action**

On August 25, 2015, Council authorized the Acting City Manager to enter into professional services agreement with Redpoint for construction services for the Sewer Line Replacement (phase III).

On November 24, 2014, Council authorized the City Manager to enter into professional services agreement with Primatch, LLC for design services for the Sewer Line Replacement (phase IV).

**Community Benefit/Public Involvement**

Benefits to be realized from the project include: maintaining the integrity of the wastewater collection system, minimizing service interruptions, ensures continued compliance with environmental regulations and decreases traffic disruptions caused by maintenance crews.

**Budget and Financial Impacts**

Funds are available in the Water Services FY 2016-17 capital budget.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$467,461</b>	<b>2420-63016-551200, Sewer Line Replacement</b>

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

**PROFESSIONAL SERVICES AGREEMENT**  
**SEWER & MANHOLE REHABILITATION PHASE IV**  
**PROJECT NO. 131419**

This Professional Services Agreement ("Agreement") is entered into and effective between CITY OF GLENDALE, an Arizona municipal corporation ("City") and Primattech, L.L.C., an Arizona limited liability company, ("Consultant") as of the \_\_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date").

**RECITALS**

- A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in **Exhibit A**, Project (the "Project");
- B. City desires to retain the professional services of Consultant to perform certain specific duties and produce the specific work as set forth in the attached **Exhibit B**, Project Scope of Work ("Scope");
- C. Consultant desires to provide City with professional services ("Services") consistent with best consulting or architectural practices and the standards set forth in this Agreement, in order to complete the Project; and
- D. City and Consultant desire to memorialize their agreement with this document.

**AGREEMENT**

The parties hereby agree as follows:

**1. Key Personnel; Other Consultants and Subcontractors.**

- 1.1 Professional Services. Consultant will provide all Services necessary to assure the Project is completed timely and efficiently consistent within Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other consultants or contractors, retained by City.
- 1.2 Project Team.
  - a. Project Manager.
    - (1) Consultant will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, complete the project and handle all aspects of the Project such that the work produced by Consultant is consistent with applicable standards as detailed in this Agreement; and
    - (2) The City must approve the designated Project Manager.
  - b. Project Team.
    - (1) The Project Manager and all other employees assigned to the Project by Consultant will comprise the "Project Team."
    - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the Project by Consultant.
  - c. Discharge, Reassign, Replacement.
    - (1) Consultant acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in **Exhibit A**.
    - (2) Consultant will not discharge, reassign, replace or diminish the responsibilities of any of the employees assigned to the Project who have been approved by City without City's prior written consent unless that person leaves the employment of Consultant, in which event the substitute must first be approved in writing by City.



(3) Consultant will change any of the members of the Project Team at the City's request if an employee's performance does not equal or exceed the level of competence that the City may reasonably expect of a person performing those duties, or if the acts or omissions of that person are detrimental to the development of the Project.

d. Subcontractors.

- (1) Consultant may engage specific technical contractors (each a "Subcontractor") to furnish certain service functions.
- (2) Consultant will remain fully responsible for Subcontractor's services.
- (3) Subcontractors must be approved by the City.
- (4) Consultant will certify by letter that all contracts with Subcontractors have been executed incorporating requirements and standards as set forth in this Agreement.

2. **Schedule.** The Services will be undertaken in a manner that ensures the Project is completed timely and efficiently in accordance with the Project.

3. **Consultant's Work.**

3.1 Standard. Consultant must perform Services in accordance with the standards of due diligence, care, and quality prevailing among consultants having substantial experience with the successful furnishing of Services for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 Licensing. Consultant warrants that:

- a. Consultant and its Subconsultants or Subcontractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of Services ("Approvals"); and
- b. Neither Consultant nor any Subconsultant or Subcontractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
  - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments, or to examine Consultant's contracting ability.
  - (2) Consultant must notify City immediately if any Approvals or Debarment changes during the Agreement's duration. The failure of the Consultant to notify City as required will constitute a material default under the Agreement.

3.3 Compliance.

- a. Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by City.
- b. Consultant must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Consultant will require any Sub-contractor to be bound to the same requirements as stated within this section. Consultant, and on behalf of any subcontractors, warrants compliance with this section.

3.4 Coordination; Interaction.

- a. For projects that the City believes requires the coordination of various professional services, Consultant will work in close consultation with City to proactively interact with

any other professionals retained by City on the Project ("Coordinating Project Professionals").

- b. Consultant will meet to review the Project, Schedule and in-progress work with Coordinating Project Professionals and City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.
- c. For projects not involving Coordinating Project Professionals, Consultant will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.

### 3.5 Work Product.

- a. Ownership. Upon receipt of payment for Services furnished, Consultant grants to City, and will cause its Subconsultants or Subcontractors to grant to the City, the exclusive ownership of and all copyrights, if any, to evaluations, reports, drawings, specifications, project manuals, surveys, estimates, reviews, minutes, all "architectural work" as defined in the United States Copyright Act, 17 U.S.C § 101, *et seq.*, and other intellectual work product as may be applicable ("Work Product").
  - (1) This grant is effective whether the Work Product is on paper (e.g., a "hard copy"), in electronic format, or in some other form.
  - (2) Consultant warrants, and agrees to indemnify, hold harmless and defend City for, from and against any claim that any Work Product infringes on third-party proprietary interests.
- b. Delivery. Consultant will deliver to City copies of the preliminary and completed Work Product promptly as they are prepared.
- c. City Use.
  - (1) City may reuse the Work Product at its sole discretion.
  - (2) In the event the Work Product is used for another project without further consultations with Consultant, the City agrees to indemnify and hold Consultant harmless from any claim arising out of the Work Product.
  - (3) In such case, City will also remove any seal and title block from the Work Product.

## 4. **Compensation for the Project.**

- 4.1 Compensation. Consultant's compensation for the Project, including those furnished by its Subconsultants or Subcontractors will not exceed \$467,461 as specifically detailed in **Exhibit D** ("Compensation").
- 4.2 Change in Scope of Project. The Compensation may be equitably adjusted if the originally contemplated Scope as outlined in the Project is significantly modified.
  - a. Adjustments to Compensation require a written amendment to this Agreement and may require City Council approval.
  - b. Additional services which are outside the Scope of the Project contained in this Agreement may not be performed by the Consultant without prior written authorization from the City.
  - c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take priority and govern the conduct of the parties.
- 4.3 Allowances. An "Allowance" may be identified in **Exhibit D** only for work that is required by the Scope and the value of which cannot reasonably be quantified at the time of this Agreement.

- a. As stated in Sec. 4.1 above, the Compensation must incorporate all Allowance amounts identified in **Exhibit D** and any unused allowance at the completion of the Project will remain with City.
- b. Consultant may not add any mark-up for work identified as an Allowance and which is to be performed by a Subconsultant.
- c. Consultant will not use any portion of an Allowance without prior written authorization from the City.
- d. Examples of Allowance items include, but are not limited to, subsurface pothole investigations, survey, geotechnical investigations, public participation, radio path studies and material testing.

4.4 Expenses. City will reimburse Consultant for certain out-of-pocket expenses necessarily incurred by Consultant in connection with this Agreement, without mark-up (the "Reimbursable Expenses"), including, but not limited to, document reproduction, materials for book preparation, postage, courier and overnight delivery costs incurred with Federal Express or similar carriers, travel and car mileage, subject to the following:

- a. Mileage, airfare, lodging and other travel expenses will be reimbursable only to the extent these would, if incurred, be reimbursed to City of Glendale personnel under its policies and procedures for business travel expense reimbursement made available to Consultant for review prior to the Agreement's execution, and which policies and procedures will be furnished to Consultant;
- b. The Reimbursable Expenses in this section are approved in advance by City in writing; and
- c. The total of all Reimbursable Expenses paid to Consultant in connection with this Agreement will not exceed the "not to exceed" amount identified for Reimbursable Services in the Compensation.

## 5. **Billings and Payment.**

### 5.1 Applications.

- a. Consultant will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.
- b. The period covered by each Payment Application will be one calendar month ending on the last day of the month.

### 5.2 Payment.

- a. After a full and complete Payment Application is received, City will process and remit payment within 30 days.
- b. Payment may be subject to or conditioned upon City's receipt of:
  - (1) Completed work generated by Consultant and its Subconsultants and Subcontractors; and
  - (2) Unconditional waivers and releases on final payment from all Subconsultants and Subcontractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

5.3 Review and Withholding. City's Project Manager will timely review and certify Payment Applications.

- a. If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.

- b. City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.

**6. Termination.**

6.1 **For Convenience.** City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 15 days following the date of delivery.

- a. Consultant will be equitably compensated for Services furnished prior to receipt of the termination notice and for reasonable costs incurred.
- b. Consultant will also be similarly compensated for any approved effort expended, and approved costs incurred, that are directly associated with Project closeout and delivery of the required items to the City.

6.2 **For Cause.** City may terminate this Agreement for cause if Consultant fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

- a. Consultant will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Consultant for Services furnished, City will pay the amount due to Consultant, less City's damages, in accordance with the provision of Sec. 5.
- b. If City's direct damages exceed amounts otherwise due to Consultant, Consultant must pay the difference to City immediately upon demand; however, Consultant will not be subject to consequential damages more than \$1,000,000 or the amount of this Agreement, whichever is greater.

7. **Conflict.** Consultant acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

8. **Insurance.** For the duration of the term of this Agreement, Consultant shall procure and maintain insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of all tasks or work necessary to complete the Project as herein defined. Such insurance shall cover Consultant, its agent(s), representative(s), employee(s) and any subcontractors.

8.1 **Minimum Scope and Limit of Insurance.** Coverage must be at least as broad as:

- a. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01, including products and completed operations, with limits of no less than **\$1,000,000** per occurrence for bodily injury, personal injury, and property damage. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- b. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than **\$1,000,000** per accident for bodily injury and property damage.
- c. **Professional Liability.** Consultant must maintain a Professional Liability insurance covering errors and omissions arising out of the work or services performed by Consultant, or anyone employed by Consultant, or anyone for whose acts, mistakes, errors and omissions Consultant is legally liability, with a liability insurance limit of **\$1,000,000** for each claim and a **\$2,000,000** annual aggregate limit.
- d. **Worker's Compensation:** Insurance as required by the State of Arizona, with Statutory Limits, and Employers' Liability insurance with a limit of no less than **\$1,000,000** per accident for bodily injury or disease.

8.2 Indemnification.

- a. To the fullest extent permitted by law, Consultant must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties") for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense" collectively "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Consultant) and that arises out of or results from the breach of this Agreement by the Consultant or the Consultant's negligent actions, errors or omissions (including any Subconsultant or Subcontractor or other person or firm employed by Consultant), whether sustained before or after completion of the Project.
- b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Consultant will be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Consultant or of any person or entity for whom Consultant is responsible.
- c. Consultant is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

8.3 **Other Insurance Provisions.** The insurance policies required by the Section above must contain, or be endorsed to contain the following insurance provisions:

- a. **The City, its officers, officials, employees and volunteers are to be covered as additional insureds** of the CGL and automobile policies for any liability arising from or in connection with the performance of all tasks or work necessary to complete the Project as herein defined. Such liability may arise, but is not limited to, liability for materials, parts or equipment furnished in connection with any tasks, or work performed by Consultant or on its behalf and for liability arising from automobiles owned, leased, hired or borrowed on behalf of the Consultant. General liability coverage can be provided in the form of an endorsement to the Consultant's existing insurance policies, provided such endorsement is at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37, if later revisions are used.
- b. For any claims related to this Project, the **Consultant's insurance coverage shall be primary insurance** with respect to the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Consultant's insurance and shall not contribute with it.
- c. Each insurance policy required by this Section shall provide that coverage shall not be canceled, except after providing notice to the City.

8.4 **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII, unless the Consultant has obtained prior approval from the City stating that a non-conforming insurer is acceptable to the City.

8.5 **Waiver of Subrogation.** **Consultant hereby agrees to waive its rights of subrogation which any insurer may acquire** from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation Policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Consultant, its employees, agent(s) and subcontractor(s).

8.6 **Verification of Coverage.** Within 15 days of the Effective Date of this Agreement, Consultant shall furnish the City with original certificates and amendatory endorsements, or copies of any applicable insurance language making the coverage required by this Agreement effective. All certificates and endorsements must be received and approved by the City before work commences. Failure to obtain, submit or secure the City's approval of the required insurance policies, certificates or endorsements prior to the City's agreement that work may commence shall not waive the Consultant's obligations to obtain and verify insurance coverage as otherwise provided in this Section. The City reserves the right to require complete, certified copies of all required insurance policies, including any endorsements or amendments, required by this Agreement at any time during the Term stated herein.

Consultant's failure to obtain, submit or secure the City's approval of the required insurance policies, certificates or endorsements shall not be considered a Force Majeure or defense for any failure by the Consultant to comply with the terms and conditions of the Agreement, including any schedule for performance or completion of the Project.

8.7 **Subcontractors.** Consultant shall require and shall verify that all subcontractors maintain insurance meeting all requirements of this Agreement.

8.8 **Special Risk or Circumstances.** The City reserves the right to modify these insurance requirements, including any limits of coverage, based on the nature of the risk, prior experience, insurer, coverage or other circumstances unique to the Consultant, the Project or the insurer.

9. **E-verify, Records and Audits.** To the extent applicable under A.R.S. § 41-4401, the Consultant warrant their compliance and that of its subconsultants with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). The Consultant or subconsultant's breach of this warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by the City under the terms of this Agreement. The City retains the legal right to randomly inspect the papers and records of the other party to ensure that the other party is complying with the above-mentioned warranty. The Consultant and subconsultant warrant to keep their respective papers and records open for random inspection during normal business hours by the other party. The parties shall cooperate with the City's random inspections, including granting the inspecting party entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

10. **No Boycott of Israel.** The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.

11. **Attestation of PCI Compliance.** When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.

12. **Notices.**

12.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:

- a. The Notice is in writing; and
- b. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested).
- c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
  - (1) Received on a business day before 5:00 p.m. at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service; or
  - (2) As of the next business day after receipt, if received after 5:00 p.m.

- d. The burden of proof of the place and time of delivery is upon the Party giving the Notice.
- e. Digitalized signatures and copies of signatures will have the same effect as original signatures.

12.2 Representatives.

- a. Consultant. Consultant's representative (the "Consultant's Representative") authorized to act on Consultant's behalf with respect to the Project, and his or her address for Notice delivery is:

Primatech, L.L.C  
 Shi-En Shiau, P.E., Principal  
 4640 East McDowell Road, Suite 100  
 Phoenix, AZ 85008

- b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale  
 c/o Michael A. Johnson, Engineering Project Manager  
 5850 West Glendale Avenue, Suite 315  
 Glendale, Arizona 85301

With required copy to:

City Manager  
 City of Glendale  
 5850 West Glendale Avenue  
 Glendale, Arizona 85301

City Attorney  
 City of Glendale  
 5850 West Glendale Avenue  
 Glendale, Arizona 85301

- c. Concurrent Notices.
  - (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
  - (2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by the City Manager and the City Attorney.
  - (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Consultant identifying the designee(s) and their respective addresses for notices.
- d. Changes. Consultant or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

13. **Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

14. **Entire Agreement; Survival; Counterparts; Signatures.**

14.1 Integration. This Agreement contains, except as stated below, the entire agreement between City and Consultant and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
- b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.

- c. Inconsistencies between the solicitation, any addenda attached to the solicitation, the response or any excerpts attached as **Exhibit A**, and this Agreement, will be resolved by the terms and conditions stated in this Agreement.

14.2 Interpretation.

- a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.

14.3 Survival. Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

14.4 Amendment. No amendment to this Agreement will be binding unless in writing and executed by the parties. Electronic signature blocks do not constitute execution for purposes of this Agreement. Any amendment may be subject to City Council approval.

14.5 Remedies. All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

14.6 Severability. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform with applicable law.

14.7 Counterparts. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

15. **Term.** The term of this Agreement commences upon the Effective Date and continues for a two (2) year initial period. The City may, at its option and with the approval of the Consultant, extend the term of this Agreement an additional \_\_\_\_\_ year, renewable on an annual basis. Consultant will be notified in writing by the City of its intent to extend the Agreement period at least thirty (30) calendar days prior to the expiration of the original or any renewal Agreement period. Price adjustments will only be reviewed during the Agreement renewal period and will be a determining factor for any renewal. There are no automatic renewals of this Agreement.

16. **Dispute Resolution.** Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered according to the American Arbitration Association's Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

17. **Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A	Project
Exhibit B	Scope of Work
Exhibit C	Schedule
Exhibit D	Compensation

(Signatures appear on the following page.)



The parties enter into this Agreement effective as of the date shown above.

City of Glendale,  
an Arizona municipal corporation

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By: Kevin R. Phelps  
Its: City Manager

ATTEST:

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Julie K. Bower (SEAL)  
City Clerk

APPROVED AS TO FORM:

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Michael D. Bailey  
City Attorney

Primatech, L.L.C.,  
an Arizona limited liability company



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By: Shi-En Shiau  
Its: Principal

**EXHIBIT A**  
**Professional Services Agreement**

**PROJECT**

This phase of the project is to provide construction administration services for rehabilitating the existing sewer systems at ten locations identified by the City of Glendale.

Ten locations presented below are not all inclusive and the City reserves the right to add to this list or delete selected sections, as necessary.

1. W. Glenn Dr. / N. 52nd Ave., from MH 23-16-005C to MH 23-16-007, 8" VCP, 1,098 LF.  
W. Glenn Dr. / N. 52nd Ave., from MH 23-16-011 to MH 23-16-007, 8" VCP, 1,098 LF.
2. W. Butler Dr. / N. 55th Ave., from MH 25-16-021 to MH 25-16-020, 8" VCP, 233 LF.  
W. Butler Dr. / N. 55th Ave., from MH 25-16-020 to MH 25-16-019, 8" VCP, 24 LF.
3. W. Northern Ave. / N. 45th Ave., from MH 25-18-027 to MH 25-18-026, 8" VCP, 180 LF.
4. NW. Grand Ave. / W. Maryland Ave., from MH 22-16-003 to 22-15-007, 8" VCP and DIP, 533' LF.
5. N. 68th Dr. / W. Camelback Rd., from MH 19-12-013 to MH 19-12-006, 8" VCP, 159 LF.
6. 7900-7500 Blk N. 59th Ave., Easement from MH 24-14-035 to MH 24-14-030, 8" VCP, 2,327 LF.
7. W. Maryland Ave. / N. 60th Ave., from MH 22-14-012 to 22-14-004, 8" VCP, 750 LF.
8. N. 78th Dr. / W. Missouri Ave., from MH 20-10-106 to MH 20-10-006. 8" DIP sewer siphon 110 LF.
9. N. 63rd Ave. / W. Maryland Ave. Manhole from Manhole 22-14-002C to 22-14-059, 8" VCP, 567 L.F.
10. N. 63rd Ave./ W. Cholla St from MH 30-13-065 to 30-13-064, 8"-VCP 384 feet

This project was performed in three phases. Phase I and Phase II was performed in parallel to each other, which was approved by City of Glendale earlier in the original contract agreement dated 11/24/2014.

Phase I – Sanitary Sewer Systems Evaluation;

Phase II – Design Services;

Phase III – Construction Administration Services ( to be performed under this contract).

**EXHIBIT B**  
**Professional Services Agreement**

SCOPE OF WORK

See attached

**EXHIBIT B**

**CITY OF GLENDALE**

**SEWER & MANHOLE REHABILITATION PHASE IV**

**CONSTRUCTION ADMINISTRATION**

**SCOPE OF WORK**

**PROJECT NO.: 131419**

**PRIMATECH PROJECT NO.: GLE029**

**Wednesday, January 4, 2017**

## Exhibit B

### SCOPE OF WORK

Work performed under this contract is generally described herein. The following tasks generally define work performed under this contract and as a reference within documentation attached hereto.

### PHASE 1000 CONSTRUCTION SERVICES

#### TASK 101 PRECONSTRUCTION CONFERENCE

The CONSULTANT shall provide the following services:

Review the CONTRACTOR's preliminary construction documentation and prepare a memorandum that summarizes CONSULTANT review comments for the following items:

1. Construction Schedule
2. Quality Control Plan (QCP)
3. Preliminary schedule of Shop Drawings and sample submittals
4. Construction Management Plan (CMP) and Critical Path Analysis
5. Cash Flow Report
6. Review overall consistency of planned content with project schedule

Review pre-construction CONTRACTOR submittals:

1. City will review Traffic control plan,
2. Contractor will secure SWPPP,
3. Contractor submittals for "long lead" items, such as utilities
4. ADOT encroachment permit requirements

Prepare Project Control Manual for internal document control and setup an FTP site for posting administrative items.

Provide the following preliminary services for the pre-construction conference:

1. Coordinate with CITY to determine pre-construction attendee list and invitations.
2. Coordinate pre-construction meet time and location with CITY and attendees.
3. Review pre-construction meeting agenda and provide feedback.

Attend pre-construction conference with the CONTRACTOR and SUB-CONTRACTORS, CITY of Glendale staff, utility companies, on-call material testing company, and others affected by the construction.

1. Establish a working relationship and understanding among each party regarding Work involved to complete this project within an established time frame. Discuss additional procedures and time required for utility companies to identify the required process to initiate job coordination and complete any work to avoid conflicts during construction. Establish and verify contact information used for the duration of the project.

2. Briefly discuss the schedule, submittal procedures, and overview of management policies, and documentation of records.
3. Procedures for handling Shop Drawings and other submittals.
4. Processing Applications for Payment and maintaining required records
5. Change order procedures and processing.
6. CONTRACTOR to submit drawing to Survey Section of CITY of Glendale to establish reference points.
7. Discuss public outreach program that will include the following:
  - i. Hotline to be created and content of message.
  - ii. Establish protocol used to mitigate safety concerns, accessibility issues, and unique public circumstances
  - iii. Coordinate mailing of letters and content
  - iv. Determine notification intervals to residents and delivery methods.
8. Assist CONTRACTOR to establish a Quality Control Plan for testing of materials and ensure conformance to applicable specifications and plans, as approved by the CITY.
9. Discuss quality assurance administrated by the ENGINEER.
10. Determine a Notice to Proceed Date.

Prepare and distribute pre-construction conference meeting minutes. Address any action items remaining and follow-up.

#### **TASK 102 CONSTRUCTION ADMINISTRATOR & RESIDENT ENGINEER:**

The CONSULTANT shall furnish the following services of a Construction Administrator and Resident ENGINEER that conforms to the City's system of administration, under the direct supervision of the CITY's Project Manager.

1. Maintain a *document file tracking system* for all CONTRACTOR submittals, RFIs, change order requests, correspondence, and other project-related documents.
2. Provide a quality acceptance program that establishes methods for inspection and acceptance testing applied in the field and monitored in the office
3. Evaluate CONTRACTOR submittals for extra cost work and make recommendations to the Project Manager, as appropriate.
4. Provide technical support for engineering research needed to verify and address any issues discovered during construction.

#### **TASK 103 CONSTRUCTION SCHEDULE REVIEW**

Construction schedule review is required to assure a timely execution of work required to complete the project and coordinate with other utilities and Sub-consultants work. Make sure the times for construction are appropriate for the time that work is scheduled. Verify work dependent on the CONTRACTOR's schedule that may include the public notification and utility relocations or temporary power pole support. Deviations from the construction schedule may be costly to the City, Contractor, or adversely impact the public. Therefore, review of the construction schedule shall be closely monitored relative to work completed and when work will be complete. A summary of schedule conformance is to be included in the monthly report. CONSULTANT will issue any necessary correspondence to insure the CONTRACTOR remains on schedule.

**TASK 104 DOCUMENT SUBMITTALS & REVIEW**

The CONSULTANT will maintain a *submittal log* showing dates of submittal, transmittal action to other sub-CONSULTANTS, dates of return and review action. Copies of the log shall be furnished to the CITY and the CONTRACTOR monthly. The ENGINEER will promptly and in accordance 'With Project schedule requirements review and approve, reject or take other appropriate action on the CONTRACTOR's request for substitutions.

The ENGINEER will receive and review (for general contents as required by the construction documents) maintenance and operating schedules and instructions, operation and maintenance manuals, and guarantees and certificates of inspection, which are to be assembled by the CONTRACTOR(s) in accordance with the construction documents. Review CONTRACTOR submittals and requests for information (RFIs) for completeness with clear and concise descriptions of information required. The ENGINEER shall be responsible for monitoring the timely processing of RFIs in the Project so that the overall Project schedule is maintained. If a response to the CONTRACTOR's request is not determined in a timely manner, then the ENGINEER will inform the CONTRACTOR in writing an explanation of a reason for delay.

The CONSULTANT review and research all submittals and documentation related to construction and will also:

1. Develop a format for tracking RFI status.
2. Inform the City Project Manager of any decision that may adversely affect the schedule or not conform to City Code. Work with additional City staff as needed to resolve conflicts.
2. Issue decisions on RFIs to both CONTRACTOR and CITY Project Manager.

*Monitor results from all major material tests, inspections, or at the beginning of important phases of the work. Promptly notify the CITY of any accident related to the Project or failed test results.*

Record Manufacturer Operation and Maintenance Manual: Assure that the CONTRACTOR will prepare a record of manufacturer or supplier-furnished operating and maintenance manuals that reflects the intent of design and the manufacturer's installation, operational and maintenance requirements. A copy of all records will be provided to the ENGINEER. A record may be comprised of catalog cuts or manuals for materials or equipment supplied by the manufacturer that demonstrate compliance with the contract documents. It is expected that the CONTRACTOR will furnish manufacturer's manuals prior to installation of the respective equipment. A record of manufacturer operation and maintenance manuals will be maintained by the CONSULTANT as the information is submitted by the CONTRACTOR.

Review Shop Drawings and Test Results: The ENGINEER will receive, review, evaluate and distribute or take other appropriate action in respect to shop drawings, samples, test results and other data that the CONTRACTOR is required to submit. The ENGINEER's review shall be for conformance with the Project's design concept and for compliance with the information given in the construction documents. Such review or other action shall not extend to means, methods, sequences, techniques or procedures of construction selected by the CONTRACTOR(s), or to safety precautions and programs associated thereto.

**TASK 105 CONDUCT PROJECT MEETINGS**

Conduct *weekly progress meetings* at the job site, as necessary, to effectively plan, implement, complete work, review the current schedule and work progress, and to facilitate the resolution of construction issues.

1. Create and distribute agenda prior to meeting
2. Prepare *minutes of the meetings* for distribution to the attendees and other affected parties.
3. Provide follow-up research and verification to address action items.
4. Meet with utility companies to coordinate field activity and address any conflict issues.

The ENGINEER shall issue all CITY instructions to the CONTRACTOR; issue necessary interpretations and clarifications of the Construction Contract Documents; have authority, as the CITY's representative, to require special inspection or testing of the work; act as initial interpreter of the requirements of the Construction Contract Documents, and judge of the acceptability of the work there under; make decisions on all claims of the CITY and CONTRACTOR(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. The CONSULTANT shall render all interpretations or decisions in good faith and in accordance with the requirements of the Construction Contract Documents.

#### **TASK 106 CONSTRUCTION & SPECIAL INSPECTIONS**

The CONSULTANT shall provide the following services:

Furnish field INSPECTORS, as needed, (with extended work hours proposed by CONTRACTOR) for the purposes of providing *construction inspection* and surveillance of the CONTRACTOR's work for all scheduled operations of construction significant to meeting design requirements and intent. Record quantities in a daily report and ensure that construction conforms to specifications and codes and are installed properly. This includes the following inspection duties:

1. Inspect traffic barricades are positioned per street closure permit with consideration of public safety and convenience, as well as maintaining business ingress & egress allowing safe passage for emergency vehicles.
2. Inspect conformance with Air Quality and Storm Water Pollution Prevention Plan per approved permits.
3. Monitor construction progress by the CONTRACTOR and report any irregularities or non-compliance issues to the CONTRACTOR and the Project Manager at the time of occurrence. The field INSPECTORS, Resident ENGINEER and Construction Administrator will not be responsible for the means and methods employed by the CONTRACTOR to accomplish the requisite project elements. Provide a photographic and/or video record of daily progress and key construction activities, with a date and time stamp, as verification of progress and documented issues confronted in the field.
4. Observe and document field materials and performance tests required by the specifications.
5. Verify locations and elevations, set by the CONTRACTOR, of pipes, manholes, valves, water meters and fire hydrants. Notify the CONTRACTOR and Project Manager in a timely manner of any discrepancies from the plans.
6. Inspect construction operations and material placement by the CONTRACTOR and evaluate conformance with the contract documents. Report all non-conformities of materials, equipment, workmanship and/or performance to the Owner, in writing, within two days of observation and again after correction is made.



7. Coordinate with the CITY of Glendale Right of Way INSPECTOR for required inspection notification of work per contract documents and CITY Codes.

**SPECIAL INSPECTION:**

Structural Inspections of cast-in-place concrete:

1. Construction of the access risers on the box culvert will require additional coordination and inspections of concrete placement, sampling, and delivery review.
2. An ENGINEER will be onsite to assure placement conditions of structural concrete meets design requirements and procedures outlined in the plans and specifications with observed results summarized in a report, developed by the STRUCTURAL ENGINEER, as required for final inspection approval.

**TASK 107 MONTHLY PAYMENTS & CHANGE ORDER REQUESTS**

Track daily progress of work and review progress payment quantities with the CONTRACTOR, prior to preparation of the CONTRACTOR's monthly applications for payment. Prepare CITY Form No. 122-5-D for each monthly progress payment in a timely manner. Track the timeliness of progress payments from the date of the approved CONTRACTOR submittal to the issuance of payment by the CITY.

The ENGINEER will promptly consult with and advise the CITY concerning all change order requests and change orders. The ENGINEER will prepare, when requested by the CITY, required drawings, specifications and other supporting data regarding minor changes, change order requests and change orders. The ENGINEER will prepare and submit change order requests explaining the merits of the change and providing a recommendation for the CITY's approval and acceptance. The ENGINEER will negotiate an agreement with the CONTRACTOR as to the scope of work as well as to the cost, time, or both associated with the change in work. The change order shall include a written justification for the cost of the work. The ENGINEER will administer and manage minor changes, change order requests, and change orders on behalf of the CITY. Change orders shall be prepared on a standard form provided by the CITY.

Should a change order request be accepted by the CITY in the absence of an agreement with the CONTRACTOR as to cost, time, or both, the ENGINEER will:

1. Receive and maintain all documentation pertaining to the change order request required of the CONTRACTOR
2. Examine such documentation on the CITY's behalf
3. Take such other action as reasonably necessary or as requested by the CITY.
4. Make a recommendation to the CITY concerning any appropriate adjustment in the construction cost and/or time. Verify any change order for the CONTRACTOR's acceptance and CITY approval

Changes and substitutions shall be limited to the scope of the project as defined by the construction documents or additional work as may be requested by the CITY.

Prepare a *monthly executive summary report* for the Project Manager. Each month, furnish the CITY with the project progress meeting minutes (as the construction contract status report),

describing the progress of the work and the CONTRACTOR's compliance with the approved progress schedule and schedule for shop drawing submissions. At a minimum, the report will include:

Total project cost to date;  
Total project cost during the period;  
Planned versus actual progress;  
Actual and/or potential defaults or violations of the construction documents;  
Remedies to the above;  
Change order activity summary; and  
Other project issues.

#### **TASK 108 – SUBSTANTIAL COMPLETION & PROJECT CLOSE-OUT**

The FIELD ENGINEER shall provide the following services to aid the CITY to determine when a sequential *Group of work*, as defined in the specifications, is substantially complete before the CITY will allow the CONTRACTOR to proceed with work on the next segment Group:

Furnish the Project Manager with *final quantities* and a *letter recommending acceptance of the work* based upon the ENGINEER's inspection staff reports and CITY materials acceptance testing reports.

Prepare a *punch list* for the CONTRACTOR's use prior to the final project walk-through. Schedule and conduct a final walk-through with the Project Manager and the CONTRACTOR at the completion of construction. Prepare a *Certificate of Substantial Completion* when appropriate.

Prepare record drawings, in accordance with City of Glendale's 2015 ENGINEERING DESIGN AND CONSTRUCTION STANDARDS (EDCS) Ch 8, from as-built red lines that are clearly legible, as submitted by the CONTRACTOR, in both hard copy and survey points submitted in CAD 2015 format. Full size 24"x36" hard copies shall be provided along with a CD formatted for electronic submittal requirements of EDCS 8.3.

**TASK 109 FINAL AND ONE YEAR WARRANTY INSPECTIONS**

Furnish the Project Manager with final quantities and a letter recommending acceptance of the work based upon the ENGINEER's inspection staff reports and CITY materials acceptance testing reports.

Conduct warranty inspections and prepare a punch list for the CONTRACTOR prior to the expiration of the CONTRACTOR's warranty period. Submit a final report to the Project Manager. Verify final quantities and as-built data for project close-out.

**PHASE 2000 MISCELLANEOUS ALLOWANCE****TASK 201 PRINTING/COPYING COST**

Allowance used for making copies of plans, reports, as-builts, invoices, contract documents, RFI's, and etc. as required for the CONSULTANT to successfully complete the work required under this contract.

**TASK 202 DIRECT EXPENSES**

This allowance is used to pay for direct expenses associated with delivery, mailing, driving, cellular communications for two phones with voice and data capabilities, etc.

**TASK 203 VEHICLE (INSPECTOR ONLY) W/ MILEAGE INCLUDED**

This allowance cost covers the expenses associated with owning and maintaining an company operated vehicle for use during which time construction inspection activities are required. No mileage will be billed to the City for use during this time, as required, for inspection work. This cost does not include the cost for the Project Engineer or Project manager to travel to the site or to meetings.

**TASK 204 OWNER'S CONTINGENCY**

Contingency is allocated for the sole purpose of reimbursing the CONSULTANT for any unforeseen work that was apparently unnecessary at the time of the fee negotiation or for any additional work that may be requested by the CITY of Glendale (COG).

No work anticipated for reimbursement under this task item shall be initiated by the CONSULTANT until the CONSULTANT and the COG Project Manager agree on the scope and cost to perform the additional work. The CONSULTANT shall prepare and submit to the COG Project Manager a cost itemization and summary for the additional work. The COG Project Manager shall review and approve any additional work prior to CONSULTANT proceeding. Any portion of the stated sum not expended remains the property of the CITY of Glendale. Additional services associated with the project, including services normally furnished by the OWNER and services not otherwise provided for in this scope of services, shall be provided by the ENGINEER, if requested by the OWNER.

## **PHASE 3000 SUBCONSULTANTS**

### **TASK 301 STRUCTURAL INSPECTION**

This fee is intended for use to hire a sub-consultant to perform as the structural inspector of all structural work performed on the access risers and culvert modification at Segment 8.

A final structural inspection report will be prepared and submitted by the STRUCTURAL ENGINEER, as a SUBCONSULTANT, to the CITY and CONTRACTOR for all observed structural work at Segment 8.

NSB Group of Gannett Fleming, Inc. (NSB-GF) is referred to as the Structural Sub-consultant herein. NSB-GF will provide structural construction administration and special inspection for the Sewer and Manhole Rehabilitation Phase IV, Project No. 131419. The construction consists of passing a new gravity sewer pipe through an existing BHOC double 9'x9' box culvert.

Submittal Review Schedule is as follows:

1. Structural Reinforcing Steel Shop Drawings
2. Review Concrete Mix Designs and curing compound
3. NSB-GF will review test results for concrete cylinders
4. NSB-GF will not review formwork
5. Post installed anchors and reinforcing
6. Pre-engineered ladder shop drawings and calculations signed and sealed by an Engineer registered in the State of Arizona.
7. Pre-engineered hatch shop drawings

Administrative Tasks include:

1. NSB-GF will attend Construction meetings when invited.
2. No Site visits are scheduled beyond Structural Inspection Tasks.
3. Interpretation and Clarifications
4. Respond to contractor's questions. The number of RFIs is limited to 4
5. Record Drawings
6. NSB-GF will pick-up Contractor's redlines for Record drawings.
7. Special Inspections

NSB-GF will perform the following special structural inspections:

1. Adhesive Anchors
2. Concrete reinforcing
3. NSB-GF will perform the concrete reinforcement for select structures as per Task 106 Special Inspection
4. Primatech will perform all concrete placement inspections and provide NSB-GF the inspection reports weekly.

Compensation and Payments

Work shall be billed on an hourly basis. NSB Group of Gannett Fleming Inc. proposes to perform the structural discipline services described above for Cost Plus to a Maximum compensation listed in the cost proposal attached as Exhibit D.

### **TASK 302 PUBLIC RELATIONS & PUBLIC OUTREACH**

The CONSULTANT shall provide work under this section using a Sub-consultant, referred to as Central Creative.

Central Creative will provide the following services:

1. Project Kickoff/Preconstruction Meeting: assume this will occur immediately upon notice to proceed, so specific information can be obtained for Construction Notification.
2. Design, Print, and Mail Initial Construction Notifications for impacted residents and businesses (approximately 400 total notifications covering all 10 sites). Notices will be hand delivered and mailed. Notification will be provided to City for website posting, as appropriate.
3. Project Hotline: Construction Notification will include a telephone hotline number and Central Creative will answer, respond (in coordination with City and Contractor as necessary), and document calls.
4. Weekly meetings, including any needed interim notifications (e.g., service interruption notices, property access needed notices, traffic control notices, etc.)— assume 40 meetings and 12 “additional” notifications (in addition to initial Construction Notification identified in Task 2), each time hand delivered to impacted properties. Contractor will be responsible for hand delivery. Central Creative will design and print the notifications and provide to Contractor for delivery. The City PM and/or City Inspector will verify need to attend weekly meetings and approve all notifications.

Refer to costs associated with these services in attached Exhibit D.

**PHASE 4000 OTHER ADDITIONAL SERVICES**

**TASK 401 EXTENDED SERVICES FOR EASEMENT AND PROPERTY OWNER AGREEMENTS**

The CONSULTANT provided additional services after submittal of the final approved plans. These extended tasks included the following:

1. Additional easement revisions and Phase I ESA updates in segment 6 and segment 9
2. Additional coordination with the Owners along segments 6 and 9 for agreements including numerous letters, searching owner contacts and site visits to each property to negotiate agreements for the City prior to construction.
3. Coordination with South West Gas for relocations on Northern and Orangewood, continued effort to provide drawings with revisions, coordination of relocation schedule, and cost estimates between Southwest Gas and the City, and design revisions.
4. The Electrical requirements & the Impact to the power poles we had to completed to relocate Segment 3 and the cost and procedures for Segment 9 power pole protection with APS
5. Per SRP request on an new irrigation line constructed that was previously unknown and was not surveyed, Primatch needed to field verify inverts, adjust the old SRP datum to the new 1988 datum, in order to adjust adequate clearance from the new sewer to the SRP irrigation on Northern.

The costs associated with these extended tasks are listed below in Table 401.1, for task completed outside of the scope of work.

**TABLE 401.1 EXTENDED SERVICES**

1. Easements Revisions and Phase I ESA updates	5,020.60
2. Additional coordination with Owners to fulfill agreements	3,720.00
3. Southwest Gas relocation on Northern and Orangewood	12,772.46
4. Electrical Requirements, Power poles relocation impact and protection	6,780.84
5. Surveyed new irrigation lines, field verify inverts and incorporate to previous SRP datum	<u>11,740.84</u>
ADDITIONAL SERVICES TOTAL	<b>40,034.74</b>

**TASK 402 PHASE 1 ESA UPDATE**

Additional services also included as a required update to the initial Phase I Environmental Site Assessment(ESA) for new sewer easements being declared along the alignment for Segments 6 & 9. The time elapsed the 180 days required for a valid submission of the Phase 1 ESA along each segment. This update included revisions to initial easement definitions and changes in property Owners during this time. The City requirements were also expanded to include 3 additional properties, to receive new easements, along Segment 6.

See attached Schedule D for costs associated with this service.

The CONSULTANT shall provide additional services during construction made necessary by:

1. Work damaged by flooding or other causes during construction, not caused by the ENGINEER
2. A significant amount of defective or neglected work by the CONTRACTOR
3. Prolongation of the contract term of any prime contract, caused by the CONTRACTOR or other factors
4. Acceleration of the progress schedule involving an extension of services beyond normal working hours not caused by the ENGINEER
5. Default by the CONTRACTOR
6. Additional surveying or materials testing services

The OWNER and CONSULTANT agree that there may be certain additional or extended services required to be performed by the CONSULTANT during the contract period that cannot be defined sufficiently at the time of execution of this contract. Such services shall be authorized in writing. The CONSULTANT will be compensated for any additional services rendered above

It is understood that if additional services are rendered by the ENGINEER and these services are the results of negligence or wrongful conduct by the ENGINEER, then the ENGINEER shall not be entitled to additional compensation for such services.

**EXHIBIT C**  
**Professional Services Agreement**

**SCHEDULE**

The construction administration services duration will be based upon the notice to proceed to the general contractor until the closeout documents are delivered to the City of Glendale. The construction completion schedule is 300 calendar days.



**EXHIBIT D**  
**Professional Services Agreement**

**COMPENSATION**

**METHOD AND AMOUNT OF COMPENSATION**

Compensation shall be hourly rates plus allowable reimbursement expenses.

**NOT-TO-EXCEED AMOUNT**

The total amount of compensation paid to Consultant for full completion of all work required by the Project during the entire term of the Project must not exceed \$467,461.00.

**DETAILED PROJECT COMPENSATION**

See attached.

**EXHIBIT D  
CONSTRUCTION ADMINISTRATION SERVICE FEES**

**Sewer & Manhole Rehabilitation Ph IV Project  
City of Glendale  
131419  
(rev. 01/04/17)**

<b>TASK DESCRIPTION*</b>		<b>TOTAL FEE</b>
<b>PHASE 1000 CONSTRUCTION SERVICES</b>		
101	PRECONSTRUCTION CONFERENCE	\$ 5,840
102	CONSTRUCTION ADMINISTRATOR & RESIDENT ENGINEER	\$ 9,720
103	CONSTRUCTION SCHEDULE REVIEW	\$ 4,080
104	DOCUMENT SUBMITTALS & REVIEW	\$ 51,924
105	CONDUCT PROJECT MEETINGS	\$ 48,896
106	CONSTRUCTION & SPECIAL INSPECTIONS	\$ 162,112
107	MONTHLY PAYMENTS & CHANGE ORDERS REQUESTS	\$ 11,600
108	SUBSTANTIAL COMPLETION & PROJECT CLOSEOUT	\$ 15,264
109	FINAL & ONE YEAR WARRANTY INSPECTIONS	\$ 2,782
<b>Subtotal Fees:</b>		<b>\$ 312,218</b>
<b>PHASE 2000 MISCELLANEOUS ALLOWANCE</b>		
201	PRINTING/COPYING COST	\$ 1,000
202	DIRECT EXPENSES	\$ 1,300
203	VEHICLE (INSPECTOR ONLY) w/ mileage incl	\$ 6,000
204	OWNER'S CONTINGENCY	\$ 60,000
<b>PHASE 3000 SUBCONSULTANTS</b>		
301	STRUCTURAL INSPECTION	\$ 13,601
302	PUBLIC RELATIONS & PUBLIC OUTREACH	\$ 27,208
<b>PHASE 4000 OTHER ADDITIONAL SERVICES</b>		
401	EXTENDED SERVICES FOR EASEMENT, PROPERTY OWNER AGREEMENTS	\$ 40,035
402	PHASE 1 ESA UPDATE	\$ 6,099

**\$ 467,461**

\* Please refer to the enclosed SOW for detailed task descriptions



## Legislation Description

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**File #:** 17-051, **Version:** 1

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**AUTHORIZATION TO ENTER INTO A CONSTRUCTION AGREEMENT WITH ACTION DIRECT LLC, DOING BUSINESS AS REDPOINT CONTRACTING, FOR SEWER LINE AND MANHOLE REHABILITATION (PHASE IV)**

Staff Contact: Craig Johnson, P.E., Director, Water Services

**Purpose and Recommended Action**

This is a request for City Council to authorize the City Manager to enter into a Construction Agreement with Action Direct LLC, dba Redpoint Contracting (Redpoint), for construction services in an amount not to exceed \$3,380,884 for sewer line and manhole rehabilitation (phase IV).

**Background**

The city's wastewater collection system consists of over 707 miles of pipes, 14,400 manholes and cleanouts designed to transport wastewater from residential and commercial customers to treatment facilities. As the system ages, it is necessary to replace and/or rehabilitate the sewer lines and attached manholes to ensure continued compliance with existing regulations, increase efficiencies, reduce maintenance issues, and extend the life of the system.

Proactive rehabilitation and replacement efforts minimize maintenance issues, and assists with maintaining the integrity of the collection system. This project is part of an on-going proactive preventive maintenance effort to maintain the operational reliability of the city's wastewater collection system in accordance with the city's comprehensive Sewer Evaluation and Master Plan.

The city has identified various sewer lines, manholes, and related structures in the collection system that are in need of rehabilitation. The Sewer Line Replacement program is a multi-phase/multi-year project to address priority areas in an efficient, economical, and timely manner. Phase IV of this project includes 12 various locations throughout the city. This phase will replace and/or rehabilitate approximately 7,463 linear-feet of 8-inch diameter sewer lines and attached manholes.

**Analysis**

The Engineering Department advertised the Notice to Contractors (Project 131419) on November 10, 2016 for construction services. Three sealed bids were opened on December 13, 2016 and evaluated. Action Direct LLC, dba Redpoint Contracting was selected as the lowest responsive bid in the amount of \$3,380,884.

**Previous Related Council Action**

On August 25, 2015, Council authorized the Acting City Manager to enter into professional services agreement with Redpoint for construction services for the Sewer Line Replacement (phase III).

On November 24, 2014, Council authorized the City Manager to enter into professional services agreement with Primatch, LLC for design services for the Sewer Line Replacement (phase IV).

**Community Benefit/Public Involvement**

Benefits to be realized from the project includes; maintaining the integrity of the wastewater collection system, minimizing service interruptions, ensures continued compliance with environmental regulations and decreases traffic disruptions caused by maintenance crews.

**Budget and Financial Impacts**

Funds are available in the Water Services FY 2016-17 capital budget.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$3,380,884</b>	<b>2420-63016-550800, Sewer Line Replacement</b>

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

## CONSTRUCTION AGREEMENT

This Construction Agreement ("Agreement") is entered into and effective between the CITY OF GLENDALE, an Arizona municipal corporation ("City"), and Action Direct, LLC, dba Redpoint Contracting, an Arizona limited liability company ("Contractor") as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

### RECITALS

- A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in the Notice to Contractors and the attached Exhibit A ("Project");
- B. City desires to retain the services of Contractor to perform those specific duties and produce the specific work as set forth in the Project, the plans and specifications, the Information for Bidders, and the Maricopa Association of Governments ("MAG") General and Supplemental Conditions and Provisions;
- C. City and Contractor desire to memorialize their agreement with this document.

### AGREEMENT

In consideration of the Recitals, which are confirmed as true and correct and incorporated by this reference, the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, City and Contractor agree as follows:

#### 1. Project.

**1.1 Scope.** Contractor will provide all services and material necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors, providers or consultants retained by City.

**1.2 Documents.** The following documents are, by this reference, entirely incorporated into this Agreement and attached Exhibits as though fully set forth herein:

- (A) Notice to Contractors;
- (B) Information for Bidders;
- (C) MAG General Conditions, Supplemental General Conditions, Special and Technical Provisions;
- (D) Proposal;
- (E) Bid Bond;
- (F) Payment Bond;
- (G) Performance Bond;
- (H) Certificate of Insurance;
- (I) Appendix; and
- (J) Plans and Addenda thereto.

Should a conflict exist between this Agreement (and its attachments), and any of the incorporated documents as listed above, the provisions of this Agreement shall govern.

#### 1.3 Project Team.

- (A) Project Manager. Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, to complete the project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement.
- (B) Project Team.
  - (1) The Project manager and all other employees assigned to the project by Contractor will comprise the "Project Team."
  - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the project by Contractor.

(C) Sub-contractors.

- (1) Contractor may engage specific technical contractor (each a "Sub-contractor") to furnish certain service functions.
- (2) Contractor will remain fully responsible for Sub-contractor's services.
- (3) Sub-contractors must be approved by the City, unless the Sub-contractor was previously mentioned in the response to the solicitation.
- (4) Contractor shall certify by letter that contracts with Sub-contractors have been executed incorporating requirements and standards as set forth in this Agreement.

2. **Schedule.** The Project will be undertaken in a manner that ensures it is completed in a timely and efficient manner. If not otherwise stated in Exhibit A, the Project shall be completed by no later than within sixty (60) consecutive calendar days from and including the date of receipt of the Notice to Proceed.

3. **Contractor's Work.**

3.1 **Standard.** Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services and materials for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 **Licensing.** Contractor warrants that:

- (A) Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and
- (B) Neither Contractor nor any Sub-contractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
  - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.
  - (2) Contractor must notify City immediately if any Approvals or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default of this Agreement.

3.3 **Compliance.** Services and materials will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, or other standards and criteria designated by City.

Contractor must not discriminate against any employee or applicant for employment on the basis of race, religion, color sex or national origin. Contractor must develop, implement and maintain non-discrimination policies and post the policies in conspicuous places visible to employees and applicants for employment. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section.

3.4 **Coordination; Interaction.**

- (A) If the City determines that the Project requires the coordination of professional services or other providers, Contractor will work in close consultation with City to proactively interact with any other contractors retained by City on the Project ("Coordinating Entities").
- (B) Subject to any limitations expressly stated in the budget, Contractor will meet to review the Project, schedules, budget, and in-progress work with Coordinating Entities and the City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.

(C) If the Project does not involve Coordinating Entities, Contractor will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.

**3.5 Hazardous Substances.** Contractor is responsible for the appropriate handling, disposal of, and if necessary, any remediation and all losses and damages to the City, associated with the use or release of hazardous substances by Contractor in connection with completion of the Project.

**3.6 Warranties.** At any time within two years after completion of the Project, Contractor must, at Contractor's sole expense and within 20 days of written notice from the City, uncover, correct and remedy all defects in Contractor's work. City will accept a manufacturer's warranty on approved equipment as satisfaction of the Contractor's warranty under this subsection.

**3.7 Bonds.** Upon execution of this Agreement, and if applicable, Contractor must furnish Payment and Performance bonds as required under A.R.S. § 34-608.

#### **4. Compensation for the Project.**

**4.1 Compensation.** Contractor's compensation for the Project, including those furnished by its Sub-contractors will not exceed \$3,380,884, as specifically detailed in the Contractor's bid and set forth in Exhibit B ("Compensation").

**4.2 Change in Scope of Project.** The Compensation may be equitably adjusted if the originally contemplated scope of services as outlined in the Project is significantly modified by the City.

- a. Adjustments to the Scope or Compensation require a written amendment to this Agreement and may require City Council approval.
- b. Additional services which are outside the scope of the Project and not contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.
- c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take priority and govern the conduct of the parties.

#### **5. Billings and Payment.**

##### **5.1 Applications.**

- (A) The Contractor will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.
- (B) The period covered by each Payment Application will be one calendar month ending on the last day of the month.

##### **5.2 Payment.**

- (A) After a full and complete Payment Application is received, City will process and remit payment within thirty (30) days.
- (B) Payment may be subject to or conditioned upon City's receipt of:
  - (1) Completed work generated by Contractor and its Sub-contractors; and
  - (2) Unconditional waivers and releases on final payment from Sub-contractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

**5.3 Review and Withholding.** City's Project Manager will timely review and certify Payment Applications.

- (A) If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.
- (B) City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.
- (C) Contractor will provide, by separate cover, and concurrent with the execution of this Agreement, all required financial information to the City, including City of Glendale Transaction Privilege License and Federal Taxpayer identification numbers.
- (D) City will temporarily withhold Compensation amounts as required by A.R.S. 34-221(C).

## 6. Termination.

**6.1 For Convenience.** City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than fifteen (15) days following the date of delivery.

- (A) Contractor will be equitably compensated any services and materials furnished prior to receipt of the termination notice and for reasonable costs incurred.
- (B) Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with Project closeout and delivery of the required items to the City.

**6.2 For Cause.** City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven (7) days after receipt of written notice specifying the breach.

- (A) Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages.
- (B) If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand; however, Contractor will not be subject to consequential damages more than \$1,000,000 or the amount of this Agreement, whichever is greater.

## 7. Insurance.

**7.1 Requirements.** Contractor must obtain and maintain the following insurance ("Required Insurance"):

- (A) Contractor and Sub-contractors. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively, "Contractor's Policies"), until each Parties' obligations under this Agreement are completed.
- (B) General Liability.
  - (1) Contractor must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
  - (2) Sub-contractors must at all times relevant hereto carry a general commercial liability policy with a combined single limit of at least \$1,000,000 per occurrence.
  - (3) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, products and completed operations, XCU hazards if requested by the City, and a separation of insurance provision.
  - (4) These limits may be met through a combination of primary and excess liability coverage.



- (C) Auto. A business auto policy providing a liability limit of at least \$1,000,000 per accident for Contractor and 1,000,000 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.
- (D) Workers' Compensation and Employer's Liability. A workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.
- (E) Equipment Insurance. Contractor must secure, pay for, and maintain all-risk insurance as necessary to protect the City against loss of owned, non-owned, rented or leased capital equipment and tools, equipment and scaffolding, staging, towers and forms owned or rented by Contractor or its Sub-contractors.
- (F) Notice of Changes. Contractor's Policies must provide for not less than 30 days' advance written notice to City Representative of:
  - (1) Cancellation or termination of Contractor or Sub-contractor's Policies;
  - (2) Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and
  - (3) Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.
- (G) Certificates of Insurance.
  - (1) Within ten (10) business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which will confirm the existence or issuance of Contractor and Sub-contractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Sub-contractor's Policies in accordance with the provisions of this section.
  - (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.
  - (3) Contractor's failure to secure and maintain Contractor Policies and to assure Sub-contractor policies as required will constitute a material default under this Agreement.
- (H) Other Contractors or Vendors.
  - (1) Other contractors or vendors that may be contracted by Contractor with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular agreement.
  - (2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).
- (I) Policies. Except with respect to workers' compensation and employer's liability coverages, the City must be named and properly endorsed as additional insureds on all liability policies required by this section.
  - (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self insurance policies or programs maintained by the additional insureds.
  - (2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and acceptable to all parties.

## **7.2 Sub-contractors.**

- (A) Contractor must also cause its Sub-contractors to obtain and maintain the Required Insurance.

- (B) City may consider waiving these insurance requirements for a specific Sub-contractor if City is satisfied the amounts required are not commercially available to the Sub-contractor and the insurance the Sub-contractor does have is appropriate for the Sub-contractor's work under this Agreement.
- (C) Contractor and Sub-contractors must provide to the City proof of Required Insurance whenever requested.

**7.3 Indemnification.**

- (A) To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense"; collectively, "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.
- (B) This indemnity and hold harmless policy applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.
- (C) Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

**7.4 Waiver of Subrogation.** Contractor waives, and will require any Subcontractor to waive, all rights of subrogation against the City to the extent of all losses or damages covered by any policy of insurance.

**8. E-verify, Records and Audits.** To the extent applicable under A.R.S. § 41-4401, the Contractor warrant their compliance and that of its subcontractors with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). The Contractor or subcontractor's breach of this warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by the City under the terms of this Agreement. The City retains the legal right to randomly inspect the papers and records of the other party to ensure that the other party is complying with the above-mentioned warranty. The Contractor and subcontractor warrant to keep their respective papers and records open for random inspection during normal business hours by the other party. The parties shall cooperate with the City's random inspections, including granting the inspecting party entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

**9. No Boycott of Israel.** The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.

**10. Conflict.** Contractor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

**11. Notices.**

11.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:

- (A) The Notice is in writing, and
- (B) Delivered in person or by private express overnight delivery service (delivery charges prepaid), certified or registered mail (return receipt requested).
- (C) Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:

- (1) Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier on or before 5:00 p.m.; or
- (2) As of the next business day after receipt, if received after 5:00 p.m.
- (D) The burden of proof of the place and time of delivery is upon the Party giving the Notice.
- (E) Digitalized signatures and copies of signatures will have the same effect as original signatures.

11.2 **Representatives.**

- (A) Contractor. Contractor's representative ("Contractor's Representative") authorized to act on Contractor's behalf with respect to the Project, and his or her address for Notice delivery is:

Redpoint Contracting  
 Attn: Scott Mitchell  
 39506 North Daisy Mountain Drive, Suite 122  
 Phoenix, Arizona 85086

- (B) City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale  
 Attn: Michael Johnson  
 5850 West Glendale Avenue  
 Glendale, Arizona 85301

With required copies to:

City of Glendale  
 City Manager  
 5850 West Glendale Avenue  
 Glendale, Arizona 85301

City of Glendale  
 City Attorney  
 5850 West Glendale Avenue  
 Glendale, Arizona 85301

- (C) Concurrent Notices.

- (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
- (2) A notice will not be considered to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.

- (D) Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

**12. Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

**13. Entire Agreement; Survival; Counterparts; Signatures.**

**13.1 Integration.** This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- (A) Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.

- (B) Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
- (C) Any solicitation, addendums and responses submitted by the Contractor are incorporated fully into this Agreement as Exhibit A. Any inconsistency between Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

**13.2 Interpretation.**

- (A) The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- (B) The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- (C) The Agreement will be interpreted in accordance with the laws of the State of Arizona.

**13.3 Survival.** Except as specifically provided otherwise in this Agreement each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

**13.4 Amendment.** No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval.

**13.5 Remedies.** All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

**13.6 Severability.** If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform to applicable law.

**13.7 Counterparts.** This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

**14. Dispute Resolution.** Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered according to the American Arbitration Association's Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

**15. Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A	Project
Exhibit B	Compensation

The parties enter into this Agreement as of the date shown above.

City of Glendale,  
an Arizona municipal corporation

\_\_\_\_\_  
By: Kevin R. Phelps  
Its: City Manager

ATTEST:

\_\_\_\_\_  
Julie K. Bower (SEAL)  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael D. Bailey  
City Attorney

Action Direct, LLC dba Redpoint Contracting  
an Arizona limited liability company

\_\_\_\_\_  
By: Scott Mitchell  
Its: Manager

WOMEN-OWNED/MINORITY BUSINESS  YES  NO  
CITY OF GLENDALE TRANSACTION PRIVILEGE TAX NO. \_\_\_\_\_  
FEDERAL TAXPAYER IDENTIFICATION NO. \_\_\_\_\_

**EXHIBIT A  
CONSTRUCTION AGREEMENT**

**PROJECT**

This project will provide labor, materials, and equipment to rehabilitate the existing sewer system and manholes at various locations throughout the City of Glendale.

**EXHIBIT B  
CONSTRUCTION AGREEMENT**

**COMPENSATION**

**METHOD AND AMOUNT OF COMPENSATION**

By bid, including all services, materials and costs.

**NOT-TO-EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the entire term of the Project must not exceed \$3,380,884.

**DETAILED PROJECT COMPENSATION**

As shown in detail on the Bid Schedule.

BID TABULATION

PROJECT 131419-SEWER & MANHOLE REHABILITATION PROJECT PHASE IV

OPENED AT THE CITY OF GLENDALE, ENGINEERING DEPARTMENT  
5850 W. GLENDALE AVENUE, 3RD FLOOR

DATE: DECEMBER 13, 2016, 2:00PM

CONTRACTOR	BID BOND\CHECK	ACKNOWLEDGE ADDENDA 1 & 2	BASE BID
REDPOINT CONTRACTING	BID BOND	1 & 2	\$ 3,380,884.00
ACHEN-GARDNER CONSTRUCTION	BID BOND	1 & 2	\$ 3,615,040.00
HUNTER CONTRACTING	BID BOND	1 & 2	\$ 4,096,021.08





## Legislation Description

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**File #:** 17-053, **Version:** 1

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**AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH LAYTON CONSTRUCTION CO., INC., FOR GENERAL MAINTENANCE AND REPAIR SERVICES**

Staff Contact: Jack Friedline, Director, Public Works

**Purpose and Recommended Action**

This is a request for City Council to authorize the City Manager to enter into a Linking Agreement with Layton Construction Co. Inc., for general maintenance and repair services in an amount not to exceed \$300,000 for the entire term of the Agreement, and to authorize the City Manager to renew the Agreement, at the City Manager's discretion, for an additional two, one-year renewals. The initial term of the Agreement is effective until June 24, 2017.

**Background**

The Agreement with Layton Construction Co. Inc. will be used for general maintenance and repairs at City of Glendale facilities on an as-needed basis.

Layton Construction Co. Inc., was awarded a bid by Maricopa County as described in the Job Order Contractor for Facilities Management Contract and staff is requesting to utilize the cooperative purchase with Strategic Alliance for Volume Expenditures (SAVE). SAVE is a consortium of local municipalities in which Glendale is a member. Contract No. 14007-JOC was awarded on June 25, 2014 and is effective through June 24, 2017, and includes an option to renew the contract an additional two, one-year renewals, allowing the contract to be extended through June 24, 2019.

Cooperative purchasing allows counties, municipalities, schools, colleges and universities in Arizona to use a contract that was competitively procured by another governmental entity or purchasing cooperative. Such purchasing helps reduce the cost of procurement, allows access to a multitude of competitively bid contracts, and provides the opportunity to take advantage of volume pricing. The Glendale City Code authorizes cooperative purchases when the solicitation process utilized complies with the intent of Glendale's procurement processes. This cooperative purchase is compliant with Chapter 2, Article V, Division 2, Section 2-149 of the Glendale City Code, per review by Materials Management.

**Analysis**

Facilities Management staff oversees 3.5 million square feet of city facilities dispersed over 55 square miles throughout the city. This Agreement will allow Facilities Management to continue to provide general maintenance and repairs on an as-needed basis to its tenants in city facilities, without interruption of service.

**Community Benefit/Public Involvement**

By ensuring facility maintenance and repair issues are performed in a timely manner, the life of city facilities are extended and further damage, decay and/or repairs are minimized.

Cooperative purchasing typically produces the lowest possible volume prices and allows for the most effective use of available funding. The bids are publicly advertised and all Arizona firms have an opportunity to participate.

**Budget and Financial Impacts**

Funding is available in the Fiscal Year 2016-17 Operating and Maintenance budgets for the various city departments. Expenditures with Layton Construction Co. Inc. are not to exceed \$300,000 for the entire term of the Agreement, contingent upon Council budget approval.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$300,000</b>	<b>Varies</b>

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
LAYTON CONSTRUCTION CO., INC**

THIS LINKING AGREEMENT (this "Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the City of Glendale, an Arizona municipal corporation (the "City"), and Layton Construction Co., Inc., a Utah limited liability company authorized to do business in Arizona ("Contractor"), collectively, the "Parties."

**RECITALS**

- A. On June 25, 2014, under the S.A.V.E. Cooperative Purchasing Agreement, Maricopa County entered into a contract with Contractor to purchase the goods and services described in the Job Order Contractor for Facilities Management, Contract No. 14007-JOC ("Cooperative Purchasing Agreement"), which is attached hereto as Exhibit A. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the City.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Linking Agreement, the parties agree as follows:

1. Term of Agreement. The City is purchasing supplies and/or services from Contractor pursuant to the Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement, purchases can be made by governmental entities from the date of award, which was June 25, 2014, until the date the contract expires on June 24, 2017, unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not be extended beyond June 24, 2019. The initial period of this Agreement, therefore, is the period from the Effective Date of this Agreement until June 24, 2017. The City Manager or designee, however, may renew the term of this Agreement for 2 one-year periods until the

Cooperative Purchasing Agreement expires on June 24, 2019. Renewals are not automatic and shall only occur if the City gives the Contractor notice of its intent to renew. The City may give the Contractor notice of its intent to renew this Agreement 30 days prior to the anniversary of the Effective Date to effectuate such renewal.

2. Scope of Work; Terms, Conditions, and Specifications.

- A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as Exhibit B.
- B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.

3. Compensation.

- A. City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit C.
- B. The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed three hundred thousand dollars (\$300,000) for the entire term of the Agreement (initial term plus any renewals).

4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.

5. Non-discrimination. Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

6. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.

7. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.

8. No Boycott of Israel. The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.

9. Attestation of PCI Compliance. When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.

10. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale  
c/o Vern Baker  
6210 W. Myrtle Avenue, Suite 111  
Glendale, Arizona 85301  
623-930-2679

and

Layton Construction Co., Inc.  
c/o David S. Layton  
7686 E. Van Buren, Suite 100  
Phoenix, AZ 85008  
602-840-8655

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

“City”

City of Glendale, an Arizona  
municipal corporation

By: \_\_\_\_\_

Kevin R. Phelps  
City Manager

“Contractor”

Layton Construction Co., Inc.,  
a Utah Limited Liability Company

By: \_\_\_\_\_

Name: David S. Layton  
Title: CEO

ATTEST:

\_\_\_\_\_  
Julie K. Bower (SEAL)  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael D. Bailey  
City Attorney

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
LAYTON CONSTRUCTION CO., INC**

**EXHIBIT A  
MARICOPA COUNTY CONTRACT NO. 14007-JOC  
JOB ORDER CONTRACTOR FOR FACILITIES MANAGEMENT  
FULL CONTRACT AVAILABLE UPON REQUEST**



**JOB ORDER CONTRACTOR (JOC) CONTRACT**

**MARICOPA COUNTY, ARIZONA**

**JOB ORDER CONTRACTOR FOR FACILITIES MANAGEMENT**

**Office of Procurement Services**

**Serial # 14007-JOC**

**C-73-14-066-5-00**

**Facilities Management, Maricopa County Arizona**

**Division 0 - Bidding & Contract Requirements**

<u>Section</u>	<u>Description</u>	<u>Number of Pages</u>
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	Exhibit H – Statement of Qualifications dated March 7, 2014 .....	29
	Exhibit I – Certificate of Insurance for Job Order Contract .....	2
	Exhibit J – General Requirements for the Job Order Contracts .....	109

All of the exhibits above are incorporated by reference as though fully set forth herein whether or not physically attached to this contract.

**END OF SECTION**



**SECTION 00500**

**JOB ORDER CONTRACT**

**A. EFFECTIVE DATE:**



This CONTRACT is entered into by and between the Owner and the Job Order Contractor as Contract No. 14007-JOC, and shall be effective as of June 25, 2014.

**B. OWNER:**

MARICOPA COUNTY  
c/o Facilities Management Department  
401 West Jefferson Street  
Phoenix, Arizona 85003

**C. JOB ORDER CONTRACTOR:**

Layton Construction Co., Inc.  
4686 Van Buren, Suite 100  
Phoenix, AZ 85008  
Office: (602) 840-8655; Fax: (602) 840-8646; E-Mail: Dblaser@laytonconstruction.com

**D. RECITALS:**

The scope of work and specifications for a broad range of services will be identified in individual Task Orders which will be issued by the Owner from time to time. See EXHIBIT D hereto.

NOW THEREFORE, intending to be legally bound and for valuable consideration, the receipt and sufficiency of which are acknowledged, the Owner and Job Order Contractor agree as follows:

**E. AGREEMENT:**

**Article I. THE CONTRACT**

1.1 The Task Order and other Contract Documents explained in Section 7.1 below and the definitions which are contained Section 00700, Exhibit A, govern this Job Order Contract.

**Article II. THE WORK**

2.1 The Job Order Contractor shall execute the entire Work described by each Task Order, including work which is reasonably inferable and necessary to produce the results intended by the Contract and the Task Order.

**Article III. CONTRACT TIME**

3.1 The Job Order Contractor shall have access to the area of the Work effective from the date of the Notice to Proceed for the assigned Task and shall achieve Substantial Completion and Final Completion of the Work no later than the performance period specified in each Task Order issued. The length of this Contract for services will be for a period of three (3) years with two one-year options to extend the contract, but in no event will this Contract's Term



continue longer than five (5) years from the date of the Contract. The term of this Contract shall not be extended. All Work issued hereunder must be completed in full by the final expiration date of this Contract. Extensions to this Contract for years 4 and 5 may only be made by an amendment signed by both parties. A permission to complete a Task Order that extends into Year 4 or Year 5 does not extend the Contract in its entirety for the additional year.

- 3.2 The Job Order Contractor shall achieve Substantial Completion of the Work (as defined in Section 00700, Article 9.8 herein, and evidenced by a Certificate of Substantial Completion) not later than as specified in each Task Order.
- 3.3 The Job Order Contractor shall achieve (as defined in Section 00700, Article 9.9 herein, and evidenced by a Certificate of Final Completion) no later than as specified in each Task Order.

#### **Article IV. CONTRACT SUM**

- 4.1 The Owner shall pay the Job Order Contractor in current funds for the Job Order Contractor's performance of individual Task Orders in an aggregate amount not to exceed Fifteen Million Dollars (\$15,000,000.00) in total, and not to exceed Five Million Dollars (\$5,000,000.00) per Fiscal Year, which Fiscal Year shall be designated by the Owner as beginning on July 1st and ending on June 30<sup>th</sup> of the next calendar year. The single maximum value of a task issued shall not exceed \$1,000,000.00. The Owner does not guarantee a minimum Contract Sum under this Contract, and Job Order Contractor, in accepting this Contract, does not expect a minimum Contract Sum. Payments will be made in accordance with the sum negotiated for each specific Task Order.

Maricopa County, at its sole discretion, may require the Job Order Contractor to purchase from a specified or designated County supplier (i.e. Home Depot) any and/or all available materials applied or installed by the Job Order Contractor or its subcontractors for a Task Order. The materials purchased by the Job Order Contractor(s), or its subcontractor(s), shall be purchased by the Job Order Contractor(s), or its subcontractor's, using their own funds and/or credit. Any discounts offered to the JOC by the County's material supplier shall be passed through to the County without markup. The County is not a party to these transactions and any issue/disputes shall be resolved without the involvement of the County.

#### **4.2 LABOR PRICE ADJUSTMENTS:**

Any requests for reasonable price adjustments must be submitted sixty (60) days prior to the Contract renewal. Requests for adjustment in cost of labor must be supported by appropriate documentation. If County agrees to the adjusted price terms, County shall issue written approval of the change. The reasonableness of the request will be determined by comparing the request with the (Consumer Price Index) or by performing a market survey. This section covers the positions of Project Manager, Superintendent and Engineer/Coordinator.

#### **4.3 FEE AND OVERHEAD CALCULATIONS FOR CONSTRUCTION COSTS UP TO \$250,000.00**

Overhead must be all inclusive and include all "costs of doing business". The County will not pay separately for items such as, but not limited to warranty, project closeout, home office expense, personal safety equipment, safety personnel, unless safety personnel is specifically required for the Work being performed and approved by the Owner. The Job

Order Contractor agrees the overhead shall be no more than 8% and the fee shall be capped at 5%.

#### **4.4 FEE AND OVERHEAD CALCULATIONS FOR CONSTRUCTION OVER \$250,000.00**

Overhead must be all inclusive and include all “costs of doing business”. The County will not pay separately for items such as, but not limited to warranty, project closeout, home office expense, personal safety equipment, safety personnel, unless safety personnel is specifically required for the Work being performed and approved by the Owner. Overhead cost and percentages in addition to Job Order Contractor fee(s) shall be negotiated between the Job Order Contractor and the County for any projects exceeding \$250,000.00.

### **Article V. PROGRESS PAYMENTS**

- 5.1 Progress payments will be made in accordance with Article 9 of the General Conditions to the Job Order Contract.

### **Article VI. FINAL PAYMENT**

- 6.1 Final Payment will be made in accordance with Article 9 of the General Conditions to the Job Order Contract.

### **Article VII. CONTRACT DOCUMENTS**

- 7.1 The Contract consists of the following documents incorporated herein by this reference:
- 7.1.1 The Job Order Contract – Section 00500.
  - 7.1.2 The General Conditions to the Job Order Contract – Section 00700.
  - 7.1.3 Permits, Change Orders, Change Directives, amendments or modifications to the Contract.
  - 7.1.4 Any and all documents issued during the procurement process for this Contract.
  - 7.1.5 Task Order documents including, but not limited to, Task Orders, associated plans and specifications.
  - 7.1.6 Any addenda to any issued Task Orders or other Contract documents.
  - 7.1.7 Exhibits to **Section 00700:**
    - Exhibit A – Definitions to the General Conditions
    - Exhibit B – Alternate Dispute Resolution
    - Exhibit C – Legal Worker Certification
    - Exhibit D – Request for Proposal for Task Order
    - Exhibit E – Performance Bond and Payment Bond Forms
    - Exhibit F – SBE Reporting Document
    - Exhibit G – Request for Qualifications dated February 13, 2014
    - Exhibit H – Statement of Qualifications dated March 07, 2014
    - Exhibit I – Certificate of Insurance for Job Order Contract.

Exhibit J – General Requirements for the Job Order Contracts

All of the exhibits listed above are incorporated by reference as though fully set forth, whether or not they are physically attached to this Contract.

- 7.1.8 All amendments to this Contract shall be in writing and approved/signed by both parties. Maricopa County Office of Procurement Services shall be responsible for approving all amendments for Maricopa County.

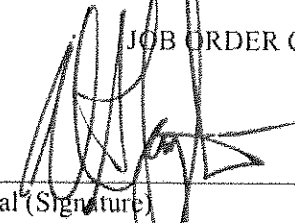
**F. STRATEGIC ALLIANCE for VOLUME EXPENDITURES (SAVE):**

The County is a member of the \$AVE cooperative purchasing group. \$AVE includes the State of Arizona, many Phoenix metropolitan area municipalities, and many K-12 unified school districts. Under the \$AVE Cooperative Purchasing Agreement, and with the concurrence of the successful Respondent under this solicitation, a member of \$AVE may access a contract resulting from a solicitation issued by the County.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above written, in counterparts, each of which shall, without proof or accounting for the other counterparts, be deemed an original contract.

JOB ORDER CONTRACTOR FOR FACILITIES MANAGEMENT  
14007-JOC

  
Principal (Signature)

6/10/14  
Date

DAVID S. HAYTON  
Printed Name

87-0444863  
Federal Tax Identification Number

CEO  
Title

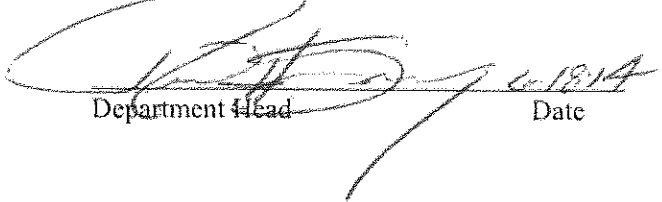
ROC 271722  
License Number

Vendor Terms

914-84  
NIGP Commodity Code (Advantage)

COUNTY OF MARICOPA, ARIZONA

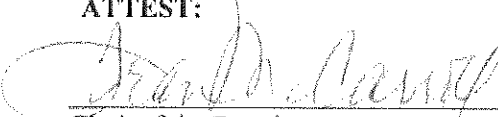
RECOMMENDED BY:

  
Department Head 6-18-14  
Date

ACCEPTED AND APPROVED:

  
Chairman, Board of Supervisors JUN 25 2014  
Date

ATTEST:

  
Clerk of the Board JUN 25 2014  
Date

LEGAL REVIEW

Approved as to form and within the powers and authority granted under the laws of the State of Arizona to Maricopa County.

By:   
Attorney for the Board of Supervisors

Date: 16 June 2014

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**SECTION 00700**

**GENERAL CONDITIONS TO THE CONSTRUCTION CONTRACT**

**ARTICLE 1: GENERAL PROVISIONS**

**1.1 DEFINITIONS, CORRELATION AND INTENT**

- 1.1.1 Definitions. Unless otherwise provided herein, capitalized terms used in this Contract, and not otherwise defined herein, have the respective meanings set forth in Exhibit A, which is attached hereto and incorporated herein by this reference.
- 1.1.2 Entire Agreement. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral.
- 1.1.3 Contractual Relationship. The Contract shall not be construed to create a contractual relationship of any kind (1) between the Design Professional and the Job Order Contractor, (2) between any Authorized Agent and the Job Order Contractor, (3) between the Owner and a Subcontractor or (4) between any persons or entities other than the Owner and Job Order Contractor. The Job Order Contractor is not a third party beneficiary to any agreement between the Owner and the Design Professional. Performance by the Design Professional of duties under such agreements is solely for the benefit of parties identified as beneficiaries under such agreements.
- 1.1.4 Intent. The intent of the Contract is to include all items necessary for the proper execution and completion of the Work by the Job Order Contractor.
- 1.1.5 Design Professional's Supplemental Instruction. Written interpretations necessary for the proper execution of the Work in the form of a Design Professional's Supplemental Instruction will be issued with reasonable promptness by the Design Professional. Supplemental Instructions may either be instructions, drawings or additional information but shall not change the Contract Sum or Contract Time unless there is a subsequently executed Change Order.
- 1.1.6 Request for Information/Interpretation. The Job Order Contractor shall submit requests for information and/or interpretation of the Contract to the Design Professional or to the Owner's designee, as may be requested by the Owner.
- 1.1.7 Contract Document Order of Precedence. The Drawings, Specifications, Task Orders, and other Contract Documents will govern the Work. The Contract Documents are intended to be complementary and cooperative and to describe and provide for a complete Project. Anything in the Specifications and not on the Drawings, or on the Drawings and not in the Specifications shall be as though shown or mentioned in both.
  - 1.1.7.1 If there is a conflict among Contract Documents, the document highest in precedence shall control. The precedence for the Contract Documents shall be from the most restrictive to the lesser restrictive in the following order:
    - 1.1.7.1.1 The Contract.
    - 1.1.7.1.2 General Conditions.

- 1.1.7.1.3 General Requirements.
  - 1.1.7.1.4 All applicable codes including, but not limited to Building Codes and Permits from agencies required by law.
  - 1.1.7.1.5 Change Orders.
  - 1.1.7.1.6 Contract Specifications.
  - 1.1.7.1.7 Contract Drawings - Material/Equipment Schedules.
  - 1.1.7.1.8 Contract Drawings - Detailed Plans, elevations, sections and isometrics.
  - 1.1.7.1.9 Contract Drawings - General Plans, elevations, sections and isometrics.
  - 1.1.7.1.10 Standard Plans, i.e. standard structural details, devices or instructions referred to on the Plans or Specifications by title or number.
  - 1.1.7.1.11 Reference Specifications, i.e. Test References, etc.
- 1.1.7.2 The Job Order Contractor shall, upon discovering any error or omission in the Drawings or Specifications, immediately notify the Owner in writing.
- 1.1.8 Discrepancies in Contract. If there is any discrepancy, inconsistency, or ambiguity in the quality or quantity of the Work or materials required under the Contract, the Job Order Contractor shall (1) immediately bring such discrepancy, inconsistency, or ambiguity to the attention of the Owner, and (2) provide the better quality of and/or greater quantity of the Work or materials, without an increase in the Task Order Sum, unless otherwise directed in writing by the Owner. If the Owner accepts the lower quality or quantity of Work or materials, the Job Order Contractor shall remit to the Owner the difference in cost between the better quality or greater quantity and such lower quality or lesser quantity. Such remittance shall be in the form of a deductive Change Order as identified in Article 7.1.1.
- 1.1.9 Organization of Specifications and Drawings Not to Control Division of Work. Organization of the Specifications into divisions and sections, and arrangement of Drawings, shall not control the Job Order Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.
- 1.1.10 Job Order Contractor Solely Responsible for Division of Work. The Job Order Contractor is solely responsible for the division of the Work among Subcontractors. The Owner will not act as arbiter as to which trade or Subcontractor is to furnish or install the various items indicated or required to complete the Work. The Job Order Contractor shall make necessary arrangements to reconcile any and all labor conflicts without delay, damage, or cost to the Owner and without recourse to the Owner. Nothing in this section shall preclude the Owner from specifying that work be done by a specific Sub-Contractor to comply with the Owner's internal policies or requirements.

- 1.1.11 Technical and Industry Meanings. Unless otherwise stated in the Contract, words which have well-known technical or construction industry meanings are used in the Contract in accordance with such recognized meanings.
- 1.1.12 Current Standards. Where a reference in the Contract to an American Society for Testing and Materials Standard (ASTM), American National Standards Institute Standard (ANSI), federal specification, or other recognized standard does not include the date of the standard, the edition current as of the date of the Contract Documents shall apply. No consideration will be given to claimed ignorance as to what a cited standard contains, since the Job Order Contractor and each Subcontractor is considered to be experienced and familiar with the generally accepted, published standards of quality and workmanship for its own trade. Requirements of such referenced standards form a part of the Specifications to the extent indicated by the references thereto.

**1.2 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS**

- 1.2.1 Minor Design Services May Be Required For Some Task Orders. For those Task Orders that may require design services the Job Order Contractor shall consult with the Owner who may retain the services of a registered professional or request Job Order Contractor to retain a Design Professional. This section does not apply to fire protections or pre-fabricated metal structures, or any other exceptions as required by the Owner.
- 1.2.2 All Drawings, Specifications, and copies thereof furnished by or to the Job Order Contractor are and shall remain the property of the Owner. The Drawings and Specifications and the design reflected therein shall be kept strictly confidential and shall not be disclosed or released except as necessary for the performance of the Work. Neither the Job Order Contractor nor any Subcontractor shall own or claim a copyright in the Drawings, Specifications, or other documents. The Owner will retain all common law, statutory, and other reserved rights, in addition to the copyright. The Drawings, Specifications, and other documents prepared by the Job Order Contractor are for use solely with respect to this Project. They are not to be used by the Job Order Contractor or any Subcontractor on other projects, or for additions to this Project outside the scope of the Work, without the specific written consent of the Owner. The Job Order Contractor and its Subcontractors are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications, and other documents necessary for execution the Work. All copies made under this license shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Owner's copyright or other reserved rights. Owner hereby releases Job Order Contractor from any and all liability that may arise in connection with the subsequent use of such Drawings and Specifications by the Owner and others. Job Order Contractor and Subcontractors shall not take or disseminate any photographs or videography of parts of the Project or the Project itself without first obtaining written permission of the Owner. This section shall not apply in the instance of the Job Order Contractor or Subcontractors utilizing pictures or videography internally in order to perform the Work.

**ARTICLE 2: OWNER**

**2.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER**

- 2.1.1 The Owner shall furnish, for information purposes only, a copy of existing site information and conditions and shall also furnish any Plans and Specifications needed to construct the Project, if such have been prepared.
- 2.1.2 Communication with Job Order Contractor. The Owner shall forward all communications to the Job Order Contractor.
- 2.1.3 Aesthetic Decisions. The Owner's decisions on matters relating to aesthetic effect will be final.

**2.2 OWNER'S RIGHT TO STOP THE WORK**

- 2.2.1 If the Job Order Contractor fails to perform or correct Work which is not in accordance with the requirements of the Contract, or does not allow other contractors to timely perform their work, the Owner may order the Job Order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Job Order Contractor or any other person or entity.

**2.3 OWNER'S RIGHT TO CARRY OUT THE WORK**

- 2.3.1 The Owner shall have the right to contact the Job Order Contractor's Surety if the Owner determines that the Job Order Contractor is not performing in accordance with the Contract. If the Job Order Contractor defaults or neglects to carry out the Work in accordance with the Contract, or fails to commence and continue correction of such default or neglect with diligence or promptness, the Owner may, after forty eight (48) hours written notice to the Job Order Contractor and its Surety, require the Surety to promptly assume the obligations of the Contract. Should the Surety fail to assume the obligations within five (5) days after receipt of the written notices then Owner, without prejudice to any other remedy it may have, may correct such nonconforming Work. In such case, an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Job Order Contractor or the Surety all costs of correcting such nonconforming Work, including but not limited to, compensation for additional services made necessary by such default, neglect, or failure. If the payments then or thereafter due the Job Order Contractor or its Surety are not sufficient to cover such amount, the Job Order Contractor or its Surety shall pay the difference to the Owner within thirty (30) days after receipt of the Owner's invoice.

**ARTICLE 3 JOB ORDER CONTRACTOR**

**3.1 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY JOB ORDER CONTRACTOR**

- 3.1.1 Notice of Errors. The Job Order Contractor warrants that he has carefully reviewed the Contract, and all documents pertaining to the Work, and that he is satisfied as to the feasibility and correctness of the Contract to perform the Work within the Contract Time. The Job Order Contractor shall immediately report to the Owner any errors,

inconsistencies, or omissions discovered in the Contract Documents prior to submitting its Proposal. Any error, inconsistency, or omission which could have been discovered prior to submitting its Proposal are waived unless reported in written form to the Owner before submitting its Proposal. If the Job Order Contractor performs any construction activity containing an error, inconsistency, or omission that the Job Order Contractor recognized or should have recognized through the exercise of reasonable diligence, without reporting such error, inconsistency, or omission to the Owner, the Job Order Contractor shall assume responsibility for such performance and shall bear the costs for correction.

- 3.1.2** Examination of Site. The Job Order Contractor warrants that he has visited and examined the character of the Site and any existing structures and has satisfied himself as to the nature of the Work and all matters which could in any way affect the Work. The Job Order Contractor warrants that he has reviewed the geotechnical report, if any, included in the Proposal Documents. The Job Order Contractor shall take field measurements and verify field conditions and shall compare such field measurements and conditions and other information known to the Job Order Contractor with the Contract before commencing the Work. Errors, inconsistencies, or omissions discovered shall be reported to the Owner prior to submitting its Proposal. Any error, inconsistency, or omission which could have been discovered by the Job Order Contractor prior to submitting its Proposal are waived unless reported in written form to the Owner before submitting its Proposal. The accuracy of grades, elevations, dimensions, or locations on work installed by other contractors is not guaranteed by the Owner. The Job Order Contractor shall verify the accuracy of all grades, elevations, dimensions, and locations relating to the Work. In cases of interconnection of the Job Order Contractor's Work with other work, it shall verify at the Site all dimensions relating to such other work. Any error due to the Job Order Contractor's failure to verify the accuracy of such grades, elevations, location, or dimensions shall be promptly rectified by the Job Order Contractor without any additional cost to the Owner.
- 3.1.3** Job Order Contractor License. The Job Order Contractor warrants (1) that it is licensed under the laws of the State of Arizona to perform the Work at the time of Proposal submission, and (2) that it is familiar with and will comply with all applicable laws, statutes, ordinances, building codes, rules and regulations, and lawful orders of public authorities in performing the Work, including, but not limited to, environmental laws and A.R.S. Title 34, as amended.
- 3.1.4** Contract Compliance with Law. If the Job Order Contractor observes that portions of the Contract are at variance with applicable laws, statutes, ordinances, building codes, or rules and regulations, the Job Order Contractor shall promptly notify the Owner in writing, and necessary changes shall be accomplished by appropriate modification of the Work. If the Job Order Contractor performs Work it knows or should know to be contrary to laws, statutes, ordinances, building codes, or rules and regulations without such notice to the Owner, the Job Order Contractor shall assume full responsibility for such Work and shall bear all damages, losses, costs, and expenses attributable thereto.
- 3.1.5** Job Order Contractor Compliance with Contract. The Job Order Contractor shall perform the Work in accordance with the Contract and in a first class and workmanlike manner. In the event that the Job Order Contractor fails to do so, the Owner may withhold payments to protect the Owner from loss, regardless of whether payment has previously been made for the Work in question.

### 3.2 SUPERVISION AND CONSTRUCTION PROCEDURES

- 3.2.1 Job Order Contractor to Supervise Work. The Job Order Contractor shall supervise and direct the Work using the Job Order Contractor's best skill and attention. The Job Order Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, safety, and procedures associated with its Work and for coordinating all portions of the Work under this Contract.
- 3.2.2 Acts and Omissions. The Job Order Contractor shall be responsible to the Owner for acts and omissions of the Job Order Contractor's employees, Subcontractors and their agents and employees, and other persons performing portions of the Work under a contract with the Job Order Contractor.
- 3.2.3 Duty to Perform. The Job Order Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract either by activities or duties of the Owner in their administration of the Contract, or by tests, inspections, or approvals required or performed by persons other than the Job Order Contractor.
- 3.2.4 Duty to Inspect. The Job Order Contractor shall inspect portions of the Project related to the Job Order Contractor's Work in order to determine that such portions are in proper condition to receive subsequent Work.
- 3.2.5 Limitation on Liability. Job Order Contractor acknowledges that neither the Owner nor any of their respective agents, employees, successors, or assigns shall control the day-to-day operations of the Job Order Contractor and shall not determine construction means, methods, techniques or procedures, or safety precautions and programs in connection with the Work. Job Order Contractor agrees that neither the Owner nor any of their respective agents, employees, successors, or assigns shall be responsible for the failure of the Job Order Contractor to perform the Work in accordance with the Contract or with the laws, ordinances, rules, permit conditions, regulations, or lawful orders of any governmental agency having regulatory authority over the manner, methods, or means of performance of the Work.
- 3.2.6 Site Protection. The Job Order Contractor shall be responsible for all site protection and security needed during construction.

### 3.3 COST PROPOSALS AND SCHEDULE OF VALUES

- 3.3.1 The Job Order Contractor shall submit to and have accepted by the Owner, a schedule detailing values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. (See JOC Cost Proposal and Schedule of Values form, attached hereto as an Exhibit).
- 3.3.2 The following costs are not eligible for reimbursement pursuant to this Contract and shall not be included in any JOC cost proposal, unless otherwise authorized by the Owner in writing in advance.
  - 3.3.2.1 Cellular telephones
  - 3.3.2.2 Work vehicles
  - 3.3.2.3 Mileage
  - 3.3.2.4 Team building exercises
  - 3.3.2.5 Safety rewards

- 3.3.2.6 Meals/entertainment
- 3.3.2.7 Travel expenses,

3.3.3 For all CSI division on the JOC Cost Proposal and Schedule of Values, the following scale shall be used when receiving Sub-Contractor quotes for work:

- \$0 - \$18,000 - 1 Subcontractor Quote Required
- \$18,001 - \$50,000 - 2 Subcontractor Quotes Required
- \$50,001 - \$999,999 - 3 Subcontractor Quotes Required

3.3.4 For self-performed work over \$18,001, one additional Subcontractor Quote will be required. For self-performed work over \$50,001, two additional Subcontractor Quotes will be required.

3.3.5 The Task Order consists of both the Notice to Proceed and the Purchase Order. No Work is to begin on any Project unless both documents have been issued.

### 3.4 LABOR AND MATERIALS

3.4.1 Job Order Contractor to Provide.

3.4.1.1 The Job Order Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, storage, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

3.4.1.2 The Job Order Contractor shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities specified in the Task Order for which it is issued a Task Order Notice to Proceed in accordance with this Agreement. The County may determine it is in its best interest to furnish materials and equipment for a specific Task Order in accordance with the Task Order.

3.4.2 Skilled Labor. The Job Order Contractor shall enforce strict discipline and good order among the Job Order Contractor's employees and other persons carrying out the Contract. The Job Order Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. At the sole discretion and opinion of the Owner, the Job Order Contractor agrees to remove from the site any employee of the Job Order Contractor, Subcontractor, or other person performing under the scope of Work, upon notification by the Owner that any employee does not meet the requirements of this paragraph.

3.4.3 Standard of Quality. Wherever materials, products, articles, equipment, systems, or similar items are identified by reference to proprietary terms or by a similar reference, it is intended to establish the minimum standard or measure of quality that has been determined as requisite or intended for the Work.

3.4.4 Trade Names or Equals. The Job Order Contractor shall supply materials, processes, or equipment specified, or a prior approved equal. Whenever any particular material, process, or equipment is indicated by patent, proprietary or brand name, or by name of manufacturer, such wording is used for the purpose of facilitating its description and shall

be deemed to be followed by the words "or prior approved equal"; unless such material, process, or equipment is specifically indicated as "proprietary". A listing of materials or equipment is not intended to be comprehensive, or in any order of preference.

### **3.5 SUBSTITUTION OF PRODUCTS**

- 3.5.1** Requests for Substitutions. After the Contract has been executed, the Owner may consider, but shall have no obligation to consider, a formal request for the substitution of products in place of those specified under the conditions set forth in Section 012500 of the General Requirements. The decision in the first instance on acceptance or rejection of proposed alternate, substitute or similar materials, products, equipment, or systems shall be vested with the Owner, whose decision shall be final and binding.
- 3.5.2** Conditions for Substitutions. By making requests for substitutions, the Job Order Contractor (1) represents that the Job Order Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified, (2) represents that the Job Order Contractor will provide the same warranty for the substitution that the Job Order Contractor would for that specified, (3) certifies that the cost data presented is complete and includes all related costs under the Contract, and waives all claims for additional costs related to the substitution which subsequently become apparent, and (4) will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.
- 3.5.3** Criteria for Acceptance or Rejection of Substitutes. Acceptance or rejection of proposed alternate, substitute, or similar materials, products, equipment, or systems for use may be based on the construction, design, function, type, size, capacity, performance, strength, durability, finish, aesthetic quality, schedule constraints, redesign costs, the Owner's standard for repair, replacement, and maintenance, or other characteristics or criteria approved by the Owner.
- 3.5.4** Expense for Modification. Any modification to the Contract or Work necessary as a result of the use of an approved alternate or substitute shall be paid by the Job Order Contractor proposing the substitution.
- 3.5.5** Rejection of Substitute. If any alternate or substitute is not approved, the Job Order Contractor shall use the specified material, product, equipment, or system without adjustment to the Contract Sum or Contract Time.

### **3.6 WORK HOURS**

- 3.6.1** Unless otherwise provided in the Task Order, Work shall be performed during regular working hours. Notwithstanding the foregoing, in the event of emergency or when required to complete, the Work may be performed on night shifts, overtime, weekends, or holidays, provided that permission to do so has been obtained from the Owner and confirmed in writing by the Owner twenty-four (24) hours prior to the commencement of such Work. The Job Order Contractor will not be entitled to additional compensation for Work performed outside of regular working hours, except to the extent such compensation is approved by the Owner in advance. If so approved, such compensation shall in such event cover only the direct cost of the premium portion of the time involved and not overhead and profit. In no event will Job Order Contractor be entitled to additional compensation for Work performed outside regular hours where occasioned by delays, need for repairs, or other causes attributable to Job Order Contractor or its Subcontractors, or to concurrent delay. Notwithstanding the foregoing and unless



overtime has been requested by the Owner, the Job Order Contractor shall bear all costs of standby contractors, if any. In the event the Job Order Contractor performs any of the Work on night shifts, overtime, weekends, or holidays, the Job Order Contractor shall comply with all laws, ordinances, codes, rules, and regulations applicable thereto (including, without limitation, those relating to noise).

### **3.7 WARRANTY**

- 3.7.1** Free from Defects. The Job Order Contractor warrants to the Owner that (1) materials and equipment furnished under this Contract will be of first quality and new, (2) the Work will be free from defects, and (3) the Work will conform with the requirements of the Task Order. Work not conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective. This warranty is in addition to and not limited by the provisions of Article 12.2. The warranty period is one (1) year from Substantial Completion unless otherwise stated in the Contract documents.
- 3.7.2** Key System. During the warranty period in the event that any of the key systems in the Project are not functioning properly, the Job Order Contractor will repair those systems within 24 hours of written notice by the Owner. Key systems are defined in the General Requirements.
- 3.7.3** Assignment of Warranties. The Job Order Contractor shall assign to the Owner, before Substantial Completion is due, all manufacturer's warranties relating to equipment, materials, and labor used in the Work.

### **3.8 TAXES**

- 3.8.1** The Task Order Sum includes and the Job Order Contractor shall pay any and all sales, consumer, use, transaction privilege, and similar taxes on all monies owed for the Work or portions thereof provided by the Job Order Contractor.

### **3.9 PERMITS AND FEES**

- 3.9.1** Permits and Fees. The Owner shall secure and pay for the building permits, plan check fees, and development fees required from both Maricopa County and the authority having jurisdiction. The Job Order Contractor shall secure and pay for all other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work. Job Order Contractor is required to comply with all Job Order Contractor-secured permit requirements at no additional cost to Owner.
- 3.9.2** Permit Set Copies. Job Order Contractor is required to provide Owner with three (3) copies of all permit sets (hard copy and electronic pdf copy) acquired by Job Order Contractor from any issuing entity, within two (2) business days from acquisition.

### **3.10 JOB ORDER CONTRACTOR KEY PERSONNEL**

- 3.10.1** On Site. The Job Order Contractor shall employ competent key staff as indicated in other Articles who shall be in attendance at the Site during performance of the Work. The competent project representative shall represent the Job Order Contractor, and communications given to the competent project representative shall be as binding as if given to the Job Order Contractor. Important communications shall be confirmed in writing by the Job Order Contractor.

- 3.10.2** Satisfactory to Owner. The Job Order Contractor's competent project representative and staff must be satisfactory to the Owner. The Job Order Contractor, three (3) days prior to the Preconstruction Conference, shall submit to the Owner the names and resumes of the competent project representative and key staff as indicated in other Articles which Job Order Contractor proposes to use for the Work. The competent project representative and key members of the Job Order Contractor's staff shall not change without the prior consent of the Owner. However, the Job Order Contractor agrees to change any competent project representative or member of the Job Order Contractor's staff at the request of the Owner, if in the opinion of the Owner, such person's performance is unsatisfactory.
- 3.10.3** Job Order Contractors Required to Attend Meetings. The Owner will call for meetings of the Job Order Contractor and Subcontractors as it deems necessary. Such meetings shall be held at or near the Site, on regular working days during regular working hours, unless otherwise directed by the Owner. Attendance shall be mandatory for all parties notified to attend, and the Job Order Contractor and Subcontractors so notified are required to have a responsible member of their organizations with full decision making authority in attendance.

### **3.11 JOB ORDER CONTRACTOR'S SCHEDULES**

- 3.11.1** Job Order Contractor Construction Schedule. The Job Order Contractor shall submit to the Owner, the Construction Schedule for the Work ("Job Order Contractor Construction Schedule"). Such Schedule (1) shall not exceed time limits as identified in the Task Order, (2) shall be updated and submitted as often as directed and in a format acceptable to the Owner, and (3) shall provide for expeditious and practicable execution of the Work. Pursuant to (1) above, Job Order Contractor shall make no claim for delay against the Owner for any Owner-caused delay within the Task Order Time.
- 3.11.2** Job Order Contractor shall include a total number of weather related days for the project within the final baseline construction schedule. If delay occurs due to weather related conditions, the Job Order Contractor shall submit a request for the number of days to the Owner for approval within 5 calendar days. Claims for delay due to weather will be deducted from the total number of days approved in the final baseline construction schedule.
- 3.11.3** Updated Schedules. The updated Job Order Contractor Construction Schedule shall not exceed time limits current under the Contract and shall be in accordance with and fully coordinated with all information previously supplied to the Job Order Contractor. Updated schedules shall be submitted as requested.
- 3.11.4** Scheduling Cooperation. The Job Order Contractor shall cooperate with the Owner in providing information and clarification as required to understand the Schedule and performance of the Job Order Contractor's Work to avoid conflict, delay in, or interference with the work of other contractors or the construction or operations of the Owner's own forces.
- 3.11.5** Conform to Most Recent Schedule. The Job Order Contractor shall conform to the most recent Schedule.
- 3.11.6** Selection of Products. Job Order Contractor shall, at the time of submittal of the Job Order Contractor Construction Schedule, advise the Owner of the date when the final

selection and purchase of each product or system described by an Allowance must be completed to avoid delaying the Work.

- 3.11.7 Compliance with Schedules. The Job Order Contractor shall be responsible for all costs resulting from its lack of diligence or failure to provide needed labor or materials to meet the requirements of the Task Order. Owner may withhold payments to Job Order Contractor if requested to do so by Job Order Contractor's Surety, or if otherwise necessary to protect the Owner from delay or expense occasioned by the Job Order Contractor's failure to perform under the Contract.

### **3.12 DOCUMENTS AND SAMPLES AT THE SITE**

- 3.12.1 Job Order Contractor to Maintain. The Job Order Contractor shall maintain at the Site for the use of the Owner, one copy of all Drawings, Specifications, Bulletins, Addenda, Change Orders, Field Orders, reviewed Shop Drawings, Design Professional's Supplementary Instructions, Requests for Information/Interpretation, and other Contract-related documents and their modifications, if any, in good order and marked promptly by the Job Order Contractor to record all approved changes made during construction. The Job Order Contractor shall also maintain all available catalog data, price lists, manufacturer's operating and maintenance instructions, schematics, certificates, warranties, guarantees, and other documents as noted in the Construction Documents.
- 3.12.2 Record Documents. The Job Order Contractor shall provide the Owner with Record Documents as a condition of Substantial Completion and they must be updated and finalized before Final Application for Payment. The Job Order Contractor shall stamp and sign a certification statement on each Drawing and page thereof that the Record Documents, as submitted, are true and complete. Any changes after Substantial Completion shall be provided prior to Final Payment Application. Record Documents shall be updated daily and shall include approved changes and any field changes made by the Job Order Contractor. Accurate, updated Record Documents shall be a condition of approval of monthly and final Application for Payment.
- 3.12.3 Preparation of Manuals. Before Substantial Completion, the Job Order Contractor shall furnish to the Owner two (2) sets of hard copy manuals and/or two (2) sets of electronic copy manuals in PDF format on Recorded Compact (CD) disks containing the manufacturers' instructions for maintenance and operation of each item of equipment and apparatus furnished under the Contract and any additional data requested under the Specifications for each division of the Work. The manuals shall be indexed and bound or labeled in a manner acceptable to Owner. Warranties related to the Project shall be provided as required under Article 3.6 above.

### **3.13 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES**

- 3.13.1 Not Part of Contract. Shop drawings, product data, samples, and similar submittals are not part of the Contract. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Job Order Contractor proposes to conform to the information given and the design concept expressed in the Contract.
- 3.13.2 Prompt Submittal. The Job Order Contractor shall submit shop drawings, product data, samples, and similar submittals required by the Contract in accordance with General Requirements Sections 013216 and 013300 and with such promptness as to cause no delay in the Job Order Contractor's own Work or in that of any other contractor. The Job

Order Contractor shall cooperate with the Owner in the coordination of the Job Order Contractor's shop drawings, product data, samples and similar submittals with related documents submitted by other contractors. Submittals made by the Job Order Contractor which are not required by the Contract may be returned without action.

- 3.13.3 Review Required. The Job Order Contractor shall perform no portion of the Work requiring submittal and review of shop drawings, product data, samples, or similar submittals until the submittal has been reviewed by the Owner. Such Work shall be performed in accordance with reviewed submittals.
- 3.13.4 Representations Made by Submittals. By approving and submitting shop drawings, product data, samples, and similar submittals, the Job Order Contractor represents that the Job Order Contractor has determined and verified materials, field measurements, and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract.
- 3.13.5 Effect of Review. The Job Order Contractor shall not be relieved of responsibility for deviations from requirements of the Contract by the Owner's or Design Professional's review of shop drawings, product data, samples, or similar submittals unless the Job Order Contractor has specifically informed Owner in writing of such deviation at the time of submittal and the Owner have given written approval to the specific deviation. The Job Order Contractor shall not be relieved of responsibility for errors or omissions in shop drawings, product data, samples, or similar submittals by the review thereof.
- 3.13.6 Revisions to Submittals. The Job Order Contractor shall direct specific attention, in writing or on resubmitted shop drawings, product data, samples, or similar submittals, to revisions other than those requested by the Owner on previous submittals.
- 3.13.7 Informational Submittals. Informational submittals upon which the Owner are not expected to take responsive action shall be so identified in the submittals.
- 3.13.8 Professional Certification. When professional certification of performance criteria of materials, systems, or equipment is required by the Contract, the Owner shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

### 3.14 USE OF SITE

- 3.14.1 Limits on Use. The Job Order Contractor shall confine operations at the Site to areas permitted by law, ordinances, permits, and the Owner and shall not unreasonably encumber the Site with materials or equipment. Only materials and equipment which are to be used directly in the Work shall be brought to the Site. After equipment is no longer required for the Work, it shall be promptly removed from the Site. See Articles 4.1.1, 6.1.1, and 6.2.1 for requirements governing concurrent Site use.
- 3.14.2 Owner Approval. The Job Order Contractor shall coordinate the Job Order Contractor's operations with, and secure the approval of, the Owner before using any portion of the Site.
- 3.14.3 Display of Signs. The Job Order Contractor shall not display on or about the Site any sign, trademark, or other advertisement without the consent of the Owner.

- 3.14.4 Equipment Location. The Job Order Contractor's field offices, shanties, materials, storage rooms, hoists elevators, etc., if any, will be placed in locations approved by the Owner. When it becomes necessary, due to the progress of the Project, for the Job Order Contractor to relocate the Job Order Contractor's field operations; such relocation will be approved by the Owner and be accomplished in an expeditious manner with no increase in the Contract Sum.
- 3.14.5 Security. The Job Order Contractor's use of the Site is governed by Task Order requirements, if such requirements are included in the Task Order.

### 3.15 CUTTING AND PATCHING

- 3.15.1 Job Order Contractor Responsible. The Job Order Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly with other work.
- 3.15.2 Consent Required. The Job Order Contractor shall not damage or endanger work performed by the Owner or other contractors by cutting, patching, excavating, or otherwise altering such construction. The Job Order Contractor shall not cut or otherwise alter work performed by the Owner or other contractors except with written consent of the Owner, and such other contractors; such consent shall not be unreasonably withheld. The Job Order Contractor shall not unreasonably withhold from the other contractors or the Owner the Job Order Contractor's consent to cutting or otherwise altering the Work.

### 3.16 CLEAN UP

- 3.16.1 Daily Clean Up. The Job Order Contractor shall, on a daily basis, clean up after its operation by removing rubbish, including old and surplus materials. The Job Order Contractor shall use its best efforts to prevent dust. All waste materials, rubbish, and debris resulting from Job Order Contractor's Work shall be removed regularly from the Site, minimum once a week, and disposed in accordance with federal, state, and local laws. The Job Order Contractor shall not allow or permit the accumulation of waste, materials, or equipment that may impede or interfere with the safe production of work or with safe access or egress to the work areas, or impede in any way the ongoing Owner operations.
- 3.16.2 Final Clean Up. At the completion of the Work, the Job Order Contractor shall remove all its waste materials and rubbish from and about the Site as well as all its tools, construction equipment, machinery, and surplus materials. The Job Order Contractor shall professionally wash and clean all surfaces and leave the Work neat and clean, ready for occupancy by the Owner, unless higher cleaning standards are required elsewhere in the Contract. The Job Order Contractor shall be responsible for the overall cleanliness and neatness of the Work.
- 3.16.3 Failure to Clean Up. If the Job Order Contractor fails to perform regular daily cleanup or to clean up at the completion of the Work as specified, the Owner may do so or cause such Work to be performed, with the cost paid for by the Job Order Contractor. The Owner shall have the right to retain such costs from payments due Job Order Contractor and reduce the Task Order Sum by Task Order Modification.
- 3.16.4 Clean Up Disputes. If a dispute arises between the Job Order Contractor and other contractors not a party to this Contract as to their responsibility for cleaning up as required by this Article 3.15, or elsewhere in the Contract, the Owner may clean up and

equitably charge the cost thereof to the several contractors. The Owner shall have the right to retain such costs from payments due Job Order Contractor and reduce the Task Order Sum by Task Order Modification.

### **3.17 ACCESS TO WORK**

**3.17.1** The Job Order Contractor shall provide the Owner access to the Work in preparation and progress wherever located. The Job Order Contractor shall provide facilities for such access so that the Owner may perform its functions under the Contract.

### **3.18 ROYALTIES AND PATENTS**

**3.18.1** Job Order Contractor Responsibility. The Job Order Contractor shall pay all royalties and license fees applicable to the Job Order Contractor's Work. The Job Order Contractor shall indemnify, defend, and hold harmless the Indemnitees from any and all suits, demands, or claims for infringement of any patent rights unless a particular design, process, or product is specified in the Contract. If such specification is made and the Job Order Contractor has reason to believe it is an infringement of a patent, the Job Order Contractor shall be responsible for any loss arising therefrom unless the Job Order Contractor promptly notifies the Owner prior to performing any portion of the Work involving the patented item.

**3.18.2** Effect of Review by Owner. The review by the Owner of any method of construction, invention, appliance, process, article, device, or material of any kind shall not constitute an approval thereof for use by the Job Order Contractor in violation of any patent or other rights of any third party.

**3.18.3** After the Contract has been executed, the Owner and Design Professional may consider, but shall have no obligation to consider, Value Engineering Proposals. The decision in the first instance on acceptance or rejection of a Value Engineering Proposal for a proposal to use similar materials, products, equipment or systems shall be vested in the Design Professional, and ultimately with the Owner, whose decision shall be final and binding. If the submission of Value Engineering Proposals will be considered under this Contract, Specific General Requirements Section 012413 will be included in the Contract Documents.

## **ARTICLE 4 ADMINISTRATION AND RESOLUTION OF DISPUTES**

### **4.1 ADMINISTRATION OF THE CONTRACT**

**4.1.1** Concurrent Site Use. The Owner will provide for coordination of the activities of other contractors and of the Owner's own forces with the Work of the Job Order Contractor, who shall cooperate with them. The Owner will schedule and coordinate all contractors with respect to their use of the Site. The Job Order Contractor shall participate with other contractors and the Owner in reviewing their construction schedules when directed to do so. The Job Order Contractor shall make any revisions to the Job Order Contractor Construction Schedule deemed necessary by the Owner.

**4.1.2** The Owner will not have control over or change of and will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Job Order Contractor's responsibility.

## 4.2 CLAIMS AND DISPUTES

- 4.2.1** Time Limits on Claims. Claims by the Job Order Contractor must be made within the number of days specified herein after the occurrence of the event giving rise to such Claim or after the Job Order Contractor should have recognized, in the exercise of due diligence, the condition giving rise to such Claim. Claims must be made by written notice. An additional Claim made after the initial Claim has been implemented by Task Modification will not be considered unless submitted in a timely manner.
- 4.2.2** Continuing Contract Performance. Pending final resolution of a Claim, including Alternative Dispute Resolution as provided for in Exhibit B of this document, the Job Order Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract other than amounts in dispute.
- 4.2.3** Claims for Concealed or Unknown Conditions. If conditions are encountered at the Site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract, (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent at the Site, and (3) could not have been discovered by a thorough inspection and investigation of the Site by the Job Order Contractor, the Job Order Contractor shall give written notice within twenty-four (24) hours of such to the Owner. The Owner will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Job Order Contractor's cost of, or time required for, performance of any part of the Work, may arrange for an equitable adjustment in the Task Order Sum or Task Order Time, or both. If the Owner determines that the conditions at the Site are not materially different from those indicated in the Contract and that no change in the terms of the Contract is justified, the Owner shall so notify the Job Order Contractor in writing, stating the reasons. Claims by the Job Order Contractor in opposition to such determination must be made within five (5) days after the Owner has given notice of the decision.
- 4.2.4** Claims for Additional Cost.
- 4.2.4.1** Notice Prior to Execution of Work. If the Job Order Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided in Article 4.2.4.2 shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Article 10.3. If the Job Order Contractor believes additional cost is involved for reasons including, but not limited to, (1) a written interpretation from the Owner, (2) an order by the Owner to stop the Work where the Job Order Contractor was not at fault, (3) a written order for a minor change in the Work, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension, or (7) other reasonable grounds, Claim shall be filed in accordance with Article 4.2.4.2.
- 4.2.4.2** Five Days After Occurrence. If the Job Order Contractor wishes to make a Claim for an increase in the Contract Sum, the Job Order Contractor shall give the Owner written notice thereof within five (5) days after the occurrence of the event giving rise to such Claim or within fourteen (14)

days after the Job Order Contractor should have recognized, in the exercise of due diligence, the condition giving rise to such Claim. The Job Order Contractor shall provide such notice before proceeding to execute the Work. Claim with respect to an emergency shall be made not later than three (3) days after occurrence of the emergency as to which the Work was performed.

**4.2.4.3** Waiver of Claim for Additional Cost. Failure to give notice of a Claim for an increase in the Task Order Sum in strict compliance with the requirements of this Article 4.2.4 shall constitute a waiver of such Claim.

**4.2.4.4** Claims Against Owner's Authorized Agent. If the Job Order Contractor wishes to make a Claim or allegation based upon actions or omissions of the Owner's designated Authorized Agent in any way related to or touching on the activities, events, losses, or expenses set forth in a Claim presented pursuant to this Article 4, such Claim shall be set forth and reasonably described in the notice required by Article 4.2.4.1. Failure to set forth and describe such Claim or allegation in such notice shall constitute a waiver of such Claim against the Owner's Authorized Agent. Claim shall be made within fourteen (14) days after the occurrence of the event giving rise to such Claim or within fourteen (14) days after the Job Order Contractor should have recognized, in the exercise of due diligence, the condition giving rise to such Claim.

**4.2.5** Claims for Additional Time.

**4.2.5.1** Estimate of Cost and Delay. If the Job Order Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided in Article 4.2.5.4 shall be given. The Job Order Contractor's Claim shall include an estimate of cost, analysis of Schedule and impact on critical path, and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

**4.2.5.2** Adverse Weather. If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal (pursuant to NOAA) for the period of time and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled construction.

**4.2.5.3** Critical Path. No extension of time shall be granted to the Job Order Contractor for a delay caused by the Owner, any of the other contractors, or other causes beyond the Job Order Contractor's control, unless the delay affects the critical path of the Project, and then only to the extent that the delay affects the critical path. No extension of time shall be granted to the Job Order Contractor to the extent that, notwithstanding the existence of any such circumstance beyond the Job Order Contractor's control, delay would have resulted in any event due to a concurrent unexcused delay by the Job Order Contractor.

**4.2.5.4** Notice of Claim for Additional Time. Should the Job Order Contractor contend that it is entitled to an extension of time for completion of any portion or portions of the Work, the Job Order Contractor shall, within seven (7) days of the occurrence of the cause of the delay, notify the Owner, in writing, of its Claim, setting forth (1) the cause of the delay, (2) a description



of the portion or portions of Work affected by the delay, (3) the specific number of days of delay for which an extension of time is requested, and (4) all details pertaining thereto. Within five (5) Business Days after the expiration of any such delay, if such delay continues after the filing of the Claim pursuant to the foregoing sentence, the Job Order Contractor shall deliver to the Owner a subsequent written application for the specific number of days of extension of time requested.

**4.2.5.5** Waiver of Claim for Additional Time. Failure to give notice of a Claim for extension of time in strict compliance with the requirements of this Article 4.2.5 shall constitute a waiver of such Claim.

**4.2.6** Injury or Damage to Person or Property. If the Job Order Contractor suffers injury or damage to person or property because of an act or omission of the Owner, written notice of such injury or damage, whether or not insured, shall be given to the Owner within a reasonable time not exceeding three (3) Business Days after first observance. The notice shall provide sufficient detail to enable the Owner to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Article 4.2.4 or 4.2.5.

**4.2.7** Correspondence Issues. If the Job Order Contractor does not agree with a statement or statements set forth in correspondence from the Owner, the Job Order Contractor must submit a written statement within seven (7) days after receipt, setting forth the facts of the issue. Otherwise, the statement will be deemed to have been accepted.

### **4.3 ALTERNATIVE DISPUTE RESOLUTION**

**4.3.1** Notwithstanding anything to the contrary provided elsewhere in the Contract, the Alternative Dispute Resolution ("ADR") process provided for in Exhibit B attached hereto and incorporated herein by this reference shall be the exclusive means for resolution of claims or disputes arising under this Contract.

## **ARTICLE 5 SUBCONTRACTORS**

### **5.1 CONTRACTUAL RELATIONSHIP**

**5.1.1** Nothing contained in the Contract shall create any contractual relationship between the Owner and any Subcontractor. However, the County reserves the right to reject any subcontractor proposed by the Job Order Contractor.

### **5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK**

**5.2.1** Division of Work. The Job Order Contractor shall, prior to execution of the Contract, designate and distinguish in writing to the Owner those portions of the Work to be performed by Subcontractors and the Job Order Contractor's own forces.

**5.2.2** Proposed Subcontractors. The Job Order Contractor shall, prior to the start of the Work, furnish in writing to the Owner for review the names of person or entities (including those who are to furnish materials or equipment) proposed for the design, if any, and management portion of the Work.

### 5.3 SUBCONTRACTUAL RELATIONS

**5.3.1** Subcontractors Subject to Contract. By an appropriate written Agreement, the Job Order Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Job Order Contractor by the terms of the Contract, and to assume toward the Job Order Contractor all the obligations and responsibilities which the Job Order Contractor assumes toward the Owner, except with respect to the ADR provisions of this Contract. The Job Order Contractor shall require its Subcontractors to enter into similar agreements with their Subcontractors, except with respect to the ADR provisions of this Contract. The Job Order Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract, copies of this Contract to which the Subcontractor will be bound, except with respect to the ADR provisions of this Contract. Each Subcontractor shall similarly make copies of this Contract available to their Subcontractors.

**5.3.2** Terms to be Included in Subcontracts. All Work performed for the Job Order Contractor by a Subcontractor shall be pursuant to a written agreement between the Job Order Contractor and the Subcontractor. The Job Order Contractor will ensure that each such subcontract contains provisions requiring:

**5.3.2.1** that the Work be performed and guaranteed in accordance with the requirements of this Contract;

**5.3.2.2** submission to the Job Order Contractor of Applications for Payment under each subcontract in the manner prescribed by the Owner, and reasonable time to enable the Job Order Contractor to apply for payment in accordance with Article 9;

**5.3.2.3** that the Subcontractor pay sub-subcontractors in accordance with A.R.S. § 34-221;

**5.3.2.4** that the Subcontractor purchase and maintain insurance and comply with all insurance provisions as required by Article 11. If any subcontractor is unable to comply with this paragraph the Job Order Contractor shall request a waiver of this requirement in writing, and shall provide justification for a waiver. If the Owner grants the request it shall not constitute a waiver of the Owner's right to strict performance of this contract, including the insurance requirements for all other subcontractors. No waiver of a subcontractor's insurance requirements will be effective unless it is in writing.

**5.3.2.5** that the Subcontractor consents to an assignment of the subcontract from the Job Order Contractor to the Owner in the event of termination of the Job Order Contractor by the Owner.

**5.3.2.6** that the Subcontractor complies with all safety requirements.

### 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACT

**5.4.1** Each subcontract for a portion of the Work is hereby assigned by the Job Order Contractor to the Owner provided that:

- 5.4.1.1 assignment is effective only after termination of the Task Order or Contract by the Owner for cause pursuant to Article 15.1 and only for those subcontracts which the Owner accepts by notifying the Subcontractor in writing; and
- 5.4.1.2 assignment is subject to the prior rights of the Surety, if any, obligated under the bond required by the Contract.
- 5.4.2 The Job Order Contractor shall conform to the Subcontractor Plan. The Job Order Contractor's submitted subcontractor selection plan applies to all persons or firms selected to perform the construction services and requires the selection of subcontractors to be based on qualifications alone or on a combination of qualifications and price, but not based on price alone.

## **ARTICLE 6 CONSTRUCTION BY OWNER OR BY OTHER CONTRACTORS**

### **6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION WITH OWN FORCES AND TO AWARD OTHER CONTRACTS**

- 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, which include persons or entities under separate contracts not administered by the Owner. The Owner further reserves the right to award other contracts in connection with other portions of the Project or other construction or operations on the Site.

### **6.2 MUTUAL RESPONSIBILITY**

- 6.2.1 Coordination with Owner's Forces. The Job Order Contractor shall afford the Owner's own forces, and other contractor's reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Job Order Contractor's construction and operations with theirs as required by the Contract.
- 6.2.2 Defects in Other Work. If part of the Job Order Contractor's Work depends upon construction or operations by the Owner's own forces or other contractors, the Job Order Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Owner apparent discrepancies or defects in such other construction that would render it unsuitable for proper execution and results. Failure of the Job Order Contractor to so report shall constitute an acknowledgment that the Owner's own forces or other contractors' completed or partially completed construction is fit and proper to receive the Job Order Contractor's Work, except as to defects not then reasonably discoverable.
- 6.2.3 Damage to Other Work. The Job Order Contractor shall promptly remedy damage caused by the Job Order Contractor to the completed or partially completed Project or to the property of the Owner or other contractors.

**ARTICLE 7 CHANGES IN THE WORK**

**7.1 CHANGES IN THE TASK ORDER**

**7.1.1** The Owner reserves the right to make, at any time during the progress of a Task Order, such alterations as may be found necessary or desirable.

**7.1.1.1** Such alterations and changes shall not invalidate this Contract or the Task Order nor release the surety and the Job Order Contractor agrees to perform the Task Order as altered, the same as if it has been a part of the original Task Order Documents.

**7.1.1.2** The Owner will request a proposal for a change in a Task Order from the Job Order Contractor, and an adjustment in the Task Order Price and/or Task Order Time shall be made based on a mutually agreed upon cost and time. The Job Order Contractor may proceed with the modified Work only when a revised Purchase Order and a Notice to Proceed have been issued for the revised Work.

**7.1.2** Task Order Sum. Adjustments to the Task Order Sum shall be based on actual cost, which is itemized for the purpose of preparing pricing for Task Orders and Task Order Modifications, the Job Order Contractor shall submit to the Owner a complete itemization of all costs required for the Task Order or Task Order Modification in such form and detail as requested by the Owner.

**7.1.3** Calculating Mark-Up Costs on a Modification. All markups for modifications, additive and deductive shall be calculated in the following manner. When both additive deductive activities exist within the same modification, mark-ups shall be calculated on the net amount. Each trade billing for a modification shall indicate the PCO number and the amount billed against the PCO number.

**Example:**

Direct Cost of the Work	\$1,000.00
Bond (.67%)	\$6.70
General Liability (.53%)	\$5.34
Builders Risk (.13%)	\$1.32
Subtotal	\$1,013.36
Overhead (8.00%)	\$81.07
Fee (5.00%)	\$50.67
Subtotal	\$1,145.10
Sales Tax (5.395%)	\$61.78
Total	\$1,206.88

**7.1.4** Actual Costs. Except for modifications based on unit prices included in the Contract, cost changes shall be computed by determining the actual cost enumerated in Article 7.1.2. to which the combined overhead and profit may be added, and then adding the insurance, bonds, and tax to compute the total cost.

**7.1.5** Labor Prices, General Conditions, Overhead and Profit and Fees in the Contract are in effect for the duration of the Contract not subject to further overhead and profit adjustments. The Contract Sum will be adjusted by the direct extension of the number of units and the unit prices.

**7.1.6** Final Settlement. Agreement on any Task Order Modification shall constitute a final settlement of all matters relating to the change in the Work which is the subject of the Modification, including, but not limited to, all direct and indirect costs associated with such change, any impact such change may have on the unchanged Work, and any and all adjustments to the Task Sum or the Task Time. In the event a Modification increased the Task Sum, the Job Order Contractor shall include the Work covered by such Modification in Applications for Payment as if such Work were originally part of the Contract. Agreement on any Modification releases the Owner, Design Professional and any other party in privity of Contract with the Owner with respect to the Project from all claims or liabilities arising in any way in connection with, or in any way associated with, such Modification.

## **7.2 NO DAMAGES FOR DELAY**

No claim for damages, or any claim other than for an extension of time, shall be made or asserted against OWNER by reason of any delays unless such delay is one for which the Owner is responsible, which is unreasonable under the circumstances and which was not one within the contemplation of the parties at the time of contracting. Otherwise the Job Order Contractor shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from OWNER for direct, indirect, consequential, impact or other costs, expenses or damages, including, but not limited to, costs of acceleration or inefficiency, arising because of delay, disruption, Eichleay Formula Costs, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided further, however, that this provision shall not preclude recovery of damages by the Job Order Contractor for hindrance or delays due solely to fraud, bad faith or active interference on the part of OWNER or its agents. Otherwise, the Job Order Contractor shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

## **ARTICLE 8 TIME**

### **8.1 PROGRESS AND COMPLETION**

- 8.1.1** Consent to Task Order Time. The Job Order Contractor acknowledges that the Task Order Time is a reasonable period for performing the Work, and that it is capable of properly completing the Work within the Task Order Time.
- 8.1.2** Compliance with Task Order Time. The Job Order Contractor shall carry the Work forward expeditiously with adequate forces to maintain progress in accordance with the Job Order Contractor Construction Schedule and to complete the Work within the Task Order Time.
- 8.1.3** Notice Required Before Commencing Work. The Job Order Contractor shall give timely notice before commencement of the Work, to all persons, public utility companies, Owners of property having structures or improvements in proximity to the Site, superintendents, inspectors, or those otherwise in charge of property, streets, water lines, gas lines, sewer lines, telephone cables, communication or data cables, electric cables, railroads, or others who may be affected by Job Order Contractor's operations, in order that they may remove any obstruction for which they are responsible, and have representation on the Site to see that their property is properly protected in accordance

with requirements of the Task Order. Such notice does not relieve the Job Order Contractor of responsibility for any damages, claims, or defense of all actions against the Owner resulting from performance of the Work.

- 8.1.4** Maintenance of Utilities. The Job Order Contractor shall (1) protect utilities encountered whether indicated on Drawings or not; (2) exercise care in excavation around utilities; (3) restore any damaged items to the same condition (or better) as existed prior to starting the Work; and (4) maintain utilities or other services indicated to be abandoned in service until new services are provided, tested, and ready for use. Note: In Owner campuses, use of private utility locator service is required, as Blue Stake has no record of underground utilities in these areas.

## **8.2 DELAYS AND EXTENSIONS OF TIME**

- 8.2.1** Notice of Delays. The Job Order Contractor shall provide prompt written notice to the Owner of the occurrence of any delay, and in no event shall such notice be given later than forty-eight (48) hours after commencement of the delay. The Job Order Contractor agrees that adjustments in the Contract Time will be permitted for a delay only to the extent such delay (1) is not caused or should not have been anticipated by the Job Order Contractor, and (2) could not have been limited or avoided by the Job Order Contractor's timely notice to its suppliers, Subcontractors, or Owner of the delay.
- 8.2.2** Claims for Additional Time. Claims relating to time shall be made in accordance with Article 4.2.5.
- 8.2.3** Recovery of Damages Not Precluded. This Article 8.2 does not preclude recovery of Owner's damages for delay by the Job Order Contractor, if such occurs.

## **8.3 TIME OF ESSENCE AND LIQUIDATED DAMAGES**

- 8.3.1** Time is of the essence with respect to the performance of each of the covenants, conditions, and obligations contained in this Contract.
- 8.3.2** Upon failure of Job Order Contractor to substantially complete the Task Order within the specified period of time, plus approved time extensions, Job Order Contractor shall pay to OWNER the sum identified in the Notice to Proceed for each calendar **day** after the time specified in the Task Order Notice to Proceed, plus any approved extensions for Substantial Completion. After Substantial Completion, should Job Order Contractor fail to complete the remaining work within the time specified in the Task Order Notice to Proceed, plus approved time extensions thereof, for completion and readiness for Final Completion, Job Order Contractor shall pay to OWNER the sum identified in the Notice to Proceed for each calendar **day** after the time specified in the Task Order Notice to Proceed, plus any approved extensions, for completion and readiness for final payment. These amounts are not penalties but are liquidated damages to OWNER for its inability to obtain full beneficial occupancy of the Project.

Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility or difficulty of precisely ascertaining the amount of damages that will be sustained by OWNER as a consequence of such delay, and both parties desiring to obviate any questions of dispute concerning the amount of said damages and the cost and effect of the failure of Job Order Contractor to complete the Task Order on time. The above-stated liquidated damages shall apply separately to Substantial Completion and Final Completion.

- 8.3.3 OWNER is authorized to deduct liquidated damages from monies due to Job Order Contractor for the work under this contract or as much thereof as OWNER may, at its option, deem just and reasonable.

**ARTICLE 9 PAYMENTS AND COMPLETION**

**9.1 SCHEDULE OF VALUES**

- 9.1.1 The Schedule of values, after acceptance by the Owner, shall be used as a basis for reviewing the Job Order Contractor's Applications for Payment.

**9.2 APPLICATIONS FOR PAYMENT**

- 9.2.1 Job Order Contractor shall submit to the Owner an itemized application requesting payment for Work completed, or reasonably projected to be completed by the end of the month, in accordance with the Schedule of Values, substantiating the Job Order Contractor's right to payment as Owner may require, such as copies of requisition from Subcontractors ("Application for Payment").

- 9.2.2 Submission of Applications for Payment.

- 9.2.2.1 One original of the payment invoice is to be submitted by delivering a complete invoice with all substantiating documentation electronically to: [FMD-AccountsPayable@mail.maricopa.gov](mailto:FMD-AccountsPayable@mail.maricopa.gov).

- 9.2.3 All invoices must include the following information. Failure to include this information may cause the invoice to be rejected and may result in delayed payments.

- FMD Project Name
  - FMD Project Number
  - FMD Contract Number
  - County Purchase Order Number
  - Vendor Name
  - Maricopa County Vendor Number
  - Unique Invoice Number

- 9.2.4 County shall pay Job Order Contractor within fourteen (14) days of receipt of Job Order Contractor's proper statement. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by Project Manager,. Payment may be withheld for failure of Job Order Contractor to comply with a term, condition, or requirement of this Agreement.

- 9.2.5 Notwithstanding any provision of this Agreement to the contrary, County may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work which has not been remedied, or resolved in a manner satisfactory to the Project Manager, and/or due to Job Order Contractor's failure to comply with Section 3.2.1 herein. The amount withheld shall not be subject to payment of interest by County.

- 9.2.6 Task Modification Payment. Applications for Payment may not include requests for payment for changes in the Work that have not been properly authorized by Task Modification.

9.2.7 Identifying Task Modifications in the Schedule-of-Values. Each modification shall be listed separately in the Job Order Contractor’s Schedule-of-Values. Modifications shall be listed by Potential Change Order number, by trade or Subcontractor and include a line item for the JOC’s mark-ups associated with the change.

**Example:**

A modification occurs including three trades. The Owner issues a Potential Change Order Request #005. Another modification occurs including two trades. The Owner issues Potential Change Order Request #006.

(Schedule-of Values)	Scheduled Value	Previously Paid	This Period.....
Electrical PCO #005	\$1,000.00	0.00	0.00
Mechanical PCO #005	\$1,500.00	0.00	0.00
Framing/Drywall PCO #005	\$1,000.00	0.00	0.00
JOC Markups PCO #005	\$388.72	0.00	0.00
Electrical PCO #006	\$1,000.00	0.00	0.00
Framing/Drywall PCO #006	\$500.00	0.00	0.00
JOC Markups PCO #006	\$166.59	0.00	0.00

9.2.8 Disputes with Subcontractors. Applications for Payment may not include requests for payment of amounts the Job Order Contractor does not intend to pay to a Subcontractor because of a dispute or other reason.

9.2.9 Payment for Stored Materials. Unless otherwise provided in the Contract, payment may, on a limited basis, be made on account of materials and equipment delivered and suitably stored, either on or off the site, for subsequent incorporation in the Work. Approval for payment of stored materials or equipment is at the sole discretion of the Owner. All off-site materials and equipment shall be stored in a licensed and bonded warehouse. All costs associated with inspection of off-site materials and equipment, exclusive of time, shall be borne by Job Order Contractor, and Job Order Contractor shall be responsible for all arrangements.

9.2.10 Lien Waivers. The Job Order Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Job Order Contractor also warrants that upon submittal of an Application for Payment all Work for which payments have been received from the Owner shall be free and clear of liens, claims, security interests, or encumbrances in favor of the Job Order Contractor, Subcontractors, or other persons or entities making a claim by reason of having provided labor, materials, or equipment relating to the Work. All Applications for Payment shall include lien waivers executed by the Job Order Contractor providing labor, equipment, or materials for the Work in the form set forth in A.R.S. § 33-1008. The Job Order Contractor shall indemnify, defend, and hold harmless the indemnitee (the Owner) against any lien by any Subcontractor, Sub-Subcontractor, vendor, supplier, manufacturer or other entity or person supplying labor, equipment, or materials related to the Work.

9.2.11 Accounting. The Job Order Contractor shall keep full and detailed accounts and exercise such control as may be necessary for proper financial management under this contract; the accounting and control system shall be satisfactory to the Owner. The Job Order



Contractor shall provide access and cooperate fully in the review of all project records. At a minimum, Job Order Contractor shall afford access to Owner, its accountants, auditors, and any other designated agents, to the Job Order Contractor's records books, correspondence, instructions, drawings, payroll records, receipts, subcontracts, proposals, purchase orders, vouchers, memoranda and other data relating to this Project as required by the Owner. The Job Order Contractor shall preserve these records for a period of three (3) years after final payment, or such longer time as may be required by law.

- 9.2.12** Owner may withhold, in whole or in part, any progress payment to Job Order Contractor to such extent as may be sufficient to pay the Expenses the Owner reasonably expects to incur to correct any deficiency in the Work set forth in specific written finding by Design Professional or Owner prepared for those items in the pay application of the estimate of the Work that are not approved for payment in that pay application under the Contract. If Owner in its good faith judgment, determines that the portion of the Task Order Price then remaining unpaid will not be sufficient to complete the Work in accordance with Contract Documents as set forth in written detail and provided to Job Order Contractor pursuant to A.R.S. § 34-609, no additional payments will be due to Job Order Contractor hereunder unless and until Job Order Contractor, as its sole cost, performs a sufficient portion of the Work so that such portion of the GMP then remaining unpaid is determined by Owner to be sufficient to so complete the Work. It is the intention of this Article 9.2 to provide Owner with the maximum protection afforded an Owner under the Prompt Pay Provisions of A.R.S. § 34-609.

### **9.3 RECOMMENDATION FOR PAYMENT**

- 9.3.1** Timing for Recommendation. The Job Order Contractor's Application for Payment shall be deemed approved and certified for payment within seven (7) days from the date of submission to the Architect/Engineer (hereinafter "A/E"), if utilized, or Owner, unless within seven (7) days from the date of submission, the A/E or Owner issues a written finding to the Job Order Contractor specifying those items in the Application for Payment that will not be approved for payment. The Owner may withhold an amount from the progress payment sufficient to pay the expenses that the Owner reasonably expects to incur in correcting the deficiency set forth in the written finding. Undisputed portions of progress payments shall be paid within fourteen (14) days after approval of the Application for Payment by the Owner. If utilized, the A/E shall recommend payment to the Owner only upon their determination that the Work has progressed to the point indicated in the Job Order Contractor's Application for Payment and that to their knowledge, information, and belief, the quality of the Work is in accordance with the Contract.
- 9.3.2** Recommendation Subject to Later Evaluation. The recommendation of the Architect/Engineer, if utilized, and the decision of the Owner to make a payment is subject to later evaluation of the Work for conformance with the Contract upon Substantial Completion, to results of subsequent tests and inspections, to minor deviations from the Contract correctable prior to completion, and to specific qualifications expressed by the A/E or Owner. The issuance of a recommendation for payment will not be a representation that the A/E or Owner has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed the Job Order Contractor's construction means, methods, techniques, sequences, or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Job Order Contractor's right to payment, or (4) made examination to ascertain how or for what

purpose the Job Order Contractor has used money previously paid on account of the Contract Sum.

#### 9.4 DECISIONS TO WITHHOLD RECOMMENDATION

9.4.1 Criteria for Withholding Recommendation. The Owner may decide not to recommend payment and may withhold a recommendation in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Owner's opinion the representations to the Owner required in Article 9.3.1 cannot be made. If the Owner is unable to recommend payment in the amount of the Application for Payment, the Owner will notify the Job Order Contractor as provided in Article 9.3.1. If the Job Order Contractor and Owner cannot agree on a revised amount, the Owner will promptly issue a recommendation for the amount for which the Owner is able to make such representations to the Owner. The Owner may also decide not to recommend payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a recommendation previously issued, to such extent as may be necessary in the Owner's opinion to protect the Owner from loss because of:

- 9.4.1.1 Defective Work not remedied;
- 9.4.1.2 Third party claims filed or reasonable evidence indicating probable filing of such claims;
- 9.4.1.3 Failure of the Job Order Contractor to make payments properly to Subcontractors or for labor, materials, or equipment;
- 9.4.1.4 Reasonable evidence that the Work cannot be completed for the unpaid balance of the Task Order Sum;
- 9.4.1.5 Damage to the Owner or another contractor or Job Order Contractor;
- 9.4.1.6 Reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- 9.4.1.7 Persistent failure to carry out the Work in accordance with the Contract;
- 9.4.1.8 Unsatisfactory prosecution of the Work or failure to comply with the Contract Schedule;
- 9.4.1.9 Failure to supply shop drawings or other required submittals;
- 9.4.1.10 Erroneous estimates by the Job Order Contractor of the value of the Work performed;
- 9.4.1.11 The existence of a breach by the Job Order Contractor of any provision in the Contract;
- 9.4.1.12 Failure to execute an assignment of insurance related proceeds pursuant to Article 11.2.2.10;
- 9.4.1.13 Failure to provide or submit in a timely manner safety related documentation required by the Contract or Owner.

- 9.4.1.14 Failure to provide manuals as required by Contract;
- 9.4.1.15 Failure to submit lien waivers as required by Article 9.2.6;
- 9.4.1.16 Failure to submit Schedule updates as set forth herein;
- 9.4.1.17 Failure to submit a Safety Plan per Article 10;
- 9.4.1.18 Failure to maintain and provide Record Documents as set forth herein.

9.4.2 Recommendation Made Upon Compliance. When the above reasons for withholding recommendation are removed, recommendation will be made for amounts previously withheld.

## 9.5 PAYMENTS TO SUBCONTRACTORS

- 9.5.1 Payment to be Made Within Seven (7) Days. In accordance with A.R.S. § 34-221(E), the Job Order Contractor shall pay each Subcontractor, within seven (7) days of receipt of payment from the Owner, out of the amount paid to the Job Order Contractor on account of such portion of the Work. The amount to which each Subcontractor is entitled shall reflect payments to the Job Order Contractor on account of such Subcontractor's portion of the Work. The Job Order Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to sub-subcontractors in the same manner.
- 9.5.2 No Obligation to Oversee Payments. The Owner shall have no obligation to pay or to see to the payment of money to a Subcontractor.
- 9.5.3 Payment Not Acceptance of Work. A payment recommendation, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract.

## 9.6 INTEREST

- 9.6.1 If any payment to the Job Order Contractor is delayed after the date due, the Owner shall pay interest at the rate of one and one-half percent (1½%) per month or fraction of a month on such unpaid balance as may be due, provided however, that such charge shall not apply to any disputed portion of an Application for Payment. If any periodic or Final Payment to a Subcontractor is delayed by more than seven (7) days after receipt of the periodic or Final Payment by the Job Order Contractor or Subcontractor, the Job Order Contractor or Subcontractor shall pay interest to his Subcontractor or material supplier, beginning on the eighth day, at the rate of one and one-half percent (1½%) per month or a fraction of a month on such unpaid balance as may be due.

## 9.7 FAILURE OF PAYMENT

- 9.7.1 If the Job Order Contractor, for any reason not the fault of the Job Order Contractor, is not paid any undisputed amount within fourteen (14) days after the date payment is due, the Job Order Contractor may, upon seven (7) additional days' notice to the Owner, stop the Work until payment of the amount owing has been received. Notwithstanding the preceding, the Job Order Contractor shall not stop the Work during the pendency of a dispute which has been submitted to Alternative Dispute Resolution pursuant to Exhibit

B, nor shall the Job Order Contractor stop the Work if the Owner makes payment of any amounts not in dispute within seven (7) days after the Job Order Contractor's notice of nonpayment is received by the Owner.

## 9.8 SUBSTANTIAL COMPLETION

**9.8.1** Defined. Substantial Completion is the stage of completion of the Work or area of Work when that portion of the Project or Work for which the Job Order Contractor is responsible is fully usable by the Owner for its intended purpose, without inconvenience to, or risk of harm to, the Owner or the public. The authority to determine whether the Job Order Contractor has achieved Substantial Completion is determined by the Owner, whose decision shall be final and binding.

**9.8.2** Certificate of Substantial Completion. When the Job Order Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Job Order Contractor shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected. All Owner training, Record Documents, Operation and Maintenance Manuals, warranties, guarantees, reports, and information required for the Owner to operate the facility in accordance with Article 9.8.1 shall be provided in the quantities specified. The Job Order Contractor shall, in the time frame indicated in the Contract Documents, complete and correct all items on the list, unless a longer time is granted by the Owner in writing. Failure to include an item on such list does not alter the responsibility of the Job Order Contractor to complete all Work in accordance with the Contract. Upon receipt of the list, the A/E, if utilized, assisted by the Owner, will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the inspection discloses any item, whether or not included on the list, which is not in accordance with the requirements of the Contract, the Job Order Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. The Job Order Contractor shall then submit a request for another inspection by the A/E, if utilized, assisted by the Owner, to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the A/E, if utilized, will prepare a certificate which shall (1) establish the date of Substantial Completion, (2) establish responsibilities of the Owner and Job Order Contractor for security, maintenance, heat, utilities, and damage to the Work, and (3) shall fix the time within which the Job Order Contractor shall finish all items on the list accompanying the Certificate of Substantial Completion (Certificate). The Certificate shall be submitted to the Owner and Job Order Contractor for their written acceptance of responsibilities assigned to them in such Certificate.

## 9.9 FINAL COMPLETION AND FINAL PAYMENT

**9.9.1** Final Inspection. Following the Owner's issuance of a Certificate of Substantial Completion of the Work and upon completion of the Work, the Job Order Contractor shall forward to the Owner a written notice that the Work is ready for final inspection and acceptance, and shall also forward to the Owner a final Application for Payment. The Job Order Contractor's submission of Final Completion Notice shall indicate that all times listed in Substantial Completion have been completed. When the Owner finds the Work acceptable under the Contract and the Task Order fully performed, the Owner will promptly issue a final recommendation stating that to the best of their knowledge, information, and belief, and on the basis of their observations and inspections, the Work has been completed in accordance with the Task Order and that the remaining Task Order Sum is due, including all retainage, less authorized deductions.

- 9.9.2** Conditions to Final Payment. Final Payment to the Job Order Contractor shall be made within thirty-five (35) days after compliance by the Job Order Contractor with Article 9.9.1 and Article 9.9.2. Neither Final Payment nor any remaining retainage shall become due until the Job Order Contractor submits to the Owner (1) an affidavit acknowledging that all Subcontractors, payrolls, bills for materials and equipment, and other indebtedness connected with the Work will be paid or otherwise satisfied once final payment is made, (2) a certificate evidencing that insurance required by Article 11 is currently in effect and will not be cancelled or allowed to expire until at least 30 days prior written notice has been given to the Owner, (3) a written statement that the Job Order Contractor knows of no reason that the insurance will not cover the period required by Article 11, (4) the written consent of the Surety to Final Payment, (5) a full and final release and conditional waiver of liens from the Job Order Contractor. The Job Order Contractor shall also indemnify, defend, and hold harmless the Indemnitees against liens by any Subcontractor (collectively "Final Payment"). Upon final payment for each Task Order, the Job Order Contractor shall provide an unconditional waiver. Release of retention shall not occur until all unconditional lien waivers have been received. After payment of retainage, the Job Order Contractor shall provide an unconditional lien waiver in ten (10) days.
- 9.9.3** Delay of Final Completion. If, after Substantial Completion of the Work, Final Completion thereof is materially delayed through no fault of the Job Order Contractor or by issuance of Task Order Modification affecting Final Completion the Owner shall, upon application by the Job Order Contractor and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. In such case, the Owner will retain at least two times the value of the incomplete or uncorrected parts of the Work, as determined by the Owner. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Task Order the written consent of Surety to payment of the balance of due for that portion of the Work fully completed and accepted shall be submitted by the Job Order Contractor to the Owner prior to recommendation of such payment. Such payment shall be made under terms and conditions governing Final Payment.
- 9.9.4** Waiver of Claims. Acceptance of payment by the Job Order Contractor shall constitute a waiver of claims by that payee, except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

## **ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**

### **10.1 SAFETY PRECAUTIONS AND PROGRAM**

- 10.1.1** Job Order Contractor's Responsibility. The Job Order Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. The Job Order Contractor shall have a written Safety Program for the Work and shall submit two (2) copies of such Safety Program to the Owner. If the Task Order includes work not contained within the submitted safety program, the Job Order Contractor shall submit the necessary site specific safety precautions and incorporated into the Work.
- 10.1.2** Remedy for Failure to Maintain Safety. If the Job Order Contractor fails to maintain the safety precautions required by law or by the Contract, the Owner may take action as necessary and charge the Job Order Contractor therefore. However, the failure of the

Owner to take any such action shall not relieve the Job Order Contractor of its obligations set forth in Article 10.1.1. If the Job Order Contractor fails to maintain the safety precautions required by law or by the Owner, the Job Order Contractor shall, if directed by the Owner, remove all forces from the Project without cost or loss to the Owner until the Job Order Contractor complies with such safety precautions. The Job Order Contractor shall not be granted additional time for completion of the Work if the Work is stopped by the Owner due to hazards or non-compliance with these provisions.

**10.1.3** Environmental Hazards and Archeological Items. In the event the Job Order Contractor encounters on the Site material reasonably believed to contain asbestos, polychlorinated biphenyls (PCBs), petroleum based substances, or hazardous substances (as defined or regulated under any federal, state, or local law), the Job Order Contractor shall (1) immediately stop Work in the area affected and report the condition to the Owner by the fastest available means and follow up in writing; and (2) take reasonable precautions to prevent or contain the movement, spread, or disturbance of such materials. The Work in the affected area shall not thereafter be resumed except by written consent of the Owner. In no event shall the Owner have any responsibility for any substance or material that is brought to the Site by the Job Order Contractor, any Subcontractor, any material man or supplier, or any entity for whom any of them is responsible. The Job Order Contractor agrees not to use any fill or other materials to be incorporated into the Work which are hazardous, toxic, or comprised of any items that are hazardous or toxic. Job Order Contractor shall indemnify, defend, and hold harmless the Indemnitees from and against any and all liabilities, claims, or demands (including attorney's fees and costs) arising out of or resulting from the presence, uncovering, release of suspected or confirmed asbestos, polychlorinated biphenyls (PCBs), petroleum based substances, or hazardous substances to the extent caused by the negligence of, or failure to comply with, the terms and conditions of the Contract by the Job Order Contractor, any Subcontractor, any material man or supplier, or any entity for whom any of them is responsible. Job Order Contractor may request from the Owner any environmental reports which were completed by Owner's environmental consultant(s) for this Project.

**10.1.4** Duty to Stop Work. If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the Site by the Job Order Contractor, the Job Order Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

## **10.2 PROTECTION OF PERSONS AND PROPERTY**

**10.2.1** Job Order Contractor's Duty to Protect. The Job Order Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to:

**10.2.1.1** Employees on the Work and other persons who may be affected thereby;

**10.2.1.2** The Work and materials and equipment to be incorporated therein, whether in storage on or off the Site, under care, custody, or control of the Job Order Contractor or the Job Order Contractor's Subcontractors;

**10.2.1.3** Other property at the Site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction; and

- 10.2.1.4** Construction or operations by the Owner or other contractors.
- 10.2.2** Compliance with Safety Notices and Laws. The Job Order Contractor shall comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury, or loss.
- 10.2.3** Safety Precautions. The Job Order Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying Owners and users of adjacent sites and utilities. The Job Order Contractor shall also be responsible, at the Job Order Contractor's sole cost and expense, for all measures necessary to protect any property adjacent to the Site and improvements thereon. Any damage to such property or improvements shall be promptly repaired by the Job Order Contractor. Without limiting the indemnity provisions elsewhere in the Contract, the Job Order Contractor shall indemnify, defend, and hold harmless the Indemnitees from and against any and all liabilities, claims, or demands (including attorney's fees and costs) arising out of, or resulting from, damage to such property or improvements.
- 10.2.4** Use of Explosives or Hazardous Materials. When use or storage of explosives, or other hazardous materials or equipment, or unusual methods is necessary for execution of the Work, the Job Order Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel. When use or storage of explosives, other hazardous materials or equipment, or unusual methods are necessary, the Job Order Contractor shall secure the Owner's approval prior to their storage or use.
- 10.2.5** Job Order Contractor Liability. The Job Order Contractor shall promptly remedy damage and loss to any property caused in whole or in part by the Job Order Contractor or Subcontractor, or by anyone for whose acts they may be liable.
- 10.2.6** Competent Person. The Job Order Contractor shall designate a competent person or member of the Job Order Contractor's organization at the Site whose duty shall be the prevention of accidents and administration of the Job Order Contractor's written Safety Program
- 10.2.7** Accident Reports. The Job Order Contractor shall report in writing within one (1) working day of the Job Order Contractor's knowledge, to the Owner, all accidents arising out of or in connection with the Work which cause death, personal injury, or property damage, giving full details and statements of any witnesses. In addition, if death or serious personal injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger to the Owner.
- 10.2.8** Safety Cooperation. The Job Order Contractor and its Subcontractors shall cooperate fully with the Owner and all interested parties on accident prevention and claim handling procedures.
- 10.2.9** Risk of Loss. The Job Order Contractor shall be fully responsible for, and shall bear the full risk of loss of, all the Job Order Contractor's tools, equipment, materials, and other property.

### 10.3 EMERGENCIES

- 10.3.1 In an emergency affecting safety of persons or property, the Job Order Contractor shall act, at the Job Order Contractor's discretion, to prevent damage, injury, or loss. Additional compensation or extension of time claimed by the Job Order Contractor on account of an emergency shall be determined as provided in Article 4.2 and Article 7.

## ARTICLE 11 INDEMNIFICATION AND INSURANCE

### 11.1 INDEMNIFICATION

- 11.1.1 Job Order Contractor's Duty to Indemnify and Defend. To the fullest extent permitted by law, the Job Order Contractor shall defend, indemnify and hold harmless the Owner, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses, and expenses, including but not limited to attorneys' fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent, reckless, or intentionally wrongful acts, errors, omissions or mistakes of the Job Order Contractor, its agents, representatives, employees, or Subcontractors, relating to the performance of this Contract. This duty to defend, indemnify and hold harmless the Owner, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage loss or expense that is attributable to bodily injury, sickness, disease, death or injury to, impairment, or destruction of property, including loss of use resulting therefrom, caused by referenced acts, errors, omissions or mistakes in the performance of this Contract, including these made by any person for whose acts, errors, omissions or mistakes, the Job Order Contractor may be legally liable.
- 11.1.2 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.

### 11.2 INSURANCE

- 11.2.1 Job Order Contractor at its own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of B++. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of Owner. The form of any insurance policies and forms must be acceptable to Owner.
- 11.2.2 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of Owner, constitute a material breach of this Contract.
- 11.2.3 Job Order Contractor's insurance shall be primary insurance as respects Owner, and any insurance or self-insurance maintained by Owner shall not contribute to it.
- 11.2.4 Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the Owner's right to coverage afforded under the insurance policies.



- 11.2.5 The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to Owner under such policies. Job Order Contractor shall be solely responsible for the deductible and/or self-insured retention and Owner, at its option, may require Job Order Contractor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.
- 11.2.6 Owner 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. Owner shall not be obligated, however, to review such policies and/or endorsements or to advise Job Order Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Job Order Contractor from, or be deemed a waiver of Owner's right to insist on strict fulfillment of Job Order Contractor's obligations under this Contract.
- 11.2.7 The insurance policies required by this Contract, except Workers' Compensation, and Errors and Omissions, shall name Owner, its agents, representatives, officers, directors, officials and employees as Additional Insureds.
- 11.2.8 The policies required hereunder, except Workers' Compensation, and Errors and Omissions, shall contain a waiver of transfer of rights of recovery (subrogation) against Owner, its agents, representatives, officers, directors, officials and employees for any claims arising out of Job Order Contractor's work or service.
- 11.2.9 Job Order Contractor is required to procure and maintain the following coverage's indicated by a checkmark:
- 11.2.9.1 **Commercial General Liability.** Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than \$2,000,000 for each occurrence, \$2,000,000 Products/Completed Operations Aggregate, and \$4,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.
  - 11.2.9.2 **Automobile Liability.** Commercial/Business Automobile Liability insurance and, if necessary, Commercial Umbrella insurance with a combined single limit for bodily injury and property damage of not less than \$2,000,000 each occurrence with respect to any of the Job Order Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Job Order Contractor's work or services under this Contract.
  - 11.2.9.3 **Workers' Compensation.** Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Job Order Contractor's employees engaged in the performance of the work or services under this Contract; and Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.

- 11.2.9.4** Job Order Contractor waives all rights against Owner and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Job Order Contractor pursuant to this agreement.
- 11.2.9.5 Builder's Risk (Property) Insurance.** Job Order Contractor shall purchase and maintain, on a replacement cost basis, Builders' Risk insurance and, if necessary, Commercial Umbrella insurance in the amount of the initial Contract amount as well as subsequent modifications thereto for the entire work at the site. Such Builders' Risk insurance shall be maintained until final payment has been made or until no person or entity other than Owner has an insurable interest in the property required to be covered, whichever is earlier. This insurance shall include interests of Owner, Job Order Contractor, and all subcontractors and sub-subcontractors in the work during the life of the Contract and course of construction, and shall continue until the work is completed and accepted by Owner. For new construction projects, Job Order Contractor agrees to assume full responsibility for loss or damage to the work being performed and to the structures under construction. For renovation construction projects, Job Order Contractor agrees to assume responsibility for loss or damage to the work being performed at least up to the full Contract amount, unless otherwise required by the Contract documents or amendments thereto.
- 11.2.9.6** Builders' Risk insurance shall be on a special form and shall also cover false work and temporary buildings and shall insure against risk of direct physical loss or damage from external causes including debris removal, demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for architect's service and expenses required as a result of such insured loss and other "soft costs" as required by the Contract.
- 11.2.9.7** Builders' Risk insurance must provide coverage from the time any covered property comes under Job Order Contractor's control and/or responsibility, and continue without interruption during construction, renovation, or installation, including any time during which the covered property is being transported to the construction installation site, and while on the construction or installation site awaiting installation. The policy will provide coverage while the covered premises or any part thereof are occupied. Builders' Risk insurance shall be primary and not contributory. If the Contract requires testing of equipment or other similar operations, at the option of Owner, Job Order Contractor will be responsible for providing property insurance for these exposures under a Boiler Machinery insurance policy.
- 11.2.9.8** Job Order Contractor, if it is licensed to perform and tasked to perform any design services, shall purchase Errors and Omissions Insurance in an amount stated by Owner in the Task Order.
- 11.2.10** Job Order Contractor waives all rights against Owner and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained pursuant to this agreement.

### **11.3 CERTIFICATES OF INSURANCE**

- 11.3.1 Prior to commencing work or services under this Contract, Job Order Contractor shall furnish Owner with Certificates of Insurance in a form acceptable to Owner, or formal endorsements as required by the Contract in the form provided by the County, issued by Job Order Contractor's insurer(s), as evidence that policies providing the required coverage's, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this contract number and title.
- 11.3.2 In the event any insurance policy(ies) required by this contract is(are) written on a "claims made" basis, coverage shall extend for one year past completion and acceptance of Job order Contractor's work or services and as evidenced by annual Certificates of Insurance.
- 11.3.3 If a policy does expire during the life of the Contract, a renewal certificate must be sent to Owner fifteen (15) days prior to the expiration date.

### **11.4 CANCELLATION AND EXPIRATION NOTICE**

- 11.4.1 Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to Owner.

### **11.5 PERFORMANCE AND PAYMENT BONDS**

- 11.5.1 A.R.S. § 34-222. Job Order Contractor shall obtain, at its own expense, performance and payment bonds as required by A.R.S. § 34-222 and Section 00610. Job Order Contractor warrants that its payment and performance bonds fully comply with A.R.S. § 34-222. Bonds will be required on an individual task order basis and are required to be submitted within five business days (or as otherwise approved by the Office of Procurement Services) of the successful completion of negotiations.
- 11.5.2 Copies to Potential Beneficiaries. Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Job Order Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

## **ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**

### **12.1 UNCOVERING OF WORK**

- 12.1.1 Duty to Uncover Work. If a portion of the Work is covered contrary to the Owner's request or to requirements specifically expressed in the Contract, it must, if required in writing, be uncovered for their observation and be replaced at the Job Order Contractor's expense without change in the Contract Time.
- 12.1.2 Cost of Uncovering Work. If a portion of the Work has been covered which the Owner has not specifically requested to observe prior to its being covered, the Owner may request to see such Work and it shall be uncovered by the Job Order Contractor. If such Work is in accordance with the Contract, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work is not in accordance with the Contract, the Job Order Contractor shall pay such costs.

## 12.2 CORRECTION OF WORK

- 12.2.1** Duty to Correct Rejected Work. The Job Order Contractor shall promptly correct all Work rejected by the Owner as defective or failing to conform to the requirements of the Contract, whether observed before or after Substantial Completion of the Work and whether or not fabricated, installed, or completed. The Job Order Contractor shall bear costs of correcting such rejected Work, including the replacement or repair of other work affected by Job Order Contractor's performance, including additional testing and inspection and compensation for the Owner's services made necessary thereby. Work rejected before Final Completion shall be corrected prior to Final Payment.
- 12.2.2** One Year Duty to Correct Work. If within any guarantee period, repairs or changes are required in connection with the guaranteed Work, as the result of the use of materials, equipment or workmanship, which are defective, or inferior, or not in accordance with the terms of the Contract, the Job Order Contractor is to commence and continue to effect such repairs or changes to, promptly, within 48 hours after receipt of notice from the Owner, except in the case of emergencies, and without expense to the Owner:
- 12.2.3** Warranty Periods. Nothing contained in this Article 12.2 shall be construed to establish a period of limitation with respect to obligations that the Job Order Contractor has under the Contract or at law, including Article 3.6. Establishment of the time period of one year as described in Article 12.2.2, or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract, relates only to the specific obligation of the Job Order Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Job Order Contractor's liability with respect to Contract obligations.
- 12.2.3.1** Four (4) hours for emergency repair work. An "emergency repair" is defined as that repair necessitated by life, safety or security issues that will jeopardize the continued operation of that facility, endanger its occupants or the general public.
- 12.2.3.2** Sixteen (16) hours for urgent repair work. An "urgent repair" is defined as that repair necessitated by issues that may jeopardize the continued operation of that facility, endanger its occupants or the general public.
- 12.2.3.3** Five (5) days for general service or repairs
- 12.2.3.3.1** place in satisfactory condition, in every particular, all of such guaranteed work and correct all defects therein;
- 12.2.3.3.2** make good all changes to the structure or site or equipment or contents thereof, which in the opinion of the Architect, Engineer or Owner, is the result of the use of materials, equipment or workmanship which are inferior, defective or not in accordance with the terms of the Contract.
- 12.2.3.4** Notifications by the Owner of defects will stop the warranty time period. The guarantee or warranty period for that replaced or restored work is to be reinstated for the remaining time period, starting on the date of acceptance of the replaced or restored work.

- 12.2.3.5** In any case, where, in fulfilling the requirements of the Contract or of any guarantee embraced in or required thereby, the Job Order Contractor disturbs any work guaranteed under another contract, the Job Order Contractor is responsible to restore such work to a condition satisfactory to the Architect, Engineer or Owner and guarantee such restored work to the same extent as it was guaranteed under such other contract.
- 12.2.3.6** If the Job Order Contractor after notice fails to proceed to commence and continue to comply with the terms of the guarantee and Paragraph 1, the Owner may have the defect corrected, in which case the Job Order Contractor and its Surety are liable for all expenses incurred.
- 12.2.3.7** All special guarantees or warranties applicable to definite parts of the Work that may be stipulated in the Specifications or other papers forming part of the Contract are subject to the terms of this Article during the life of such special guarantee.
- 12.2.4** Removal of Nonconforming Work. The Job Order Contractor shall remove from the Site, at no additional cost, portions of the Work, which are not in accordance with the requirements of the Contract and are neither corrected by the Job Order Contractor nor accepted by the Owner.
- 12.2.5** Owner's Right to Correct Nonconforming Work. If the Job Order Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Article 2.3. If the Job Order Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Owner, the Owner may remove it and store the salvable materials or equipment at the Job Order Contractor's expense. If the Job Order Contractor does not pay costs of such removal and storage within ten (10) days thereafter, the Owner may sell such materials and equipment at auction or at private sale and shall account for the net proceeds thereof, after deducting the costs that should have been borne by the Job Order Contractor, including compensation for Owner's additional services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Job Order Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Job Order Contractor are not sufficient to cover such amount, the Job Order Contractor shall pay the difference to the Owner.
- 12.2.6** Cost of Correcting Other Affected Work. The Job Order Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner, Job Order Contractor, or other contractors caused by the Job Order Contractor's correction or removal of Work which is defective or not in accordance with the requirements of the Contract.

### **12.3 ACCEPTANCE OF NONCONFORMING WORK**

- 12.3.1** If the Owner prefers to accept Work, which is not in accordance with the requirements of the Contract, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable for the difference in value together with an allowance for damage or loss of quality. Such adjustment shall be effected whether or not Final Payment has been made.

**ARTICLE 13 MISCELLANEOUS PROVISIONS**

**13.1 GOVERNING LAW**

**13.1.1** The Contract shall be governed by the laws of the State of Arizona.

**13.1.2** This Contract is made in accordance with and subject to the provision of all applicable laws, statutes, ordinances, rules, regulations, executive orders and codes. To the extent required by applicable law, each party hereto shall comply and require its Subcontractors and suppliers to comply with all then applicable federal, state of Arizona and local nondiscrimination laws, rules, regulations, ordinances and executive orders, including, without limitation, the Civil Rights Act of 1964, as they may be amended, modified, codified, supplemented or repealed from time to time.

**13.2 SUCCESSORS AND ASSIGNS**

**13.2.1** The Owner and Job Order Contractor respectively bind themselves, their successors, assigns, and legal representatives to the other party hereto and to successors, assigns, and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract.

**13.3 NOTICES**

**13.3.1** Methods of Notice. All notices pursuant to this Agreement must be in writing and must be sent to the appropriate person and will be deemed properly given if sent by (1) personal delivery, (2) e-mail, return receipt required, (3) express mail, postage prepaid, return receipt required, or (4) certified United States mail, postage prepaid, return receipt required, addressed as follows:

Owner: Maricopa County  
c/o Facilities Management Department  
401 West Jefferson Street  
Phoenix, Arizona 85003  
Attn: Director  
E-mail: ReidSpaulding@mail.maricopa.gov

Job Order Contractor: Layton Construction Co., Inc.  
4686 E. Van Buren, Suite 100  
Phoenix, AZ 85008  
Attn: Project Manager  
E-Mail: \_\_\_\_\_

Copy to: Maricopa County  
c/o Office of Procurement Services  
320 W. Lincoln Street  
Phoenix, Arizona 85003  
Attn.: Brian Garcia  
Contracting Officer  
E-Mail: garciab003@mail.maricopa.gov

Each party may, by notice to the others, specify a different address for subsequent notice purposes. Notice is effective on the date of actual receipt or five (5) days after the date of mailing, whichever is earlier.

#### **13.4 RIGHTS AND REMEDIES**

- 13.4.1** Legal Rights. Duties and obligations imposed by the Contract and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. This clause shall not be interpreted to permit the Job Order Contractor to recover any costs or damages that are otherwise limited, prohibited, or waived by the Contract.
- 13.4.2** No Waiver. No action or failure to act by the Owner or Job Order Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of, or acquiescence in, a breach thereunder, except as may be specifically agreed in writing.

#### **13.5 TESTS AND INSPECTIONS**

- 13.5.1** Job Order Contractor's Duty to Administer. Tests, inspections, and approvals of portions of the Work required by the Contract or by laws, ordinances, rules, regulations, or orders of public authorities having jurisdiction shall be made at the appropriate time. Unless otherwise provided, the Owner shall make arrangements for such tests, inspections, and approvals with the independent testing laboratory. The Job Order Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so the Owner may observe such procedures. Any of the Work requiring testing, inspection, or approval which is covered or otherwise made inaccessible without the consent of those requiring or making the inspection or test shall be uncovered or made accessible by, and at the expense of, the Job Order Contractor. Job Order Contractor shall be responsible for any testing, retesting, or other charges resulting from Job Order Contractor's failure to perform.
- 13.5.2** Additional Testing and Inspection. If the Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Article 13.5, the Owner will instruct the Job Order Contractor to make arrangements for such additional testing, inspection, or approval by an entity acceptable to the Owner, and the Job Order Contractor shall give timely notice to the Owner of when and where tests and inspections are to be made so the Owner may observe such procedures. The Owner shall bear such costs except as provided in Article 13.5.
- 13.5.3** Costs for Testing and Inspection. If such procedures for testing, inspection, or approval under Articles 13.5 reveals failure of the portions of the Work to comply with requirements established by the Contract, the Job Order Contractor shall bear all costs made necessary by such failure, including those of repeated procedures and compensation for the Owner's services and expenses.
- 13.5.4** Certificates. Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract, be secured by the Job Order Contractor and promptly delivered to the Owner.
- 13.5.5** Prompt Testing and Inspection. Tests or inspections conducted pursuant to the Contract shall be made promptly to avoid unreasonable delay in the Work.

### **13.6 MANUFACTURERS' NAMEPLATES**

**13.6.1** Manufacturers' nameplates shall not be permanently attached to ornamental and miscellaneous metal work, doors, frames, millwork, and similar factory fabricated products on which, in the Owner's opinion, the nameplates would be objectionable, if visible after installation of the Work. This provision does not apply to underwriters' labels when required, or to the manufacturers' name and rating plates on mechanical and electrical equipment.

### **13.7 MANUFACTURERS' INSTRUCTIONS**

**13.7.1** All manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the manufacturers' written specifications or instructions. In case of any difference or conflicts between the requirements of the manufacturers' instructions or specifications and the technical sections of the Specifications, the Job Order Contractor shall promptly report any such difference or conflict to the Owner.

### **13.8 SBE REQUIREMENTS**

**13.8.1** The Job Order Contractor shall comply with all requirements of the Small Business Enterprise ("SBE") program applicable to the Project as specified in the Maricopa County Small Business Enterprise Construction Contracting Requirements to be posted at a later date.

## **ARTICLE 14 CONTRACT INTERPRETATION:**

### **14.1 HEADINGS**

**14.1.1** The subject headings of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any provision of this Agreement.

### **14.2 INTERPRETATION**

**14.2.1** In the interest of brevity, the Contract frequently omits modifying words such as "all" and "any" and articles such as "the" and "an", but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement. To the extent permitted by the context in which used, (1) words in the singular member shall include the plural, words in the masculine gender shall include the feminine and neuter, and vice versa; and (2) (unless specified otherwise) references to Articles are to Articles of Section 00700, General Conditions to the Job Order Contract.

## **ARTICLE 15 TERMINATION OR SUSPENSION OF THE CONTRACT OR TASK ORDER**

### **15.1 TERMINATION BY THE OWNER FOR CAUSE**

**15.1.1** Criteria for Termination for Cause. The Owner may terminate the Contract or terminate a Task Order if the Job Order Contractor:



- 15.1.1.1 Repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
  - 15.1.1.2 Repeatedly disregards laws, ordinances, rules, regulations, or orders of a public authority having jurisdiction;
  - 15.1.1.3 Materially breaches any provision of the Contract or Task Order;
  - 15.1.1.4 Fails to furnish the Owner with assurances satisfactory to the Owner evidencing the Job Order Contractor's ability to complete the Work for the Task Order in compliance with all the requirements of the Contract; or
  - 15.1.1.5 Fails after commencement of the Work to proceed diligently and continuously with the construction and completion of the Work for more than seven (7) days, except as permitted under the Contract.
  - 15.1.1.6 Repeatedly refuses or fails to carry out Safety provisions as required by Contract;
  - 15.1.1.7 Fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Job Order Contractor and the Subcontractors.
- 15.1.2 Effect of Termination for Cause. When any of the above conditions exist, the Owner, may without prejudice to any other rights or remedies of the Owner, and after giving the Job Order Contractor and the Job Order Contractor's Surety, if any, three (3) days' written notice, terminate the Contract or Task Order and may, subject to any prior rights of the Surety:
- 15.1.2.1 Take possession of the Site and all materials, equipment, tools, and construction equipment machinery thereon owned by the Job Order Contractor;
  - 15.1.2.2 Accept assignment of subcontracts pursuant to Article 5.4; and
  - 15.1.2.3 Finish the Work for the Task Order by whatever reasonable method the Owner may deem expedient.
- 15.1.3 Job Order Contractor Right to Receive Payment. When the Owner terminates the Contract or a Task Order for one of the reasons stated in Article 15.1.1, the Job Order Contractor shall not be entitled to receive further payment for the Task Order until the Work is finished.
- 15.1.4 Costs for Finishing Work. If the unpaid balance of the Contract Sum exceeds costs of finishing the Work for the Task Order, including compensation for the Owner's services and expenses made necessary thereby, such excess shall be paid to the Job Order Contractor. If such costs exceed the unpaid balance, the Job Order Contractor shall pay the difference to the Owner. The amount to be paid to the Job Order Contractor or Owner, as the case may be, shall, upon application, be certified after consultation with the Owner, and this obligation for payment shall survive termination of the Contract.

## 15.2 SUSPENSION BY THE OWNER FOR CONVENIENCE

- 15.2.1** Owner's Right. The Owner may, without cause, order the Job Order Contractor in writing to suspend, delay, or interrupt the Work for a Task Order in whole or in part for such period of time as the Owner may determine.
- 15.2.2** Adjustment in Task Order Sum. An adjustment shall be made for increases in the cost of performance of the Task Order, including profit on the increased cost of performance, caused by suspension, delay, or interruption. No adjustment shall be made to the extent:
- 15.2.2.1** that performance is, was, or would have been so suspended, delayed, or interrupted by another cause for which the Job Order Contractor is responsible; or
- 15.2.2.2** that an equitable adjustment is made or denied under another provision of this Contract.
- 15.2.3** Method for Adjustment in Task Order Sum. Adjustments made in the cost of performance may have a mutually agreed fixed or percentage fee.

## 15.3 OWNER'S TERMINATION FOR CONVENIENCE

- 15.3.1** Effect of Termination for Convenience. The Owner reserves the right to terminate the Contract or a Task Order for convenience and without cause, even if Job Order Contractor has not failed to perform any part of the Contract or a Task Order. Termination of the Task Order Work shall be effected by written notice to the Job Order Contractor. Upon receipt of such notice, Job Order Contractor shall, unless the notice otherwise directs:
- 15.3.1.1** Immediately discontinue the Work of the Task Order and the placing of all orders and subcontracts in connection with this Contract;
- 15.3.1.2** Immediately cancel all of the existing orders and subcontracts made hereunder or for the Task Order involved;
- 15.3.1.3** Immediately transfer to the Owner all materials, supplies, Work in progress, appliances, facilities, machinery, and tools acquired by the Job Order Contractor in connection with the performance of the Contract or the Task Order, and take such action as may be necessary or as the Owner may direct for protection and preservation of the Work relating to this Contract; and
- 15.3.1.4** Deliver all plans, Drawings, Specifications, and other necessary information to Owner.
- 15.3.2** Job Order Contractor's Exclusive Remedy. If the Owner terminates the Contract or a Task Order for convenience, the following shall be the Job Order Contractor's exclusive remedy:
- 15.3.2.1** Reimbursement of all actual expenditures and costs approved by the Owner as having been made or incurred in performing the Work;

- 15.3.2.2** Reimbursement of expenditures made and costs incurred with the Owner's prior written approval in settling or discharging outstanding commitments entered into by the Job Order Contractor in performing the Contract; and
- 15.3.2.3** Payment of profit, in so far as profit is realized hereunder, of an amount equal to the estimated profit on any Task Order Work underway at the time of termination multiplied by the percentage of completion of the Work. In no event shall the Job Order Contractor be entitled to anticipated fees or profits on Work not required to be performed.
- 15.3.3** Warranties, Guarantees, and Indemnities to Remain in Effect. All obligations of the Job Order Contractor under the Contract with respect to completion of the Work, including but not limited to all warranties, guarantees, and indemnities, shall apply to all Work completed or substantially completed by the Job Order Contractor prior to a convenience termination by the Owner. Notwithstanding the above, any convenience termination by the Owner or payments to the Job Order Contractor shall be without prejudice to any claims or legal remedies that the Owner may have against the Job Order Contractor for any cause.
- 15.3.4** Conversion of Termination for Cause to Termination for Convenience. Upon a determination that a termination of this Contract or a Task Order, other than a termination for convenience, under this Article was wrongful or improper for any reason, such termination shall automatically be deemed converted to a convenience termination under this Article 15, and the Job Order Contractor's remedy for such wrongful termination shall be limited to the recoveries specified under Article 15.3.2.
- 15.3.5** Remedy Limited to Damages. In the event that Job Order Contractor is terminated, whether for cause or convenience, the Job Order Contractor's sole remedy shall be for damages. In no event shall Job Order Contractor be entitled to reinstatement or other equitable relief from a court or through Alternative Dispute Resolution as provided in Exhibit B.
- 15.3.6** Notice that Contract is Subject to Termination Provisions of A.R.S. § 38-511. The parties acknowledge, and as required by law, notice is hereby given that this Contract is subject to A.R.S. § 38-511.**END OF SECTION**

**EXHIBIT A**

**DEFINITIONS TO THE GENERAL CONDITIONS  
TO THE CONSTRUCTION CONTRACT**

**Allowance** means funds which are included in the Task Order Bid and designated for uses by the Owner.

**Application for Payment** has the meaning set forth in Article 9.2.1 of the General Conditions to the Construction Contract.

**Article** shall refer to Specifications Section 00700, General Conditions of the Construction Contract.

**Authorized Agent** means any person, which may be an employee of the Owner or a consultant, with written notification who acts on behalf of the Owner for the purposes of managing the Task Order.

**Business Day** means all days of the year except Saturday, Sunday and legal holidays of the United States of America or the State of Arizona.

**Certificate of Substantial Completion** has the meaning set forth in Article 9.8.2 of the General Conditions to the Construction Contract.

**Claim** means a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Job Order Contractor arising out of or relating to the Contract. Claims must be made by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

**Contract** means the fully executed Contract document between the Job Order Contractor and Maricopa County, Arizona, as may be amended or modified from time to time.

**Contract Documents** are defined in Section 00500, 7 Contract Documents.

**Day or "day"** means calendar day unless otherwise specifically defined.

**Drawings** means the documents referenced in Section 00500, 7 Contract Documents, showing the design, location and dimensions of the Work, generally including but not limited to plans, elevations, sections, details, schedules and diagrams and/or those developed under a specific Task Order

**Employer** means any individual, firm, or corporation who provides direct labor at or from the Project Site either by written or verbal contract, work order, purchase order, or invoice.

**Final Completion** means when all of the Work of the Contract fulfills all of the terms of the Contract in all respects.

**Final Payment** has the meaning set forth in Article 9.9.2 of the General Conditions to the Job Order Contract.

**Furnish or "furnish"** means "furnish only", including delivery of materials to the Site.

**General Requirements** means Division I of the Specifications.

**Indemnitees** means the Owner and all of their respective authorized agents, employees, successors and assigns.

**Install or "install"** means "install only" furnished materials or items. Such materials or items shall be received at the Site, unloaded, stored and/or distributed, protected, and installed in place, including final connections. Minor items and accessories reasonably inferable as necessary to complete the proper installation shall be provided by the Job Order Contractor whether or not they are specifically called for by the Specifications or Drawings.

**Insurance Carrier** means the carrier providing coverage for any of the insurance programs.

**Insured** means the entity named in a Policy or Certificate of Insurance signed by a duly authorized representative of the Insurers.

**Insurer** means the Insurance Carrier named on a Policy or Certificate of Insurance.

**Job Order Contractor** means the person or entity identified as such in the Job Order Contract.

**JOC Construction Schedule** has the meaning set forth in Article 3.11.1 of the General Conditions to the Contract.

**Material Status Report** has the meaning set forth in Article 3.11.7 of the General Conditions to the Job Order Contract.

**Notice to Proceed** means that written dated document which instructs the Job Order Contractor to proceed and sets forth the date for substantial and final completion of the project outlined in a specific Task Order.

**Owner** means Maricopa County, Arizona, or its Authorized Agent.

**Product Data** means illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Job Order Contractor to illustrate materials or equipment for some portion of the Work.

**Project** means the total construction necessary for the full and efficient use of the facilities and appurtenances described in the individual Task Order Documents.

**Provide or Perform or "provide" or "perform"** means to furnish, install and complete all labor, materials, equipment, services and other items required to complete the referenced tasks.

**Record Documents** has the meaning set forth in Section 3.12.2 of the General Conditions.

**Record Drawings** has the meaning set forth in Section 3.12.2 of the General Conditions.

**Samples** are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

**SBE** has the meanings set forth in Article 13.8 of the General Conditions to the Construction Contract, Maricopa County Small Business Enterprise Construction Contracting Requirements.

**Schedule of Values** has the meaning set forth in Article 9.1 of the General Conditions to the Job Order Contract.

**Scope Documents** means all documents associates with setting forth the scope of Work designated in each Task Order utilized to develop the Task Order Sum.

**Shop Drawings** are drawings, diagrams, schedules and other data specially prepared for the Work by the Job Order Contractor or a Subcontractor, sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

**Site** means that certain real property upon which the Project is to be constructed and which is generally depicted in the Contract Documents.

**Specifications** means the document referenced in each individual Task Order consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services.

**Subcontractor** means any person or entity supplying labor, equipment, or material for a portion of the Job Order Contractor's Work either on or off the Site and all of the respective employees, agents, successors and assigns of such person or entity. The term "Subcontractor" includes sub-subcontractors of the Job Order Contractor but does not include subcontractors of other contractors performing Work for the Project.

**Substantial Completion** is the date certified by the Architect/Engineer, if utilized, and/or the Owner in accordance with Article 9.8.1 of the General Conditions to the Job Order Contract.

**Surety** means the entity providing the performance and payment bonds required under Article 11.4 of the General Conditions to the Job Order Contract.

**Task Order** means that document which identifies and notifies the Job Order Contractor that a task needs to be performed pursuant to the Job Order Contract and all subsequent documents setting forth the scope, time and sum.

**Task Order Modification** has the meaning set forth in Article 7.1 of the General Conditions to the Construction Contract.

**Task Order Sum** is stated in Section 00500, 4.1 and means the total amount payable by the Owner to the Job Order Contractor for performance of the Work under each individual Task Order and pursuant to the terms of the Contract.

**Task Order Time** means the periods of time set forth in each individual Task Order for Substantial Completion and Final Completion of the Work set forth in that Task Order.

**Work** means all administration, labor, equipment and materials, whether on or off the Site, necessary to produce and fully complete the construction required by the Contract or reasonably inferable therefrom. If all or part of the Work involves demolition, the term "Work" shall also mean demolition and all activities related to demolition.

**Work Day** relates to the Job Order Contractor's schedule bases for calculating project activities and durations.

**END OF EXHIBIT**

**EXHIBIT B**

**ALTERNATIVE DISPUTE RESOLUTION**

- 1.1 Scope.** Notwithstanding anything to the contrary provided elsewhere in the Contract, the alternative dispute resolution (“ADR”) process provided for herein shall be the exclusive means for resolution of claims or disputes arising under, relating to or touching upon the Contract, the interpretation thereof or the performance or 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.
- 1.2 Neutral Evaluator, Arbitrators.** The County will select a Neutral Evaluator to serve as set forth in this ADR process. As needed under § 1.6.2 below, the County and Job Order Contractor shall each select an arbitrator to serve as set forth in this ADR process. Each arbitrator selected shall be a member of the State Bar of the State of Arizona and shall have experience in the field of construction law. All arbitrators, once selected, shall serve as neutral arbitrators, even if they are party-appointed. The County and the Job Order Contractor shall name their respective arbitrators within five (5) calendar days after the declaration of a failure of mediation or the mutual waiver of mediation.
- 1.3 Discussion and Partnering.** When a claim is made or a dispute arises relating to the Contract, senior representatives of the County and the claimant will meet personally within ten (10) days to discuss the claim/dispute and attempt to resolve it. If, after good faith efforts, resolution is not achieved, the claim/dispute (hereafter “dispute”) will proceed to the neutral evaluation process.
- 1.4 Neutral Evaluation Process.** If the parties have been unable to resolve the dispute after discussions and partnering, the following neutral evaluation process shall be used to resolve any such dispute.
- 1.4.1 Notification of Dispute.** The County through its Agent shall promptly notify the Neutral Evaluator in writing of the existence of a dispute within ten days of the County or the Job Order Contractor declaring need to commence the neutral evaluation process.
- 1.4.2 Non-Binding Informal Hearing.** The Neutral Evaluator shall schedule a non-binding informal hearing of the matter to be held within ten (10) calendar days from receipt of notification of the existence of a dispute. The Neutral Evaluator may conduct the hearing in such manner as he deems appropriate and shall notify each party of the hearing of its opportunity to present such evidence as they believe will resolve the dispute. The Neutral Evaluator shall notify each party to the dispute that they shall submit a written outline of the issues and evidence intended to be introduced at the hearing and their proposed resolution of the dispute to the Neutral Evaluator before the hearing commences. Potential Arbitrators shall not participate in such informal hearing or proceedings process. The Neutral Evaluator is not bound by the rules of evidence when admitting evidence in the hearing and may limit the length of the hearing, the number of witnesses or any evidence introduced to the extent deemed relevant and efficient.
- 1.4.3 Non-Binding Decision.** The Neutral Evaluator shall render a non-binding written decision as soon as possible, but not later than five (5) calendar days after the hearing concludes.

1.4.4 **Further proceedings.** In the event that either party declines to accept the Neutral Evaluator's decision as the resolution of the dispute, the dispute will proceed to mediation.

1.5 **Mediation.** In the event that a meeting of principals and neutral evaluation have failed, the parties shall engage in mediation (as a condition precedent to arbitration) within fifteen (15) days of a party's notifying the Neutral Evaluator that the party declines to accept the Neutral Evaluator's decision as the resolution of the dispute. The mediator shall be chosen by the parties' agreement. If such agreement is not reached by five (5) days after the neutral evaluator's receipt of a party's notification, then the mediator shall be named by the Neutral Evaluator. In the event that mediation fails (or is waived by both parties) then the matter shall proceed to binding arbitration.

1.6 **Binding Arbitration Procedure.** The following binding arbitration procedure shall serve as the exclusive method to resolve a dispute if any party chooses not to accept the decision of the Neutral Evaluator and mediation has failed or has been waived. A party requesting binding arbitration shall notify the Neutral Evaluator in writing within seven (7) calendar days of the failure or waiver of mediation of the party's demand for arbitration. If the Job Order Contractor requests arbitration it shall post a cash bond with the Neutral Evaluator in an amount agreed upon by the parties or, in the event of no agreement, the Neutral Evaluator shall establish the amount of the cash bond to defray the cost of the arbitration as set forth in paragraph 1.6.11 and the proceeds from the bond shall be allocated in accordance with paragraph 1.6.13 by the Arbitration Panel. The bond must be in the full amount agreed upon or as established by the Neutral Evaluator to pay the potential cost of the full arbitration proceeding. The bond must be posted with and received by the Neutral Evaluator within five (5) calendar days after the demand for arbitration.

1.6.1 **Arbitration Panel and Applicable Law and Rules.** Disputes involving less than \$200,000 shall be heard by one single arbitrator chosen by agreement of the parties. For disputes in excess of \$200,000, the Arbitration Panel shall consist of three arbitrators: the County's appointed arbitrator, the Job Order Contractor's appointed arbitrator and a third arbitrator (or "neutral arbitrator") who shall be selected by the parties' arbitrators as set forth in Section 1.5.2. The arbitration is to be convened and administered under the Revised Uniform Arbitration Act ("RUAA") (A.R.S. § 12-3001 et seq.) and the American Arbitration Association Construction Rules shall serve as a guideline for proceedings, thus as a supplement to the RUAA.

1.6.2 **Selection of Neutral Arbitrator.** For disputes in excess of \$200,000, the parties' arbitrators shall choose the Neutral Arbitrator, within ten (10) calendar days of notification of a demand for arbitration having been received by the Neutral Evaluator. The Neutral Arbitrator shall have the same qualifications as those of the arbitrators set forth in paragraph 1.2. above. In the event that the two party selected arbitrators cannot agree on a Neutral Arbitrator as set forth above, the Neutral Arbitrator shall be selected as the Default Neutral Arbitrator. If the County and Job Order Contractor cannot agree on the single arbitrator or upon a Default Neutral Arbitrator, then County and the Job Order Contractor shall each submit two names to Judge Eino Jacobson, or his successor as designated by Maricopa County, who shall select one person. The Neutral Arbitrator may submit his invoices for services to the Owner, and the Owner shall pay the amounts invoiced (subject to the provisions of paragraph 1.4.13) unless and until the Job Order Contractor is determined by the Arbitration Panel to be the non-prevailing party and the Arbitration Panel determines per 1.6.11 what party pays such costs.

1.6.3 **Expedited Hearing.** The parties have structured this procedure with the goal of providing for the prompt, efficient and final resolution of all disputes falling within the



purview of this ADR process. To that end, any party can petition the Neutral Evaluator to set an expedited hearing. If the Neutral Evaluator determines that the circumstances justify it, the Neutral Evaluator shall contact the selected single arbitrator or Arbitration Panel and arrange for scheduling of 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 twenty (20) calendar days after notification of request for arbitration having been received. This deadline can be extended only with the consent of all the parties to the dispute, or by decision of the single arbitrator or the Arbitration Panel upon a showing of emergency circumstances.

- 1.6.4 **Procedure.** The single arbitrator or the Arbitration Panel will conduct the hearing in such a manner that will resolve disputes in a prompt, cost efficient manner giving regard to the rights of all parties. Each party shall supply to the single arbitrator or Arbitration Panel 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 single arbitrator or the Arbitration Panel shall review and consider the Neutral Evaluator decision. The single arbitrator or the Chairman shall determine the nature and scope of discovery, if any, and the manner of presentation of relevant evidence consistent with deadlines provided herein, and the parties' objective that disputes be resolved in a prompt and efficient manner. No discovery may be had of any materials or information for which a privilege is recognized by Arizona law. The single arbitrator or the Chairman 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 confirm or enforce such orders of the Chairman.
- 1.6.5 **Hearing Days.** In order to effectuate parties' goals, the hearing once commenced, will proceed from working day to working day until concluded, absent a showing of emergency circumstances.
- 1.6.6 **Award.** The single arbitrator shall within ten (10) calendar days of the conclusion of a hearing issue a reasoned award. The Arbitration Panel shall, within ten (10) calendar days from the conclusion of any hearing, by majority vote issue its reasoned award. The award shall include an allocation of fees and costs pursuant to 1.6.11 herein. The award is to be in accordance with the Contract and the law of the State of Arizona.
- 1.6.7 **Scope of Award.** Regardless of the provisions of the RUAA, the Arbitration Panel shall be without authority to award punitive damages, and any such punitive damage award shall be void. If an award is made against any party in excess of one hundred thousand dollars (\$100,000), exclusive of interest, arbitration fees, costs and attorneys' fees, it shall be supported by written findings of fact, conclusions of law and a statement as to how damages were calculated.
- 1.6.8 **Jurisdiction.** The Arbitration Panel 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 over the claim as regards its amount upon application of any party at the earliest convenient time, but not later than the commencement of the arbitration hearing. If the dispute is in reality one involving less than \$200,000, the arbitration shall continue before the Neutral Arbitrator as a single arbitrator, with the party appointed arbitrators being excused.

- 1.6.9 **Entry of Judgment.** As provided in the RUAA, any party can make application to the Maricopa County Superior Court for confirmation of an award, and for entry of judgment on it.
- 1.6.10 **Severance and Joinder.** To reduce the possibility of inconsistent adjudications, the Neutral Evaluator or the single arbitrator or Arbitration Panel, may: (i) at the request of any party, join and/or sever parties, and/or claims arising under other contracts containing this ADR provision, and (ii) the Neutral Evaluator, on his own authority, or the single arbitrator or Arbitration Panel may, on its own authority, join or sever parties and/or claims subject to this ADR process as deemed necessary for a just resolution of the dispute, consistent with the parties' goal of the prompt and efficient resolution of disputes, provided, however, that the A/E, Owner and Project Professionals shall not be joined as a party to any claim made by a Job Order Contractor. Nothing herein shall create the right by any party to assert claims against another party not germane to the Contract or not recognized under the substantive law as applicable to the dispute. Neither the Neutral Evaluator nor the single arbitrator or Arbitration Panel is authorized to join to the proceeding parties not in privity with the County. Job Order Contractor cannot be joined to any pending arbitration proceeding, without Job Order Contractor's express written consent and unless Job Order Contractor is given the opportunity to participate in the selection of the single arbitrator or non-County appointed arbitrator.
- 1.6.11 **Fees and Costs.** Each party shall bear its own fees and costs in connection with any informal hearing before the Neutral Evaluator and the mediation. All fees and costs associated with any arbitration before the single panel or Arbitration Panel, including without limitation the Arbitrator fees, and the prevailing party's reasonable attorneys' fees, expert witness fees and costs, will be paid by the non-prevailing party, except as provided for herein. In the event that Job Order Contractor is the non-prevailing party, all fees and costs as noted above shall first be paid out of the bond posted with the Neutral Evaluator. In no event shall the Job Order Contractor's obligation to pay fees and costs be limited to the amount of the bond posted herein. In no event shall any Arbitrator's hourly fees be awarded in an amount in excess of \$250 per hour and (i) costs shall not include any travel expenses in excess of mileage at the rate paid by Maricopa County, not to exceed a one way trip of 150 miles, and (ii) all travel expenses, including meals, shall be reimbursed pursuant to the travel policy of Maricopa County in effect at the time of the hearing. The determination of prevailing and non-prevailing parties, and the appropriate allocation of fees and costs, will be included in the award by the single arbitrator or Arbitration Panel. Fees for the Neutral Evaluator shall be paid by County.
- 1.6.12 **Confidentiality.** Any proceeding initiated under this ADR provision shall be deemed confidential to the maximum extent allowed by Arizona law and, except for disclosures to a party's attorneys or accountants, no party shall make any disclosure related to the disputed matter or to the outcome of any proceeding except to the extent required by law, or to seek interim equitable relief, or to enforce an agreement reached by the parties or an award made hereunder. This provision does not affect the County's right to inform the County Supervisors of the resolution of the dispute.
- 1.6.13 **Equitable Litigation.** Notwithstanding any other provision of ADR to the contrary, any party can petition the Maricopa County Superior Court for interim equitable relief as may become necessary to preserve the status quo and prevent immediate and irreparable harm to a party or to the Project pending resolution of a dispute pursuant to ADR provided herein. No court may order any permanent injunctive relief except as may be necessary to

enforce an order entered by the Arbitration Panel. The fees and costs incurred in connection with any such equitable proceeding shall be determined and assessed in ADR.

1.6.14 **Change Order.** Any award in favor of the Job Order Contractor against the County or in favor of the County against the Job Order Contractor shall be reduced to a Change Order and executed by the parties in accordance with the award and the provisions of the Contract.

1.6.15 **Merger and Bar.** Any claim asserted pursuant to this ADR process shall be deemed to include all claims, demands, and requests for compensation for costs and losses or other relief, including the extension of the Contract performance period which reasonably should or could have been brought against any party that was or could have been brought into this ADR process, with respect to the subject claim. The Arbitration Panel shall apply legal principles commonly known as merger and bar to deny any claim or claims against any party regarding which claim or claims recovery has been sought or should have been sought in a previously adjudicated claim for an alleged cost, loss, breach, error, or omission.

1.7 **Inclusion in Other Contracts.** The Job Order Contractor shall cooperate with the County in efforts to include this ADR provision in all other project contracts. Subject to Job Order Contractor's reasonable agreement, the Job Order Contractor agrees that any modification to this ADR provision that is included in the construction or other contracts shall also apply to the Job Order Contractor. It is the intent of the parties that any changes to this ADR provision in later contracts will be evolutionary and designed to incorporate the terms of this ADR provision without material changes to the substance or procedure of this ADR provision.

END OF EXHIBIT

**EXHIBIT C**

**[Legal Worker Certification]**

June 13, 2014

(Date)

Maricopa County  
 Office of Procurement Services – Article 5  
 320 W. Lincoln Street  
 Phoenix, Arizona 85003

As required by Arizona Revised Statutes §41-4401, Maricopa County (the “County”) is prohibited, after September 30, 2008 from awarding a contract to any contractor who fails, or whose subcontractors fail, to comply with Arizona Revised Statutes § 23-214-A. The undersigned entity warrants that it complies fully with all federal immigration laws and regulations that relate to its employees, that it shall verify, through the employment verification pilot program as jointly administered by the U.S. Department of Homeland Security and the Social Security Administration or any of its successor programs, the employment eligibility of each employee hired after December 31, 2007, and that it shall require its subcontractors and sub-subcontractors to provide the same warranties to the below entity.

The undersigned acknowledges that a breach of this warranty by the below entity or by any subcontractor or sub-subcontractor under any Contract resulting from this solicitation shall be deemed a material breach of the Contract, and is grounds for penalties, including termination of the Contract, by the County. The County retains the right to inspect the records of the below entity, subcontractor and sub-subcontractor employee who performs work under the Contract, and to conduct random verification of the employment records of the below entity and any subcontractor and sub-subcontractor who works on the Contract, to ensure that the below entity and each subcontractor and sub-subcontractor is complying with the warranties set forth above.

Layton Construction Co. Inc.

(Firm)

David Blaser

(Print Name)

Executive Vice President

(Print Title)



(Signature Required)

dblaser@laytonconstruction.com

(Email Address)

4686 E Van Buren, Suite 100

(Address Line 1)

Phoenix, AZ 85008

(Address Line 2)

602-840-8655

(Phone)

602-840-8646

(Fax)

87-0660059

(Federal Taxpayer ID Number)

EXHIBIT D



**JOB ORDER CONTRACTING  
REQUEST FOR PROPOSAL**

**PROJECT:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**TO JOB ORDER CONTRACTOR:** \_\_\_\_\_ **REQUEST NO:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**CONTRACT FOR:** \_\_\_\_\_ **CONTRACT NO:** \_\_\_\_\_

Please submit an itemized quotation for the requested work in accordance with Contract Documents.

**THIS IS NOT A TASK ORDER NOR A DIRECTION TO PROCEED WITH THE WORK DESCRIBED HEREIN.**

**DESCRIPTION:** (Written description of the work)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ATTACHMENTS:** (List attached documents that support description)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**INITIATED BY:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**EXHIBIT E**

**PERFORMANCE BOND AND PAYMENT BOND**

**PART 1 GENERAL**

**1.1 DESCRIPTION**

- 1.1.1 All bonds must be pursuant to A.R.S. Title 34, Chapter 6, Article 1, and executed solely by a surety company or companies holding a Certificate of Authority to transact surety business in Arizona, issued by the Director of the State of Arizona Department of Insurance.
- 1.1.2 Bonds executed by an individual surety or sureties are not in compliance with Arizona Revised Statutes.
- 1.1.3 The use of the Owner-supplied bond forms is required.

**1.2 SUBMITTALS**

- 1.2.1 Submit a completed copy of the Statutory Performance Bond within five (5) days of the date of the Notice of Intent to Award letter.
- 1.2.2 Submit a completed copy of the Statutory Payment Bond within five (5) days of the date of the Notice of Intent to Award letter.

**END OF SECTION**

STATUTORY PERFORMANCE BOND

PURSUANT TO TITLE 34, CHAPTER 6, ARTICLE 1, OF THE ARIZONA REVISED STATUTES  
(Penalty of this bond must be 100% of the contract amount)

KNOW ALL MEN BY THESE PRESENTS:

That, \_\_\_\_\_ (hereinafter called the Principal), as Principal, and the \_\_\_\_\_, a corporation duly organized under the laws of the State of \_\_\_\_\_, with its principal office in the City of \_\_\_\_\_ hereinafter called the Surety), as Surety are held and firmly bound unto Maricopa County (hereinafter called the Obligee), in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_) for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated the \_\_\_\_\_ day of \_\_\_\_\_, 2004, to services as outlined in the Job Order Contract, **Contract No. 14007-JOC**, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THE OBLIGATION IS SUCH, that if the Principal faithfully performs and fulfills all of the undertaking, covenants, terms, conditions, and agreements of the contract during the original term of the contract and any extension of the contract with or without notice to the Surety, and during the life of any guaranty required under the contract, and also performs and fulfills all the undertakings, covenants, terms, conditions, and agreements of all duly authorized modifications of the contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, the above obligation is void. Otherwise it remains in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Title 34, Chapter 6, Article 1, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of Title 34, Chapter 6, Article 1, Arizona Revised Statutes to the extent as if it were copied at length in this agreement.

The prevailing party in a suit on this bond shall be entitled as part of the judgment reasonable attorney's fees as may be fixed by the judge of the court.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
AGENCY OF RECORD, STATE OF ARIZONA

\_\_\_\_\_  
PRINCIPAL

BY: \_\_\_\_\_

\_\_\_\_\_  
AGENCY ADDRESS

TITLE: \_\_\_\_\_

\_\_\_\_\_  
SURETY

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

BOND NUMBER \_\_\_\_\_

**ATTACH SURETY POWER OF ATTORNEY**



**EXHIBIT F**  
**[SBE Reporting Document]**  
**MARICOPA COUNTY SBE PARTICIPATION REPORTING FORM**

**This form is to be submitted with each pay application or invoice.** Any pay application or invoice without this form attached is subject to rejection as not being a completed pay application or invoice pursuant to the terms of the contract.

\_\_\_\_\_  
 Name of Prime Consultant/Contractor

\_\_\_\_\_  
 Contract No.

\_\_\_\_\_  
 Contact Person

\_\_\_\_\_  
 Project No.

\_\_\_\_\_  
 Street Address

\$ \_\_\_\_\_  
 Amount of this Pay Application/Invoice

\_\_\_\_\_  
 City, State ZIP

Complete below with information on the SBE firms utilized as subconsultants/subcontractors for this pay application/invoice. If work was self-performed and your firm, as the prime, is an SBE firm pursuant to A.R.S. § 41-1001, et seq., then you may list your firm as the SBE firm.

SBE Firm Name	SBE Firm Address	Type of Work Performed	\$ Pd to SBE this App/Inv
			\$
			\$
			\$
			\$
			\$
			\$
			\$

A mark in this box certifies that no SBE firms were utilized as the prime, subconsultant or subcontractor with respect to this pay application/invoice.

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Printed Name & Telephone Number



**EXHIBIT G**

**Request for Qualifications Dated February 13, 2014 and Addendum 1 are incorporated herein as though they were fully attached to this contract as Exhibit G.**



14007-Solicitation.pdf



14007-Addendum  
# 1.pdf



# Maricopa County

## REQUEST FOR QUALIFICATIONS FOR JOB ORDER CONTRACTOR

SERIAL # 14007-JOC  
CONTRACT # 14007-JOC

**Job Order Contractor for Facilities Management**

**Statement of Qualifications Due Friday, March 07, 2014  
At 11:00 AM (Arizona Time)**

**Maricopa County  
Office of Procurement Services  
320 W. Lincoln St. (Second Floor)  
Phoenix, Arizona 85003  
(602) 506-3246**

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This Request for Qualifications is separated in two parts: Part I – Request for Qualifications Information, and Part II – Attachments. The Attachments are part of the Request for Qualifications and the terms, conditions and criteria therein must be met by any Proposer.

# REQUEST FOR QUALIFICATIONS

## Job Order Contractor For Maricopa County

### PART I: REQUEST FOR QUALIFICATIONS INFORMATION

### DIVISION I: REQUEST FOR QUALIFICATIONS AND LEGAL ADVERTISEMENT

#### MARICOPA COUNTY REQUEST FOR QUALIFICATIONS (RFQ)

Maricopa County extends an invitation to interested and qualified firms or individuals to submit formal sealed qualifications to provide Job Order Contracting design phase services, as needed, and construction phase services as described herein.

**ALL CURRENT JOC CONTRACT AWARDEES ARE ELIGIBLE TO RESPOND. IT IS THE INTENT OF MARICOPA COUNTY TO CANCEL ALL PREVIOUSLY AWARDED JOC'S FOR FACILITIES MAINTENANCE SERVICES ISSUED BY OR ON BEHALF OF THE FACILITIES MANAGEMENT DEPARTMENT UPON AWARD OF THIS SOLICITATION.**

Design Services: The scope of work will vary with each Job Order. Minor design services may be required for some job orders; however, most will be designed through registered professional consultants under separate contracts. For job orders that require design services, the contractor shall seek the services of Arizona registered professionals to prepare plans for permitting.

Construction Services by the JOC Contractor may include, but are not limited to:

- Provide construction services for various projects, including required labor (including subcontractors), materials, equipment, and related services for renovations; tenant improvements; additions, including site work and utility extensions; and upgrades and replacement of building mechanical, electrical, and building automation systems. Projects will be located throughout Maricopa County, Arizona and may include work in occupied judicial, detention, office, and customer service facilities.
- Assist with scoping and constructability issues.
- Provide project scheduling.
- Provide detailed cost estimating and knowledge of marketplace conditions.
- Provide value engineering as required.
- Provide long-lead procurement studies and possibly initiate procurement of long-lead items.
- Coordinate with various County departments and other agencies including utility companies, etc.
- Schedule and manage site operations.
- Bid, award, and manage all subcontracts while meeting the County project requirements.
- Provide quality controls.
- Address all federal, state, city, and county permitting requirements and assist in the permitting processes.
- Maintain a safe and clean work site for all project participants, County staff, and public.

The Maricopa County Facilities Management intends to award eight (8) job order contracts to separate persons or firms.

The contract term will be for a period of three (3) consecutive years with two (2) one year options to renew the contract for a total of five (5) years maximum per contract. The overall construction cost shall not exceed five million (\$5,000,000) per contract year, maximum \$1,000,000 limit per individual project task order.

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
LAYTON CONSTRUCTION CO., INC**

**EXHIBIT B**  
Scope of Work

**PROJECT**

In accordance with the terms and conditions of this Agreement and Maricopa County Contract No. 14007-JOC, the City is retaining Layton Construction Co., Inc. for general maintenance and repair services city-wide on an as-needed basis.

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
LAYTON CONSTRUCTION CO., INC.**

**EXHIBIT C**

**METHOD AND AMOUNT OF COMPENSATION**

Method and amount of compensation is in accordance with Section 3 of this agreement.

**NOT TO EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project must not exceed \$300,000 for the entire term of the Agreement.

**DETAILED PROJECT COMPENSATION**

City shall pay Contractor compensation in accordance with the rates as set forth in the Maricopa County Contract, No. 14007-JOC, for general maintenance and repair services city-wide on an as-needed basis.



## Legislation Description

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**File #:** 17-058, **Version:** 1

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**AUTHORIZATION TO ENTER INTO A CONSTRUCTION AGREEMENT WITH MCKENNA CONTRACTING, LLC, FOR THE RELOCATION OF THE POWER WASHER AND PROPANE TANK AT THE FIELD OPERATIONS COMPLEX**

Staff Contact: Jack Friedline, Director, Public Works

**Purpose and Recommended Action**

This is a request for City Council to authorize the City Manager to enter into a construction agreement with McKenna Contracting, LLC, in an amount not to exceed \$44,598 to construct improvements required for the installation of a propane tank and for the relocation of a power washer, at the Field Operations Complex.

**Background**

This project will provide labor, materials, and equipment to install a concrete pad, CMU wall, plumbing, and electrical required for the installation of a propane tank and relocation of an existing power washer, associated equipment, compressor, and cleaning solution barrel from the current location in the northwest corner of the Field Operations Complex.

The Engineering division published a Notice to Contractors requesting bids for the relocation of the power washer and propane tank located at the Field Operations Complex (project number 151627). On December 6, 2016, two (2) bids were received, with McKenna Contracting, LLC submitting the lowest responsive and responsible bid in the amount of \$44,598.

**Analysis**

The existing location for the power washer allows for standing water. The equipment will be relocated to properly allow for the used water to be properly drained from the site.

The Engineering division also published a Notice to Contractors requesting bids for the Field Operations Warehouse Canopy Replacement Project (project number 161706). On December 7, 2016, three (3) bids were received, with McKenna Contracting, LLC submitting the lowest responsive and responsible bid in the amount of \$27,627 (base bid and alternate 1). The combined value of the two contracts is \$72,225, and as such Council approval is required.

**Community Benefit/Public Involvement**

The Agreement with McKenna Contracting, LLC will allow the city to hire the necessary expertise to complete the relocation of the power washer currently located at the Field Operations Complex in a timely manner.

**Budget and Financial Impacts**



Funding is available in Fiscal Year 2016-17 Capital Improvement Plan budget. Expenditures with McKenna Contracting, LLC are not to exceed \$44,598, contingent upon Council budget approval.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$44,598</b>	<b>2070-70800-551000, Bldg. Maintenance Reserve</b>

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

## CONSTRUCTION AGREEMENT

This Construction Agreement ("Agreement") is entered into and effective between the CITY OF GLENDALE, an Arizona municipal corporation ("City"), and McKenna Contracting, LLC, an Arizona limited liability company ("Contractor") as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

### RECITALS

- A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in the Notice to Contractors and the attached Exhibit A ("Project");
- B. City desires to retain the services of Contractor to perform those specific duties and produce the specific work as set forth in the Project, the plans and specifications, the Information for Bidders, and the Maricopa Association of Governments ("MAG") General and Supplemental Conditions and Provisions;
- C. City and Contractor desire to memorialize their agreement with this document.

### AGREEMENT

In consideration of the Recitals, which are confirmed as true and correct and incorporated by this reference, the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, City and Contractor agree as follows:

#### 1. Project.

**1.1 Scope.** Contractor will provide all services and material necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors, providers or consultants retained by City.

**1.2 Documents.** The following documents are, by this reference, entirely incorporated into this Agreement and attached Exhibits as though fully set forth herein:

- (A) Notice to Contractors;
- (B) Information for Bidders;
- (C) MAG General Conditions, Supplemental General Conditions, Special and Technical Provisions;
- (D) Proposal;
- (E) Bid Bond;
- (F) Payment Bond;
- (G) Performance Bond;
- (H) Certificate of Insurance;
- (I) Appendix; and
- (J) Plans and Addenda thereto.

Should a conflict exist between this Agreement (and its attachments), and any of the incorporated documents as listed above, the provisions of this Agreement shall govern.

#### 1.3 Project Team.

- (A) Project Manager. Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, to complete the project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement.
- (B) Project Team.
  - (1) The Project manager and all other employees assigned to the project by Contractor will comprise the "Project Team."
  - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the project by Contractor.

(C) Sub-contractors.

- (1) Contractor may engage specific technical contractor (each a "Sub-contractor") to furnish certain service functions.
- (2) Contractor will remain fully responsible for Sub-contractor's services.
- (3) Sub-contractors must be approved by the City, unless the Sub-contractor was previously mentioned in the response to the solicitation.
- (4) Contractor shall certify by letter that contracts with Sub-contractors have been executed incorporating requirements and standards as set forth in this Agreement.

2. **Schedule.** The Project will be undertaken in a manner that ensures it is completed in a timely and efficient manner. If not otherwise stated in Exhibit A, the Project shall be completed by no later than within sixty (60) consecutive calendar days from and including the date of receipt of the Notice to Proceed.

3. **Contractor's Work.**

3.1 **Standard.** Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services and materials for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 **Licensing.** Contractor warrants that:

- (A) Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and
- (B) Neither Contractor nor any Sub-contractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
  - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.
  - (2) Contractor must notify City immediately if any Approvals or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default of this Agreement.

3.3 **Compliance.** Services and materials will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, or other standards and criteria designated by City.

Contractor must not discriminate against any employee or applicant for employment on the basis of race, religion, color sex or national origin. Contractor must develop, implement and maintain non-discrimination policies and post the policies in conspicuous places visible to employees and applicants for employment. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section.

3.4 **Coordination; Interaction.**

- (A) If the City determines that the Project requires the coordination of professional services or other providers, Contractor will work in close consultation with City to proactively interact with any other contractors retained by City on the Project ("Coordinating Entities").
- (B) Subject to any limitations expressly stated in the budget, Contractor will meet to review the Project, schedules, budget, and in-progress work with Coordinating Entities and the City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.

(C) If the Project does not involve Coordinating Entities, Contractor will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.

**3.5 Hazardous Substances.** Contractor is responsible for the appropriate handling, disposal of, and if necessary, any remediation and all losses and damages to the City, associated with the use or release of hazardous substances by Contractor in connection with completion of the Project.

**3.6 Warranties.** At any time within two years after completion of the Project, Contractor must, at Contractor's sole expense and within 20 days of written notice from the City, uncover, correct and remedy all defects in Contractor's work. City will accept a manufacturer's warranty on approved equipment as satisfaction of the Contractor's warranty under this subsection.

**3.7 Bonds.** Upon execution of this Agreement, and if applicable, Contractor must furnish Payment and Performance bonds as required under A.R.S. § 34-608.

#### **4. Compensation for the Project.**

**4.1 Compensation.** Contractor's compensation for the Project, including those furnished by its Sub-contractors will not exceed \$44,598, as specifically detailed in the Contractor's bid and set forth in Exhibit B ("Compensation").

**4.2 Change in Scope of Project.** The Compensation may be equitably adjusted if the originally contemplated scope of services as outlined in the Project is significantly modified by the City.

- a. Adjustments to the Scope or Compensation require a written amendment to this Agreement and may require City Council approval.
- b. Additional services which are outside the scope of the Project and not contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.
- c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take priority and govern the conduct of the parties.

#### **5. Billings and Payment.**

##### **5.1 Applications.**

- (A) The Contractor will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.
- (B) The period covered by each Payment Application will be one calendar month ending on the last day of the month.

##### **5.2 Payment.**

- (A) After a full and complete Payment Application is received, City will process and remit payment within thirty (30) days.
- (B) Payment may be subject to or conditioned upon City's receipt of:
  - (1) Completed work generated by Contractor and its Sub-contractors; and
  - (2) Unconditional waivers and releases on final payment from Sub-contractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

**5.3 Review and Withholding.** City's Project Manager will timely review and certify Payment Applications.

- (A) If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.
- (B) City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.
- (C) Contractor will provide, by separate cover, and concurrent with the execution of this Agreement, all required financial information to the City, including City of Glendale Transaction Privilege License and Federal Taxpayer identification numbers.
- (D) City will temporarily withhold Compensation amounts as required by A.R.S. 34-221(C).

## 6. Termination.

**6.1 For Convenience.** City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than fifteen (15) days following the date of delivery.

- (A) Contractor will be equitably compensated any services and materials furnished prior to receipt of the termination notice and for reasonable costs incurred.
- (B) Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with Project closeout and delivery of the required items to the City.

**6.2 For Cause.** City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven (7) days after receipt of written notice specifying the breach.

- (A) Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages.
- (B) If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand; however, Contractor will not be subject to consequential damages more than \$1,000,000 or the amount of this Agreement, whichever is greater.

## 7. Insurance.

**7.1 Requirements.** Contractor must obtain and maintain the following insurance ("Required Insurance"):

- (A) Contractor and Sub-contractors. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively, "Contractor's Policies"), until each Parties' obligations under this Agreement are completed.
- (B) General Liability.
  - (1) Contractor must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
  - (2) Sub-contractors must at all times relevant hereto carry a general commercial liability policy with a combined single limit of at least \$1,000,000 per occurrence.
  - (3) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, products and completed operations, XCU hazards if requested by the City, and a separation of insurance provision.
  - (4) These limits may be met through a combination of primary and excess liability coverage.

- (C) Auto. A business auto policy providing a liability limit of at least \$1,000,000 per accident for Contractor and 1,000,000 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.
- (D) Workers' Compensation and Employer's Liability. A workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.
- (E) Equipment Insurance. Contractor must secure, pay for, and maintain all-risk insurance as necessary to protect the City against loss of owned, non-owned, rented or leased capital equipment and tools, equipment and scaffolding, staging, towers and forms owned or rented by Contractor or its Sub-contractors.
- (F) Notice of Changes. Contractor's Policies must provide for not less than 30 days' advance written notice to City Representative of:
  - (1) Cancellation or termination of Contractor or Sub-contractor's Policies;
  - (2) Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and
  - (3) Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.
- (G) Certificates of Insurance.
  - (1) Within ten (10) business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which will confirm the existence or issuance of Contractor and Sub-contractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Sub-contractor's Policies in accordance with the provisions of this section.
  - (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.
  - (3) Contractor's failure to secure and maintain Contractor Policies and to assure Sub-contractor policies as required will constitute a material default under this Agreement.
- (H) Other Contractors or Vendors.
  - (1) Other contractors or vendors that may be contracted by Contractor with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular agreement.
  - (2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).
- (I) Policies. Except with respect to workers' compensation and employer's liability coverages, the City must be named and properly endorsed as additional insureds on all liability policies required by this section.
  - (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self insurance policies or programs maintained by the additional insureds.
  - (2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and acceptable to all parties.

## **7.2 Sub-contractors.**

- (A) Contractor must also cause its Sub-contractors to obtain and maintain the Required Insurance.

- (B) City may consider waiving these insurance requirements for a specific Sub-contractor if City is satisfied the amounts required are not commercially available to the Sub-contractor and the insurance the Sub-contractor does have is appropriate for the Sub-contractor's work under this Agreement.
- (C) Contractor and Sub-contractors must provide to the City proof of Required Insurance whenever requested.

**7.3 Indemnification.**

- (A) To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense"; collectively, "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.
- (B) This indemnity and hold harmless policy applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.
- (C) Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

**7.4 Waiver of Subrogation.** Contractor waives, and will require any Subcontractor to waive, all rights of subrogation against the City to the extent of all losses or damages covered by any policy of insurance.

**8. E-verify, Records and Audits.** To the extent applicable under A.R.S. § 41-4401, the Contractor warrant their compliance and that of its subcontractors with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). The Contractor or subcontractor's breach of this warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by the City under the terms of this Agreement. The City retains the legal right to randomly inspect the papers and records of the other party to ensure that the other party is complying with the above-mentioned warranty. The Contractor and subcontractor warrant to keep their respective papers and records open for random inspection during normal business hours by the other party. The parties shall cooperate with the City's random inspections, including granting the inspecting party entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

**9. No Boycott of Israel.** The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.

**10. Conflict.** Contractor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

**11. Notices.**

11.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:

- (A) The Notice is in writing, and
- (B) Delivered in person or by private express overnight delivery service (delivery charges prepaid), certified or registered mail (return receipt requested).
- (C) Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:

- (1) Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier on or before 5:00 p.m.; or
- (2) As of the next business day after receipt, if received after 5:00 p.m.
- (D) The burden of proof of the place and time of delivery is upon the Party giving the Notice.
- (E) Digitalized signatures and copies of signatures will have the same effect as original signatures.

11.2 **Representatives.**

- (A) Contractor. Contractor's representative ("Contractor's Representative") authorized to act on Contractor's behalf with respect to the Project, and his or her address for Notice delivery is:

McKenna Contracting, LLC  
 Attn: David McKenna  
 5154 West Windrose  
 Glendale, Arizona 85304

- (B) City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale  
 Attn: Michael Johnson  
 5850 West Glendale Avenue  
 Glendale, Arizona 85301

With required copies to:

City of Glendale  
 City Manager  
 5850 West Glendale Avenue  
 Glendale, Arizona 85301

City of Glendale  
 City Attorney  
 5850 West Glendale Avenue  
 Glendale, Arizona 85301

- (C) Concurrent Notices.

- (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
- (2) A notice will not be considered to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.

- (D) Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

**12. Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

**13. Entire Agreement; Survival; Counterparts; Signatures.**

**13.1 Integration.** This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- (A) Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.



- (B) Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
- (C) Any solicitation, addendums and responses submitted by the Contractor are incorporated fully into this Agreement as Exhibit A. Any inconsistency between Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

**13.2 Interpretation.**

- (A) The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- (B) The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- (C) The Agreement will be interpreted in accordance with the laws of the State of Arizona.

**13.3 Survival.** Except as specifically provided otherwise in this Agreement each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

**13.4 Amendment.** No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval.

**13.5 Remedies.** All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

**13.6 Severability.** If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform to applicable law.

**13.7 Counterparts.** This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

**14. Dispute Resolution.** Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered according to the American Arbitration Association's Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

**15. Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A	Project
Exhibit B	Compensation

The parties enter into this Agreement as of the date shown above.

City of Glendale,  
an Arizona municipal corporation

\_\_\_\_\_  
By: Kevin R. Phelps  
Its: City Manager

ATTEST:

\_\_\_\_\_  
Julie K. Bower (SEAL)  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael D. Bailey  
City Attorney

McKenna Contracting, LLC,  
an Arizona limited liability company

\_\_\_\_\_  
By: David McKenna  
Its: Manager

WOMEN-OWNED/MINORITY BUSINESS  YES  NO  
CITY OF GLENDALE TRANSACTION PRIVILEGE TAX NO. \_\_\_\_\_  
FEDERAL TAXPAYER IDENTIFICATION NO. \_\_\_\_\_

**EXHIBIT A  
CONSTRUCTION AGREEMENT**

**PROJECT**

This project will provide labor, materials and equipment to install a concrete pad, CMU wall, plumbing, and electrical required for the installation of a propane tank and relocation of an existing power washer, associated equipment, compressor, and cleaning solution barrel from the current location in the northwest corner of the Field Operations Complex to the location shown on the plans.

**EXHIBIT B  
CONSTRUCTION AGREEMENT**

**COMPENSATION**

**METHOD AND AMOUNT OF COMPENSATION**

By bid, including all services, materials and costs.

**NOT-TO-EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the entire term of the Project must not exceed \$44,598

**DETAILED PROJECT COMPENSATION**

As shown in detail on the Bid Schedule.

**BID TABULATION**

**PROJECT 151627-SANITATION RELOCATION OF THE POWER WASHER AND PROPANE TANK**

OPENED AT THE CITY OF GLENDALE, ENGINEERING DEPARTMENT  
5850 W. GLENDALE AVENUE, 3RD FLOOR

DATE: DECEMBER 6, 2016 AT 10AM

<b>CONTRACTOR</b>	<b>BID BOND\CHECK</b>	<b>BASE BID</b>
MCKENNA CONTRACTING, LLC	BB	\$44,598.00
RK SANDERS, INC.	BB	\$54,165.00



## Legislation Description

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**File #: 17-059, Version: 1**

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**AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH J. BANICKI CONSTRUCTION, INC., FOR THE CITY BRIDGE REPAIR PROGRAM**

Staff Contact: Jack Friedline, Director, Public Works

**Purpose and Recommended Action**

This is a request for City Council to authorize the City Manager enter into a Linking Agreement with J. Banicki Construction, Inc., in an amount not to exceed \$288,580.50, for the City Bridge Repair Program. The term of the Agreement is effective through November 30, 2017.

**Background**

The city has 55 bridges which represent an investment of over \$100 million in city assets based on replacement costs in today's economy. With the exception of minor repairs (potholes, small paving projects, concrete repair, and sidewalk) the city contracts for all other preventative maintenance and reconstructive bridge projects.

J. Banicki Construction, Inc., was awarded a bid by the City of Peoria to perform bridge maintenance and repair. Staff is requesting to utilize the cooperative purchase with Strategic Alliance for Volume Expenditures (SAVE). SAVE is a consortium of local municipalities, in which Glendale is a member. Contract No. ACON 54613A for Bridge Maintenance and Repair was awarded on December 1, 2013 and is effective through November 30, 2017.

Cooperative purchasing allows counties, municipalities, schools, colleges and universities in Arizona to use a contract that was competitively procured by another governmental entity or purchasing cooperative. Such purchasing helps reduce the cost of procurement, allows access to a multitude of competitively bid contracts, and provides the opportunity to take advantage of volume pricing. The Glendale City Code authorizes cooperative purchases when the solicitation process utilized complies with the intent of Glendale's procurement processes. This cooperative purchase is compliant with Chapter 2, Article V, Division 2, Section 2-149 of the Glendale City Code, per review by Materials Management.

**Analysis**

The linking agreement of the City Bridge Repair Program provides for the repair of 11 bridges, which were identified as needing repairs by the most recent Arizona Department of Transportation inspection report and/or damaged by motor vehicle accidents.

Staff anticipates issuing a Notice to Proceed early March, with completion of this construction project before the end of June 2017.

**Community Benefit/Public Involvement**

Well maintained infrastructure is an important element of strong neighborhoods and business corridors and is critical for the attraction of quality economic development.

**Budget and Financial Impacts**

Funding is available in the Fiscal Year 2016-17 Capital Improvement Plan budget. Expenditures with J. Banicki Construction Inc., are not to exceed \$288,580.50.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$288,580.50</b>	<b>1980-68122-550800, Bridge Repair</b>

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
J. BANICKI CONSTRUCTION, INC.**

THIS LINKING AGREEMENT (this "Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the City of Glendale, an Arizona municipal corporation (the "City"), and J. Banicki Construction, Inc., an Arizona corporation ("Contractor"), collectively, the "Parties."

**RECITALS**

- A. On November 1, 2013, under the S.A.V.E. Cooperative Purchasing Agreement, the City of Peoria entered into a contract with Contractor to purchase the goods and services described in the City of Peoria Job Order Contract P14-0018A ("Cooperative Purchasing Agreement"), which is attached hereto as Exhibit A. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the City.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Linking Agreement, the parties agree as follows:

1. Term of Agreement. The City is purchasing supplies and/or services from Contractor pursuant to the Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement, purchases can be made by governmental entities from the date of award, which was November 19, 2013, until the date the contract expires on November 30, 2017, unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not be extended beyond November 19, 2018. The initial period of this Agreement, therefore, is the period from the Effective Date of this Agreement until November 19, 2017. The City Manager or designee, however, may renew the term of this



Agreement for 1 one-year period periods until the Cooperative Purchasing Agreement expires on November 19, 2018. Renewals are not automatic and shall only occur if the City gives the Contractor notice of its intent to renew. The City may give the Contractor notice of its intent to renew this Agreement 30 days prior to the anniversary of the Effective Date to effectuate such renewal.

2. Scope of Work; Terms, Conditions, and Specifications.

- A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as Exhibit B.
- B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.

3. Compensation.

- A. City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit C.
- B. The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed Two Hundred Eighty-Eight Thousand Five Hundred Eighty and 50/100 dollars (\$288,580.50) annually.

4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.

5. Non-discrimination. Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

6. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.

7. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.

8. No Boycott of Israel. The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.

9. Attestation of PCI Compliance. When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.

10. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale  
c/o Wade Ansell  
5850 West Glendale Avenue, Suite 315  
Glendale, Arizona 8530  
623-930-

and

J. Banicki Construction, Inc.  
c/o Don Davis  
~~6423 South Ash Avenue~~  
~~Tempe, Arizona 85283~~

*4720 E. Cotton Gin Loop Ste 240  
Phoenix, AZ 85040*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

"City"

"Contractor"

City of Glendale, an Arizona  
municipal corporation

J. Banicki Construction, Inc.,  
an Arizona corporation

By: \_\_\_\_\_

Kevin R. Phelps  
City Manager

By: *Mike A* \_\_\_\_\_

Name: Michael Abraham  
Title: President

ATTEST:

\_\_\_\_\_  
Julie K. Bower (SEAL)  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael D. Bailey  
City Attorney

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
J. BANICKI CONSTRUCTION, INC.**

**EXHIBIT A**

Job Order Contract for Bridge Maintenance and Repair - ACON 54613A  
Contract Amendment to extend term to November 30, 2015  
Contract Amendment to extend term to November 30, 2016  
Contract Amendment to extend term to November 30, 2017



# CONTRACT AMENDMENT

**Materials Management  
Procurement**  
9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, AZ 85345  
Telephone: (623) 773-7115  
Fax: (623) 773-7118  
Buyer: Lisa Houg


Solicitation No. P14-0018A Page 1 of 1

Description: Bridge Maintenance & Repair

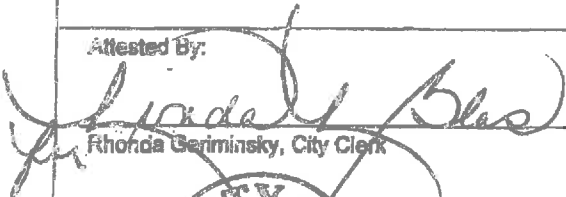
Amendment No. Three (3) Date: 9/12/16

In accordance with the Contract Special Terms and Conditions, Contract Extension, the above referenced contract shall expire on 11/30/2016. The contract is being renewed and the new contract term is: 12/1/2016 – 11/30/2017.

Contractor hereby acknowledges receipt and agreement. A signed copy shall be filed with the City of Peoria, Materials Management Division.

	<u>11/9/16</u>	Mike Abraham, President	J. Banicki Construction, Inc.	
Signature	Date	Typed Name and Title	Company Name	
<u>4710 E. Cotton Blvd Loop Ste. 240</u> <u>6423 S. Ash Ave.</u>		<u>Phoenix</u> <u>Tempe</u>	AZ	<u>85040</u> <u>85283</u>
Address		City	State	Zip Code

Attested By:

  
Rhonda Geriminsky, City Clerk



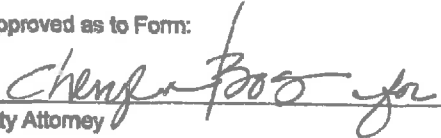
City Seal  
Copyright 2003  
City of Peoria, Arizona


CC Number

ACON54613C  
Contract Number

  
Director: Andrew Granger, Engineering Director

  
Project Manager: Ben Wilson, Civil Engineer

Approved as to Form:  
  
City Attorney

The above referenced Contract Amendment is hereby Executed:  
Nov. 23 . 2016 . at Peoria, Arizona  
  
Dan Zenko, Materials Manager



# CONTRACT AMENDMENT

Solicitation No. P14-0018A Page 1 of 1

Description: Bridge Maintenance & Repair

Amendment No. Two (2) Date: September 30, 2015

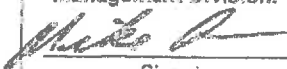
### Materials Management Procurement

9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, AZ 85345  
Telephone: (623) 773-7115  
Fax: (623) 773-7118

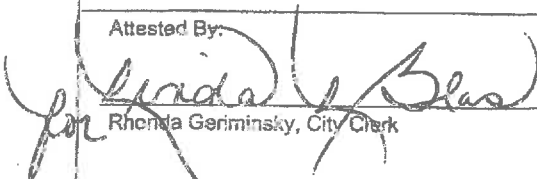
Buyer: Lisa Houg

In accordance with the Contract Special Terms and Conditions, **Contract Extension**, the above referenced contract shall expire on 11/30/2015. The contract is being renewed and the new contract term is: 12/1/2015 – 11/30/2016.

Contractor hereby acknowledges receipt and agreement. A signed copy shall be filed with the City of Peoria, Materials Management Division.

	<u>10/1/15</u>	Mike Abraham, President	J. Banicki Construction, Inc.
Signature	Date	Typed Name and Title	Company Name
<u>6423 S. Ash Ave.</u>		<u>Tempe</u>	<u>AZ 85283</u>
Address		City	State Zip Code


Attested By:

  
Rhonda Geriminsky, City Clerk



City Seal  
Copyright 2003  
City of Peoria, Arizona

CC Number  
ACON54613B  
Contract Number

  
Director: Andrew Granger, Engineering Director

  
Project Manager: Ben Wilson, Civil Engineer

Approved as to Form:  
  
Stephen M. Kern, City Attorney

The above referenced Contract Amendment is hereby Executed:  
Oct. 22 2015 at Peoria, Arizona

  
Dan Zenko, Materials Manager

A CON 5 4 6 1 3 B



# CONTRACT AMENDMENT

## Materials Management Procurement

9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, AZ 85345  
Telephone: (623) 773-7115  
Fax: (623) 773-7118

Buyer: Lisa Houg

Solicitation No. P14-0018A Page 1 of 1

Description: Bridge Maintenance & Repair

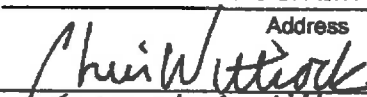
Amendment No. One (1) Date: October 27, 2014

In accordance with the Contract Special Terms and Conditions, **Contract Extension**, the above referenced contract shall expire on 11/30/2014. The contract is being renewed and the new contract term is: **12/1/2014 – 11/30/2015**.

Contractor hereby acknowledges receipt and agreement. A signed copy shall be filed with the City of Peoria, Materials Management Division.

	<u>10-28-14</u>	Mike Abraham, President	J. Banicki Construction, Inc.
Signature	Date	Typed Name and Title	Company Name

<u>6423 S. Ash Ave.</u>	<u>Tempe</u>	<u>AZ</u>	<u>85283</u>
Address	City	State	Zip Code

Attested By:  Chris Wittrock - Controller

 Rhonda Geriminsky, City Clerk



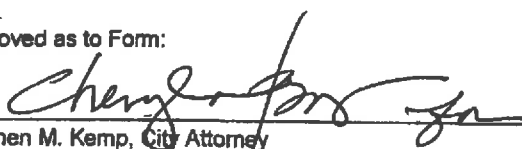
City Seal  
Copyright 2003  
City of Peoria, Arizona

CC Number

ACON54613A  
Contract Number

  
Director: Andrew Branger, Engineering Director

  
Project Manager: Ben Wilson, Civil Engineer

Approved as to Form:  
  
Stephen M. Kemp, City Attorney

The above referenced Contract Amendment is hereby Executed:

Nov. 13, 2014 at Peoria, Arizona

  
Dan Zenko, Materials Manager



# City of Peoria, Arizona Job Order Contract



Statement of Qualifications No P14-0018A

Job Description Bridge Maintenance & Repair

Location City of Peoria, Materials Management Contact Lisa Houg CPPB  
 Mailing Address 9875 N 85<sup>th</sup> Ave 2<sup>nd</sup> Fl. Peoria AZ 85345 Phone (623) 773 7115

### OFFER

J Barucki Construction, Inc

Contractor's License Number ROC091410



Authorized Signature for Offer

Job Order Contractor Name

6423 S Ash Ave

Mike Abraham

Printed Name

Address

Tempe AZ 85283

President

Title

City State Zip Code

480-921-8016 / 480-921-9456

Mabraham@barucki.com


Email Address

Telephone / Facsimile

### ACCEPTANCE OF OFFER AND CONTRACT AWARD (For City of Peoria Use Only)

Your offer is hereby accepted. The Contractor is now bound to sell the construction services listed by the attached award notice based upon the solicitation including all terms conditions specifications amendments etc of the contract and the Contractor's offer as accepted by the City. The Contractor is hereby cautioned not to commence any billable work or provide any material service or construction under this contract until Contractor receives an executed Notice to Proceed and Purchase Order.

Accepted by   
 Rhonda Genninsky City Clerk

City of Peoria, Arizona  
 Eff Date 12/1/2013  
 Approved as to form   
 Stephen M. Houg City Attorney



City Seal

CC  
ACON54613  
 Contract Number

Awarded on Nov. 19, 2013

  
 Dan Zenko Materials Manager

**JOB ORDER CONTRACT**



**P14-0018A**

**Bridge Maintenance & Repair**

**CONTRACT FOR CONSTRUCTION**

**JOB ORDER CONTRACT AGREEMENT**



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### **ATTACHMENTS**

Attachment A	JOC Pricing Matrix
Attachment B	Project Cost Proposal Sheet
Attachment C	Scope of Services
Attachment D	Statement of Interest & Qualifications
Attachment E	Proposal Response
Attachment F	Authorized Signature Form
Attachment G	Contractor Contact List

## **JOB ORDER CONTRACTING**

## **CONTRACT**

THIS CONTRACT is entered into and made effective the 1<sup>st</sup> day of November, 2013, by and between the City of Peoria, Arizona, an Arizona charter municipality (the "Owner"), and J Banicki Construction, Inc (the "Job Order Contractor") The parties agree as follows

### **1 DEFINITIONS**

**1.1 Owner** Owner means Owner's senior manager, Contracting Officer or a duly authorized representative which means any person specifically authorized to act for Owner by executing the Contract and any modification thereto Owner's duties include administration of the Contract, including the negotiation of change orders and modifications and assessing Job Order Contractor's technical performance and progress, inspecting and periodically reporting on such performance and progress during the stated period of performance, and finally certifying as to the acceptance of the Work in its entirety or any portion thereof, as required by the Contract documents

**1.2 Job Order Contractor** Job Order Contractor means Job Order Contractor's senior manager or its duly authorized representative or any person specifically authorized to act for Job Order Contractor by executing the Contract, and any modifications thereto Job Order Contractor's duties include administration of the Contract and performance of the Work

**1.3 Contract** Contract means this agreement including its attachments and any Job Orders that may be issued

**1.4 Subcontract** Subcontract means any Contract including purchase orders (other than one involving an employer-employee relationship) entered into by Job Order Contractor calling for equipment, supplies or services required for Contract performance, including any modifications thereto

**1.5 Job Order** Job Order means a specific written agreement between the Owner and the Job Order Contractor for Work to be performed under this Contract for an individual, mutually agreed upon scope of work, schedule and price

**1.6 Work** Work means in response to Job Orders that may be mutually agreed upon and issued periodically by Owner. Job Order Contractor shall, except as may be specified elsewhere in the Contract, furnish all necessary labor, materials, tools, supplies, equipment, transportation, supervision, management, and perform all operations necessary and required for survey, design, and construction work which will be defined and further described as to specific project requirements in each Job Order The Work shall be performed in accordance with the requirements set forth in each Job Order and as further specified in Attachment "A" JOC Pricing Matrix, Attachment "B" Project Cost Proposal Sheet, and in Attachment "C" Scope of Services both of which are incorporated herein and made a part hereof

**1.7 Punch List Preparation** A minimum of 30 days prior to Final Completion the Job Order Contractor, in conjunction with the Owner, shall prepare a comprehensive list of Punch list items, which the Owner may edit and supplement The Job Order Contractor shall proceed promptly to complete and correct Punch list items Failure to include an item on the Punch list does not alter the responsibility of the Job Order Contractor to complete all Work in accordance

with the Contract Documents Warranties required by the Contract Documents shall not commence until the date of Final Completion unless otherwise provided in the Contract Documents

**1.8 Final Completion** Final Completion of the Work shall be deemed to have occurred on the later of the dates that the Work passes a Final Completion inspection and acceptance by the Owner Final Completion shall not be deemed to have occurred and no final payment shall be due the Job Order Contractor or any of its subcontractors or suppliers until the Work has passed the Final Completion inspection and acceptance and all required Final Completion close-out documentation items has been produced to the Owner by the Job Order Contractor

**1.9 Reference Standards**

**1.9.1** The "Uniform Standard Specifications for Public Works Construction" and the "Uniform Standard Details for Public Works Construction" which are sponsored and distributed by the Maricopa Association of Governments (MAG), and which are hereinafter referred to as the "MAG Specifications", are hereby adopted as part of these contract documents

**1.9.2** July 15, 1997 by Section 23-50a of Ordinance 97-38, the City of Peoria adopted the "Uniform Standard Details for Public Works Construction from the Maricopa County Association of Governments by reference with certain exceptions

**1.9.3** A copy of these documents is kept on file at the Office of the City Clerk at the City of Peoria

**2 CONTRACT TERM**

**2.1 Contract Term** The term of the Contract shall commence on the date it was executed by both parties and shall continue for a period of one (1) year thereafter in accordance with the terms and conditions of this Contract By mutual written Contract Amendment, any resultant contract may be extended for supplemental periods of up to a maximum of forty-eight (48) months Job Orders may be issued at any time during the term of this Contract This Contract will remain in full force and effect during the performance of any Job Order

**2.2 Job Order** In response to Job Orders that may be mutually agreed upon and issued periodically by Owner, Job Order Contractor shall perform the Work, except as may be specified elsewhere in the Contract, which will be defined and further described as to specific project requirements in each Job Order The Work shall be performed in accordance with the requirements set forth in each Job Order and as further specified in *Attachment "A"* (JOC Pricing Matrix) and in *Attachment "B"* (Project Cost Proposal Sheet), *Attachment "C"* (General Scope of Services), *Attachment "D"* (SIQ), and *Attachment "E"* (Proposal Response), all of which are incorporated herein and made a part hereof

**2.3 Mutual Agreement** This Contract embodies the agreement of Owner and Job Order Contractor to terms and conditions which will govern any Work that may be prescribed under a Job Order that may be issued by Owner and agreed to by Job Order Contractor Nothing herein shall be construed as requiring Owner to issue any Job Order, nor requiring Job Order Contractor to accept any Job Order, it being the intent that both parties must mutually agree to any specific Work before a Job Order may be issued

**2.4 Cooperative Purchasing** This contract shall be for the use of the City of Peoria In addition, specific eligible political subdivisions and nonprofit educational or public health

institutions may also participate at their discretion. In order to participate in any the contract, a political subdivision or nonprofit educational or public health institution must have been invited to participate in this specific solicitation and the contractor must be in agreement with the cooperative transaction. In addition to cooperative purchasing, any eligible agency may elect to participate (piggyback) on the contract, the specific eligible political subdivision, nonprofit educational or public health institution and the contractor must be in agreement. Any orders placed to the contractor will be placed by the specific agencies participating in this purchase. Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The City shall not be responsible for any disputes arising out of transactions made by others.

### **3. PERFORMANCE OF THE WORK**

**3.1 Job Order Agreement** Performance of the Work shall be undertaken only upon the issuance of written Job Orders by Owner. Job Orders shall be in accordance with the requirements specified in *Attachment "C"* (General Scope of Services), and shall set forth, with the necessary particularity, the following:

- 3.1.1** Contract number along with Job Order Contractor's name,
- 3.1.2** Job Order number and date,
- 3.1.3** The agreed Work and applicable technical specifications and drawings,
- 3.1.4** The agreed period of performance and, if required by Owner, a work schedule.
- 3.1.5** The place of performance,
- 3.1.6.** The agreed total price for the Work to be performed.
- 3.1.7** Submittal requirements,
- 3.1.8** Owner's authorized representative who will accept the completed Work,
- 3.1.9** Signatures by the parties hereto signifying agreement with the specific terms of the Job Order, and
- 3.1.10** Such other information as may be necessary to perform the Work.

### **3.2 Job Order Contractor Duties and Obligations**

**3.2.1 Permits & Responsibilities** Job Order Contractor shall be responsible for processing of drawings, for approval by appropriate oversight bodies, for obtaining any necessary licenses and permits, and for complying with any Federal, State and municipal laws, codes, and regulations applicable to the performance of the Work. Owner will reimburse Job Order Contractor for the actual, documented costs of construction permits required for the performance of the Work. Job Order Contractor shall also be responsible for all damages to persons or property that occur as a result of Job Order Contractor's fault or negligence, and shall take proper safety and health precautions to protect the Work, the workers, the public, and the property of others. Job Order Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire Work, except for any completed unit of Work which may have been accepted under the Contract.

**3 2 2. Self-Performance By The Job-Order-Contractor** The JOC shall be allowed to bid as a subcontractor for work over \$50,000 and, if it is the lowest acceptable bidder Any change orders for self-performed work shall require pre-approval by the owner

**3 2 3. Outdoor Construction Restrictions** Peoria Ordinance No 98-11 restricts outdoor construction as listed in the following table

	Construction Type	April 2 – September 29	September 30 – April 1
A	Concrete Work	5 00 a m to 7 00 p m	6 00 a m to 7 00 p m
B	Other Construction (within 500 feet of residential area)	6 00 a m to 7 00 p m	7 00 a m to 7 00 p m
C	Construction Work (more than 500 feet of residential area)	5 00 a m to 7 00 p m	5 00 a m to 7 00 p m

**3 2 3 1** No interference with the traffic flow on arterial streets shall be permitted during the hours of 6 00 a m to 8 30 a m or from 4 00 p m to 7 00 p m unless prior authorization is obtained in writing by the City of Peoria Traffic Engineer or their assignee Specific work hours may be stipulated by the City of Peoria on the project barricade plan

**3 2 3 2** During off peak hours, the minimum number of lanes shall be two lanes (one in each direction) on streets with four lanes or less and four lanes (two in each direction) on streets with five or more lanes

**3 2 3 3** Night work must have prior authorization from the City In addition, certain areas of the City may have seasonal or special event restrictions for construction work as designated by the City on a case by case basis

**3 2 4 Jobsite Superintendent** During performance of a Job Order and until the Work is completed and accepted, Job Order Contractor shall directly superintend the Work or assign a competent superintendent who will supervise the performance of Work and is satisfactory to Owner and has authority to act for Job Order Contractor

**3 2 4 1** Job Order Contractor will ensure that the site supervisor for the project is English proficient and that there is at least one English proficient person at the construction site at all times work is being performed in order to communicate with the City's project manager

**3 2 5 Construction Layout** Job Order Contractor shall lay out its work in accordance with the Contract plans and specifications and shall be responsible for all measurements in connection with the layout of the Work Job Order Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to layout any part of the Work Job Order Contractor shall also be responsible for maintaining and preserving all control points established by Owner

**3 2 6 Survey Control Points** Existing survey markers (either brass caps or iron pipes) shall be protected by the Contractor or removed and replaced under direct supervision of the City Engineer or his authorized representatives Survey monuments shall be constructed to the requirements of MAG Specifications, Section 405, and Standard Details Lot corners shall not be disturbed without knowledge and consent of the property owner The Contractor shall replace benchmarks, monuments, or lot corners moved or destroyed during construction at no

expense to the Owner Contractor and his sureties shall be liable for correct replacement of disturbed survey benchmarks except where the Owner elects to replace survey benchmarks using his own forces

**3 2 7. Traffic Regulations** All traffic affected by this construction shall be regulated in accordance with the City of Phoenix – Traffic Barricade manual, latest edition, and the City of Phoenix in the Traffic Barricade Manual shall be referred to as the City of Peoria City Engineer for interpretation

At the time of the pre-construction conference, the Contractor shall designate an employee who is well qualified and experienced in construction traffic control and safety to be responsible for implementing, monitoring and altering traffic control measure, as necessary At the same time the City will designate a representative who will be responsible to see that all traffic control and any alterations are implemented and monitored to the extent that traffic is carried throughout the work area in an effective manner and that manner and that motorists, pedestrians, bicyclists and workers are protected from hazard and accidents

**3 2 7 1** The following shall be considered major streets All major Parkway, mile (section line), arterial and collector (mid-section line and quarter section line) streets so classified by the City of Peoria

**3 2 7 2** All traffic control devices required for this project shall be the responsibility of the Contractor The Contractor shall place advance warnings, **REDUCE SPEED, LOOSE GRAVEL, 25 MPH SPEED LIMIT** and **DO NOT PASS** signs in accordance with the Traffic Barricade Manual

**3 2 7 3** The Contractor shall provide, erect and maintain all necessary flashing arrow boards, barricades, suitable and sufficient warning lights signals and signs, and shall take all necessary precautions for the protection of the work and safety of the public The Contractor shall provide, erect and maintain acceptable and adequate detour signs at all closures and along detour routes

**3 2 7 4** All barricades and obstructions shall be illuminated at night, and all safety lights shall be kept burning from sunset until sunrise All barricades and signs used by the Contractor shall conform to the standard design, generally accepted for such purposes and payment for all such services and materials shall be considered as included in the other pay items of the Contract

**3 2 7 5** The Contractor shall insure that all existing traffic signs are erect, clean and in full view of the intended traffic at all times Street name signs at major street intersections shall be maintained erect at all times If these signs should interfere with construction, the Contractor shall notify the Inspector at least forty eight (48) hours in advance for City personnel to temporarily relocate said signs The City Engineer will re-set all traffic and street name signs to permanent locations when notified by the Engineer that construction is complete unless otherwise stated in the specifications Payment for this item shall be made at the contract lump sum price for **TRAFFIC CONTROL**

**3 2 7 6** The Police Department shall determine if construction activities or traffic hazards at the construction project *require* the use of Police Assistants or AZ Post Certified Peace Officers, alternatively. *if the Police Department determines that flagmen are sufficient*, it shall be the Contractor's responsibility to provide adequate personnel including flagmen to direct

traffic safety All City of Peoria projects shall use only City of Peoria Police Assistants or City of Peoria AZ Post Certified Officers, unless the Police Chief or their designee has determined that no such assistants or officers are available Arrangements for Police Assistant or Police Officer services should be made with the liaison officer at the Peoria Police Department at telephone number (623) 773-7062 or offduty@peoriaaz.gov

**3.2.7.7** Manual traffic control shall be in conformity with the Traffic Barricade Manual A traffic control plan shall be submitted to the Peoria Police Department indicating whether a need for traffic control exists during the project The traffic control plan shall be submitted electronically and the liaison officer shall be contacted at the Peoria Police Department at telephone number (623) 773-7062

**3.2.7.8** When traffic hazards at construction sites warrant the use of certified police personnel to direct traffic, arrangement should be made with the liaison officer at the Peoria Police Department at telephone number (623) 773-7062

**3.2.7.9.** The assembly and turnarounds of the Contractor's equipment shall be accomplished using adjacent local streets when possible

**3.2.7.10** Equipment used and/or directed by the Contractor shall travel with traffic at all times Supply trucks shall travel with traffic except when being spotted Provide a flagman or officer to assist with this operation

**3.2.7.11** During construction, it may be necessary to alter traffic control Alterations shall be in accordance with the Traffic Barricade Manual

**3.2.7.12** No street within this project may be closed to through traffic or to local emergency traffic without prior written approval of the City Engineer of the City of Peoria Written approval may be given if sufficient time exists to allow for notification of the public at least two (2) days in advance of such closing Partial closure of streets within the project shall be done in strict conformity with written directions to be obtained from the City Engineer

**3.2.7.13** Caution should be used when excavating near intersections with traffic signal underground cable Notify the City Engineer twenty four (24) hours in advance of any work at such intersections The Contractor shall install and maintain temporary overhead traffic signal cable as specified by the City Engineer when underground conduit is to be severed by excavations at intersections The Contractor shall provide an off-duty uniformed police officer to direct traffic while the traffic signal is turned off and the wiring is transferred All damaged or modified traffic signal overhead and underground items shall be repaired and restored to the City Engineer's satisfaction Magnetic detector loops shall under no circumstances be spliced

**3.2.7.14** The Contractor shall address how local access to adjacent properties will be handled in accordance with the specification herein

**3.2.7.15** Where crossings of existing pavements occur, no open trenches shall be permitted overnight, but plating may be permitted if conditions allow as determined by the City Engineer or his authorized representative If plates cannot be used, crossings shall be back-filled or the Contractor shall provide a detour

**3.2.8 Operations & Storage** Job Order Contractor shall confine all operations (including storage of materials) to areas authorized or approved by Owner

**3 2 9. Cleaning Up & Refuse Disposal** Job Order Contractor shall at all times keep the site, including storage areas, free from accumulations of waste materials. Before completing the Work, Job Order Contractor shall remove from the premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of Owner. Upon completing the Work, Job Order Contractor shall leave the site in a clean and orderly condition satisfactory to Owner.

**3 2 9.1** Final cleanup of the premises shall be included in the period of performance of the Job Order.

**3 2 9 2** Job Order Contractor shall be responsible for all construction refuse disposal containers and their removal from the site.

**3 2 9 3** Disposal of any hazardous materials not addressed and priced in the Job Order will be segregated for disposal by Owner unless Owner requires Job Order Contractor to dispose of the materials in which case, an equitable adjustment in the price will be negotiated and agreed.

**3 2 9 4** The Contractor and/or subcontractor shall be required to use the City of Peoria Solid Waste Division's services for commercial collection of Solid Waste. This requirement is not intended to preclude other methods or means for hauling debris or excess material from the project site such as trucking large volumes of material, including soil, building demolition, or hazardous and special wastes. The intent is to use City of Peoria Solid Waste service where standard waste disposal is needed. Specifically, all roll-off and front-load containers used on a City of Peoria construction site shall be contracted for through the City of Peoria Solid Waste Division at the prevailing rate. It is the contractor's responsibility to contact and make all necessary arrangements with the City of Peoria Solid Waste Division for these services. Any and all charges for these services are the responsibility of the contractor. The City Solid Waste Division may, at its option, decline to provide service for business reasons at any time during the contract. Any exceptions to this requirement will be at the sole discretion of the City Solid Waste Division. Please contact the Solid Waste Customer Service Representatives at 623-773-7160.

**3 2 10 Existing Improvements and Utilities** Job Order Contractor shall protect from damage all existing improvements and utilities at or near the site and on adjacent property of third parties, the locations of which are made known to or should be known by Job Order Contractor. Job Order Contractor shall repair any damage to those facilities, including those that are the property of third parties, resulting from failure to comply with the requirements of the Job Order or failure to exercise reasonable care in performing the Work. If Job Order Contractor fails or refuses to repair the damage promptly, Owner may have the necessary repair work performed and charge the cost to Job Order Contractor.

**3 2 11 Safety** Job Order Contractor shall be responsible for compliance with all safety rules and regulations of the Federal Occupational Safety and Health Act of 1970 (OSHA), all applicable state and local laws, ordinances, and regulations during the performance of the Work. Job Order Contractor shall indemnify Owner for fines, penalties, and corrective measures that result from the acts of commission or omission of Job Order Contractor, its subcontractors, if any, agents, employees, and assigns and its failure to comply with such safety rules and regulations.

**3 2 11 1 Job Order Contractor Safety Compliance.** Job Order Contractor shall furnish and enforce the use of individual protective equipment as needed to complete the Work,



including hard hats, rain gear, protective foot wear, protective clothing and gloves, eye protection, ear protection, respirators, safety belts, safety harnesses, safety lifelines and lanyards, and high visibility reflective safety vests

**3 2 11 2 Job Order Contractor Provided Warnings** Job Order Contractor shall provide warning signs, barricades and verbal warnings as required

**3 2 11 3 Emergency Procedures** Job Order Contractor shall inform its employees of emergency procedures to be adhered to in case of a fire, medical emergency, or any other life-threatening situations

**3 2 11 4. Accident Notification** Job Order Contractor shall promptly notify Owner of any recordable accident involving personnel or damage to material and equipment. Copies of any injury reports or accident investigation reports shall be provided to the Owner

**3 2 11 5 Jobsite Safety Documents** Job Order Contractor shall maintain a set of OSHA articles and Material Safety Data Sheets (MSDS) at the jobsite office as they apply to the Work being performed. Copies shall be provided to Owner when requested

**3 2 11 6 Job Order Contractor's Safety Program** Job Order Contractor shall submit to Owner a copy of its safety policies and program procedures which establish the safety rules and regulations as they are to be applied to performance of the Work. These documents shall be submitted by Job Order Contractor within fourteen (14) calendar days after issuance of the initial Job Order and prior to the commencement of the Work

**3 2 11 7 Job Order Contractor Safety Representative** Job Order Contractor shall assign, during performance of the Work, a designated safety representative to develop and monitor the project safety program. The name, company address, and telephone number of the assigned individual shall be submitted to Owner by Job Order Contractor along with its safety policies and program procedures

**3 2.11 8 Emergency Medical Treatment** Job Order Contractor shall make available for its employees and those of its subcontractors, while they are performing Work on the site, emergency medical treatment either at the site or at a nearby medical facility

**3 2 11 9 Owner's Right to Monitor** Owner reserves the right to approve and monitor Job Order Contractor's safety policies and program procedures as applied during performance of the Work. Failure to comply with safety policies and program procedures, once approved by Owner, shall be cause for the termination of the Job Order in accordance with § 14

**3 2 11 10 First Aid Kit** Job Order Contractor shall provide and maintain on the jobsite, at all times when Work is in progress, a completely stocked first aid kit which contains all standard emergency medical supplies

**3 2 11 11 Fire Extinguisher** Job Order Contractor shall provide and maintain on the jobsite, at all times when Work is in progress, a fully charged fire extinguisher appropriate for the potential fire hazard

**3 2 12. Dissemination of Contract Information** Job Order Contractor shall not publish, permit to be published, or distribute for public consumption, any information, oral or written, concerning this Contract, any Job Order or the Work performed under this Contract, without the prior consent of Owner

**3 2 13 Shop Drawings** Job Order Contractor's duties under this Contract include the preparation of shop drawings or sketches necessary to permit orderly construction of Owner's design plans. Job Order Contractor agrees to provide detailed design drawings and plans if requested by Owner.

**3 2 14 Jobsite Drawings and Specifications** Job Order Contractor shall keep on the Work site a copy of the drawings and specifications and shall at all times give Owner access thereto.

### **3 3 Owner Rights and Obligations**

#### **3 3 1 Suspension of Work.**

**3 3 1 1 Owner's Written Order** Owner may order Job Order Contractor, in writing, to suspend, delay, or interrupt all or any part of the Work for a period of time that Owner determines reasonably appropriate.

**3 3 1 2 Work Delay or Suspension** If the performance of all or any part of the Work is suspended, delayed, or interrupted by an act of Owner in the administration of a Job Order, or by Owner's failure to act within the time specified in the Job Order, an adjustment shall be made for any increase in the cost of performance of the Job Order necessarily caused by the suspension, delay, or interruption, and the Job Order will be modified in writing accordingly.

**3 3 1 3 Job Order Contractor Costs** A claim under this Subparagraph 3 3 1 shall not be allowed for any costs incurred more than thirty (30) calendar days before Job Order Contractor shall have notified Owner in writing of the act or failure to act (but this requirement shall not apply as to a claim resulting from a suspension order), and unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the Job Order.

**3 3 2 Owner's Right to Possession** Owner shall have the right to take possession of or use any completed or partially completed part of the Work. Before taking possession of or using any Work, Owner shall furnish Job Order Contractor a list of items of work remaining to be performed or corrected on those portions of the Work that Owner intends to take possession of or use. However, failure of Owner to list any item of Work shall not relieve Job Order Contractor of responsibility for complying with the terms of this Contract. Owner possession or use shall not be deemed an acceptance of any Work under this Contract.

**3 3 2 1 Owner's Possession or Use.** While Owner has such possession or use, Job Order Contractor shall be relieved of the responsibility for the loss of or damage to the Work resulting from Owner's possession or use, notwithstanding the terms of Subparagraph 3 2 1. If prior possession or use by Owner delays the progress of the Work or causes additional expense to Job Order Contractor, an equitable adjustment shall be made in the Job Order price or the period of performance, and the Job Order shall be modified in writing accordingly.

**3 3 3 Other Contracts.** Owner may undertake or award other Contracts for additional work at or near the site of Work under this Contract. Job Order Contractor shall fully cooperate with the other Job Order Contractors and with Owner's employees and shall carefully adapt scheduling and performing the Work under this Contract to accommodate the additional work, heeding any direction that may be provided by Owner. Job Order Contractor shall not commit or

permit any act that will interfere with the performance of its Work by any other contractor or by Owner's employees

**3 4 Job Order Amendment** Job Orders may be amended by Owner in the same manner as they are issued

**3 5 Job Order Value** The maximum Job Order value is Three Million Dollars (\$3,000,000), except as provided by § 16 32 1

#### **4 JOB ORDER DOCUMENTS**

**4 1. Specification and Drawings** Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of differences between drawings and specifications, the drawings shall govern. In case of discrepancy either in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to Owner, who shall promptly make a determination in writing. Any adjustment by Job Order Contractor without such a determination shall be at its own risk and expense. Owner shall furnish from time to time such detail drawings and other information as considered necessary, unless otherwise provided.

**4 1 1** Wherever in the specifications or upon the drawings the words "directed," "required," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the "direction," "requirement," "order," "designation," or "prescription," of Owner is intended and similarly the words "approved," "acceptable," "satisfactory," or words of like import shall mean "approved by," or "acceptable to," or "satisfactory to" Owner, unless otherwise expressly stated.

**4 1 2** Where "as shown," "as indicated," "as detailed," or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying the Contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place," that is "furnished and installed."

**4 2 Shop Drawings** Shop drawings include sketches, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by Job Order Contractor to explain in detail specific portions of the Work. Owner may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under the Contract. Shop drawings means drawings submitted to Owner by Job Order Contractor showing in detail:

**4 2 1** The proposed fabrication and assembly of structural elements and,

**4 2 2** The installation (i.e., form, fit and attachment details) of materials or equipment

**4 2 3** The construction and detailing of elements of the Work

**4 3 Shop Drawing Coordination** Job Order Contractor shall coordinate all shop drawings, and review them for accuracy, completeness, and compliance with Contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to Owner without evidence of Job Order Contractor's approval may be returned for resubmission. Owner will indicate its approval or disapproval of the shop drawings and if not approved as submitted shall indicate Owner's reasons therefore. Any work done before such approval shall be at Job Order Contractor's risk. Approval by Owner shall not relieve Job Order Contractor from responsibility for any errors or omissions in such drawings, nor from

responsibility for complying with the requirements of the Contract, except with respect to variations described and approved in accordance with § 4.4 below

**4.4 Shop Drawing Modifications** If shop drawings show variations from the Job Order requirements, Job Order Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If Owner approves any such variation, Owner shall issue an appropriate Contract modification, except that, if the variation is minor and does not involve a change in price or in time of performance, a modification need not be issued.

**4.5 Shop Drawing Omissions** Omissions from the drawings or specifications or the misdescription of details of work which are manifestly necessary to carry out the intent of the drawings and specifications, or which are customarily performed, shall not relieve Job Order Contractor from performing such omitted or mis-described details of the Work but they shall be performed as if fully and correctly set forth and described in the drawings and specifications.

**4.6 Owner Furnished Drawings** Job Order Contractor shall check all Owner furnished drawings immediately upon receipt and shall promptly notify Owner of any discrepancies. Any errors or omissions in Owner furnished drawings are the responsibility of the Owner to rectify, including associated costs. Figures marked on drawings shall be followed in preference to scale measurements. Large scale drawings shall govern small scale drawings. Job Order Contractor shall compare all drawings and verify the figures before laying out the Work and will be responsible for any errors which might have been avoided thereby.

**4.7 Shop Drawing Submittal** Job Order Contractor shall submit to Owner for approval an appropriate number of copies of all shop drawings as called for under the various headings of these specifications. Sets of all shop drawings will be retained by Owner and one set will be returned to Job Order Contractor with annotation of approval or rejection within one (1) week after submission, unless a longer review period is necessary by mutual agreement between Owner and Job Order Contractor.

**4.8 Use of Job Order Documents** All drawings (to include as-built drawings), sketches, designs, design data, specifications, note books, technical and scientific data provided to Job Order Contractor or developed by Job Order Contractor pursuant to the Contract and all photographs, negatives, reports, findings, recommendations, data and memoranda of every description relating thereto, as well as all copies of the foregoing relating to the Work or any part thereof, shall be the property of Owner and may be used by Owner without any claim by Job Order Contractor for additional compensation, unless such material developed by Job Order Contractor does not result in an issued Job Order. In such cases, Job Order Contractor will receive reasonable reimbursement for the development of such materials before Owner uses them in any manner whatsoever. In addition, Owner agrees to hold Job Order Contractor harmless to the extent permitted by law from any legal liability arising out of the Owner's use of such materials.

## **5 MATERIAL AND WORKMANSHIP**

**5.1 Suitability of Material and Equipment** All equipment, material, and articles incorporated in the Work covered by this Contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in the Contract. References in the specifications to equipment, material, article, or patented process by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed

as limiting competition Job Order Contractor may, at its option, use any equipment, material, article, or process that, in the sole judgment and prior written approval of the Owner, is equal to that named in the specifications

**5.2 Owner Approval** Job Order Contractor shall obtain Owner's approval of the equipment to be incorporated into the Work When requesting approval, Job Order Contractor shall furnish to Owner the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the equipment When required by the Contract or by Owner, Job Order Contractor shall also obtain Owner's approval of the material or articles which Job Order Contractor contemplates incorporating into the Work When requesting approval, Job Order Contractor shall provide full information concerning the material or articles When directed to do so, Job Order Contractor shall submit samples for approval Machinery, equipment, material and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection

**5.3 Testing of Materials** Unless otherwise specified in a Job Order, the Job Order Contractor shall be responsible for any required testing of materials prior to incorporation into the Work Reimbursement for testing required by third party entities will be included in the individual Job Order

**5.4 Workmanship** All work under the Contract shall be performed in a skillful and workmanlike manner

## **6 SITE CONDITIONS**

**6.1 Site Investigation** Job Order Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the Work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the Work or its cost, including but not limited to

6.1.1 Conditions bearing upon transportation, disposal, handling, and storage of materials,

6.1.2 The availability of labor, water, electric power, and roads,

6.1.3 Uncertainties of weather, river stages, tides, or similar physical conditions at the site,

6.1.4 The visible conformation and conditions of the ground, and

6.1.5 The character of equipment and facilities needed preliminary to and during work performance

**6.2 Surface and Subsurface Investigation** Job Order Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by Owner, as well as from the drawings and specifications made a part of this Contract Owner will provide to Job Order Contractor all subsurface investigation reports it has commissioned, and has knowledge of, that reasonably reflect expected conditions at the location of the Job Order

**6.3 Differing Site Conditions.** Job Order Contractor shall promptly, and before the conditions are disturbed, give a written notice to Owner of

6.3.1. Subsurface or latent physical conditions at the site which differ materially from those indicated in the Contract, or

6.3.2. Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract

6.4. **Owner Investigation** Owner shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in Job Order Contractor's cost of, or the time required for, performing any part of the Work, whether or not changed as a result of the conditions, an equitable adjustment shall be made and the Job Order modified in writing accordingly.

6.5. **Written Notice of Differing Site Conditions** No request by Job Order Contractor for an equitable adjustment to a Job Order under this § 6 shall be allowed, unless Job Order Contractor has given the written notice required.

6.6. **Payment Adjustment** No request by Job Order Contractor for an equitable adjustment to a Job Order for differing site conditions shall be allowed if made after final payment under such Job Order.

## 7. JOB ORDER SCHEDULES

7.1. **Construction Schedule** If the Job Order Contractor fails to submit a schedule with the Job Order, Owner may withhold approval of progress payments until Job Order Contractor submits the required schedule. If required, the Job Order Contractor will submit for approval with the signed Job Order a practicable schedule showing the sequence in which Job Order Contractor proposes to perform the Work, and the dates on which Job Order Contractor contemplates starting and completing the several salient features of the Work (including acquiring materials, plant and equipment). The schedule may be a formal computerized schedule or a progress chart in a bar chart format of suitable scale to indicate appropriately the percentage of Work scheduled for completion by any given date during the period. In either case, the basic information should be the same and the schedule or chart must contain as a minimum:

7.1.1. A detailed list of work activities or work elements

7.1.2. Show the logical dependencies (ties) to indicate what Work must be accomplished before other Work can begin.

7.1.3. Show early start and early finish dates along with late start and late finish dates for each work activity or work element.

7.2. **Failure to Submit Schedule.** Failure of Job Order Contractor to comply with the requirements of Owner under this clause shall be grounds for a determination by Owner that Job Order Contractor is not prosecuting the Work with sufficient diligence to ensure completion within the time specified in the Job Order. Upon making this determination, Owner may terminate Job Order Contractor's right to proceed with the Work if not cured within seven (7) days after written notice is provided, or any separable part of it, in accordance with § 14.

7.3. **Progress Report** Job Order Contractor shall submit a progress report every thirty (30) days, or as directed by Owner, and upon doing so shall immediately deliver a current schedule to Owner if it has materially changed since the last submission of a schedule. If Job Order Contractor falls behind the approved schedule, Job Order Contractor shall take steps necessary to

improve its progress, including those that may be reasonably required by Owner Without additional cost to Owner, Owner may require Job Order Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant or equipment, and to submit for approval any supplementary schedule or schedules in chart form as Owner deems necessary to demonstrate how the approved rate of progress will be regained

**7.4 Emergency Work** Job Order Contractor will give top priority to any emergency Work Owner may have and will allocate all resources necessary to accomplish such Work in accordance with Owner's schedule requirements To the extent the Job Order Contractor incurs additional cost, expense or schedule delay in performing Owner's emergency Work, Owner will equitably adjust the Contract in accordance with § 10

## **8 INSPECTION OF CONSTRUCTION AND ACCEPTANCE**

**8.1 Job Order Contractor Inspection System** Job Order Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the Work called for conforms to Job Order requirements Job Order Contractor shall maintain complete inspection records and make them available to Owner All work shall be conducted under the general direction of Owner and is subject to inspection and test by Owner at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the Contract

**8.2 Owner Inspections and Tests** Owner inspections and tests are for the sole benefit of Owner and do not

**8.2.1** Relieve Job Order Contractor of responsibility for providing adequate quality control measures.

**8.2.2** Relieve Job Order Contractor of responsibility for damage to or loss of the material before acceptance,

**8.2.3.** Constitute or imply acceptance, or

**8.2.4** Affect the continuing rights of Owner after acceptance of the complete work

**8.3 Job Order Contractor Responsibilities** The presence or absence of an inspector does not relieve Job Order Contractor from any Contract requirement, nor is the inspector authorized to change any term or condition of the specification without Owner's written authorization

**8.4 Job Order Contractor Performance** Job Order Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by Owner Owner may charge to Job Order Contractor any additional cost of inspection or test when Work is not ready at the time specified by Job Order Contractor for inspection or test, or when prior rejection makes re-inspection or retest necessary Owner shall perform all inspections and tests in a manner that will not unnecessarily delay the Work Special, full size and performance tests shall be performed as described in the Job Order

**8.5 Job Order Contractor Corrective Work** Job Order Contractor shall, without charge, replace or correct Work found by Owner not to conform to Job Order requirements, unless Owner consents to accept the Work with an appropriate adjustment in Contract price Job Order Contractor shall promptly segregate and remove rejected material from the premises

**8.6 Failure to Replace or Correct Work.** If Job Order Contractor does not promptly replace or correct rejected Work, Owner may

**8.6.1.** By Contract or otherwise, replace or correct the Work and charge the cost to Job Order Contractor, or

**8.6.2.** Terminate for default Job Order Contractor's right to proceed

**8.7 Owner Inspection before Acceptance** If, before acceptance of the entire Work, Owner decides to examine already completed Work by removing it or tearing it out, Job Order Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the Work is found to be defective or nonconforming in any material respect due to the fault of Job Order Contractor or its subcontractors, Job Order Contractor shall bear the expenses of the examination and of satisfactory reconstruction. However, if the Work is found to meet requirements, Owner shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the Work was thereby delayed, an extension of the period of time for performance.

**8.8 Owner Acceptance** Unless otherwise specified in the Job Order, Owner shall accept, as promptly as practicable after completion and inspection, all work required by the Job Order or that portion of the Work that the Owner determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or Owner's rights under any warranty or guarantee.

## **9 INVOICING AND PAYMENT**

**9.1 Compensation** As full consideration for the satisfactory performance by Job Order Contractor of Work prescribed under the Contract, Owner shall pay Job Order Contractor the amounts specified in the individual Job Orders.

**9.2 Invoices** Job Order Contractor shall submit invoices to the following address:

City of Peoria  
8401 W Monroe St  
Peoria, AZ 85345

**9.3 Progress Payments** Owner shall make progress payments monthly as the Work proceeds, or at more frequent intervals as determined by Owner, on estimates of Work completed submitted by the Job Order Contractor and approved by Owner. Job Order Contractor shall use an acceptable invoice form and shall include supporting documents to reflect a breakdown of the total price showing the amount included therein for each principal category of the Work, in such detail as requested, to provide a basis for determining progress payments. In the estimation of Work completed, Owner will authorize payment for material delivered on the site and preparatory work done if Job Order Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform the Work.

**9.4 Retention** Not applicable.

**9.5 Owner's Property** All material and work covered by progress payments made shall, at the time of payment, become the sole property of Owner, but this provision shall not be construed as



**9.5 1.** Relieving Job Order Contractor from the sole responsibility for all material and Work upon which payments have been made or the restoration of any damaged Work, or

**9.5 2** Waiving the right of Owner to require the fulfillment of all of the terms of the Contract

**9.6 Approval and Certification** An estimate of the Work submitted shall be deemed approved and certified for payment after seven days from the date of submission unless before that time the Owner or Owner's agent prepares and issues a specific written finding setting forth those items in detail in the estimate of the Work that are not approved for payment under this contract. The Owner may withhold an amount from the progress payment sufficient to pay the expenses the Owner reasonably expects to incur in correcting the deficiency set forth in the written finding. The progress payments shall be paid on or before fourteen days after the estimate of the Work is certified and approved. The estimate of the Work shall be deemed received by the Owner on submission to any person designated by the Owner for the submission, review or approval of the estimate of the Work.

**9.7 Unpaid Amounts** Owner shall pay all unpaid amounts due Job Order Contractor under this Contract within thirty (30) days, after

**9.7 1** Completion and acceptance of the Work,

**9.7 2** Presentation of a properly executed invoice,

**9.7 3** Presentation of release of all claims against Owner arising by virtue of the Contract, other than claims, in stated amounts, that Job Order Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if Job Order Contractor's claim to amounts payable under this Contract has been assigned. Job Order Contractor shall complete a Job Order Contractor's release form acceptable to Owner, or

**9.7 4** Consent of Job Order Contractor's surety, if any

## **10 CHANGES**

**10.1 Owner Changes** Owner may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the Work within the general scope of the Job Orders, including changes

**10.1 1** In the specifications (including drawings and designs),

**10.1 2** In Owner-furnished facilities, equipment, materials, services, or site, or

**10.1 3** Directing acceleration in the performance of the Work, or otherwise altering the schedule for performance of the Work

**10.2 Owner Change Orders** Any other written order (which, as used in this paragraph, includes direction, instruction, interpretation, or determination) from Owner that causes a change shall be treated as a change order under this § 10, provided, that Job Order Contractor gives Owner timely written notice stating the date, circumstances, and source of the order and that Job Order Contractor regards the order as a change order

**10.3 Contract Adjustments** Except as provided in this § 10, no order, statement, or conduct of Owner shall be treated as a change under this § 10 or entitle Job Order Contractor to an equitable adjustment hereunder

**10 4 Modification of the Job Order** If any change under this § 10 causes an increase or decrease in Job Order Contractor's cost of, or the time required for, the performance of any part of the Work under a Job Order, whether or not changed by any such order, Owner shall negotiate an equitable adjustment and modify the Job Order in writing

**10 5 Job Order Contractor Proposal** Job Order Contractor must submit any proposal under this § 10 within thirty (30) calendar days after

**10 5.1.** Receipt of a written change order under § 10 1 above, or

**10.5 2** The furnishing of a written notice under § 10 2 above by submitting to Owner a written statement describing the general nature and amount of the proposal, unless this period is extended by Owner The statement of proposal for adjustment may be included in the notice under § 10 2 above

**10 6 Final Payment Limitation** No proposal by Job Order Contractor for an equitable adjustment shall be allowed if asserted after final payment under the Job Order

**10 7 Job Order Contractor Extension Justification** Job Order Contractor shall furnish to the Owner a written proposal for any proposed extension in the period of performance The proposal shall contain a price breakdown and period of performance extension justification

**10.8. Job Order Contractor Price Breakdown Structure** Job Order Contractor, in connection with any proposal it makes for a Job Order change shall furnish a price breakdown itemized as required by Owner and the pricing matrix as required in the awarded contract

## **11 INSURANCE & BONDS**

**11 1 Job Order Contractor Insurance** Job Order Contractor shall purchase and maintain in effect during the term of this Contract insurance of the types and with minimum limits of liability as stated below Such insurance shall protect Job Order Contractor and Owner from claims which may arise out of or result from Job Order Contractor's operations whether such operations are performed by Job Order Contractor or by any subcontractor or by anyone for whose acts any of them may be liable

**11 1.1 WORKERS' COMPENSATION INSURANCE** providing statutory benefits in accordance with the laws of the State of Arizona or any Federal statutes as may be applicable to the Work being performed under this Contract

**11 1 2 EMPLOYER'S LIABILITY INSURANCE** with limits of liability not less than \$1,000,000 Each Accident, \$1,000,000 Each Employee for Disease, and \$1,000,000 Policy Limit for Disease

**11 1 3 COMMERCIAL GENERAL LIABILITY INSURANCE** including Products/Completed Operations and Contractual Liability with limits of liability not less than \$2,000,000 General Aggregate, \$2,000,000 Products/Completed Operations Aggregate, and \$2,000,000 Each Occurrence

**11 1 4 AUTOMOBILE LIABILITY INSURANCE** covering all owned, hired and non-owned motor vehicles used in connection with the Work being performed under this Contract with limits of liability not less than \$1,000,000 Each Person for Bodily Injury, \$1,000,000 Each Accident for Bodily Injury, and \$1,000,000 Each Occurrence for Property Damage

**11 2 Owner as Additional Insured** The policies providing Commercial General Liability and Automobile Liability insurance as required in § 11 1 shall be endorsed to name Owner as Additional Insured Such insurance as is provided herein shall be primary and non-contributing with any other valid and collectible insurance available to Owner

**11 3 Policy Endorsement** All policies providing Job Order Contractor's insurance as required in § 11 1 above shall be endorsed to provide the following

**11 3 1** Thirty days written notice of cancellation or non-renewal given to Owner at the address designated in § 16 2

**11 3 2** Waiver of subrogation in favor of Owner

**11 4 Limits of Liability** The limits of liability as required above may be provided by a single policy of insurance or by a combination of primary, excess or umbrella policies But in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required above

**11 5 Certificate of Insurance** Proof of compliance with these insurance requirements shall be furnished Owner in the form of an original certificate of insurance signed by an authorized representative or agent of the insurance company(ies) within ten (10) days of execution of this agreement Renewal or replacement certificates shall be furnished Owner not less than twenty-one (21) days prior to the expiration or termination date of the applicable policy(ies)

**11 6 Subcontractor Insurance** Job Order Contractor shall require any and all subcontractors performing Work under this Contract to carry insurance of the types and with limits of liability as Job Order Contractor shall deem appropriate and adequate for the Work being performed Job Order Contractor shall obtain and make available for inspection by Owner upon request current certificates of insurance evidencing insurance coverages carried by such subcontractors

**11 7 Bonds** If required by Owner, Job Order Contractor shall furnish Performance and Payment Bonds, each in an amount equal to one hundred percent (100%) of the Work, in a penal sum equal to the aggregate price of all Job Orders issued to the Job Order Contractor The Performance and Payment Bonds must be submitted to Owner within ten (10) calendar days after issuance of a Job Order

**11 8 Notice to Proceed** Notice to Proceed will not be issued until properly executed bonds are received and accepted by Owner A separate Notice to Proceed will be issued for each Job Order The Notice to Proceed shall stipulate the actual contract start date, the contract duration and the contract completion date The time required for the Contractor to obtain permits, licenses and easements shall be included in the contract duration and shall not be justification for a delay claim by the Contractor The time required for the Contractor to prepare, transmit and obtain approval of applicable submittals shall be included in the contract duration and shall not be justification for a delay claim by the Contractor No work shall be started until after all required permits, licenses, and easements have been obtained No work shall be started until all applicable submittals have been submitted and returned approved by the Owner's Representative The Contractor shall notify the City of Peoria's project manager or engineer at least seventy-two (72) hours before the following events

**11 8 1** The start of construction in order to arrange for inspection

**11 8 2** Shutdown of City water, sewer, drainage, irrigation and traffic control facility

**11.8.3 Shutdown of existing water wells and booster pumps** Shutdown shall not exceed seventy-two (72) hours for any installation. Only one installation may be shutdown at any time.

**11.8.4 Coordination of all draining and filling of water lines and irrigation laterals and all operations of existing valves or gages with the project manager**

**11.8.5 Start-up or testing of any water well or booster pump to be connected to any part of the existing City water system** This includes operation of existing valves necessary to accommodate the water.

**12 INDEMNIFICATION** To the fullest extent permitted by law, the Job Order Contractor shall defend, indemnify and hold harmless the Owner, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Job Order Contractor, its employees, agents, or any tier of subcontractors in the performance of this Contract. Job Order Contractor's duty to defend, hold harmless and indemnify the Owner, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting there from, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of the Job Order Contractor or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Job Order Contractor may be legally liable. 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.

### **13. DISPUTES**

**13.1. Party Cooperation** The parties are fully committed to working with each other throughout the term of the Contract and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Job Order Contractor and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

**13.2. Field Level Resolution** Job Order Contractor and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between the parties' representatives named herein.

**13.3. Job Order Contractor Performance** The Job Order Contractor shall continue to perform the Work and Owner shall continue to satisfy its payment obligations to Job Order Contractor, pending the final resolution of any dispute or disagreements between the parties.

**13.4. Partnering** If requested and mutually agreed upon, the Owner and Job Order Contractor will share in the expense of an initial facilitated partnering workshop, followed up by periodic refresher meetings at mutually agreed times. The goal of the workshop will be to identify common goals, common interests, lines of communication, and a commitment to cooperative problem solving.

**13.5 Owner's Representative** Owner designates the individual listed below as its representative, which individual has the authority and responsibility for avoiding and resolving disputes under this Contract (Identify individual's name, title, address and telephone numbers)

City of Peoria, Materials Management  
Dan Zenko, Materials Manager  
9875 N 85<sup>th</sup> Avenue, Peoria, AZ 85345  
623-773-7115

**13.6 Job Order Contractor's Representative** Job Order Contractor designates the individual listed below as its representative, which individual has the authority and responsibility for avoiding and resolving disputes under this Contract (Identify individual's name, title, address and telephone numbers)

J Banicki Construction, Inc  
Mike Abraham, President  
6423 S Ash Avenue, Tempe, AZ 85283  
480-921-8016

**13.7 Owner's Resolution** Any dispute which is not disposed of by agreement will be decided by the Owner, who will reduce its decision to writing and mail or otherwise furnish a copy thereof to the Job Order Contractor. Any dispute not finally resolved under this § 13 may be brought before the state courts of the State of Arizona and adjudicated in accordance with the laws of Arizona.

#### **14 TERMINATION AND DEFAULT**

**14.1 Termination for Convenience** Owner may terminate performance of the Work under this Contract in whole or, from time to time, in part if Owner determines that termination is in Owner's interest. Owner shall effect such termination by delivering to Job Order Contractor a Notice of Termination specifying the extent of termination and the effective date.

**14.2 Notice of Termination** After receipt of a Notice of Termination, and except as directed by Owner, Job Order Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this § 14:

**14.2.1** Stop work as specified in the notice,

**14.2.2** Place no further subcontracts or orders (referred to as subcontracts in this § 14) for materials, services or facilities, except as necessary to complete any Work not terminated,

**14.2.3** Assign to Owner, if directed by Owner, all right, title, and interest of Job Order Contractor under the subcontracts to the extent they relate to the Work terminated, in which case Owner shall have the right to settle or to pay any termination settlement proposal arising out of those terminations, or with approval or ratification to the extent required by Owner, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, the approval or ratification of which will be final for purposes of this § 14,

**14.2.4** As directed by Owner, transfer title and deliver to Owner

**14.2.4.1** The fabricated or unfabricated parts, Work in progress, completed Work, supplies, and other material produced or acquired for the Work terminated,

**14 2 4 2** The completed or partially completed plans, drawings, information, and other property that, if the Contract had been completed, would be required to be furnished to Owner,

**14 2 5** Complete performance of the Work not terminated,

**14 2.6** Take any action that may be necessary, or that Owner may direct, for the protection and preservation of the property related to this Contract that is in the possession of Job Order Contractor and in which Owner has or may acquire an interest, and

**14 2 7** Use its best efforts to sell, as directed or authorized by Owner, any property of the types referred to in § 14 2.3 above, provided, however, that Job Order Contractor is not required to extend credit to any purchaser and may acquire the property under the conditions prescribed by, and at prices approved by, Owner. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by Owner under the Contract, credited to the price or cost of the Work, or paid in any other manner directed by Owner

**14 3** **Final Termination Settlement Proposal.** After termination, Job Order Contractor shall submit a final termination settlement proposal to Owner in the form and with the certification prescribed by Owner. Job Order Contractor shall submit the proposal promptly, but no later than one year from the effective date of termination

**14 4** **Owner Payment** Job Order Contractor and Owner may agree upon the whole or any part of the amount to be paid because of the termination. The amount will include a reasonable allowance for profit on work done. The Contract shall be amended, and Job Order Contractor paid the agreed amount

**14 4.1** If Job Order Contractor and Owner fail to agree on the whole amount to be paid Job Order Contractor because of the termination of work, Owner shall pay Job Order Contractor the amounts determined as follows, but without duplication of any amounts agreed upon under § 14 4 above

**14 4 1 1** For Work performed before the effective date of termination, the total (without duplication of any items) of

**14 4 1 1.1** The cost of this Work,

**14 4 1.1 2** The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the Contract if not included in § 14 4 1 1 1 above, and

**14 4 1 1 3** A markup, including overhead and profit, on § 14 4 1 1 1 above as is determined for pricing changes

**14 4.1 2** The reasonable costs of settlement of the Work terminated, including

**14 4 1 2 1** Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data,

**14 4.1 2 2** The termination and settlement of subcontracts (excluding the amounts of such settlements), and

**14.4 1 2 3.** Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory

**14 5 Destroyed, Lost, Stolen or Damaged Property** Except for normal spoilage, and except to the extent that Owner expressly assumed the risk of loss, Owner shall exclude from the amounts payable to Job Order Contractor under Subparagraph 14 4 1 above, the fair value, as determined by Owner, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to Owner or to a buyer

**14 6 Amount Due Job Order Contractor** In arriving at the amount due Job Order Contractor under this § 14, there shall be deducted

**14 6 1** All unliquidated advances or other payments to Job Order Contractor under the terminated portion of the Job Order,

**14 6 2** Any claim which Owner has against Job Order Contractor under the Contract, and

**14 6.3** The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by Job Order Contractor or sold under the provisions of this § 14 and not recovered by or credited to Owner

**14 7 Partial Termination** If the termination is partial, Job Order Contractor may file a proposal with Owner for an equitable adjustment of the price(s) of the continued portion of any Job Order Any proposal by Job Order Contractor for an equitable adjustment under this § 14 shall be requested within ninety (90) calendar days from the effective date of termination unless extended in writing by Owner Owner may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by Job Order Contractor of the terminated portion of any Job Order, if Owner believes the total of these payments will not exceed the amount to which Job Order Contractor will be entitled

**14 8 Excess Payments** If the total payments exceed the amount finally determined to be due, Job Order Contractor shall repay the excess to Owner upon demand

**14 9 Job Order Contractor Records** Unless otherwise provided in this Contract or by statute, Job Order Contractor shall maintain all records and documents relating to the terminated portion of this Contract for three (3) years after final settlement This includes all books and other evidence bearing on Job Order Contractor's costs and expenses under this Contract Job Order Contractor shall make these records and documents available to Owner, at Job Order Contractor's office, at all reasonable times, without cost If approved by Owner, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents

**14 10 Default** If Job Order Contractor refuses or fails to prosecute the Work, or any separable part, with the diligence that will ensure its completion within the time specified in the Job Order including any extension, or fails to complete the Work within this time, Owner may terminate the Job Order Contractor's right to proceed with the Work (or separable part of the Work), upon thirty (30) days written notice to the Job Order Contractor In this event, Owner may take over the Work and complete it by Contract or otherwise and may take possession of and use any materials, appliances, and plant on the site necessary for completing the Work

**14 11 Job Order Contractor's Right to Proceed** Job Order Contractor's right to proceed shall not be terminated under this § 14, if

**14 11 1** The delay in completing the Work arises from unforeseeable causes beyond the control and without the fault or negligence of Job Order Contractor Examples of such causes

include acts of God or of the public enemy, acts of Owner in its Contractual capacity, acts of another contractor in the performance of a Contract with Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather (The basis used to define normal weather will be data showing high and low temperatures, precipitation, and number of days of severe weather in the city closest to the site for the previous ten (10) years, as compiled by the United States Department of Commerce National Weather Service ), or delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both Job Order Contractor and the subcontractors or suppliers, and

**14 11 2** Job Order Contractor, within 30 calendar days from the beginning of any such delay (unless extended by Owner), notifies Owner in writing of the causes of delay. The Owner shall ascertain the facts and the extent of delay. If, in the judgment of Owner, the findings of fact warrant such action, the time for completing the Work shall be extended. The findings of Owner shall be final and conclusive on the parties, but subject to appeal and review under § 13

**14 12 Owner's Right to Terminate** The rights and remedies of Owner in this § 14 are in addition to any other rights and remedies provided by law or under this Contract

**14 13 Owner and Job Order Contractor Rights** If, after termination of Job Order Contractor's right to proceed, it is determined that Job Order Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Owner

**14 14 Liquidated Damages** Liquidated Damages shall be assessed for each calendar of delay. Liquidated Damages shall be per MAG Specs, Section 108.9. If the contract is not terminated, the contractor shall continue performance and be liable to the Owner for the liquidated damages until the products are delivered or services performed. In the event the City exercises its right of termination, the contractor shall be liable to the Owner for any excess costs, and in addition, for liquidated damages until such time the Owner may reasonably obtain delivery or performance of similar supplies or services

**14 15 Immigration Act** Contractor understands and acknowledges the applicability to Contractor of the Immigration Reform and Control Act of 1986 (IRCA). Contractor agrees to comply with the IRCA in performing under this contract and to permit City inspection of personnel records to verify such compliance

## **15 WARRANTY OF CONSTRUCTION**

**15 1 Applicable Warranties** In addition to any other warranties in any Job Orders, Job Order Contractor warrants, except as provided in § 15 10, that work performed conforms to the Job Order requirements and is free of any defect in equipment, material or design furnished, or workmanship performed by Job Order Contractor or any of its subcontractors or suppliers at any tier

**15 2 Warranty Duration** This warranty shall continue for a period of one (1) year from the date of final acceptance of the Work. If Owner takes possession of any part of the Work before final acceptance, this warranty shall continue for a period of one (1) year from the date possession is taken

**15 3 Job Order Contractor Corrective Work** Job Order Contractor shall remedy at Job Order Contractor's expense any failure of the Work to conform to the plans and specifications, or



any construction defect In addition, the Job Order Contractor shall remedy at Job Order Contractor's expense any damage to Owner's real or personal property, when that damage is the result of

**15 3 1** Job Order Contractor's failure to conform to requirements. or

**15 3 2** Any defect of equipment, material, workmanship, or design furnished by the Job Order Contractor

**15 4 Job Order Contractor Restoration** Job Order Contractor shall restore any work damaged in fulfilling the terms and conditions of this § 15 Job Order Contractor's warranty with respect to work repaired or replaced will run for one (1) year from the date of repair or replacement

**15 5 Owner Notification** Owner shall notify Job Order Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage

**15 6 Failure to Correct Work** If Job Order Contractor fails to remedy any failure, defect, or damage within ten (10) days after receipt of notice, Owner shall have the right to replace, repair, or otherwise remedy the failure, defect or damage at Job Order Contractor's expense

**15 7 Subcontractor and Supplier Warranties** With respect to all warranties, expressed or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished for Job Orders issued under this Contract, Job Order Contractor shall

**15 7.1** Obtain all warranties required by the Job Order,

**15 7.2** Require all warranties to be executed, in writing, for the benefit of Owner, and

**15 7.3.** Enforce all warranties for the benefit of Owner

**15 8 Owner Remedy** In the event Job Order Contractor's warranty under § 15 2 has expired. Owner may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty

**15 9 Owner Furnished Material or Design** Unless a defect is caused by the negligence of Job Order Contractor or subcontractor or supplier at any tier, Job Order Contractor shall not be liable for the repair of any defects of material or design furnished by Owner or for the repair of any damage that results from any defect in Owner-furnished material or design

**15.10 Pre-Existing Work** Job Order Contractor is not responsible for and does not warranty pre-existing work or facilities that may be assigned to Job Order Contractor except as modified by the Job Order

**15.11 Owner's Rights.** This warranty shall not limit Owner's rights under § 8 of this Contract with respect to latent defects, gross mistakes, or fraud

## **16 STANDARD TERMS AND CONDITIONS**

**16 1 Contract Order of Precedence** In the event of an inconsistency between provisions of this Contract, the inconsistency shall be resolved by giving precedence in the following order

**16 1 1** Contract Modifications, if any,

**16 1 2** This Contract, including Attachments,

**16.1.3** Job Orders,

**16 1 4 Drawings, and**

**16 1 5 Specifications**

**16 2. Certification** By signature in the Offer section of the Offer and Contract Award page the Job Order Contractor certifies

**16 2 1** The submission of the offer did not involve collusion or other anti-competitive practices

**16 2 2** The Job Order Contractor shall not discriminate against any employee or applicant for employment

**16 2.3** The Job Order Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor, or service to a public servant in connection with the submitted offer. Failure to sign the offer, or signing it with a false statement, shall void the submitted offer or any resulting contracts, and the vendor may be debarred

**16 2.4** The Job Order Contractor is licensed to perform the Work pursuant to Arizona Revised Statutes Title 32, Chapter 10

**16 3 Bribes and Kick-Backs** The Job Order Contractor shall not by any means

**16 3 1** Induce any person or entity employed in the construction of the Project to give up any part of the compensation to which that person or entity is entitled,

**16 3.2.** Confer on any governmental, public or quasi-public official having any authority or influence over the Project, any payment, loan subscription, advance, deposit of money, services or anything of value, present or promised,

**16.3 3** Offer nor accept any bribes or kick-backs in connection with the Project from or to any individual or entity, including any of its trade contractors, subcontractors, consultants, suppliers or manufacturers of Project goods and materials, or,

**16 3 4** Without the express written permission of the Owner, call for or by exclusion require or recommend the use of any subcontractor, consultant, product, material, equipment, system, process or procedure in which the Job Order Contractor has a direct or indirect proprietary or other pecuniary interest

**16 4 Applicable Law** In the performance of this agreement, contractors shall abide by and conform to any and all laws of the United States, State of Arizona and City of Peoria including but not limited to federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this agreement

Contractor specifically understands and acknowledges the applicability to it of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986, and the Drug Free Workplace Act of 1989. In addition, if this agreement pertains to construction, Contractor must also comply with A R S § 34-301, as amended (Employment of Aliens on Public Works Prohibited) and A R S § 34-302, as amended (Residence Requirements for Employees)

Under the provisions of A R S § 41-4401, Contractor hereby warrants to the City that Contractor and each of its subcontractors ("Subcontractors") will comply with, and are

contractually obligated to comply with, all Federal immigration laws and regulations that relate to their employees and A R S § 23-214(A) (hereinafter, "Contractor Immigration Warranty")

A breach of the Contractor Immigration Warranty shall constitute a material breach of this agreement and shall subject Contractor to penalties up to and including termination of this agreement at the sole discretion of the City. The City may, at its sole discretion, conduct random verification of the employment records of Contractor and any Subcontractors to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any random verifications performed.

Neither Contractor nor any Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if Contractor or the Subcontractor establishes that it has complied with the employment verification provisions prescribed by §§ 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A R S §23-214(A).

The provisions of this Paragraph must be included in any contract Contractor enters into with any Subcontractors who provide services under this agreement or any subcontract. "Services" is 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.

Contractor warrants, for the term of this agreement and for six months thereafter, that it has fully complied with the requirements of the Immigration Reform and Control Act of 1986 and all related or similar legal authorities.

This contract shall be governed by the City and Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this contract or in statutes pertaining specifically to the City. This contract shall be governed by the laws of the State of Arizona and suit pertaining to this contract may be brought only in courts in the State of Arizona.

This contract is subject to the provisions of ARS §38-511, the City may cancel this contract without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City or any of its departments or agencies, is at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

**16 4 1** Job Order Contractor warrants, for the term of this agreement and for six months thereafter, that it has fully complied with the requirements of the Immigration Reform and Control Act of 1986 and all related or similar legal authorities.

**16 4 2** This contract shall be governed by the Owner. City and Job Order Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this contract or in statutes pertaining specifically to the Owner. This contract shall be governed by the laws of the State of Arizona. Any lawsuit pertaining to this contract may be brought only in courts in the State of Arizona.

**16 4 3** This contract is subject to the provisions of ARS § 38-511, the Owner may cancel this contract without penalty or further obligations by the Owner or any of its departments or

agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the Owner or any of its departments or agencies, is at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract

**16 5 Legal Remedies** All claims and controversies shall be subject to resolution according to the terms of the City of Peoria Procurement Code

**16 6 Contract** The contract between the Owner and the Job Order Contractor shall consist of (1) the Solicitation, including instructions, all terms and conditions, specifications, scopes of work, attachments, price sheet(s) and any amendments thereto, and (2) the offer submitted by the Job Order Contractor in response to the solicitation. In the event of a conflict in language between the Solicitation and the Offer, the provisions and requirements in the Solicitation shall govern. However, the Owner reserves the right to clarify, in writing, any contractual terms with the concurrence of the Job Order Contractor, and such written contract shall govern in case of conflict with the applicable requirements stated in the Solicitation or the Vendor's offer. The Solicitation shall govern in all other matters not affected by the written contract.

**16 7 Contract Amendments** This contract may be modified only by a written Contract Amendment signed by persons duly authorized to enter into contracts on behalf of the Owner and the Job Order Contractor.

**16 8 Contract Applicability** The Offeror shall substantially conform to the terms, conditions, specifications and other requirements found within the text of this Solicitation. All previous agreements, contracts, or other documents, which have been executed between the Offeror and the Owner are not applicable to this Solicitation or any resultant contract.

**16 9. Severability** The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

**16 10 Relationship to Parties** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Job Order Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and that the Job Order Contractor should make arrangements to directly pay such expenses, if any.

**16 11 No Delegation or Assignment** - Contractor shall not delegate any duty under this Contract, and no right or interest in this Contract shall be assigned by Contractor to any successor entity or third party, including but not limited to an affiliated successor or purchaser of Contractor or its assets, without prior written permission of the City. The City, at its option, may cancel this Contract in the event Contractor undertakes a delegation or assignment without first obtaining the City's written approval. Contractor agrees and acknowledges that it would not be unreasonable for the City to decline to approve a delegation or assignment that results in a material change to the services provided under this Contract or an increased cost to the City.

**16 12 Job Order Contractor/Supplier Contract**, The Job Order Contractor shall enter into written contracts with its subcontractor(s) and supplier(s), if any, and those written contracts shall be consistent with this Contract for Construction. It is the intent of the Owner and the Job

Order Contractor that the obligations of the Job Order Contractor's subcontractor(s) and supplier(s), if any, inure to the benefit of the Owner and the Job Order Contractor, and that the Owner be a third-party beneficiary of the Job Order Contractor's agreements with its subcontractor(s) and supplier(s)

**16 12 1** The Job Order Contractor shall make available to each subcontractor and supplier, if any, prior to the execution of written contracts with any of them, a copy of the pertinent portions of this Contract for Construction, including those portions of the Construction documents to which the subcontractor or supplier will be bound, and shall require that each subcontractor and supplier shall similarly make copies of applicable parts of such documents available to its respective subcontractor(s) and supplier(s)

**16 12 2** The Job Order Contractor shall engage each of its subcontractor(s) and supplier(s) with written contracts which preserve and protect the rights of the Owner and include the acknowledgment and agreement of each subcontractor or supplier that the Owner is a third-party beneficiary of the contract. The Job Order Contractor's agreements with its subcontractor(s) and supplier(s) shall require that in the event of default under, or termination of, this Contract for Construction, and upon request of the Owner, the Job Order Contractor's subcontractor(s) and supplier(s) will perform services for the Owner

**16 12 3** The Job Order Contractor shall include in its agreements with its subcontractor(s) and supplier(s) a provision which contains the acknowledgment and agreement of the subcontractor or supplier that it has received and reviewed the applicable terms, conditions and requirements of this Contract for Construction that are included by reference in its written contract with the Job Order Contractor, and that it will abide by those terms, conditions and requirements

**16 13 Rights and Remedies** No provision in this document or in the vendor's offer shall be construed, expressly or by implication, as waiver by the Owner of any existing or future right and/or remedy available by law in the event of any claim of default or breach of contract. The failure of the Owner to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the Owner's acceptance of and payment for materials or services, shall not release the Job Order Contractor from any responsibilities or obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of the Owner to insist upon the strict performance of the Contract

**16 14 Overcharges By Antitrust Violations** The Owner maintains that, in practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Job Order Contractor hereby assigns to the Owner any and all claims for such overcharges as to the goods and services used to fulfill the Contract

**16 15 Force Majeure** Except for payment for sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force Majeure

**16 15 1** The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, floods, lockouts, injunctions-intervention-acts, or failures or

refusals to act by government authority, and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this Contract.

**16 15.2** Force majeure shall not include the following occurrences: late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences, late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this Force Majeure term and Condition, or any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure. If either party is delayed at any time in the progress of the work by force majeure, then the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand delivered or mailed *Certified-Return Receipt* and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing. The time of completion shall be extended by contract modification for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this contract.

**16 16 Right To Assurance** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

**16 17 Right To Audit Records** The City may, at reasonable times and places, audit the books and records of any Contractor as related to any contract held with the City. This right to audit also empowers the City 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 made pursuant to Paragraph 16 4 above.

**16 18 Warranties** Job Order Contractor warrants that all material, service or construction delivered under this contract shall conform to the specifications of this contract. Unless otherwise stated in Job Order Contractor's response, the Owner is responsible for selecting items, their use, and the results obtained from any other items used with the items furnished under this contract. Mere receipt of shipment of the material/service specified and any inspection incidental thereto by the Owner shall not alter or affect the obligations of the Job Order Contractor or the rights of the Owner under the foregoing warranties. Additional warranty requirements may be set forth in the solicitation.

**16 19 Inspection** All material and/or services are subject to inspection and acceptance by the Owner. Materials and/or services failing to conform to the specifications of this Contract will be held at Job Order Contractor's risk and may be returned to the Job Order Contractor. If so returned, all costs are the responsibility of the Job Order Contractor. The Owner may elect to do any or all of the following:

16 19 1 Waive the non-conformance

16 19 2 Stop the work immediately

16 19.3 Bring material into compliance

16 19 4 This shall be accomplished by a written determination from the Owner

**16 20. Title and Risk of Loss.** The title and risk of loss of material and/or service shall not pass to the Owner until the Owner actually receives the material or service at the point of delivery, unless otherwise provided within this Contract

**16 21 No Replacement of Defective Tender** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach of the Contract as a whole

**16 22. Shipment Under Reservation Prohibited** Job Order Contractor is not authorized to ship materials under reservation and no tender of a bill of lading will operate as a tender of the materials

**16 23 Liens** All materials, service or construction shall be free of all liens, and if the Owner requests, a formal release of all liens shall be delivered to the Owner

**16 24 Licenses** shall maintain in current status, all Federal, State and Local licenses and created under this contract are the property of the Owner and shall not be used or released by the Job Order Contractor or any other person except with the prior written permission of the Owner

**16 25 Patents and Copyrights** All services, information, computer program elements, reports and other deliverables, which may be patented or copyrighted and created under this contract are the property of the Owner and shall not be used or released by the Job Order Contractor or any other person except with the prior written permission of the Owner

**16 26 Cost of Bid/Proposal Preparation** The Owner shall not reimburse the cost of developing presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner

**16 27 Public Records** All offers submitted in response to this solicitation shall become the property of the City and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Code. However, subsequent to the award of the contract, any information and documents obtained by the City during the course of an audit conducted in accordance with Paragraph 16 17 above for the purpose of determining compliance by Contractor or a Subcontractor with the Contractor Immigration Warranty mandated by Paragraph 16 4 above shall remain confidential and shall not be made available for public review or produced in response to a public records request, unless the City is ordered or otherwise directed to do so by a court of competent jurisdiction

**16 28 Advertising** Job Order Contractor shall not advertise or publish information concerning this Contract, without prior written consent of the Owner

**16 29 Delivery Orders** The Owner shall issue a Purchase Order for the material and/or services covered by this contract. All such documents shall reference the contract number as indicated on the signature page of the contract

**16 30 Funding** Any contract entered into by the Owner of Peoria is subject to funding availability Fiscal years for the Owner of Peoria are July 1 to June 30 The Owner Council approves all budget requests If a specific funding request is not approved, the contract shall be terminated

**16 31 Federal Funding** It is the responsibility of the Contractor to determine on any job order project if federal wage rates apply It is also the responsibility of the Contractor to incorporate any necessary amounts in the bid to accommodate for required federal record keeping and necessary pay structures The Contractor should contact the City of Peoria regarding any applicable Davis Bacon wage rates

**16 31 1 Davis-Bacon Act - (40 U.S.C. §276a-276a-5)** All contracts or subsequent subcontracts for construction, alteration, renovation, or repair, including painting and decorating, of a public building or public work, or building or work, financed by federal funds which meets the \$2,000 threshold are required to pay the federal prevailing wage rate for each class of laborer or mechanic employed Regulations applicable to grant-enabling statutes incorporating the Act can be found in 29 Code of Federal Regulations (CFR), Parts 1,3,5 and 7 These regulations stipulate that grant funds appropriated under statutes imposing the Davis-Bacon Act requirements shall not be paid to a grantee (the Department) until contractors or subcontractors performing work under the grant certify that they will comply with the Act's requirements The Act also applies to any contract or subcontract for similar work on public grants from a federal agency, or where the federal government acts as guarantors of mortgages The only exception is for the transportation of materials and supplies by persons who are not employed directly at the work site, but are employed solely to make deliveries to the work site

Provider Agencies must ensure that contracts or subcontracts for any construction/alteration projects contain the wage determinations issued and that the appropriate clauses required by the Davis-Bacon regulations (29 CFR, section 5.5) are present It should be made clear in any announcements of projects or RFPs that federal grant funds are being used and that Davis-Bacon will apply even if the federal government is not a party to the contract or subcontract The prevailing wage must be paid regardless of any contractual relationship that may exist between a contractor or a subcontractor Although the Department is not responsible to review subcontracts for compliance, it has the right to require a prevailing wage

Sanctions for post-certification violations include suspension of payment, advances, or guarantees of grant funds, and the forced restitution of wages that should have been paid and the removal of offending contractors or subcontractors from active employment lists

Failure to comply can bring penalties that can be severe The contractor or subcontractor and their sureties are liable for any excess costs for completing the work, the Department may withhold accruals to ensure payment of prevailing wages to the workers, the contract or subcontract may be terminated and/or the contractor or subcontractor may be debarred for a period of three years

### **16 32 A R S Title 34 Provisions**

**16 32 1** The maximum dollar amount of an individual job order shall be Three Million Dollars (\$3,000,000) or such higher or lower amount prescribed by the Owner in an action notice pursuant to A R S title 38, chapter 3, article 3 1 or a rule adopted by the Owner as the maximum



amount of an individual job order Requirements shall not be artificially divided or fragmented in order to constitute a job order that satisfies this requirement

**16 32 2** If the Job Order Contractor subcontracts or intends to subcontract part or all of the work under a job order and if this contract includes descriptions of standard individual tasks, standard unit prices for standard individual tasks and pricing of job orders based on the number of units of standard individual tasks in the job order, then

**16 32 2.1** The Job Order Contractor has a duty to deliver promptly to each subcontractor invited to bid a coefficient to the Job Order Contractor to do all or part of the work under one or more job orders

**16 32 2 1 1** A copy of the descriptions of all standard individual tasks on which the subcontractor is invited to bid

**16 32 2 1 2** A copy of the standard unit prices for the individual tasks on which the subcontractor is invited to bid

**16 32 2 2.** If not previously delivered to the subcontractor, the Job Order Contractor has a duty to deliver promptly the following to each subcontractor invited to or that has agreed to do any of the work included in any job order

**16.32 2 2 1** A copy of the description of each standard individual task that is included in the job order and that the subcontractor is invited to perform

**16 32 2 2 2** The number of units of each standard individual task that is included in the job order and that the subcontractor is invited to perform

**16 32 2 2 3** The standard unit price for each standard individual task that is included in the job order and that the subcontractor is invited to perform

**16 32 3** The Owner will include the full street or physical address of each separate location at which the construction will be performed for each individual Job Order The Job Order Contractor (and on behalf of each subcontractor at any level) hereby agrees to include in each of its subcontracts the same address information The Job Order Contractor and each subcontractor at any level shall include in each subcontract the full street or physical address of each separate location at which construction work will be performed

**16 33 Prohibited Lobbying Activities** The Offeror, his/her agent or representative shall not contact, orally or in any written form any City elected official or any City employee other than the Materials Management Division, the procuring department, City Manager, Deputy City Manager or City Attorney's office (for legal issues only) regarding the contents of this solicitation or the solicitation process commencing from receipt of a copy of this request for proposals and ending upon submission of a staff report for placement on a City Council agenda The Materials Manager shall disqualify an Offeror's proposal for violation of this provision This provision shall not prohibit an Offeror from petitioning an elected official after submission of a staff report for placement on a City Council agenda or engaging in any other protected first amendment activity after submission of a staff report for placement on a City Council agenda

**16 34 Prohibited Political Contributions** Consultant during the term of this Agreement shall not make a contribution reportable under Title 16, Chapter 6, Article 1, Arizona Revised Statutes to a candidate or candidate committee for any city elective office during the term of this

Agreement The City reserves the right to terminate the Agreement without penalty for any violation of this provision

**16.35 ARRA Sec 1605 Use of American Iron, Steel, and Manufactured Goods** (a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States (b) Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency involved finds that-- applying subsection (a) would be inconsistent with the public interest,

- iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality, or
- inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent
- If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived
- This section shall be applied in a manner consistent with United States obligations under international agreements

**16.36 ARRA Sec 1606 Davis-Bacon Act** Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat 1267, 5 U S C App ) and section 3145 of title 40, United States Code

**16.37 Compliance with Davis-Bacon Act (40 U S C. §276a-276a-5) Prevailing Wage Requirements (ARRA Section 1606)** All laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and the through the Federal Government pursuant to the ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with subchapter IV of chapter 31 of Title 40, United States Code In addition, all covered contracts shall include the standard contract clauses regarding prevailing wages and benefits included in the United States Department of Labor regulations found at 29 Code of Federal Regulations ("CFR") § 5.5, which are incorporated by reference in this contract The contractor shall comply with the requirements of 29 CFR Part 3, which are also incorporated by reference in this Contract

The contractor or subcontractors shall insert in any subcontracts the clauses contained in 29 CFR § 5.5(a) (1) through (10) and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts The contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR § 5.5

A breach of the contract clauses in 29 CFR § 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR § 5.12

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the United States Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the City, the State of Arizona ("State"), the United States Department of Labor, or their employees or their representatives

By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1)

No part of this contract shall be subcontracted to any person or firm ineligible for award of a government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1)

**16.38. Use of American Iron, Steel, and Manufactured Goods – Buy American Requirements (ARRA Section 1605)**

The contractor acknowledges to and for the benefit of the City ("Purchaser") and the State that it understands the goods and services under this contract are being funded with monies made available by the ARRA (or are being made available for a project being funded with monies made available by the ARRA) and such law contains provisions commonly known as "Buy American" that require all of the iron, steel, and manufactured goods used in the project be produced in the United States ("Buy American Requirements") including iron, steel, and manufactured goods provided by the Contractor pursuant to this contract. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the State that (a) the Contractor has reviewed and understands the Buy American Requirements, (b) all of the iron, steel, and manufactured goods used in the project will be and/or have been produced in the United States in a manner that complies with the Buy American Requirements, unless a waiver of the requirements is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the Buy American Requirements, as may be requested by the Purchaser or the State. Notwithstanding any other provision of this contract, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or State to recover as damages against the Contractor any loss, expense or cost (including without limitation attorney's fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Purchaser). While the Contractor has no direct contractual privity with the State, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this contract necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

**16.39 Whistleblower Protections Under The ARRA**

(a) The Contractor shall post a notice of employees' rights and remedies for whistleblower protections provided under Section 1553 of the ARRA (Pub L 111-5)

(b) The Contractor shall require that this provision be included in all subcontracts

**16 40. Reporting Requirements under the ARRA:**

(a) This Contract requires the Contractor to provide products and/or services that are funded under the ARRA Section 1512(c) of the ARRA requires each contractor to report on its use of Recovery Act funds under this Contract. These reports will be made available to the public.

(b) Reports from contractors for all work funded, in whole or in part, by the ARRA, and for which an invoice is submitted prior to June 30, 2009, are due no later than July 10, 2009. Thereafter, reports shall be submitted no later than the 10th day after the end of each calendar quarter.

(c) The Contractor shall report the following information, using the online reporting tool available at [www.FederalReporting.gov](http://www.FederalReporting.gov)

(1) The City of Peoria contract and order number, as applicable

(2) The amount of ARRA funds invoiced by the Contractor for the reporting period

(3) A list of all significant services performed or supplies delivered, including construction, for which the Contractor invoiced in the calendar quarter

(4) Program or project title, if any

(5) A description of the overall purpose and expected outcomes or results of the Contract, including significant deliverables and, if appropriate, associated units of measure

(6) An assessment of the Contractor's progress towards the completion of the overall purpose and expected outcomes or results of the Contract (*i.e.*, not started, less than 50 percent completed, completed 50 percent or more, or fully completed). This covers the Contract (or portion thereof) funded by the ARRA.

(7) A narrative description of the employment impact of work funded by the ARRA. This narrative should be cumulative for each calendar quarter and only address the impact on the Contractor's workforce. At a minimum, the Contractor shall provide—

(i) A brief description of the types of jobs created and jobs retained in the United States and outlying areas (see definition in Federal Acquisition Regulation (FAR) 2.101). This description may rely on job titles, broader labor categories, or the Contractor's existing practice for describing jobs as long as the terms used are widely understood and describe the general nature of the work, and

(ii) An estimate of the number of jobs created and jobs retained by the prime contractor, in the United States and outlying areas. A job cannot be reported as both created and retained.

(8) Names and total compensation of each of the five most highly compensated officers of the Contractor for the calendar year in which the Contract is awarded if—

(i) In the Contractor's preceding fiscal year, the Contractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements, and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements, and

(ii) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U S C 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986

(9) For subcontracts valued at less than \$25,000 or any subcontracts awarded to an individual, or subcontracts awarded to a subcontractor that in the previous tax year had gross income under \$300,000, the Contractor shall only report the aggregate number of such first tier subcontracts awarded in the quarter and their aggregate total dollar amount

(10) For any first-tier subcontract funded in whole or in part under the ARRA, that is over \$25,000 and not subject to reporting under paragraph 9, the Contractor shall require the subcontractor to provide the information described in (i), (ix), (x), and (xi) below to the Contractor for the purposes of the quarterly report. The Contractor shall advise the subcontractor that the information will be made available to the public as required by Section 1512 of the ARRA. The Contractor shall provide detailed information on these first-tier subcontracts as follows

(i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company

(ii) Name of the subcontractor

(iii) Amount of the subcontract award

(iv) Date of the subcontract award

(v) The applicable North American Industry Classification System (NAICS) code

(vi) Funding agency

(vii) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract

(viii) Subcontract number (the contract number assigned by the prime contractor)

(ix) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable

(x) Subcontract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable

(xi) Names and total compensation of each of the subcontractor's five most highly compensated officers, for the calendar year in which the subcontract is awarded if—

(A) In the subcontractor's preceding fiscal year, the subcontractor received—

(1) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements, and

(2) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements, and

(B) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U S C 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986

**16 41 Central Contractor Registration Required**

(a) The Contractor is required to properly register and maintain an updated registration with the Central Contractor Registration (CCR), which is the primary Federal Government repository for contractor information required for the conduct of business with the Federal Government. The requirements for such registration are set forth in the Federal Acquisition Regulation (FAR), including the establishment of a "Data Universal Numbering System (DUNS) number," the 9-digit number assigned by Dun and Bradstreet, Inc (D&B) to identify unique business entities.

(b) "Registered in the CCR database" means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database, and

(2) The Federal Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record "Active." The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.

(c) The DUNS number will be used by the City to verify that the Contractor is registered in the CCR database.

(d) If the Contractor does not become registered in the CCR database in the time prescribed by the City, the City will proceed to award the Contract to the next otherwise successful registered responding entity.

(e) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the City's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this Contract and is not a substitute for a properly executed contractual document.

**16 42 Contract Work Hours and Safety Standards Act – Overtime Compensation**

(a) *Overtime requirements.* No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.

(b) *Violation, liability for unpaid wages, liquidated damages.* The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the Contract Work Hours and Safety Standards Act.

(c) *Withholding for unpaid wages and liquidated damages* The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contracting Officer will withhold payments from other Federal or Federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act.

(d) *Payrolls and basic records*

(1) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5 5(a)(3) implementing the Davis-Bacon Act.

(2) The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.

(e) *Subcontracts* The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower-tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

**16.43 Compliance with Copeland Act Requirements** The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

## **ATTACHMENTS**

<b>Attachment A</b>	<b>JOC Pricing Matrix</b>
<b>Attachment B</b>	<b>Project Cost Proposal Sheet</b>
<b>Attachment C</b>	<b>Scope of Services</b>
<b>Attachment D</b>	<b>Statement of Interest &amp; Qualifications</b>
<b>Attachment E</b>	<b>Proposal Response</b>
<b>Attachment F</b>	<b>Authorized Signature Form</b>
<b>Attachment G</b>	<b>Contractor Contact List</b>



**ATTACHMENT A  
JOC PRICING MATRIX**

City of Peoria JOC Pricing Matrix

P14-0018A, JOC for Bridge Maintenance & Repair

Company Name J Banick Construction Inc

	\$100 to \$100,000	\$100,000 to \$250,000	\$250,000 to \$500,000	\$500,000 to \$1,000,000	Over \$1,000,000.00
<b>Indirect Cost of the Work</b>					
Job Order Contractor's Overhead	4.35%	4.35%	4.35%	4.35%	4.35%
Job Order Contractor's Fee (Profit)	10%	9.50%	8%	8.50%	8%
Payment & Performance Bonds	1.50%	1.50%	1.50%	1.50%	1.50%
Insurance	1%	1%	1%	1%	1%
AZ/County/City Taxes (65% of 081)	5.265%	5.265%	5.265%	5.285%	5.265%
<b>Total Indirect Cost %</b>	<b>22.12%</b>	<b>21.62%</b>	<b>21.12%</b>	<b>20.62%</b>	<b>20.12%</b>
Labor Burden Multiplier (Percentage)	35%	35%	35%	35%	35%

**ATTACHMENT B  
PROJECT COST PROPOSAL SHEET**

N/A

## **ATTACHMENT C SCOPE OF SERVICES**

### **1 0 GENERAL INFORMATION**

This is a fixed price, indefinite quantity type Contract for the performance of a broad range of construction work on an as-needed basis as may be required by Owner. The specific work requirements will be identified in Job Orders to be issued by Owner.

### **2 0 DOCUMENTS**

2.1 The currently applicable pricing structure contains pricing information for the Work to be accomplished in the pricing matrix specified. The Pricing matrix can only be updated at time of yearly contract renewal by mutually agreeable change order. Previously issued Job Orders and changes will not be retroactively repriced although any changes priced after receipt of an update will be priced by the updated version of the new pricing matrix.

2.2 The construction specifications in effect at Contract signing, and provided to the Job Order Contractor, shall be the specifications under this Contract.

### **3 0 WORK AUTHORIZATION**

Any Work required under this Contract shall be authorized by issuance of formal, written Job Orders, as follows:

3.1 As the need exists (as determined by Owner) for performance under the terms of this Contract, Owner will notify Job Order Contractor of an existing requirement.

3.2 Upon the receipt of this notification, Job Order Contractor shall respond within two (2) working days, or as otherwise agreed, by:

3.2.1 Visiting the proposed site in the company of Owner, or,

3.2.2 Establishing contact with Owner to further define the scope of the requirement.

3.3 After mutual agreement on the scope of the individual requirement, Job Order Contractor shall then prepare a proposal for accomplishment of the task unless Job Order Contractor, in its sole discretion, elects not to undertake the Work. If the Work is declined, Job Order Contractor will so notify Owner in a timely manner.

3.4 The price matrix shall serve as the basis for establishing the value of the Work to be performed.

3.5 Job Order Contractor's proposal shall be submitted within ten (10) working days unless otherwise agreed.

3.6 Upon receipt of Job Order Contractor's proposal, Owner will review the proposal for completeness and will reach agreement with Job Order Contractor on pricing, schedule, and all other terms, prior to issuance of a Job Order.

3.7 In the event Owner does not issue a Job Order after receipt of Job Order Contractor's proposal, Owner is not obligated to reimburse Job Order Contractor for any costs incurred in the preparation of the proposal, except as noted in § 4.8.

### **4 0 SCHEDULING OF WORK**

4.1 For each Job Order, Owner will issue a Notice to Proceed. The first day of performance under a Job Order shall be the effective date specified in the Notice to Proceed. Any preliminary work started or material ordered or purchased before receipt of the Notice to Proceed shall be at the risk and expense of Job Order Contractor. Job Order Contractor shall diligently prosecute the Work to completion within the time set forth in the Job Order. The period of performance includes allowance for mobilization, holidays, weekend days, normal inclement weather, and cleanup. Therefore, claims for delay based on these elements will not be allowed. When Job Order Contractor considers the Work complete and ready for its intended use, Job Order Contractor shall request Owner to inspect the Work to determine the status of completion. When Owner determines the Work to be Punch List Prepared as defined in 1.7, Owner will provide Contractor with a list of items to be completed or corrected prior to final payment for the Job Order. Job Order Contractor shall proceed promptly to complete and correct items on the list.

4.2 Job placement of materials and equipment shall be made with a minimum of interference to Owner operations and personnel.

4.3 Furniture and portable office equipment in the immediate work area will be moved by Job Order Contractor and replaced to its original location. If the furniture and portable office equipment cannot be replaced to its original location, Owner will designate new locations. If furniture and portable office equipment (or other items) must be moved and/or stored outside the immediate area, Owner will compensate Job Order Contractor for any such transportation and storage costs incurred.

4.4 Job Order Contractor shall take all precautions to ensure that no damage will result from its operations to private or public property. All damages shall be repaired or replaced by Job Order Contractor at no cost to Owner.

4.5 Job Order Contractor shall be responsible for providing all necessary traffic control, such as street blockages, traffic cones, flagmen, etc., as required for each Job Order. Proposed traffic control methods shall be submitted to Owner for approval.

#### 5.0 QUALITY ASSURANCE/QUALITY CONTROL PROGRAM

Job Order Contractor shall submit, for Owner approval, a Quality Assurance/Quality Control Plan within fifteen (15) calendar days after issuance of the initial Job Order. This plan should address all aspects of quality control including responsibility for surveillance of work, documentation, trend analysis, corrective action and interface with Owner's inspectors.

#### 6.0 DESIGN

Job Order Contractor's duties under the Contract include the preparation of shop drawings or sketches necessary to permit orderly construction of Owner's design plans. Job Order Contractor agrees to provide detailed design drawings and plans if requested by Owner, with reimbursement included as part of the Job Order Contractor's proposal.

#### 7.0 TEMPORARY SANITATION FACILITIES

The Contractor shall provide ample toilet facilities with proper enclosures for the use of workmen employed on the work site. Toilet facilities shall be installed and maintained in conformity with all applicable state and local laws, codes, regulations and ordinances. They shall be properly lit and ventilated, and kept clean at all times.

Adequate and satisfactory drinking water shall be provided at all times and under no circumstances and under no conditions will the use of common cups be permitted. The Contractor must supply sanitary drinking cups for the benefit of all employees.

## 7.1 DUST CONTROL AND WATER

The dust control measures shall be in accordance with the requirements of the "*Maricopa County Health Department Air Pollution Control Regulations*," namely Regulation II, Rule 21, subparagraph C and Regulation III, Rule 310 shall be rigidly observed and enforced. Water or other approved dust palliative in sufficient quantities shall be applied during all phases of construction involving open earthwork to prevent unnecessary discharge of dust and dirt into the air. The Contractor shall be responsible for compliance with these regulations. A Notice to Proceed will not be issued until the City of Peoria has received a copy of the Contractor's Dust Control Permit and Plan.

The Contractor shall be required to obtain the necessary permit and all pertinent information from the Maricopa County Air Pollution Control Bureau, 2406 S. 24th Street #E-214, Phoenix, Arizona, (602) 506-6700 extension 372.

The Contractor shall keep suitable equipment on hand at the job site for maintaining dust control on the project streets, and shall employ sufficient labor, materials and equipment for that purpose at all times during the project to the satisfaction of the City Engineer.

Watering shall conform to the provisions of Section 225 of the MAG Standard Specifications. The cost of watering will be included in the price bid for the construction operation to which such watering is incidental or appurtenant.

Installation and removal of fire hydrant meters should be scheduled at least forty-eight (48) hours in advance through the City of Peoria Utilities Division at (623) 773-7160. A \$1,000 deposit is required for each meter. An additional \$28.00 service fee is also required. The cost of the water is at the prevailing rate.

## 7.2 Electricity

Except for remote locations or unless otherwise specified in a Job Order, Owner shall furnish to Job Order Contractor from existing Owner facilities and without cost to Job Order Contractor, electricity necessary for the performance of work under this Contract. It is the responsibility of Job Order Contractor to determine the extent to which existing Owner electrical facilities are adequate for the needs of this Contract.

Upon completion of this Contract the removal of all taps, connections and accessories will be accomplished by and at the expense of Job Order Contractor, and costs included in the Job Order Proposal, so as to leave the electrical power source and facility in its original condition. Such removal shall also be subject to the approval of Owner.

## 8.0 WORK BY OWNER

Owner reserves the right to undertake or award Contracts for the performance of the same or similar type work contemplated herein, and to do so will not breach or otherwise violate the Contract.

**ATTACHMENT D  
STATEMENT OF INTEREST AND QUALIFICATIONS**

**SEE ATTACHED**



**STATEMENT OF INTEREST AND  
QUALIFICATIONS**

Solicitation Number P14-0018

**Materials Management  
Procurement**  
9875 N 85<sup>th</sup> Ave , 2<sup>nd</sup> Fl  
Peoria Arizona 85345-6560  
Phone (623) 773-7115  
Fax (623) 773-7118

**REQUEST FOR  
STATEMENT OF INTEREST & QUALIFICATIONS**

**JOB ORDER CONTRACTING**

for

**BRIDGE MAINTENANCE AND REPAIR PROJECTS**

**P14-0018**

**Due Date September 19, 2013, 5.00 PM Arizona Time**

City of Peoria  
Materials Management Division  
Contact Lisa Houg  
9875 N 85<sup>th</sup> Ave , 2<sup>nd</sup> Fl  
Peoria, Arizona 85345  
(623) 773-7115





## STATEMENT OF INTEREST AND QUALIFICATIONS

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### JOB ORDER CONTRACTING for Bridge Maintenance and Repair Projects

#### SECTION 1 - INTRODUCTION

##### 1 1 Introduction

The City of Peoria Arizona is seeking experienced contractors to provide services as described below for various projects utilizing Job Order Contracting (JOC) project delivery. Job Order Contracting may include design services, pre-construction services, construction work, maintenance and as-built documents. The contract period will be for an initial term of one (1) year with no more than four (4) additional one-year extensions. The City of Peoria intends to select two (2) Job Order Contractors for the award of this Job Order Contract.

##### 1 2 Cooperative Purchasing

Any contract resulting from this solicitation shall be for the use of the City of Peoria. In addition, specific eligible political subdivisions and nonprofit educational or public health institutions may also participate at their discretion. In order to participate in any resultant contract, a political subdivision or nonprofit educational or public health institution must have been invited to participate in this specific solicitation and the contractor must be in agreement with the cooperative transaction. In addition to cooperative purchasing, any eligible agency may elect to participate (piggyback) on any resultant contract, the specific eligible political subdivision, nonprofit educational or public health institution and the contractor must be in agreement.

Any orders placed to the successful contractor will be placed by the specific agencies participating in this purchase. Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The City shall not be responsible for any disputes arising out of transactions made by others.

##### 1 3 Project Budget

The City of Peoria Capital Improvement Program identifies funding for projects in fiscal year 2014 and shows planned projects for the next ten years. A copy of the City's ten year CIP can be viewed at <http://www.peoriaaz.gov/NewSecondary.aspx?id=54959>. The approved 2014 budget is available to fund various projects utilizing the awarded JOC contract. Estimated value (combination of all projects) is approximately \$470,000 in the first year and approximately \$225,000 for each of the remaining years. Projects may extend into the next fiscal year and beyond but in no instance will any one project under this JOC exceed \$3,000,000.

##### 1 4 Project Schedule

The City of Peoria has elected to use the JOC delivery method for these projects as outlined under A R S Title 34. Cost effective construction in the shortest possible time frame and within the City's tolerance of financial risk will be the guiding principles behind the various bridge maintenance and repair projects.



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### SECTION 2 – PROJECT DESCRIPTION & SCOPE OF WORK

#### 2.1 Description

This Job Order Contract is issued to assist the City of Peoria with general construction services, together with architectural and engineering services as necessary, as they pertain to bridge maintenance and repair projects. Interested contractors will have the ability to show related experience and a proven track record in projects of the same nature and magnitude. The selected contractors will be expected to deliver turn key projects, including all permitting and compliance with regulatory requirements.

For any project determined by the City to be appropriate for this Job Order Contract, the City will request that the contractor prepare a scope of work, cost proposal and project schedule. If acceptable, the City will issue an individual Job Order. Although the City anticipates that JOC Contractors will be issued work, the Contractor is neither guaranteed a minimum amount of work nor any jobs at all. The City reserves the right and will issue job orders based on ability of the contractor to meet the City's work schedule and the availability of trades and expertise in relation to each project.

#### 2.2 Scope of Work

The City's Bridge Maintenance and Management Program (BMMP) have identified approximately 110 structures in the City of Peoria defined as a bridge by the National Bridge Inspection Standards (NBIS). Approximately 90 of these are concrete box culverts.

The City's JOC will be used to perform work that qualifies as preventive maintenance and/or safety improvements on various bridges within the City. This JOC is meant to fill the gap between the routine maintenance that the City Public Works - Utilities Department/Streets Division performs on a regular basis (deck cleaning) and large capital projects (rehabilitation or replacement). These types of projects will primarily consist of concrete deck protection, spall repairs, glandular joint replacements, railing and attenuator safety upgrades, debris removal at girder seats, and miscellaneous emergency repairs. The City desires to initiate an annual on-going program to perform, at a minimum, bridge deck preservation along with any additional recommended preventive maintenance and safety improvements. A licensed bridge engineer will be utilized to provide priorities and recommendations to the JOC for input and pricing. The selected contractors will be expected to deliver turn key projects, including all permitting and regulatory requirements. A licensed bridge engineer may be retained separately by the City.

Contractors must have experience in the following areas:

- 1 Structural analysis on existing bridges. The Contractor must have the ability and resources to analyze structures with and without as-built drawings.
- 2 Evaluate, present recommendations and design solutions to deficiencies on existing bridges. All plans and specifications must be sealed by a professional engineer registered in the State of Arizona with bridge experience.
- 3 Remove, repair and/or replace damaged barriers, railing, deck joints and assemblies, approach slabs, and pre-tensioned AASHTO I-girders or remove and replace existing barriers with new barriers.



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- 4 Remove, repair, and/or replace various bridge components which include joint assemblies, seals, lights, markings, barriers and railings, bearings, and architectural elements
- 5 Deck sealing, deck replacement and other deck maintenance operations such as methacrylate seal, hydro demolition removal of spalled or delaminated concrete and replacement with a micro silica overlay
- 6 Miscellaneous patching and repair of approach pavements, structural elements, and architectural treatments
- 7 Repairing abutments, wing walls, piers, adjacent bank protection, and scour protection
- 8 Bridge widening, lengthening or altering the geometry of existing bridges
- 9 Installing new structural elements including seismic protection, corrosion protection, scour protection, and additional structural support
- 10 Install, repair existing chain link fence, wrought iron fence, etc and guardrails
- 11 Touch-up painting
- 12 Accident damage repair
- 13 Public notifications, barricading, and temporary traffic control plans
- 14 Preparing cost estimates and working within budgets
- 15 Responding to emergency or urgent safety related repairs
- 16 Repair of hangers for water lines and other utilities
- 17 Using epoxy injection and sealing and Carbon Fiber Reinforced Polymer applications

### 2.3 Sample Project

The following is a sample of a typical project that may be done under this Job Order Contract. This sample project is provided for contractors to use in completing their Project Assessment Plan so the City can see how your firm would approach a project if awarded the contract.

The example project identified by the City is to perform protective deck treatment and miscellaneous safety upgrades (see Appendix 2). This maintenance will help to increase the useful life of the bridge and to increase safety for the traveling public.

The Contractor will be required to provide a project scope plan showing the process to be followed through the design/preconstruction, permitting, construction and close-out phases of the project.

## SECTION 3 – EVALUATION CRITERIA

### 3.1 Evaluation Process

The Contractor(s) will be selected through a qualifications based selection process. The City expects to award the project to the best valued contractor(s) based on the requirements in this solicitation. The Contractor selected for qualification will be the Contractor whose qualification is responsive, responsible, and the most advantageous to the City, as determined by the City in its sole discretion. The City reserves the right to add, delete, or modify any part of this solicitation at City's sole discretion. The City will evaluate contractors based on the overall value of each qualification. Contractors interested in providing services must submit a response that addresses the points as outlined herein.

### 3.2 Key Personnel



# STATEMENT OF INTEREST AND QUALIFICATIONS

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The City expects the interested firms to identify within their organizations, individual(s) assigned to provide the following functions throughout the life of the contract

- JOC Program Manager
- Project Manager
- Project Superintendent
- Estimator

### 3.3 Criteria and Weights

The City will evaluate contractors based on the overall value of each qualification. Evaluation criteria will be weighted according to the following categories

Category	Weight
Responsiveness	Pass/Fail
References	Pass/Fail
Project Assessment Plan	
Scope Plan	25%
Risk Assessment / Value Added	25%
Project Schedule / Subcontractor Selection Plan	5%
Interview	45%

#### 3.3.1 Responsiveness (Pass/Fail)

Contractors must prepare qualifications that follow the format and sequence specified in this solicitation. This includes adherence to the format of any attachments. The following conditions/criteria must be met in order to be considered responsive

- The Contractor will complete and provide all information in Attachment A (Proposal Form)
- The Contractor will complete and provide all information in Attachment B (Reference List)
- The Contractor will complete and provide all information in Attachment C (Project Assessment Plan)
- The Contractor will complete and provide all information in Attachment D (Project Schedule and Subcontractor Plan)

#### 3.3.2 References (Pass/Fail)

- The Contractor will submit 3 references as outlined in Attachment B

#### 3.3.3 Project Assessment Plan (Weighted at 50%)

- The Contractor will submit a Project Assessment Plan as outlined in Attachment C
- The PA Plan must be 4 pages or less (2-pages for Scope Plan (25%), and 2 pages maximum for risk assessment and value added (25%) items)
- The PA Plan shall NOT contain any names or information that can be used to identify the Contractor



## STATEMENT OF INTEREST AND QUALIFICATIONS

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- The Contractor must use the template as provided in Attachment C Contractors may not re-create or modify this attachment (no color, black ink only, no font changes, no pictures, no diagrams, etc)
- Any plan that does not follow these requirements, or contains names or information that can be used to identify who the contractor is, may be marked as unresponsive and eliminated from the evaluation process

### 3 3 4 Project Schedule & Subcontractor Selection Plan (Weighted at 5%)

- Provide a 1 page Gantt style project duration schedule for the project that only conveys major milestones, including City approval processes, and final submittal to the City (Attachment D)
- Provide a detailed 1-page subcontractor selection plan that uses qualification and price in the selection criteria (Attachment D) The contractor should describe how they will pre-qualify and select their subcontractor as required per ARS 34-603
- The Project Schedule and Subcontractor Selection Plan shall NOT contain any names or information that can be used to identify the Contractor

### 3 3 5 Interviews (Weighted at 45%)

- The City will shortlist contractors based on the criteria in this section
- The City may interview all of the critical team members proposed
- The City may request to interview additional personnel
- The City may interview individuals separately and/or as a group
- The City may request a list of similar past projects from each team member
- For this project, Contractors may bring up to two additional team members at their discretion to the interview These additional team members will only be allowed in the interview during the 15-minute presentation and will not be interviewed or scored The purpose of this is to allow Contractors to bring in up to two additional team members whom they feel are important to this projects success
- *Important Note* All proposed team members must be available for interview on the date specified in this solicitation No substitutes or proxies will be allowed Individuals who fail to attend the interview will not be given a score which may jeopardize the contractor's competitiveness

## SECTION 4 – SELECTION PROCESS

### 4 1 Interview and Selection Process

Contractors will be prioritized and selected through a qualification based selection process based on the criteria in Section 3 A selection committee will evaluate and score each Project Assessment Plan The City will score and rank submittals as outlined in Appendix 1

A selection committee will evaluate and score each SOQ and interview the top 3 to 5 contractors based on the scores from the Project Assessment Plan, Schedule and Subcontractor Selection Plan After conducting the interviews, investigations of the contractors will be performed by the City

For this project the Final List will consist of the top 3 scoring contractors (based on PA Plan scores,



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Interview scores, Pass/Fail Reference, and Pass/Fail Responsiveness)

## 4 2 Identification of Potential Best-Value

Scores from the interview will be used to determine the final ranking order of the shortlisted contractors

The top selected contractor(s) on the Final List will then enter into negotiations with the City to reach agreement on final contract form, content and fee structure

If the City is satisfied with the potential best-value contractor(s), they will proceed to issue an award. If the City is not satisfied with the negotiations, the City may consider breaking off negotiations and selecting the next contractor on the final list for potential award

## SECTION 5 – POST AWARD ACTIVITIES

### 5 1 Post Project Evaluation

For contracts that span over multiple years, the City will perform annual project evaluations prior to contract renewal. The City will evaluate the overall performance of the project team (including, but not limited to overall quality, on-time completion, no cost change orders, compliance to budget, no complaints, and ability to work with the City staff). The final rating will be used towards future City of Peoria projects

## SECTION 6 – CRITICAL DATES

### 6 1 Pre-Submittal Conference

A pre-submittal conference will be held on **Wednesday, September 11<sup>th</sup> at 10 30 a m** Arizona Time. The meeting location is the City of Peoria, Development and Community Services Building, Point of View Conference Room, 9875 N 85<sup>th</sup> Avenue, Peoria AZ, 85345

Staff may not be available to respond to individual inquiries regarding the project scope outside of this pre-submittal conference. All interested parties are urged to attend this meeting

### 6 2 Critical Dates

The following are the critical dates for this project. Please be advised that these dates are subject to change as deemed necessary by the City

September 11, 2013	Pre-Submittal Conference
September 19, 2013	Submittals Due
October 2, 2013	Notification of Interviews
October 9, 2013	Interviews (shortlisted contractors only)
October 14, 2013	Best-Value Contractor Notification

## SECTION 7 – SOQ SUBMITTAL FORMAT

### 7 1 Submittal Format



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- The SOQ must be submitted to the contact listed in Section 7.2. The copies should be stapled (and not bound) to facilitate easy handling, photocopying, and reading by the evaluation committee
  - No faxed or emailed SOQs will be considered
  - The SOQ must be received by the date listed in Section 7.2
- 1 Attachment A Proposal Form – One (1) original must be submitted
  - 2 Attachment B Reference Form – One (1) original must be submitted
  - 3 Attachment C Project Assessment Plan – Four (4) copies of the completed 2-page scope plan, 2-page project assessment and value added plan must be submitted
  - 4 Attachment D Project Schedule and Subcontractor Selection Plan – Four (4) copies of the 1 page project schedule and four (4) copies of the 1 page subcontractor selection plan must be submitted

### 7.2 Submittal Due Date and Contact Information

- Proposal Responses must be received by 5:00 p.m. (AZ time) on **September 19, 2013**
- Contact Information

Attention Lisa Houg, Contract Officer  
SOQ # P14-0018 – JOC for Bridge Maintenance & Repair Projects  
City of Peoria Materials Management  
9875 N 85<sup>th</sup> Avenue, 2<sup>nd</sup> Floor  
Peoria, Arizona 85345

### 7.3 Disqualification

Please be advised that failure to comply with the following criteria may be grounds for disqualification and will be strictly enforced

- Receipt of SOQ at the proper location by the specified date and time
- The number of copies of the submittal requested
- Adherence to maximum page requirements
- All required documentation must be submitted
- Adherence to having no identifying information (except for Attachments A & B)

## SECTION 8 – GENERAL INFORMATION

### 8.1 Questions

- All questions regarding this SOQ must be submitted in writing by emailing [Lisa.Houg@PeoriaAZ.gov](mailto:Lisa.Houg@PeoriaAZ.gov)
- Inquiries within 48 hours preceding the due date & time will not be addressed



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## 8.2 General Information

- **Instructions** The City of Peoria shall not be held responsible for any oral instructions. Any changes to this SOQ shall be in the form of a published addendum.
- **Contact** Contact with City of Peoria staff, elected or appointed officials, or selection committee members concerning this SOQ, at any time, in any venue, is strictly prohibited, except as described in Section 8.1 above, and may be grounds for disqualification.
- **Costs** The City of Peoria will not be responsible for any costs incurred by any contractor submitting an SOQ or responding to this notice. The City reserves the right to waive any irregularities in any submittal and to reject all submittals and re-advertise or cancel the project in its entirety, at its sole discretion. The City reserves the right to request clarification or additional information.
- **Material** All materials submitted in response to this solicitation become the property of the City, and may become a part of any resulting contract. Award or rejection of a proposal does not affect this right.
- **Compliance** The selected contractor will be required to comply with the Legal Arizona Workers Act.
- **Federal Funds** The selected contractor will be required to comply with all associated Federal Compliance Regulations for any federally funded projects that may be done under this JOC contract.

## 8.3 Protest Policy and Procedures

- The City of Peoria Protest Policy and Procedures are available online at <http://www.peoriaaz.gov/NewSecondary.aspx?id=53287>. The policy is contained within the City of Peoria Procurement Code, Chapter 2- Administration, Section 2-321 Procurement Code Protests, Informal and Formal.
- The specific protest procedures are contained in the Materials Management "Administrative Guidelines" and can be accessed at <http://www.peoriaaz.gov/NewSecondary.aspx?id=54937> under the "DOWNLOADS" box on the right side of the web page.

## 8.4 Attachments (All must be completed and returned to be considered responsive)

Attachment A	Proposal Form
Attachment B	Reference List
Attachment C	Project Assessment Plan (Scope Plan & Risk/Value Added Plan)
Attachment D	Project Schedule and Subcontractor Selection Plan

## 8.5 Appendices

Appendix 1	Scoring and Ranking Submittals
Appendix 2	Sample Project





## STATEMENT OF INTEREST AND QUALIFICATIONS

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*The JOC Contract template (for review only) and all templates for Attachments A, B, C, and D can be accessed on the City's FTP website*

**FTP Site Access Directions**

*Using your Web Browser, enter the following address*

<https://cityftps.peoriaaz.gov>

*You will be prompted for a User ID and Password*

*User ID ftpsolicitation*

*Password AEC91&lv*

*(password is case sensitive)*

*You should then see the available file The file name for this project is P14-0018 – JOC for Bridge Maintenance & Repair Projects You can copy or download to your computer or server Download speed will depend on the internet connection speeds on both sides*

*If you have trouble moving beyond the prompt for user id and password, it is likely your network or pc's firewall and/or anti-virus software is blocking access Temporarily turning off your firewall and/or anti-virus software should allow you to continue with access*



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## ATTACHMENT A PROPOSAL FORM

One (1) original of this Proposal Form (Attachment A) must be completed and sent to the City of Peoria. Please staple Proposal Form (Attachment A) to the original Reference form (Attachment B) Project Assessment Plan (Attachment C) and Project Schedule and Subcontractor Selection Plan (Attachment D)

### Project Team

Name of Job Order Contractor (Contractor) \_\_\_\_\_

Name of JOC Program Manager (Individual) \_\_\_\_\_

Name of Project Manager (Individual) \_\_\_\_\_

Name of Project Superintendent (Individual) \_\_\_\_\_

Name of Estimator (Individual) \_\_\_\_\_

### Bonding

Individual project bonding capacity \$ \_\_\_\_\_

Total bonding capacity \$ \_\_\_\_\_

Amount of bonded contracts currently in process \$ \_\_\_\_\_

The Project Assessment Plan, Project Schedule and Subcontractor Selection Plan must NOT contain any information that may identify the Contractor or critical team members

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Printed Name and Title of Contractor Representative

\_\_\_\_\_  
Signature of Contractor Representative

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Fax

\_\_\_\_\_  
Date

\_\_\_\_\_  
Email

\_\_\_\_\_  
Contractor License Number



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### ATTACHMENT B REFERENCE LIST

#### HOW TO CREATE AND SUBMIT A REFERENCE LIST

- 1 The reference list must contain different projects You cannot have multiple people evaluating the same job However, one person may evaluate several different jobs
- 2 The references for past projects must be of similar size and scope for the type of project being solicited
- 3 The past projects must be completed past projects (no on-going or substantially complete projects)
- 4 The City will contact the references for additional information and clarification If the reference cannot be contacted, there will be no credit given for that reference and your firm may be eliminated from the selection process



**STATEMENT OF INTEREST AND QUALIFICATIONS**

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**ATTACHMENT B  
REFERENCE LIST (continued)**

Please list a minimum of three (3) owner references from similar completed projects within the past three (3) years whom the Materials Management Division may contact

1	Company	_____
	Contact	Phone
	Address	_____
	Description of Work	_____ _____
	Project Value	_____
	Date Completed	_____
2	Company	_____
	Contact	Phone
	Address	_____
	Description of Work	_____ _____
	Project Value	_____
	Date Completed	_____
3	Company	_____
	Contact	Phone
	Address	_____
	Description of Work	_____ _____
	Project Value	_____
	Date Completed	_____



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### ATTACHMENT C PROJECT ASSESSMENT PLAN GUIDE AND TEMPLATE

#### **Introduction**

The purpose of the Project Assessment (PA) Plan is to identify if a contractor can quickly identify the risks on a future project in terms of cost, time, and client expectations (of quality and performance) The PA Plan is used to

- 1 Assist the client in prioritizing contractors based on their ability to understand the risks of a project
- 2 Provide high performing contractors with an opportunity to differentiate themselves from their competitors
- 3 Minimize the effort of experienced companies who are competing for the project

Contractors should keep in mind that the PA Plan is only one step in the selection process If all the PA Plans are the same, the PA Plan will have little impact in the selection (other factors, such as the interview will dictate the selection) The PA Plan will become part of the contract

#### **PA Plan Format**

The PA Plan contains three major sections Scope Plan, Potential Risks and Solutions and the Potential Value Added Options The City's goal is to make the selection process as efficient as possible Efficiency is to minimize the effort of all participants, especially those who will not be awarded the project Therefore, the PA Plan should be brief and concise The PA Plan shall NOT exceed 4 pages front side of page only (2 pages Scope Plan, 2 pages combined for Risks and Value Added Ideas)

In order to minimize any bias by the evaluation committee, the PA Plans shall NOT contain ANY names (such as contractor or manufacturer names personnel names, project names, product names, or company letterhead) A PA Plan template is attached and must be downloaded from the FTP site Contractors are NOT allowed to re-create the PA Plan Template (cannot alter font size, font type, add colors, add pictures, etc) Failure to comply with these requirements may result in disqualification The PA Plans should not contain any marketing information, brochures, product names, technical information, or general items All documents shall be on 8½" x 11", in black and white ink only, no graphics or pictures

#### **Overview of the Scope Plan Section**

The purpose of the scope plan submittal is an opportunity for the contractor to differentiate themselves by giving a concise and well organized description of the project The Scope Plan should be a succinct summary of the project and should be used to prove to the client that the contractor can visualize what they are going to do before they do it The Plan should identify the major components risks, and show contractors capability to predict, preplan, prioritize and minimize technical risks

#### **Overview of the Risk Assessment Section**

The contractor should clearly address the following items

- 1 List and prioritize major risk items that are unique to this project This includes areas that may cause the project to not be completed on time not finished within budget, generate any change orders, or may be a source of dissatisfaction for the owner Risks can include things that you control and things that you do not control
- 2 Explain how the contractor will avoid / minimize the risk If the contractor has a unique method to minimize the risk, they should explain it in non-technical terms

#### **Overview of the Value Added Item Section**

The contractor should identify and list any value added options that they feel may apply to this project Do not include marketing material



**STATEMENT OF INTEREST AND  
QUALIFICATIONS**

Solicitation Number P14-0018

Materials Management  
Procurement  
9875 N 85<sup>th</sup> Ave, 2<sup>nd</sup> Fl  
Peoria, Arizona 85345-6560  
Phone (623) 773-7115  
Fax (623) 773-7118

**ATTACHMENT C  
PROJECT ASSESSMENT PLAN TEMPLATE**

This template must be used

**SECTION 1 – SCOPE PLAN (Page 1 of 2)**

Font size should not be any smaller than 10 point Times New Roman or Arial Do not list any names/information that can be used to identify your firm Do not exceed the 2-page limit for the Scope Plan (You may delete these instructions )



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**SECTION 1 – SCOPE PLAN (Page 2 of 2)**

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**SECTION 2 - IDENTIFICATION & MINIMIZATION OF RISK (Page 1 of 2)** Font size should not be any smaller than 10 point Times New Roman or Arial Do not list any names/information that can be used to identify your firm Do not exceed the 2-page limit for the Risk/Value-Added Plan (You may delete these instructions )

Identify major risks associated with the sample project You may add/delete the risk tables below as necessary

<b>Risk 1</b>	
<b>Solution</b>	
<b>Risk 2</b>	
<b>Solution</b>	
<b>Risk 3</b>	
<b>Solution</b>	
<b>Risk 4</b>	
<b>Solution</b>	
<b>Risk 5</b>	
<b>Solution</b>	
<b>Risk 6</b>	
<b>Solution</b>	
<b>Risk 7</b>	
<b>Solution</b>	
<b>Risk 8</b>	
<b>Solution</b>	
<b>Risk 9</b>	
<b>Solution</b>	
<b>Risk 10</b>	
<b>Solution</b>	





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**SECTION 2 - VALUE ADDED OPTIONS (Page 2 of 2)** Font size should not be any smaller than 10 point Times New Roman or Arial Do not list any names/information that can be used to identify your firm Do not exceed the 2-page limit for the Risk/Value-Added Plan (You may delete these instructions )

Please identify any value added options or differentials that you are proposing, and include a short description of how it adds value to the sample project Identify if the items will increase or decrease schedule cost or expectation You may add/delete the value tables below as necessary

<b>Item 1</b>			
<b>Impact</b>	<b>Cost (\$)</b>		<b>Schedule (Days)</b>
<b>Item 2</b>			
<b>Impact</b>	<b>Cost (\$)</b>		<b>Schedule (Days)</b>
<b>Item 3</b>			
<b>Impact</b>	<b>Cost (\$)</b>		<b>Schedule (Days)</b>
<b>Item 4</b>			
<b>Impact</b>	<b>Cost (\$)</b>		<b>Schedule (Days)</b>
<b>Item 5</b>			
<b>Impact</b>	<b>Cost (\$)</b>		<b>Schedule (Days)</b>



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### ATTACHMENT D

#### PROJECT DURATION SCHEDULE and SUBCONTRACTOR SELECTION PLAN

This template is a placeholder only Contractor may attach separate sheet(s) for Project Schedule and Subcontractor Selection Plan

***Overview of the Project Duration Schedule (1 page)***

Provide a detailed Gantt style project schedule which clearly conveys milestones, design activities equipment pre-purchase, permitting processes City approval process construction and project close-out Delineate clearly the two project efforts showing any points of inter-dependence and their respective completion dates Do not list any names/information that can be used to identify your firm Do not exceed the 1-page limit for the Project Schedule (You may attach a separate page for the Project Duration Schedule)

***Overview of the Subcontractor Selection Plan (1 page)***

Font size should not be any smaller than 10 point Times New Roman or Arial Do not list any names/information that can be used to identify your firm Do not exceed the 1-page limit for the Subcontractor Selection Plan (You may delete these instructions or attach a separate page for the Subcontractor Selection Plan)



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## APPENDIX 1

### Scoring and Ranking Submittals

**Overview**

The City of Peoria uses a simple linear data model to score and rank the contractors. The model uses raw data scores with a 1-10 rating, then normalizes those scores to a 100 point basis, then multiplies by the weighted percentage for the final score and ranking. Example:  $8 \times 45\% = 36.5$

**Example**

The following data and tables are for informational purposes only. Based on the raw data and weights, Contractor C is identified as the highest ranked firm (85.5 points out of 100 possible points). Any firm that receives a fail in the responsiveness or reference categories will be eliminated from the selection process.

	Criteria	Weight	Contractor A		Contractor B		Contractor C	
			Raw Score	Weighted Score	Raw Score	Weighted Score	Raw Score	Weighted Score
1	Responsiveness	Pass/Fail	Pass	Pass	Pass	Pass	Pass	Pass
2	Interview Score	45%	8	36.5	7	35.1	8	37.4
3	Scope Plan	25%	5	14	6	15.3	7	19.5
4	PA/VA Plan Score	25%	9	22.8	9	24.3	9	23.8
5	Project Duration Schedule & Subcontractor Plan Score	5%	8	4.3	9	4.7	9	4.8
6	References	Pass/Fail	Pass	Pass	Pass	Pass	Pass	Pass
		100%		77.6		79.4		85.5
	<b>Final Ranking</b>			<b>3</b>		<b>2</b>		<b>1</b>



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### APPENDIX 2 SAMPLE PROJECT

#### Project Description

The Northern Avenue Bridge at New River has been programmed for preventive maintenance and safety upgrades. The City has separately retained a design consultant to prepare the necessary investigation and plans for this sample project. The design consultant has made the following recommendations:

- Perform concrete repairs to the deck, include, removal and replacement of any delaminated concrete and spall repairs, epoxy and crack injections
- Place a protective sealant of methacrylate on deck and approach slabs
- Replace the compression seals
- Clean out rocks and debris around girder bearings to allow for free expansion and contraction. Access to the girders can only be obtained from the river
- Update/replace guardrail as needed at approaches and update guardrail end terminals to ET-Plus
- Add 12" of height to concrete separation barriers with additional concrete to meet current minimum height requirements for pedestrians and bikes

The City desires to keep the street closures and disruption to traffic at a minimum through the duration of the project.

For this sample project the Contractor shall provide pre-construction and construction services for the project. The Contractor will be required to provide for all labor, material, supplies, transportation, management, supervision, equipment, and all other necessary items for complete and usable projects, performing all work in complete compliance with all plans, drawings, and specifications issued.

*Note: This is not an actual project for the City. This proposed project is a sample only and for the purposes of this solicitation. There are no drawings/exhibits available for this sample project.*

**ATTACHMENT E  
PROPOSAL RESPONSE**

**SEE ATTACHED**



# STATEMENT OF INTEREST AND QUALIFICATIONS

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## ATTACHMENT A PROPOSAL FORM

One (1) original of this Proposal Form (Attachment A) must be completed and sent to the City of Peoria. Please staple Proposal Form (Attachment A) to the original Reference form (Attachment B), Project Assessment Plan (Attachment C) and Project Schedule and Subcontractor Selection Plan (Attachment D)

### Project Team

Name of Job Order Contractor (Contractor)	<u>J Banicki Construction, Inc</u>
Name of JOC Program Manager (Individual)	<u>Mike Abraham</u>
Name of Project Manager (Individual)	<u>Jeff Abraham</u>
Name of Project Superintendent (Individual)	<u>Jay Smith</u>
Name of Estimator (Individual)	<u>John Schmidt</u>

### Bonding

Individual project bonding capacity	<u>\$ 250,000,000</u>
Total bonding capacity	<u>\$ 1,500,000,000</u>
Amount of bonded contracts currently in process	<u>\$ 40,896,000</u>

The Project Assessment Plan, Project Schedule and Subcontractor Selection Plan must NOT contain any information that may identify the Contractor or critical team members

J Banicki Construction, Inc

Name of Company  
Mike Abraham, President

Printed Name and Title of Contractor Representative  
6423 S Ash Ave Tempe, AZ

  
Signature of Contractor Representative  
85283

Address  
(480) 921 8016 City, State  
(480) 921 9456 Zip Code  
9/19/13

Phone  
mabraham@banicki.com Fax Date

Email

ROC091410  
Contractor License Number



# STATEMENT OF INTEREST AND QUALIFICATIONS

Solicitation Number P14-0018

Materials Management Procurement  
9875 N 85<sup>th</sup> Ave , 2<sup>nd</sup> Fl  
Peona, Arizona 85345-6560  
Phone (623) 773-7115  
Fax (623) 773-7118

## ATTACHMENT B REFERENCE LIST

Please list a minimum of three (3) owner references from similar completed projects within the past three (3) years whom the Materials Management Division may contact

- 1 Company City of Peona  
 Contact Ben Wilson Phone (623) 773-7249  
 Address 8401 W Monroe St Peona, AZ 85345  
 Description of Work Peoria Bndge Project- Replacement of the existing elastomerc bearing pads on the east and west abutment  
 Project Value \$336,343  
 Date Completed 4/15/2011
  
- 2 Company City of Peona  
 Contact Geoffrey Zinnecker Phone (623) 773-7293  
 Address 8401 W Monroe St Peona, AZ 85345  
 Description of Work City of Peona Pavement JOC Milling, paving, concrete paving, storm drain, Street lights, guard rail, bus stops and landscaping  
 Project Value No contract limit/ \$3M job limit, 31 job orders complete to date ranging from \$2000 to \$1 2 M for a total of over \$7 5M  
 Date Completed Last job order complete 4/11/2013
  
- 3 Company City of Peona  
 Contact Rich Costa Phone (623) 773-7951  
 Address 8401 W Monroe St Peona, AZ 85345  
 Description of Work 87<sup>th</sup> Avenue Olive Ave to Hatcher Rd (CMAR)- Roadway improvements including utility relocations, 20' deep storm drain, water main replacement, manholes, laterals, catch basins, traffic signal modifications, and paving  
 Project Value \$1,527,277  
 Date Completed 9/11/2009



**STATEMENT OF INTEREST AND QUALIFICATIONS**

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**ATTACHMENT C  
PROJECT ASSESSMENT PLAN TEMPLATE**

**SECTION 1 – SCOPE PLAN**

**Summary of Understanding and Approach**

*Our approach is centered on working closely with all involved stakeholders – the City of Peoria, State Land, MCFCD, ADOT, businesses, private land owners, residents, utilities, traveling public, and subcontractors to safely build this project on time, within budget, and with minimal impact to local businesses and residents*

A seamless team effort is imperative. Our management team will be dedicated to this project for the duration of all phases.

*Responsibility, communication and cooperation will be vital to building a cohesive team and successful project.*

**General Project Description**

The project entails preventative maintenance and safety upgrades to the Northern Avenue Bridge at New River. Repairs will include concrete repairs to the deck, application of methacrylate sealant to the deck and approach slabs, replacement of compression seals, removal of rocks and debris from girder bearings. Safety improvements will include updating the guardrail to ET-Plus and the addition of 12" of height to concrete separation barriers.

**Major Project Tasks / Components**

**Pre-Award**

- Comprehensive Risk Assessment
- Contract Items – Efficiency Suggestion List, Coordination Plan, Quality Control Plan, Initiate Weekly Reporting, etc
- Execute Contract

**Design**

- Design Development, Review, and Approval
- Conceptual Estimate, Value Engineering and Constructability Analysis
- Communication and Coordination with Utilities
- Phase and Sequence Planning
- Long Lead Item Identification
- Review Utility Pothole Information and Perform Additional Locating as Needed
- Detailed Traffic Control Plans

**Major Project Tasks / Components (continued)**

- Subcontractor Prequalification and Selection
- GMP Submittal with Cost Justification

**Construction**

- Remove and Replace Existing Guardrail BCT with ET-Plus style end treatments
- Modify Height of Existing Barrier to 44"
- Clean Girder Bearing Seats of Loose Debris
- Remove and Replace Compression Seals
- Repair Existing Bridge Deck patch spalls, remove and patch any delaminated areas, epoxy inject large cracks
- Clean and Shot Blast Deck and Approach Slabs, Seal with Methacrylate Treatment

**Major Project Challenges**

**Defining the Scope of the Deck Repair –** Comprehensive inspection of bridge deck needs to be done to identify the extent of patching and spall repair needed. This will allow the budget amount to be further defined and provide the city a solid budget. Traffic will need to be maintained during investigation. This work will be done at night behind traffic control.

**Maintaining Traffic Flow in Each Direction –** The area has a significant traffic volume and is used extensively by pedestrians and bicyclists. The existing traffic patterns need to be maintained as much as possible and still accomplish the task expediently. One lane of vehicle traffic will be maintained in each direction at all times. Pedestrian and bike traffic will be maintained on at least one side of the bridge at all times.

**Access to Bridge Underside –** The bridge is only accessible by use of the existing Maricopa County Flood Control levee ramp. Outside agency permit requirements and necessary meetings will be determined in the design phase. A 404 permit may be required which has an extensive review time. Additional requirements may include a separate pre-construction meeting with MCFCD and site restoration.





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### Design Approach

We will begin with *comprehensive planning in the design phase* We will provide a flow chart outlining anticipated tasks as well as *action item lists* detailing task descriptions, assigning responsibility, accountability, and establishing due dates Regular meetings will be scheduled with all stakeholders to ensure efficient communication and progress

The schedule will be developed in design, executed aggressively, monitored daily, and updated weekly to obtain maximum productivity We will *aggressively strive to value engineer* in an effort to save money and maximize best value during the design phase

We anticipate two separate GMPs *GMP1 would be utilized to procure manufactured components with long lead times – the new guardrail end treatments and compression seal* The second GMP would include the balance of the work

During the design phase, we will perform a detailed inspection of the deck to further determine the extent of the needed repairs This will allow for efficient planning of the construction phase and provide a solid budget amount for the City

Investigation will be performed by means of "chain dragging" and sounding for delaminated sections and possible use of ground penetrating radar for further inspection of suspected deficient area Rebound hammer spot testing of existing deck to approximate current compressive strength will assist in patch material selection and treat These can be accomplished once a right of way permit is issued and using very little traffic control during off peak hours

*Once the budget has been submitted, it will not be exceeded by any successive GMP or by the final project cost*, given there are no substantial Owner initiated scope changes Three quotes will be obtained for each trade to ensure "*fair market value*" for cost justification

### Construction Approach

We intend to accomplish the work and provide methods to deal with the challenges using a systematic and phased approach *Safe, fluid traffic flow through the project area must be maintained*

*Constant, open communication will be maintained and continue with all parties*

All work will be overseen by a senior structures project manager and staffed with an experienced bridge and structures general superintendent, both will be dedicated to the JOC and see the task from preconstruction through final completion

The next activity will be to replace the existing BCT end terminals with the ET-Plus or equal Terminals These activities would require day time night lane closures to accomplish the work Simultaneously with this activity will be the modification of the existing 32" barrier by adding an additional 12" in height and make it compliant to current standards

Under bridge housekeeping and inspection will be performed concurrently with the guard rail and barrier work Access to this will be accomplished from the Flood Control District's levee ramps using self-propelled manlifts Special care will be taken to minimize disturbance, and access roads restored in the river once work is completed

Next, patching and repair of the entire bridge will require off peak and some weekend work as it will require restricting the existing road to one lane in each direction Previously marked spalls and dead areas discovered by sounding during design will be mechanically chipped out with hand held equipment and patched with the appropriate epoxy based material The new compression seal gland will be placed across half of the roadway during this time period Once the traffic control is reversed to the opposite side of the bridge, the compression seal will be completely installed across the rest of the bridge

Using the same configuration of one lane in each direction, one half of the bridge will be cleaned with shot blast equipment and treated with methacrylate in accordance with the design recommendations Again, traffic will be reversed and the process completed

New pavement marking will be applied, and final inspection of the entire work assignment will be requested Any discovered punch list items will be performed, and final paper work and close out documents submitted



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## ATTACHMENT C PROJECT ASSESSMENT PLAN

### SECTION 2 - IDENTIFICATION & MINIMIZATION OF RISK

<b>Risk 1</b>	<p><b>Response time for bridge structural review, design solution development, emergency repairs</b></p> <p>Maintain an on call structural engineer and construction crews with rapid response time          Perform structural analysis of as many bridges as possible during the early stages of the project in order to maximize design and repair time. This will allow the team to assess repair options, obtain approval of repair methods and cost, and schedule the work in advance to minimize impacts to the traveling public, residents and businesses. This will also allow us to pre-order standard materials for repairs and retrofitting.</p>
<b>Solution</b>	
<b>Risk 2</b>	<p><b>Public perception of construction work</b></p> <p>Provide newsletters to local residents and businesses in advance of construction, set up a public information hotline, and provide message boards informing public of upcoming closures or restrictions.</p>
<b>Solution</b>	
<b>Risk 3</b>	<p><b>Cost of emergency repairs, material cost escalation, and job order approval time</b></p> <p>In pre-award meeting, we will establish the proposal format and level of detail expected to be submitted. We will also determine the type of back up documentation required for rapid, streamlined approval process. This will minimize uncertainties and expedite emergency work pricing. We will identify critical repairs early and secure materials subject to cost escalation by pre-ordering.</p>
<b>Solution</b>	
<b>Risk 4</b>	<p><b>Obtaining required permits timely (building safety, environmental, outside agencies such as MCDOT, MCFCD, RID, CAP, RWCD, ADOT, Army Corp of Engineers (USACE), etc</b></p> <p>By targeting repair requirements and planning for required permits in the design and scope development stages, we can effectively reduce the time impact associated with obtaining permits. We will work closely with outside agencies so construction can begin without delays. All work within jurisdictional waters of the US will be reviewed for 404 permit requirements with the USACE and evaluated for ways to access potential sites to avoid encroachment. We will determine in the pre-award phase if any areas are covered by a nationwide 404 permit.</p>
<b>Solution</b>	
<b>Risk 5</b>	<p><b>Maintaining Efficient, Safe Vehicular and Pedestrian Flow that is ADA Compliant</b></p> <p>Establish a traffic control manager early on in the pre-award phase to ensure compliance with the city codes and ADA. Develop traffic control standard rates for devices and implementation that would allow for a streamlined approach on an emergency type repair. Integrate an information notification process into temporary traffic control planning to allow for adequate advance warning before restrictions are implemented. Perform work that requires closures or restrictions during weekends and/or nights to limit impact.</p>
<b>Solution</b>	
<b>Risk 6</b>	<p><b>Potentially encountering EPA listed hazardous materials such as asbestos pads under bridge railing post, asbestos joint filler on bridges and culverts, lead based paints on structural steel</b></p> <p>Establish a list of abatement contractors who would be responsive to clear the work site if required. Establish procedures to handle and transfer any hazardous materials for regulated disposal. In pre-award portion of JOC, establish contact with a selected professional engineering firm to scope if hazardous conditions exist.</p>
<b>Solution</b>	



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<b>Risk 7</b>	Roadways that have large traffic volumes and limited windows for repair
<b>Solution</b>	Establish an approved product list of rapid set concrete mix designs, high strength grout and patch materials, rapid set epoxies and sealants that will allow "overnight repairs" to be made with minimal disruption
<b>Risk 8</b>	Construction impacts due to Native Species Act or environmentally sensitive area
<b>Solution</b>	Provide a pre-award team meeting to identify any potential regulations that would impede work We will work closely with pre-approved wild life biologist and determine the type of species to potentially be encountered, and outline an action item list mitigating well in advance of construction

## SECTION 2 - VALUE ADDED OPTIONS

<b>Item 1</b>	Utilize our in-house structural group to perform repairs and our network of local specialty bridge subcontractors to rapidly order production of precast concrete members, barrier and structural concrete components We also partner with local steel fabricators/erectors with in-house design capabilities and current AISC certifications for "fracture critical" for bridge steel construction Using local qualified firms reduces the time required to produce, and install bridge components			
<b>Impact</b>	Cost (\$)	Equal to or greater than -10%	Schedule (Days)	8 days
<b>Item 2</b>	Our firm will provide conceptual cost estimating services to assist with project funding prioritization and establishing budgets to determine project feasibility and assist with planning on fiscal need Our estimating/scheduling programs and procedures will give Peoria the flexibility to add, delete, or modify the project scope and rapidly determine impact to project cost and schedule			
<b>Impact</b>	Cost (\$)	Equal to or greater than -8%	Schedule (Days)	10 days
<b>Item 3</b>	Explore other deck treatments such as polyester overlay or epoxy-aggregate overlay that can be performed as a one-step rehabilitation and save time and money on patching			
<b>Impact</b>	Cost (\$)	-\$1 to \$5 sy	Schedule (Days)	7 days
<b>Item 4</b>	Evaluate a design that would incorporate a pavement preservation AR-ACFC overlay for the bridge deck saving the expense of Methacrylate treatment			
<b>Impact</b>	Cost (\$)	-\$9 to \$15 sy	Schedule (Days)	8 days
<b>Item 5</b>	Provide a design of steel handrail for increasing the height of the existing traffic barrier			
<b>Impact</b>	Cost (\$)	- \$10 lf	Schedule (Days)	10 days
<b>Item 6</b>	Perform all bridge structural evaluations up front allowing more time for completion of design work for repairs Identifying which structures can be repaired first (those with the least design time) allows us to identify cost and schedule time for repairs early in the project to accommodate fiscal funding limitations and maximize time for repairs			
<b>Impact</b>	Cost (\$)	NA	Schedule (Days)	60 days



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### ATTACHMENT D SUBCONTRACTOR SELECTION PLAN

Our selection process will follow a standardized set of selection criteria that complies with Arizona Revised Statute 34-603 and ensures that the pricing for the work will be provided through a fair, competitive process, obtaining the "best value" for the City of Peoria

We intend to recommend selecting subcontractors and suppliers by qualifications and price competition on this project. At this time we do not anticipate the need to select any subcontractors by qualifications only. Should the need arise for proprietary services or products, specialty designs or accelerated schedules, we will request approval from the City of Peoria to select based on qualifications only to meet the specific need.

We will create a list of pre-qualified subcontractors for each of the major trades and allow the pre-qualified firms to compete to provide services through price competition. If we desire to self-perform work, we will include ourselves on the list of pre-qualified subcontractors and compete in the price competition with other firms.

Regardless of the selection method, we will ensure that only qualified subcontractors will be involved in this project by pre-qualifying firms that have demonstrated their ability to perform in the field and to be cost competitive. As part of the pre-qualification process, we will review the subcontractors' license status, insurability, financial well-being, resource availability, management capability, safety record, quality of work and overall responsiveness. Once we are confident in our subcontractors' ability to provide quality work on this project, we will forward the list of pre-qualified subcontractors to the City of Peoria for review and approval.

As part of our selection process we will

- Contact the appropriate pre-qualified firms to encourage their interest on this project
- Assemble clear, concise bid packages that allow for value engineering suggestions prior to bidding
- Obtain multiple competitive quotes for all major trades to ensure fair market value
- Review the proposals to ensure that the firms provided responsive and reasonable bids
- Provide the City of Peoria with copies of all quotes received upon request
- Select the firm best qualified to provide the required services considering the bid price, schedule and other legitimate selection criteria (i.e. SBE involvement)

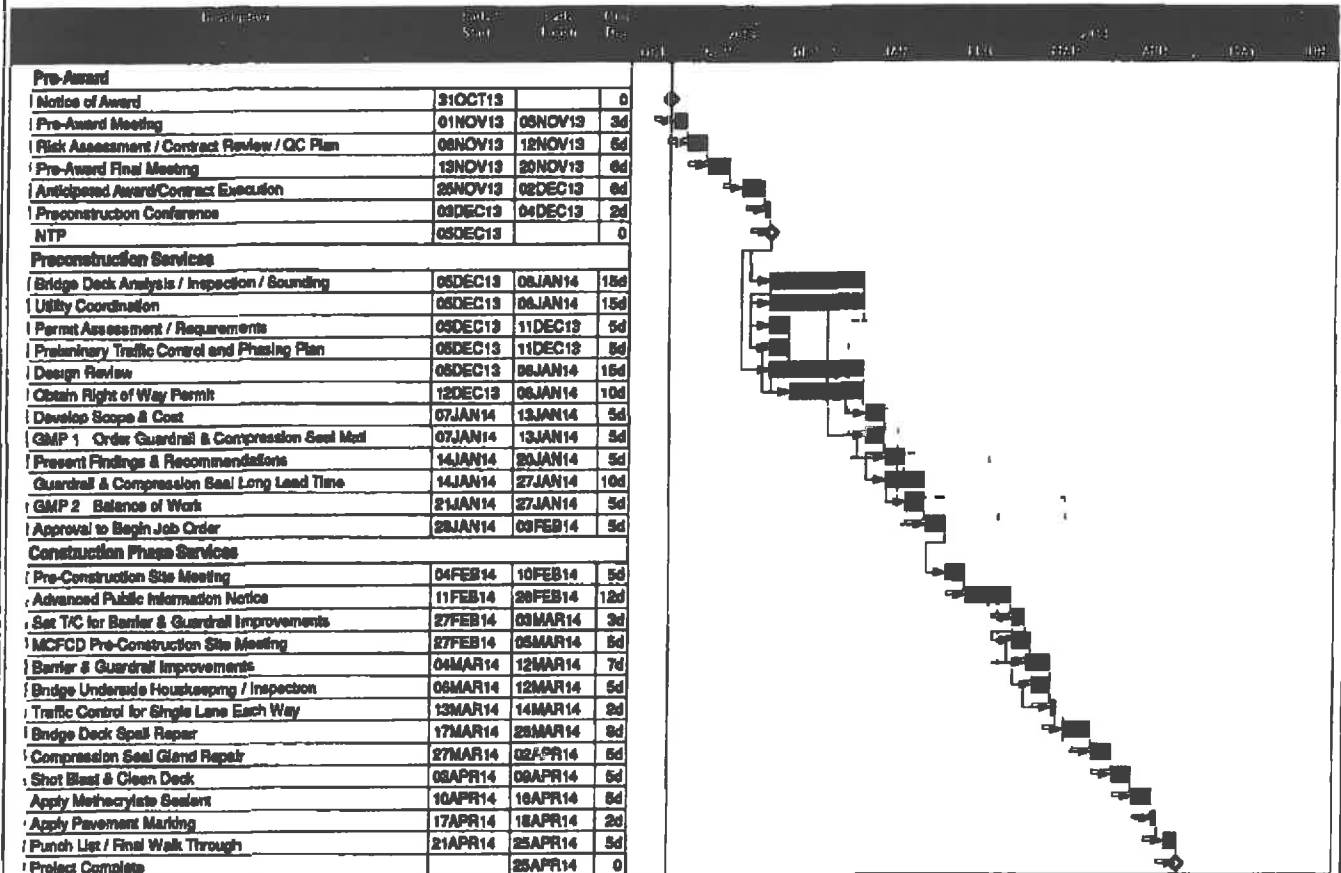


# STATEMENT OF INTEREST AND QUALIFICATIONS

Solicitation Number P14-0018

**Materials Management Procurement**  
 9875 N 85<sup>th</sup> Ave, 2<sup>nd</sup> Fl  
 Peoria, Arizona 85345-6560  
 Phone (623) 773-7115  
 Fax (623) 773-7118

## ATTACHMENT D PROJECT DURATION SCHEDULE



Data date 31OCT13  
 Finish date 25APR14  
 © Primavera Systems Inc

P14 0018  
 Bridge Maintenance & Repair Project

■ Early bar  
 ■ Critical bar  
 ◆ Start milestone point  
 ◆ Finish milestone point

**ATTACHMENT F  
AUTHORIZED SIGNATURE FORM**

**SEE ATTACHED**

**J Banicki Construction, Inc**  
 6423 S Ash Avenue, Tempe AZ 85283  
**AUTHORIZED SIGNATURE FORM**

TO Lisa Houg  
 City of Peoria  
 9875 N 85<sup>th</sup> Avenue  
 Peoria, AZ 85345

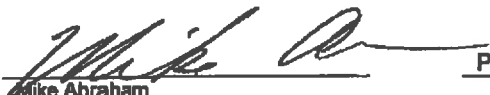
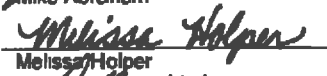

**AUTHORIZED SIGNATURE  
 Corporation**

All  
 WHEREAS J Banicki Construction Inc an Arizona Corporation, is required to execute certain documents which are necessary for the prompt and efficient execution of the corporate business

NOW THEREFORE BE IT RESOLVED by the Board of Directors of the J Banicki Construction Inc., that Mike Abraham Melissa Holper, and Jeff Abraham be authorized to execute and sign on behalf of said corporate the following documents

- |   |              |   |                                |
|---|--------------|---|--------------------------------|
| 1 | The Proposal | 6 | Change Orders                  |
| 2 | The Contract | 7 | Extension of Time              |
| 3 | The Bond     | 8 | Request for Force Account Work |
| 4 | Payrolls     | 9 | All other paperwork to conduct |
| 5 | Claims       |   | proper corporate business      |

The powers and duties herein granted shall be and is hereby granted for the duration of the contract for the construction of the City of Peoria, Job Order Contracting for Bridge Maintenance and Repair Projects, or until express notice to revocation has been duly given in writing, whichever is the lesser period Authority granted per the Resolution dated and passed by the Board of Directors January 3<sup>rd</sup> 2013

 _____ Mike Abraham	President	_____	1 to 9 inclusive
 _____ Melissa Holper	VP of Operations	_____	1 to 9 inclusive
 _____ Jeff Abraham	Project Manager	_____	6 to 9 inclusive

**CERTIFICATE**

STATE OF ARIZONA            )  
   ) ss  
 COUNTY OF MARICOPA        )

I, Melissa Holper, VP of Operations of the J Banicki Construction Inc a corporation do hereby certify that the above is a true and correct copy of the Resolution passed by the Board of Directors on January 3<sup>rd</sup> 2013 and that the same is in full force and effect at this time

  
 \_\_\_\_\_  
 Melissa Holper VP of Operations

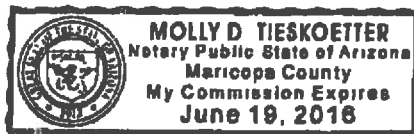
(Seal of Corporation)

STATE OF ARIZONA            )  
   ) ss  
 COUNTY OF MARICOPA        )

This instrument was acknowledged before me this 7th day of November, 2013, by Melissa Holper appearing before the undersigned Notary Public, and stated that she executed such instrument on behalf of said corporation for the purpose and consideration therein expressed

My Commission Expires  
6/19/16

  
 \_\_\_\_\_  
 (NOTARY PUBLIC)



**ATTACHMENT G  
CONTRACTOR CONTACT LIST**

**SEE ATTACHED**





**J. Banicki Construction, Inc.**  
6423 S Ash Avenue  
Tempe, AZ 85283

480-921-8016 (phone)  
480-921-9456 (fax)

November 4 2013

Lisa Houg CPPB- Contract Officer  
City of Peoria Materials Management  
9875 N 85<sup>th</sup> Ave Peoria, AZ 85345

Reference Job Order Contracting for Bridge Maintenance & Repair Projects  
Project No P14-0018A

Subject Project Contacts

Please be advised that Jeff Abraham will be the Project Manager and both John Schmidt and Barry Smylie will be the estimators for the above reference project They can be contacted at the following numbers

Project Manager	Jeff Abraham
Mobile	(602) 819-3783
Office	(480) 921-8016
Fax	(480) 921-9456

Estimator	John Schmidt
Mobile	(602) 399-1152
Office	(480) 921-8016
Fax	(480) 921-9456

Estimator	Barry Smylie
Mobile	(602) 376-0150
Office	(480) 921-8016
Fax	(480) 921-9456

If you have any questions or comments, please contact me at (602) 819-3783

Respectfully submitted,

J Banicki Construction Inc

Jeff Abraham  
Project Manager



# CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)  
10/30/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S) AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT** If the certificate holder is an ADDITIONAL INSURED the policy(ies) must be endorsed if SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s)

<b>PRODUCER</b> Aon Risk Services Southwest Inc Houston TX Office 5555 San Felipe Suite 1500 Houston TX 77056 USA	<b>CONTACT NAME</b> PHONE (AFC No Ext) (866) 283-7122 FAX (AFC No.) 800 363-0105		
	<b>E-MAIL ADDRESS</b>		
<b>INSURED</b> J Banick Construction Inc 6423 S Ash Avenue Tempe AZ 85283 USA	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	<b>INSURER A</b> Hartford Fire Insurance Co		19682
	<b>INSURER B</b> Hartford Ins Co of the Midwest		37478
	<b>INSURER C</b> National Union Fire Ins Co of Pittsburgh		19445
	<b>INSURER D</b>		
	<b>INSURER E</b>		
<b>INSURER F</b>			

Holder Identifier

**COVERAGES**      **CERTIFICATE NUMBER 570051836100**      **REVISION NUMBER**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS EXCLUSIONS AND CONDITIONS OF SUCH POLICIES LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS      *Limits shown are as requested*

INSR LTR	TYPE OF INSURANCE	ADDL BSN RSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC		61CSEQU2061	03/01/2013	03/01/2014	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS COMP/OP AGG \$2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS		61CSEQU2062	03/01/2013	03/01/2014	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION		8E37709399	03/01/2013	03/01/2014	EACH OCCURRENCE \$2,000,000 AGGREGATE \$2,000,000
B	WORKERS COMPENSATION AND EMPLOYERS LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes describe under DESCRIPTION OF OPERATIONS below	Y/N Y N/A	61WVQU2060	03/01/2013	03/01/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH ER E L EACH ACCIDENT \$1,000,000 E L DISEASE EA EMPLOYEE \$1,000,000 E L DISEASE POLICY LIMIT \$1,000,000

Certificate No 570051836100

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101 Additional Remarks Schedule if more space is required)**

RE City of Peoria Contract No P14-0018 JOC for Bridge Maintenance & Repair City of Peoria is included as Additional Insured in accordance with the policy provisions of the General Liability and Automobile Liability policies General Liability and Automobile Liability evidenced herein is Primary and Non-Contributory to other insurance available to an Additional Insured but only in accordance with the policy s provisions A waiver of subrogation is granted in favor of Additional Insured in accordance with the policy provisions of the General Liability Automobile Liability and Workers' Compensation policies Contractual Liability is included under the General Liability policy where required by written contract Umbrella follows form to the General Liability Automobile Liability and Workers' Compensation policies

<b>CERTIFICATE HOLDER</b>  City of Peoria Attn Lisa Houg 9875 N 85th Avenue, 2nd Floor Peoria AZ 85345 USA	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS AUTHORIZED REPRESENTATIVE  <i>Aon Risk Services Southwest, Inc.</i>
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**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
J. BANICKI CONTRUCTION, INC.**

**EXHIBIT B**  
Scope of Work

**PROJECT**

See attached



**J. Banicki Construction, Inc.**  
4720 E. Cotton Gin Loop  
Suite 240  
Phoenix, AZ 85040

480-921-8016 (phone)  
480-921-9456 (fax)

## Scope of Work 2017 COG Bridge Repair Program

The objective of this assignment is to repair the bridges per the furnished bid schedule and the ADOT Inspection Report. Site visits to each bridge were made on November 14, 2016 to determine access and existing conditions. Listed below is an explanation of our pricing.

- **Structure No. 8947 (Skunk Creek Bridge at 59<sup>th</sup> Ave.)**

Item 4 – Structural Concrete (Class AA – 4000 psi). We have provided Class S 4000 PSI Concrete in accordance with ADOT Bridge Standards. We have also included the cost to remove and replace the existing patch on the top of the barrier transitions.

Item 5 – Paint Steel Rail. We have adjusted the quantity from 336 LF to 352 LF based on field measurements. The paint will be per the ADOT 610 specifications.

Item 6 – Clear Vegetation on West side of Bridge. Base on the field inspection there is minor vegetation removal that is required on the East side to allow for painting, this is included in our pricing.

- **Structure No. 8948 (Skunk Creek at Union Hills)**

Item 7 – Replace AC in EB lanes at Abutment Joints. In our site visit it was noted that the asphalt approaches have recently been replaced. In reviewing the “List of Maintenance Items” in the Inspection Report for this bridge, Item 2 states, “Repair area w/AC in missing steel armor at the EB Lanes and W Abutment for a temporary repair.” Upon inspection and the with the movement of the bridge we recommend that the missing length of steel armor be replaced. A patch of asphalt in this location would become a maintenance issue. **We did not price this item.**

Item 8 – Structural Concrete (Class AA – 4000 psi). We have provided Class S 4000 PSI Concrete in accordance with ADOT Bridge Standards. We plan on using the existing slip dowels in this repair. This section of barrier will be formed to the skew of the existing expansion joint.

- **Structure No. 8827 (Arrowhead Lakes Bridge 3)**

Item 9 – Replace Missing Sleeve at North Handrail. During our site investigation we notice that the bottom sleeve on the South Handrail was also missing. We have adjusted from 5 LF to 10 LF.



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- **Structure No. 9443 (Grand Canal at 83<sup>rd</sup> Ave.)**

Item 10 – Replace Missing Utility Cover at NW corner of Bridge. We found two missing box covers. One was for an electrical box and one for a water meter. In our discussions with the City we have increase the quantity to 2 Each and have included the time required to clean the existing boxes of dirt and debris.

- **Structure 9141 (New River Bridge at Glendale Ave.)**

Item 11 – Replace B/Y Object Marker at ends of Attenuators, 4 EA. This item is bid per schedule.

Item 12 – Restore and Repair Energy Absorbing Cartridges for Crash Attenuators at West end of Bridge, 2 EA. The Attenuator at the Southwest corner of the bridge does not require Energy Absorbing Cartridges. This attenuator will be inspected and repaired to function as designed. Our site investigation revealed that the remaining three (3) attenuators needed some type of repair and Energy Absorbing Cartridges. We have included the cost of repairing all three.

Item 13 – Repair cracks in Pedestrian Rail. Based on field measurements the quantity has been adjusted from 320 LF to 383 LF. This is for the North Pedestrian Rail only. We added an Item for the painting of this Pedestrian Rail.

The Inspection Report refers to the 18” Pedestrian Rail on the Concrete Traffic Barrier. During our site visit there were a few minor cracks in this rail on both sides of the bridge and we have provided an alternate price for this work if the City would like to include this task.

Item 14 – Patch & Seal Cracks in Approaches, 2 SY. We did not include a price for this item. During the site visit it was noted that the existing asphalt is in poor condition and that there is a much greater quantity than the 2 SY indicated on the bid schedule. This area may be included in an upcoming overlay.

Item 15 – Repair Leaking Water Pipe along NE Wingwall. We did not include a price for this item. The water pipe was not leaking during the site visit and appears to have been addressed or the water shut off. More investigation is needed to determine the extent of work that may be required.

- **Structure No. 9883 (ACDC Bridge at 67<sup>th</sup> Ave)**

Item 16 – Repair deck areas with exposed rebar, 100 SF. We have included lights plants in our estimate and plan on doing this work at night.

Item 17 – Repair broken PVC pipe/conduit (4” dia.). The size of the conduit has been changed to a 6” diameter conduit. It will be necessary to coordinate with the utility owner to de-energize the conductors before work begins. We recommend that the utility owner inspect the conductor



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in this conduit because visual damage can be seen to the outer casing, char marks. We have also included time to reconnect separated joints.

Item 18 – Replace guardrail terminal and post at SE corner. We went out for bids on this item to guardrail subcontractors. Five G is the responsible bidder on this work. FWA specifications requires that the replacement of this guardrail terminal be to current standards. Our price includes: Removal and replacement of existing guardrail terminal, sidewalk and curb and gutter with TRACC Attenuator System with transitions to existing concrete barrier, including concrete pad and new sidewalk at SE corner.

- Item 19 – Repair Erosion Damage on South side. We have included importing and placing fill on the slope under the bridge.

- **Structure No. 9301 (Agua Fria River Bridge at Glendale Ave)**

Item 20 – Replace Utility Conduit Hangers. The quantity has been adjusted from 1 Each to 8 Each.

Item 21 – Tighten Loose Handrail Nuts, 1 LS. During the site investigation, we found some of the handrail bolts were missing. This will require that certain sections of the handrail be removed to allow for new bolts to be installed. All new bolts and nuts have been included.

- **Structure No. 9887 (ACDC Bridge at Thunderbird Road)**

Item 22 – Repair exposed rebar at South Barrier Wall. There are several patches on the existing barrier that are cracked and could be repaired, but we have only priced that actual patch requested.

- **Structure No. 9885 (ACDC Bridge at 59<sup>th</sup> Ave)**

Item 23 – Replace PVC Pipes and Broken Conduits, 60 LF. It will be necessary to coordinate with the utility owner to de-energize the conductors before work begins. We have also included time to reconnect separated joints.

- **Structure No. 10827 ( 59<sup>th</sup> Ave. Pedestrian Bridge)**

Item 24 – Repair in Portal Facades, 100 LF. The repairs for this bridge have been completed by others and the bridge repainted since the Inspection Report was produced.



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Phoenix, AZ 85040  
  
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## **Alternate Items**

We have included Alternate Items of work that we found on the Inspection Report and during our site investigations that were not included in the original scope of work. This list does not include all of the items mentioned but those we see as potential risks for the City of Glendale.

- **Alternate 1 Structure #8948 – Repair Median Island**

This work includes the removal and replacement of 103 SF of cracked median island at the West end of the Skunk Creek Bridge at Union Hills.

- **Alternate 2 Structure #9887 – Replace “B” Seals**

During our site investigation we noticed that the expansion joints on the ACDC Bridge at Thunderbird were filled with debris and appeared to be damaged. In reading the Inspection Report it mentions these joints in Item 5 on pages 1 and 2. We have provided a price for new “B” seals for these joints.

- **Alternate 3 Structure #9443 – Add New Utility Box and Cover**

We found an exposed valve at the Southwest corner of the Grand Canal Bridge at 83<sup>rd</sup> Avenue. We have included a price to provide a box and cover for this valve, if it requires one.

- **Alternate 4 Structure #9885 – Repair Erosion Damage**

During our site investigation we notice significant erosion damage under the bridge at the South end. In reviewing the Inspection Report this is listed in the Maintenance Items, #1. This was not included on your Bid Schedule and we have included pricing to address this issue.

- **Alternate 5 Structure #9141 – Repairs Cracks in 18” Pedestrian Rail**

This Item is referred to in the Inspection Report, page 2, Element Number 330, Item 1. As mentioned above, we have provided a cost to repair and paint these minor cracks.

- **Alternate 6 Structure #9887 – Replace Missing Hand Rail Top**

The Inspection Report for this bridge, Maintenance Item #3 is: Replace top segment handrail in both Pedestrian Railings. We confirmed that this has not been completed and have included a pricing for this item.



**J. Banicki Construction, Inc.**

4720 E. Cotton Gin Loop

Suite 240

Phoenix, AZ 85040

480-921-8016 (phone)

480-921-9456 (fax)

## **51<sup>st</sup> Avenue & Cactus Bridge Repair**

On December 22<sup>nd</sup>, Banicki was asked to provide a cost proposal to repair damage to the 51<sup>st</sup> Ave and Cactus Bridge that had been hit. Banicki proposed to do the following work:

- SW Corner of the Intersection
  - Remove and replace 13 lf of Radius Aluminum Handrail, including curb embeds.
  - Remove and replace 13 lf of 19.5" (H) X 11.5" (W) curb, including forming the 32" scupper.
- SE Corner of the Intersection
  - Remove and replace 14 lf or 13" X 7.5" Curb. This curb protects the electrical cabinets on this corner.
- Provide Traffic Control to allow for the construction. This would be one lane restrictions.
- Provide a Uniformed Officer during closure. This is a requirement when working at any signalized intersection.



**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
J. BANICKI CONSTRUCTION, INC.**

**EXHIBIT C**

**METHOD AND AMOUNT OF COMPENSATION**

Job Order Contract - \$288,560.50

**NOT TO EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project must not exceed \$288,560.50 annually or \$288,580.50 for the entire term of the Agreement.

**DETAILED PROJECT COMPENSATION**

Per attached quote

# Project No. 161730 2017 COG Bridge Repair Program



## Banicki Construction

4720 E. Cotton Gin Loop, Suite 240

Phoenix, AZ 85040

Contact: Don Davis

Phone: 602-316-7845

Email: ddavis@banicki.com

Quote To: City of Glendale  
 Attention: Wade Ansell, P.E., R.L.S.  
 Address: 5850 West Glendale Ave. Suite 315  
 City State Zip: Glendale, AZ 85301  
 Email: wansell@glendaleaz.com  
 Office Phone: 623-930-3649  
 Cell Phone: 623-512-8515

Date: 1/4/17

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
<b>MISC ITEMS</b>					
10	Mob/Demob (All Sites)	1.00	LS	7,200.00	7,200.00
20	Traffic Control (All Sites)	1.00	LS	32,000.00	32,000.00
30	Owners Allowance for Construction Contingencies	1.00	LS		
<b>Structure 8947 (Skunk Creek Bridge at 59th Ave)</b>					
40	Structural Concrete (Class AA-4000 psi)	5.00	SF	680.00	3,400.00
50	Paint Steel Rail	352.00	LF	43.50	15,312.00
60	Clear Vegetation West Side of Bridge	1.00	LS	910.00	910.00
<b>Structure 8948 (Skunk Creek at Union Hills)</b>					
70	Structural Concrete (Class AA-4000 psi)	2.00	SF	2,650.00	5,300.00
<b>Structure 8827 (Arrowhead Lakes Bridge 3)</b>					
80	Replace Missing Sleeve at North Handrail	10.00	LF	350.00	3,500.00
<b>Structure 9443 (Grand Canal at 83rd Ave)</b>					
90	Replace Missing Utility Box Cover at NWC	2.00	EA	580.00	1,160.00
<b>Structure 9141 (New River at Glendale Ave)</b>					
100	Replace B/Y Object Markers at Ends of Attenuators	4.00	EA	115.00	460.00

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
110	Restore & Repair Energy Absorbing Cartridges	3.00	EA	3,750.00	11,250.00
120	Repair Cracks in Pedestrian Rail	383.00	LF	7.50	2,872.50
130	Paint Pedestrian Rail	383.00	LF	42.00	16,086.00
	<b>Structure 9883 (ACDC Bridge at 67th Ave)</b>				
140	Repair Deck Areas w/ Exposed Rebar	100.00	SF	93.00	9,300.00
150	Repair Broken PVC Pipe/Conduit (4")	10.00	LF	190.00	1,900.00
160	Replace Guardrail Terminal & Post at SE Corner	1.00	EA	60,000.00	60,000.00
170	Repair Erosion Damage on South Side	1.00	LS	5,900.00	5,900.00
	<b>Structure 9301 (Agua Fria River at Glendale Ave)</b>				
180	Replace Utility Conduit Hanger	8.00	EA	525.00	4,200.00
190	Tighten Loose Handrail Nuts	1.00	LS	2,800.00	2,800.00
	<b>Structure 9887 (ACDC at Thunderbird Rd)</b>				
200	Repair Exposed Rebar at North Barrier Wall	3.00	SF	450.00	1,350.00
	<b>Structure 9885 (ACDC at 59th Ave)</b>				
210	Replace PVC Pipes and Broken Conduits	60.00	LF	110.00	6,600.00
	<b>Add Alternates</b>				
220	Alternate 1 #8948 Repair Median Island	1.00	LS	9,500.00	9,500.00
230	Alternate 2 #9887 Replace Seals	1.00	LS	36,000.00	36,000.00
240	Alternate 3 #9443 Add New Utility Box and Cover	1.00	EA	480.00	480.00
250	Alternate 4 #9885 Repair Erosion Damage	1.00	LS	13,610.00	13,610.00
260	Alternate 5 #9141 Repair Crack 18" Pedestrian Rail	640.00	LF	17.75	11,360.00
270	Alternate 6 #9887 Replace Missing Handrail Top	1,020.00	LF	9.00	9,180.00
	<b>51st Ave. &amp; Cactus Bridge Repair</b>				
280	Remove & Replace Handrail	1.00	LS	6,350.00	6,350.00
290	R & R Damaged Curb - SW Corner of Intersection	1.00	LS	3,900.00	3,900.00
300	R & R Damaged Curb - SE Corner of Intersection	1.00	LS	2,100.00	2,100.00
310	Traffic Control	1.00	LS	3,400.00	3,400.00
320	Off Duty Officer	24.00	HR	50.00	1,200.00
<b>GRAND TOTAL</b>					<b>\$288,580.50</b>

**NOTES:**

Quantities are approximate and final payment will be based on actual field measurement.



## Legislation Description

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**File #:** 17-063, **Version:** 1

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**AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH PREMIER ENGINEERING CORPORATION FOR THE DESIGN OF 83RD AVENUE HALF STREET IMPROVEMENTS AT HEROES REGIONAL PARK**

Staff Contact: Jack Friedline, Director, Public Works

### **Purpose and Recommended Action**

This is a request for City Council to authorize the City Manager to enter into a Professional Services Agreement with Premier Engineering Corporation in the amount of \$147,961 for the design and construction administration of the 83rd Avenue half street improvements northbound from Bethany Home Road to Berridge Lane, directly adjacent to Heroes Regional Park.

### **Background**

It has been approximately 18 years since the City purchased the 86 acres of land for the construction of the Glendale Heroes Regional Park, which is located at 83rd Avenue and Bethany Home Road. The park was designed with extensive community input and since then, a little over \$18.7 million has been invested by the City to construct community amenities such as two lighted basketball courts; two playground areas; a 720 person ramada complex; a skate park along with a 1,400 square foot building; an internal road system; restroom facilities and a splash pad. The development of the park also includes the site grading and installation of underground utilities on 20 acres planned for future park development.

Although the remainder of the proposed park is undeveloped, there is a conceptual master plan in place for build-out, including the design and construction of improvements (curb, gutter, detached sidewalk, lighting, landscaping) on the east side of the park on 83rd Avenue from Bethany Home Road to Berridge Lane.

### **Analysis**

The project will complete the street construction of the east side of 83rd Avenue from Bethany Home Road to Berridge Lane, including curb, gutter, public sidewalk, street lighting, and additional landscaping. As this project will coincide with the design and construction of the Western Area Branch Library, award of this design contract is integral to the continued development of the park.

Premier Engineering Corporation was selected from the pre-qualified Engineering On-Call List to provide the design and construction administration services. Staff anticipates completion of the final design before the end of August 2017.

### **Community Benefit/Public Involvement**

The design and completion of this project will improve pedestrian safety and access on the east side of 83rd Avenue between Bethany Home Road and Berridge Lane for those who visit Heroes Regional Park and the proposed Western Area Branch Library. The master plan for the park, which includes this project, has been extensively discussed in public by the Parks and Recreation Advisory Commission, the Library Advisory Board, and the City Council.

**Budget and Financial Impacts**

Funding is available in the Fiscal Year 2016-17 Capital Improvement Plan Budget. Expenditures with Premier Engineering Corporation shall not exceed \$147,961 for the entire term of this agreement.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$147,961</b>	<b>1480-72812-550800, Heroes Regional Park</b>

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

**PROFESSIONAL SERVICES AGREEMENT**  
**HEROES REGIONAL PARK HALF STREET IMPROVEMENTS**  
**PROJECT NUMBER 161701**

This Professional Services Agreement ("Agreement") is entered into and effective between CITY OF GLENDALE, an Arizona municipal corporation ("City") and Premier Engineering Corporation, an Arizona corporation, ("Consultant") as of the \_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date").

**RECITALS**

- A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in **Exhibit A**, Project (the "Project");
- B. City desires to retain the professional services of Consultant to perform certain specific duties and produce the specific work as set forth in the attached **Exhibit B**, Project Scope of Work ("Scope");
- C. Consultant desires to provide City with professional services ("Services") consistent with best consulting or architectural practices and the standards set forth in this Agreement, in order to complete the Project; and
- D. City and Consultant desire to memorialize their agreement with this document.

**AGREEMENT**

The parties hereby agree as follows:

**1. Key Personnel; Other Consultants and Subcontractors.**

- 1.1 **Professional Services.** Consultant will provide all Services necessary to assure the Project is completed timely and efficiently consistent within Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other consultants or contractors, retained by City.
- 1.2 **Project Team.**
  - a. **Project Manager.**
    - (1) Consultant will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, complete the project and handle all aspects of the Project such that the work produced by Consultant is consistent with applicable standards as detailed in this Agreement; and
    - (2) The City must approve the designated Project Manager.
  - b. **Project Team.**
    - (1) The Project Manager and all other employees assigned to the Project by Consultant will comprise the "Project Team."
    - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the Project by Consultant.
  - c. **Discharge, Reassign, Replacement.**
    - (1) Consultant acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in **Exhibit A**.
    - (2) Consultant will not discharge, reassign, replace or diminish the responsibilities of any of the employees assigned to the Project who have been approved by City without City's prior written consent unless that person leaves the employment of Consultant, in which event the substitute must first be approved in writing by City.

- (3) Consultant will change any of the members of the Project Team at the City's request if an employee's performance does not equal or exceed the level of competence that the City may reasonably expect of a person performing those duties, or if the acts or omissions of that person are detrimental to the development of the Project.

d. Subcontractors.

- (1) Consultant may engage specific technical contractors (each a "Subcontractor") to furnish certain service functions.
- (2) Consultant will remain fully responsible for Subcontractor's services.
- (3) Subcontractors must be approved by the City.
- (4) Consultant will certify by letter that all contracts with Subcontractors have been executed incorporating requirements and standards as set forth in this Agreement.

2. **Schedule.** The Services will be undertaken in a manner that ensures the Project is completed timely and efficiently in accordance with the Project.

3. **Consultant's Work.**

3.1 **Standard.** Consultant must perform Services in accordance with the standards of due diligence, care, and quality prevailing among consultants having substantial experience with the successful furnishing of Services for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 **Licensing.** Consultant warrants that:

- a. Consultant and its Subconsultants or Subcontractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of Services ("Approvals"); and
- b. Neither Consultant nor any Subconsultant or Subcontractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
  - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments, or to examine Consultant's contracting ability.
  - (2) Consultant must notify City immediately if any Approvals or Debarment changes during the Agreement's duration. The failure of the Consultant to notify City as required will constitute a material default under the Agreement.

3.3 **Compliance.**

- a. Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by City.
- b. Consultant must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Consultant will require any Sub-contractor to be bound to the same requirements as stated within this section. Consultant, and on behalf of any subcontractors, warrants compliance with this section.

3.4 **Coordination: Interaction.**

- a. For projects that the City believes requires the coordination of various professional services, Consultant will work in close consultation with City to proactively interact with

any other professionals retained by City on the Project ("Coordinating Project Professionals").

- b. Consultant will meet to review the Project, Schedule and in-progress work with Coordinating Project Professionals and City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.
- c. For projects not involving Coordinating Project Professionals, Consultant will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.

### 3.5 Work Product

- a. **Ownership.** Upon receipt of payment for Services furnished, Consultant grants to City, and will cause its Subconsultants or Subcontractors to grant to the City, the exclusive ownership of and all copyrights, if any, to evaluations, reports, drawings, specifications, project manuals, surveys, estimates, reviews, minutes, all "architectural work" as defined in the United States Copyright Act, 17 U.S.C § 101, *et seq.*, and other intellectual work product as may be applicable ("Work Product").
  - (1) This grant is effective whether the Work Product is on paper (e.g., a "hard copy"), in electronic format, or in some other form.
  - (2) Consultant warrants, and agrees to indemnify, hold harmless and defend City for, from and against any claim that any Work Product infringes on third-party proprietary interests.
- b. **Delivery.** Consultant will deliver to City copies of the preliminary and completed Work Product promptly as they are prepared.
- c. **City Use.**
  - (1) City may reuse the Work Product at its sole discretion.
  - (2) In the event the Work Product is used for another project without further consultations with Consultant, the City agrees to indemnify and hold Consultant harmless from any claim arising out of the Work Product.
  - (3) In such case, City will also remove any seal and title block from the Work Product.

## 4. **Compensation for the Project.**

- 4.1 **Compensation.** Consultant's compensation for the Project, including those furnished by its Subconsultants or Subcontractors will not exceed \$147,961 as specifically detailed in **Exhibit D** ("Compensation").
- 4.2 **Change in Scope of Project.** The Compensation may be equitably adjusted if the originally contemplated Scope as outlined in the Project is significantly modified.
  - a. Adjustments to Compensation require a written amendment to this Agreement and may require City Council approval.
  - b. Additional services which are outside the Scope of the Project contained in this Agreement may not be performed by the Consultant without prior written authorization from the City.
  - c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take priority and govern the conduct of the parties.
- 4.3 **Allowances.** An "Allowance" may be identified in **Exhibit D** only for work that is required by the Scope and the value of which cannot reasonably be quantified at the time of this Agreement.



- a. As stated in Sec. 4.1 above, the Compensation must incorporate all Allowance amounts identified in Exhibit D and any unused allowance at the completion of the Project will remain with City.
- b. Consultant may not add any mark-up for work identified as an Allowance and which is to be performed by a Subconsultant.
- c. Consultant will not use any portion of an Allowance without prior written authorization from the City.
- d. Examples of Allowance items include, but are not limited to, subsurface pothole investigations, survey, geotechnical investigations, public participation, radio path studies and material testing.

4.4 Expenses. City will reimburse Consultant for certain out-of-pocket expenses necessarily incurred by Consultant in connection with this Agreement, without mark-up (the "Reimbursable Expenses"), including, but not limited to, document reproduction, materials for book preparation, postage, courier and overnight delivery costs incurred with Federal Express or similar carriers, travel and car mileage, subject to the following:

- a. Mileage, airfare, lodging and other travel expenses will be reimbursable only to the extent these would, if incurred, be reimbursed to City of Glendale personnel under its policies and procedures for business travel expense reimbursement made available to Consultant for review prior to the Agreement's execution, and which policies and procedures will be furnished to Consultant;
- b. The Reimbursable Expenses in this section are approved in advance by City in writing; and
- c. The total of all Reimbursable Expenses paid to Consultant in connection with this Agreement will not exceed the "not to exceed" amount identified for Reimbursable Services in the Compensation.

## 5. **Billings and Payment.**

### 5.1 Applications.

- a. Consultant will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.
- b. The period covered by each Payment Application will be one calendar month ending on the last day of the month.

### 5.2 Payment.

- a. After a full and complete Payment Application is received, City will process and remit payment within 30 days.
- b. Payment may be subject to or conditioned upon City's receipt of:
  - (1) Completed work generated by Consultant and its Subconsultants and Subcontractors; and
  - (2) Unconditional waivers and releases on final payment from all Subconsultants and Subcontractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

5.3 Review and Withholding. City's Project Manager will timely review and certify Payment Applications.

- a. If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.

- b. City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.

6. **Termination.**

6.1 **For Convenience.** City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 15 days following the date of delivery.

- a. Consultant will be equitably compensated for Services furnished prior to receipt of the termination notice and for reasonable costs incurred.
- b. Consultant will also be similarly compensated for any approved effort expended, and approved costs incurred, that are directly associated with Project closeout and delivery of the required items to the City.

6.2 **For Cause.** City may terminate this Agreement for cause if Consultant fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

- a. Consultant will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Consultant for Services furnished, City will pay the amount due to Consultant, less City's damages, in accordance with the provision of Sec. 5.
- b. If City's direct damages exceed amounts otherwise due to Consultant, Consultant must pay the difference to City immediately upon demand; however, Consultant will not be subject to consequential damages more than \$1,000,000 or the amount of this Agreement, whichever is greater.

7. **Conflict.** Consultant acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

8. **Insurance.** For the duration of the term of this Agreement, Consultant shall procure and maintain insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of all tasks or work necessary to complete the Project as herein defined. Such insurance shall cover Consultant, its agent(s), representative(s), employee(s) and any subcontractors.

8.1 **Minimum Scope and Limit of Insurance.** Coverage must be at least as broad as:

- a. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01, including products and completed operations, with limits of no less than **\$1,000,000** per occurrence for bodily injury, personal injury, and property damage. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- b. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than **\$1,000,000** per accident for bodily injury and property damage.
- c. **Professional Liability.** Consultant must maintain a Professional Liability insurance covering errors and omissions arising out of the work or services performed by Consultant, or anyone employed by Consultant, or anyone for whose acts, mistakes, errors and omissions Consultant is legally liability, with a liability insurance limit of \$1,000,000 for each claim and a \$2,000,000 annual aggregate limit.
- d. **Worker's Compensation:** Insurance as required by the State of Arizona, with Statutory Limits, and Employers' Liability insurance with a limit of no less than **\$1,000,000** per accident for bodily injury or disease.

8.2 Indemnification.

- a. To the fullest extent permitted by law, Consultant must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties") for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense" collectively "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Consultant) and that arises out of or results from the breach of this Agreement by the Consultant or the Consultant's negligent actions, errors or omissions (including any Subconsultant or Subcontractor or other person or firm employed by Consultant), whether sustained before or after completion of the Project.
- b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Consultant will be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Consultant or of any person or entity for whom Consultant is responsible.
- c. Consultant is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

8.3 **Other Insurance Provisions.** The insurance policies required by the Section above must contain, or be endorsed to contain the following insurance provisions:

- a. **The City, its officers, officials, employees and volunteers are to be covered as additional insureds** of the CGL and automobile policies for any liability arising from or in connection with the performance of all tasks or work necessary to complete the Project as herein defined. Such liability may arise, but is not limited to, liability for materials, parts or equipment furnished in connection with any tasks, or work performed by Consultant or on its behalf and for liability arising from automobiles owned, leased, hired or borrowed on behalf of the Consultant. General liability coverage can be provided in the form of an endorsement to the Consultant's existing insurance policies, provided such endorsement is at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37, if later revisions are used.
- b. For any claims related to this Project, the **Consultant's insurance coverage shall be primary insurance** with respect to the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Consultant's insurance and shall not contribute with it.
- c. Each insurance policy required by this Section shall provide that coverage shall not be canceled, except after providing notice to the City.

8.4 **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII, unless the Consultant has obtained prior approval from the City stating that a non-conforming insurer is acceptable to the City.

8.5 **Waiver of Subrogation.** **Consultant hereby agrees to waive its rights of subrogation which any insurer may acquire** from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation Policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Consultant, its employees, agent(s) and subcontractor(s).

8.6 **Verification of Coverage.** Within 15 days of the Effective Date of this Agreement, Consultant shall furnish the City with original certificates and amendatory endorsements, or copies of any applicable insurance language making the coverage required by this Agreement effective. All certificates and endorsements must be received and approved by the City before work commences. Failure to obtain, submit or secure the City's approval of the required insurance policies, certificates or endorsements prior to the City's agreement that work may commence shall not waive the Consultant's obligations to obtain and verify insurance coverage as otherwise provided in this Section. The City reserves the right to require complete, certified copies of all required insurance policies, including any endorsements or amendments, required by this Agreement at any time during the Term stated herein.

Consultant's failure to obtain, submit or secure the City's approval of the required insurance policies, certificates or endorsements shall not be considered a Force Majeure or defense for any failure by the Consultant to comply with the terms and conditions of the Agreement, including any schedule for performance or completion of the Project.

8.7 **Subcontractors.** Consultant shall require and shall verify that all subcontractors maintain insurance meeting all requirements of this Agreement.

8.8 **Special Risk or Circumstances.** The City reserves the right to modify these insurance requirements, including any limits of coverage, based on the nature of the risk, prior experience, insurer, coverage or other circumstances unique to the Consultant, the Project or the insurer.

9. **E-verify, Records and Audits.** To the extent applicable under A.R.S. § 41-4401, the Consultant warrant their compliance and that of its subconsultants with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). The Consultant or subconsultant's breach of this warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by the City under the terms of this Agreement. The City retains the legal right to randomly inspect the papers and records of the other party to ensure that the other party is complying with the above-mentioned warranty. The Consultant and subconsultant warrant to keep their respective papers and records open for random inspection during normal business hours by the other party. The parties shall cooperate with the City's random inspections, including granting the inspecting party entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

10. **No Boycott of Israel.** The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.

11. **Attestation of PCI Compliance.** When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.

12. **Notices.**

12.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:

- a. The Notice is in writing; and
- b. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested).
- c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
  - (1) Received on a business day before 5:00 p.m. at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service; or
  - (2) As of the next business day after receipt, if received after 5:00 p.m.

- d. The burden of proof of the place and time of delivery is upon the Party giving the Notice.
- e. Digitalized signatures and copies of signatures will have the same effect as original signatures.

12.2 Representatives.

- a. Consultant. Consultant's representative (the "Consultant's Representative") authorized to act on Consultant's behalf with respect to the Project, and his or her address for Notice delivery is:

Fadi Jalaghi, Senior Vice President  
6737 W. Chandler Blvd., Suite 1  
Chandler, AZ 85226

- b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale  
c/o Michael A. Johnson, Engineering Project Manager  
City of Glendale Engineering Department  
5850 West Glendale Avenue, Suite 315  
Glendale, Arizona 85301

With required copy to:

City Manager  
City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

City Attorney  
City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

- c. Concurrent Notices.
  - (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
  - (2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by the City Manager and the City Attorney.
  - (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Consultant identifying the designee(s) and their respective addresses for notices.
- d. Changes. Consultant or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

13. **Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

14. **Entire Agreement; Survival; Counterparts; Signatures.**

14.1 Integration. This Agreement contains, except as stated below, the entire agreement between City and Consultant and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
- b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.

- c. Inconsistencies between the solicitation, any addenda attached to the solicitation, the response or any excerpts attached as **Exhibit A**, and this Agreement, will be resolved by the terms and conditions stated in this Agreement.

14.2 **Interpretation.**

- a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.

14.3 **Survival.** Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

14.4 **Amendment.** No amendment to this Agreement will be binding unless in writing and executed by the parties. Electronic signature blocks do not constitute execution for purposes of this Agreement. Any amendment may be subject to City Council approval.

14.5 **Remedies.** All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

14.6 **Severability.** If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform with applicable law.

14.7 **Counterparts.** This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

15. **Term.** The term of this Agreement commences upon the Effective Date and continues for a 1.67 year initial period. The City may, at its option and with the approval of the Consultant, extend the term of this Agreement an additional 1 year, renewable on an annual basis. Consultant will be notified in writing by the City of its intent to extend the Agreement period at least thirty (30) calendar days prior to the expiration of the original or any renewal Agreement period. Price adjustments will only be reviewed during the Agreement renewal period and will be a determining factor for any renewal. There are no automatic renewals of this Agreement.

16. **Dispute Resolution.** Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered according to the American Arbitration Association's Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

17. **Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A	Project
Exhibit B	Scope of Work
Exhibit C	Schedule
Exhibit D	Compensation

(Signatures appear on the following page.)

The parties enter into this Agreement effective as of the date shown above.

City of Glendale,  
an Arizona municipal corporation

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By: Kevin R. Phelps  
Its: City Manager

ATTEST:

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Julie K. Bower (SEAL)  
City Clerk

APPROVED AS TO FORM:

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Michael D. Bailey  
City Attorney

Premier Engineering Corporation,  
an Arizona Corporation



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By: Fadi Jalaghi, PE  
Its: Senior Vice President

## **EXHIBIT A**

### **Professional Services Agreement**

#### **PROJECT**

**Project Background:** The City of Glendale (City) has asked Premier Engineering Corporation (Premier) to design and prepare construction documents, and provide construction administration services to widen the east side of 83<sup>rd</sup> Avenue from the Grand Canal to Berridge Lane. The developing Heroes Regional Park is located on the east side of 83<sup>rd</sup> Avenue and the improvements would complete 83<sup>rd</sup> Avenue to its ultimate configuration along the park frontage. Berridge Lane is one of two entrances to the regional park. 83<sup>rd</sup> Avenue is currently a 4-lane arterial with a striped center two-way left turn lane. There is curb and gutter, and sidewalk on the west side of the street but there is no curb and gutter or sidewalk on the east side in this location.

This project will be constructed using the Design, Bid, Build construction delivery method. Impact fee funds (2017) will be used for the design services and construction.

**Project Objectives:** Complete the ultimate street improvements to 83<sup>rd</sup> Avenue along the park frontage as part of the continuing development of Heroes Regional Park.

**Assumptions/Understandings:** Our assumptions and understandings are based on the project objectives, and our discussions with City staff during the Scoping Meeting held on September 28, 2016, at the Glendale Main Library Conference Room (5959 West Brown Street), a site visit on September 28, 2016, and from subsequent discussions with City staff.

Items to be included for this Project include the following:

- New asphalt concrete pavement for the third northbound lane from the Bethany Home Road Outfall Channel (BHOC) Bridge to Berridge Lane. The new pavement will comply with Glendale Arterial Section A-3 per Glendale Standard Detail G-303.
- New curb and gutter, and sidewalk from the BHOC Bridge to Berridge Lane. The sidewalk along the park frontage will be a meandering 10 feet wide multi-use pathway connected to the park pedestrian circulation pathways. The new curb and gutter would be located to comply with Glendale Arterial Section A-3.
- The southeast corner of Berridge Lane and 83<sup>rd</sup> Avenue would be improved to include ADA ramps. Existing ramps are located at the other corners of this intersection. The existing ramps will be evaluated to determine if they meet current ADA standards. If not, then they would be replaced.
- New street lights on the east side of 83<sup>rd</sup> Avenue.
- Separate northbound right-turn lane at Berridge Lane.
- Bus turnout and bus shelter pad near the existing bus stop sign at the north end of the BHOC bridge.



- Since there is no storm drain trunk line along 83<sup>rd</sup> Avenue, the half street storm runoff will be accommodated with new drainage scuppers and basins on the east side of 83<sup>rd</sup> Avenue per City of Glendale standards. The basins will be located outside the 65-foot right-of-way half width on City owned property.
- Concrete driveways for SRP maintenance roads along both sides of the Grand Canal.
- New landscaping within 83<sup>rd</sup> Avenue right-of-way (east side) to be complimentary and consistent with the landscape plan developed for the Heroes Regional Park.
- Underground conduit, pull boxes, and foundations for a future traffic signal at the intersection of Berridge Lane and 83<sup>rd</sup> Avenue.
- New roadway signing and pavement marking for northbound traffic on 83<sup>rd</sup> Avenue from Bethany Home Road to Maryland Avenue.

The anticipated schedule assumes a design NTP of January 16, 2017. Construction is planned to begin in the summer of 2017.

The design will be delivered in three design submittals: 60%, 95% and Final.

No new right-of-way is required.

**EXHIBIT B**  
**Professional Services Agreement**

SCOPE OF WORK

**EXHIBIT B**  
**Professional Services Agreement**

**SCOPE OF WORK**

**Design Criteria & Standards:** Design will follow the design criteria & standards listed below:

- Glendale 2015 Engineering Design & Construction Standards
- Glendale 2006 Street Lighting Manual
- MAG Standard Details and Specifications (latest edition)
- American Disabilities Act (ADA) Standards for Accessible Design

**City Furnished Materials/Services:** The City will provide the following:

- As built plans for 83<sup>rd</sup> Avenue and Berridge Lane entrance to the park
- Right-of-way limits on 83<sup>rd</sup> Avenue
- City water and sewer quarter section maps and as-built plans
- Recent Glendale bid results for similar projects
- City Boiler plate specifications
- City Standard Plan Cover sheet (AutoCAD)

**Description of Services:** The following tasks define Premier's detailed services.

\*\*\*\*\*

**Basic Services**

**Task A - Project Management and Administration Services**

Project Administration: Premier shall prepare a project execution plan, setup the budget in our accounting system, and prepare monthly invoices and progress reports for submittal to the City Project Manager (PM).

Response to Review Comments: Premier shall review comments received from all reviewing agencies after each design submittal, coordinate with the subconsultants to address each comment, and prepare a formal response.

Coordination: Premier shall coordinate with all applicable City Departments, utilities, and other project stakeholders, as required, to retrieve and share project information throughout the project design phase.

QA/QC: Premier shall perform quality assurance/quality control checks on the technical work performed in completion of this project.

Meetings: Premier's Project Manager and Lead Design Engineers, as required, shall attend the meetings listed below at the City offices. Premier will coordinate with the City PM and administer each meeting including preparing the list of invitees, coordinating the meeting time

and date, inviting all stakeholders, preparing agenda items, conducting the meeting, and preparing and distributing meeting minutes.

1. Kickoff Meeting/Site Visit – One (1) Total; Premier shall schedule this meeting within 15 days of the notice to proceed (NTP).
2. Team Meetings – Two (2) Total; Includes monthly progress meetings during the 60%, and 95% design phases.
3. Comment Resolution Meetings – Two (2) Total; Includes Comment resolution meetings following the 60%, and 95% review periods. Premier shall provide written responses to all review comments and incorporate all resolved comments into the following Design Submittal documents.

\*\*\*\*\*

### **Final Engineering Design Services**

#### **Task B – Topographic Survey**

Topographic Survey: Premier will begin the topographic field survey within 15 days of NTP. Premier will survey from existing control benchmarks that are acceptable to the City. From this control, Premier will perform a topographic survey from the centerline/crown of 83<sup>rd</sup> Avenue to 100 feet east of the centerline, from the north side of Bethany Home Road to approximately 500 feet north of Berridge Lane. The survey will also include a 100-foot wide strip, westerly along Berridge Lane to approximately 100 feet west of 83<sup>rd</sup> Avenue for signal improvements. Premier will measure locations and heights of the lowest connector of each power pole and the lowest wire sag between the poles within the survey limits. In addition, Premier will survey street light poles on the west side of 83<sup>rd</sup> Avenue from Bethany Home Road to Berridge Lane for the lighting analysis and existing striping and sign locations north of Berridge to Maryland Avenue for the northbound half of the roadway including curb and gutter, sidewalk and other features to the east right-of-way line.

Base File: From the field survey, Premier will prepare a topographic survey base drawing to be used for design. The drawing will depict surveyed features, spot elevations, 1-foot interval contours, the monumented street centerlines and right-of-way lines based on available public records. The base drawing will also include all necessary baselines and control points which will be used by the Contractor as datum for the work. Underground utilities will be mapped using surveyed surface structures, as-built plans from utility providers and any available blue stake markings. Depths will be measured where accessible. Non accessible depths will be derived from as-built plans.

Digital Terrain Model: Also, from the preliminary field survey existing ground surface digital terrain models would be prepared for use in design.

#### **Task C – 60% Design**

Plan & Profile Sheets: Premier will prepare preliminary plan and profile sheets based on the survey drawing file completed in Task B. These plans will be prepared at 40-scale horizontal and 1 inch equals 4 feet vertically. Existing features including utilities, curb and gutter, sidewalk, edge of pavement, trees, bridges, drainage catch basins and ditches, irrigation headwalls and ditches, section/monument lines, right-of-way and easements, traffic signs, pavement marking, traffic signal poles, and fences/walls. Preliminary layout of new roadway and drainage items including the east curb and gutter (both plan and profile views), bus bays

and shelter pads, turn-lanes, sawcut lines, sidewalk, ADA Ramps, drainage catch basins/scuppers, and drainage basins.

Typical Sections: Premier will prepare typical sections as necessary. Typical sections would include existing pavement and ground surface, new AC and ABC, new curb and gutter, new sidewalk, right-of-way lines, centerlines, lane widths, dimensions, and grading. The typical section plan sheet would also include pavement structural sections, index, and general notes.

Drainage Design: The basis of design will be the Flood Control District of Maricopa County "Hydrologic Design Manual." The Rational Method will be used to establish the pavement runoff for a 10-year storm event.

Drainage Plans: No separate drainage plans will be prepared. New drainage plan items including catch basins/scuppers and drainage basins will appear on the plan and profile sheets along with the paving items. No new drainage pipes are anticipated. Scuppers will be located such that a 12-foot wide dry lane is maintained along 83<sup>rd</sup> Avenue. Scuppers would convey the intercepted runoff to retention basins located on the east side of the roadway. At a minimum, the basins will be designed to capture the "first flush" runoff. The basin overflow (greater than 10-year storm event) would flow into the future urban lakes adjacent to the project site.

Pavement Design: No pavement design will be performed, however, Premier will complete three (3) pavement cores to confirm the thickness of the existing pavement section on the east half of 83<sup>rd</sup> Avenue. The minimum pavement structure of the new pavement will be the Glendale standard for arterial streets of 5 inches of AC over 12 inches of ABC or match the existing pavement thickness whichever is greater.

Cover Sheet: The preliminary cover sheet for the plans will be included per City of Glendale standard cover sheet file provided by the City.

Construction Cost Estimate: Premier shall tabulate the estimated construction quantities for this project per City standard format. Premier shall also prepare a preliminary combined engineer's estimate of probable construction cost with itemized unit prices, quantities, and total cost.

Utility Coordination: Premier will coordinate with utilities and distribute plans to applicable utility companies in the project area to confirm existing utilities within the project site and to identify any conflicts. In addition, Premier/Cardno will complete up to 7 utility location testholes to determine the vertical and horizontal location, and size and material of existing subsurface utilities that may be in conflict with new improvements.

#### **Task D – 95% Design**

Plan & Profile Sheets: Premier will prepare 95% plan and profile sheets based on comments received on the 60% plans

Typical Section/General Notes: Premier will prepare 95% typical section/general notes plan sheet based on comments received on the 60% plans.

Roadway Cross Sections: Premier will prepare roadway cross sections. Cross sections will be at 200-foot intervals and shall include existing ground, existing and new pavement surfaces, ABC, new finish grade surface, roadway centerline/monument line, and right-of-way lines.

Erosion Control/SWPPP: No erosion control/SWPPP plans will be prepared.

**Civil Special Details:** Premier will prepare a detail sheet for special details not covered by City or MAG standard details. For example, ADA ramps or staking diagrams for the intersection of Berridge Lane and 83<sup>rd</sup> Avenue may need special details.

**Drainage Special Details:** Premier will prepare a detail sheet for drainage special details not included in City or MAG details. Drainage basin grading details and scupper elevations may be included on this sheet.

**Cover Sheet:** The 95% cover sheet will be prepared based on 60% comments.

**Technical Specifications:** Premier will prepare preliminary technical specifications as required including SWPPP/Erosion Control requirements. The special provisions will be prepared in Word document format and submitted to the City.

**Construction Cost Estimate:** Premier shall prepare a 95% project construction cost estimate per City of Glendale standards.

**Utility Coordination:** Premier will continue to coordinate with utilities and distribute plans to applicable utility companies in the project area to identify any conflicts. Premier would coordinate with SRP and City of Glendale Water Services to provide both a service connection for power for lighting, traffic signals, and a service connection for water for landscape irrigation.

#### **Task E – Final 100% Design**

**Plan & Profile Sheets:** Premier will prepare final plan and profile sheets based on comments received on the 95% plans.

**Typical Sections/General Notes:** Premier will prepare final typical section/general notes sheet based on comments received on the 95% plans.

**Roadway Cross Sections:** Premier will prepare final roadway cross sections based on comments received on the 95% plans.

**Civil Special Details:** Premier will prepare final special detail plans based on comments received on the 95% plans.

**Drainage Special Details:** Premier will prepare final special detail plans based on comments on the preliminary plans.

**Cover Sheet:** The final cover sheet will be prepared based on 95% comments.

**Technical Specifications:** The final specifications will be prepared based on comments on the 95% Specifications.

**Construction Cost Estimate:** Premier shall prepare a final project construction cost estimate per City of Glendale standards.

**Utility Coordination:** Premier will complete coordination with utilities. City's Contractor will need to install all utility conduits, unless City has prior rights.

#### **Task F – Roadway Lighting Plans**

**Roadway Lighting Design:** There will be no lighting analysis or technical memorandum prepared. New street lights on the east side of 83<sup>rd</sup> Avenue shall be spaced every 200 feet staggered per Glendale standards while taking into account the location of existing street lights on the west side of 83<sup>rd</sup> Avenue. Luminaires shall be LED, 113 Watt, 10,000 lumen, and 4,000K CRI (GE Evolve ERS2-0-D3-E1-7-40-A-Gray-R). Also, each new street light requires

the installation of a Holophane node (ROAM photo control) on top of the luminaire for street light monitoring purposes.

60% Roadway Lighting Plans: Premier's subconsultant, SWTE will prepare preliminary roadway lighting plans. The plan view sheets will be laid out at a 1:40 scale and will include roadway light pole locations, pull boxes, and conduits (see SWTE scope and fee).

95% Roadway Lighting Plans: Premier's subconsultant, SWTE will prepare 95% roadway lighting plans based on the comments received on the 60% plans and prepare 95% specifications.

100% Roadway Lighting Plans: Premier's subconsultant, SWTE will prepare final roadway lighting plans based on the comments received on the 95% plans and prepare final specifications.

#### **Task G – Traffic Signal “Box-in” Plans**

60% Traffic Signal Plans: SWTE will prepare preliminary plans for traffic signal pole foundations and conduit “box in” plans showing the location and layout of the proposed conduits, pole foundations and pull boxes associated with the future traffic signal at the intersection of 83<sup>rd</sup> Avenue and Berridge Lane. The plan view will be laid out at 1:20 scale (see SWTE scope and fee).

95% Traffic Signal Plans: SWTE will prepare 95% plans for a traffic signal pole foundations and conduit “box in” based on comments received on the 60% plans and prepare preliminary traffic signal specifications.

100% Traffic Signal Plans: SWTE will prepare final plans and specifications for pole foundations and conduit “box in” based on comments received on the 95% plans.

#### **Task H – Roadway Signing and Pavement Marking Plans**

60% Roadway Signing and Pavement Marking: SWTE will prepare preliminary combined roadway signing and pavement marking plan sheets at a 1:40 scale for northbound 83<sup>rd</sup> Avenue from Bethany Home Road to Maryland Avenue (see SWTE scope and fee).

95% Roadway Signing and Pavement Marking: SWTE will prepare 95% roadway signing and pavement marking plan sheets based on comments received on the 60% plans and signing and marking specifications.

100% Roadway Signing and Pavement Marking: SWTE will prepare final roadway signing and pavement marking plan sheets and specifications based on comments received on the 95% plans and specifications.

#### **Task I – 60% Landscape Design**

Landscape Plans: Premier's subconsultant, Logan Simpson Design will prepare preliminary landscape plans and associated irrigation plans. Landscape plans will include a plant key, materials schedule, and quantities compatible with the West Area Regional Design Concept Report (DCR). Irrigation plans will identify all necessary piping and equipment required for a functioning drip irrigation system. Landscape and irrigation plan sheets will both be 1”=30’ (see attached Logan Simpson scope and fee).

## Task J – 95-100% Landscape Design

95% Landscape Plans: Premier's subconsultant, Logan Simpson Design will prepare 95% landscape plans and associated irrigation plans based on comments received on the 60% plans and prepare preliminary landscape technical specifications.

100% Landscape Plans: Premier's subconsultant, Logan Simpson Design will prepare final landscape plans and associated irrigation plans based on comments received on the 95% plans and final specifications.

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### Allowances

Reimbursables: An allowance is provided for the estimated direct expenses including mileage, printing, delivery costs, potholing, and pavement coring and associated traffic control. The subconsultant's reimbursable expenses are separate and included as part of their attached cost proposal.

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## Deliverables/Submittals

Design submittals will be made to the City's PM for review and distribution to other City departments as needed. The 95% and Final 100% submittal packages will include Glendale's Development Services department. The following deliverables will be provided for each design submittal:

### ❖ 60% Design Submittal

- Plan sheets include 1 cover sheet, 1 typical section/general notes sheet, 2 plan and profile sheets including drainage features, 1 landscape sheet, 1 landscape irrigation sheet plus details, 4 lighting sheets, 1 traffic signal "box-in" plan sheet, 4 roadway signing and pavement marking sheets.
- Cost Estimate - PDF
- Electronic (PDF) Files

### ❖ 95% Design Submittal

- Plan sheets included in the 60% Design Submittal plus 4 street light sheets, cross sections, civil special detail sheet and drainage special detail sheet
- Cost Estimate - PDF
- Electronic (PDF) Files
- Preliminary Technical Specifications - word format and PDF

### ❖ Final 100% Design Submittal

- 1 CD of approved and permit ready plans with seals (24"x36")
- 1 half size set of plans on white bond paper, stapled (11"x17")
- Final Technical Specifications - PDF & Word document file
- Cost Estimate - PDF & Excel file
- Electronic (PDF) Files - 1 CD



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## Construction Administration and Inspection Services

### Task K – Bid Phase

#### Bid phase may include:

- Attending the pre-bid conference and providing data/information necessary for the City to prepare addenda related to documents originated by Premier.
- Responding to questions regarding the plans and specifications. Premier shall receive, review and make recommendations regarding requests for substitutions, and incorporate these substitution requests into the addenda as required.
- The Bid Phase will be considered complete when the City has accepted the Project construction bid and final construction documents have been received on electronic media.

### Task L – Construction Services

Construction Services may include: Upon acceptance of the contract award for the construction of this project, Premier shall provide construction administration services. The services shall include, but are not necessarily limited to, the following:

1. Preconstruction Conference: Conduct a preconstruction conference with the Contractor, the City and other interested parties prior to issuance of the Notice to Proceed. In addition to conducting the meeting, Premier will take minutes and issue them to all attendees.
2. Quality Acceptance: Premier shall provide quality acceptance services to perform inspection and acceptance testing for all items of work required by the contract documents. Premier shall monitor construction for compliance with the project plans and specifications.

Premier shall provide an on-site representative to observe both off-site and on-site activities. The on-site representative shall be available for a minimum of 30 percent of the contract construction period. The on-site representative shall visit the project site during the course of critical construction activities, but not less than two times per week, depending on the status of work per the Contractor's construction schedule.

Premier shall bring any deficiencies in the work or materials to the attention of the City and Contractor. Reports of these deficiencies shall be forwarded to the City Project Manager for review. Premier will resolve any construction-related problems, conflicts or discrepancies, and will recommend remedial actions, but shall take no action without the prior approval of the City Project Manager.

The on-site representative shall be a full-time employee, shall have a minimum of five years experience in the architectural, engineering and/or construction profession, and shall have had prior quality acceptance experience on a project of comparable size and scope.

The qualifications of the on-site representative shall include at least one of the following requirements:

- ◆ Professional architect/engineer licensed by the State of Arizona, with two years of building construction experience acceptable to the City Engineer.
- ◆ An individual with five years of building construction experience acceptable to the City Engineer, with a Bachelor of Science Degree in Architecture, Engineering or Construction.
- ◆ An individual with seven years of building construction management experience acceptable to the City Engineer.

Premier shall assist the Contractor in establishing a Contractor Quality Control Program to ensure conformance to applicable specifications and plans with respect to materials, workmanship, construction, finish, and functional performance. The Quality Control Program shall be effective for control of all construction work performed under the Contract and shall establish an effective level of quality control.

Premier shall identify and coordinate with the Contractor all required acceptance material tests required by the City, project specifications and consistent with MAG and the UBC. The contractor shall schedule and coordinate all required tests and provide all necessary source sampling and factory acceptance tests, results and inspection information to Premier for review and comment. It shall be Premier's responsibility to provide any additional control assurance tests necessary to verify Contractor's compliance with the project plans and specifications.

3. Construction Schedule Review: Premier shall review the construction schedule with particular emphasis on assuring that reasonable time allowances have been made for the work required. Premier shall observe construction progress and maintain and issue a monthly construction observation report.

Premier will prepare a "Contractor Schedule Review" statement and submit it to the City Project Manager. All updated schedules must be reviewed and approved prior to issuance of monthly progress payments to the Contractor. Premier shall initiate any required correspondence necessary to assure the Contractor remains on schedule.

4. Schedule Review and Utility Coordination: Premier shall review the Contractor's schedule with particular emphasis on insuring that reasonable time allowances have been made for work required by the various utility companies, prior to approval. Premier will assist in the resolution of any utility conflicts discovered. The consultant shall initiate any required correspondence to insure that the Contractor remains on schedule.
5. Coordination of Submittal Reviews: Premier shall review the contract documents, prepare a list of all required submittals, and provide the schedule to the Contractor. Premier shall maintain a submittal log and coordinate all reviews and any necessary re-submittals.
6. Erosion Control/SWPPP Plan Review: Premier shall review erosion control/SWPPP plans developed by the Contractor for compliance with the specifications.
7. Shop Drawing Review: Premier shall review and approve all shop drawings. Premier will advise the Contractor before the commencement of any work requiring a shop drawing or sample submission if the submission has not been accepted by Premier.
8. Conduct Project Meetings: Premier shall conduct weekly construction project meetings at the project site. These meetings will be scheduled by the Premier representative and

occur on days Premier is scheduled to be on-site to observe construction activities. Premier will prepare minutes of the meeting, and distribute to all attendees.

9. **Special Inspections:** Premier shall coordinate with the contractor all special installation inspections. Special inspections shall be performed during installation by a qualified professional, certified or registered by the State of Arizona.
10. **Landscape Inspections:** Logan Simpson Design shall inspect and approve plant material at the source, inspect the soil preparation and planting, inspect and test the irrigation and sprinkler system, and monitor the landscape during the plant establishment and guarantee period. A qualified Landscape Architect will coordinate the activities required.
11. **Value Engineering:** No value engineering is anticipated for this project.
12. **Control Points:** Premier will establish and furnish to the Contractor all necessary baselines and control points which will be used as datum for the work. The actual construction staking will be the Contractor's responsibility.
13. **Payments:** Review the Contractor's initial and updated schedule of estimated monthly payments and advise the City as to acceptability. Review and process the Contractor's monthly payment requests, and forward to the City for final approval and processing. Premier's review shall be for the purpose of making an independent opinion of work completed and mathematical check of the Contractor's payment request. Premier is responsible for verifying the quantities of work which are the basis of the payment requests. The final monthly pay requests will be approved and processed by the City.
14. **Requests for Information:** Interpret construction contract documents and respond when requested by the City or Contractor.
15. **Change Order Requests:** Premier shall review and make recommendations on all change order requests from the Contractor. Provide documentation and administer the processing of change orders, including applications for extension of construction time. Premier will evaluate the cost and scheduling aspects of all change orders and, where necessary, negotiate with the Contractor to obtain a fair price for the work. No change order shall be implemented without the prior approval of the City. If requested by the City, Premier shall prepare all necessary documents and submittals for City Council approval.
16. **Materials Testing:** Materials testing will be the responsibility of the contractor. However, Premier shall evaluate and report on tests and test analyses for materials, including concrete, pipe, soil, soil compaction, asphalt, and any other subjects that may be required by the specifications and good construction practices.
17. **Substantial Completion:** Upon substantial completion, inspect the construction work and prepare a punch-list of those items to be completed or corrected before final completion of the project. Submit results of the inspection to the City and the Contractor.
18. **Final Inspection and Payment:** Premier will maintain a running deficiency list during the course of the project and keep the Contractor informed as to its current status. Premier will conduct, with the assistance of the City, a final inspection and prepare a final punch list, including all items remaining on the deficiency list, as well as any additional items discovered during the final inspection. Subsequent inspections should be anticipated in order to insure completion of all identified deficient items.

19. Project Closeout: Premier will compile a list of required final submittals, including, but not necessarily limited to: record drawings, warranty and guarantee documents, lien waivers, product manuals, maintenance and operation manuals, and any spare parts and training required to be provided by the Contractor. Premier shall review the project closeout documents for final approval.
- As-Built Drawings: Premier shall prepare record as-built drawings of the completed work based upon markups from the Contractor's record drawings and deliver the drawings to the City upon completion of the work. Premier will provide the record drawings on two separate Computer Discs (CD), one in AutoCAD format and one in PDF format.
  - PDF format – each plan sheet will be a separate PDF file and each sheet will include engineer of records seal/signature. The coversheet must include the seal/signature.
  - AutoCAD format - engineer of records seal/signature may be excluded.
  - Record Drawings will be the property of the City.
20. One-Year Warranty Inspection: Premier will conduct, with the assistance of the City, a one-year warranty inspection. Premier will prepare a punch list of deficient items discovered during the one-year inspection. Premier should anticipate subsequent inspections in order to insure completion of any identified deficient items discovered during the one-year inspection.

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#### **Exclusions**

The following items are specifically excluded for this scope of work:

- Traffic control plans
- Geotechnical investigation or design
- Environmental analysis
- Public involvement or public meetings
- Construction Staking
- Offsite drainage analysis
- Any task not specifically included in this Scope of Work
- Quality Assurance material testing

**EXHIBIT C**  
**Professional Services Agreement**

SCHEDULE

Premier estimates the schedule through completion of Construction Documents is as follows:

NTP.....	3/20/17
Project Kick-Off Meeting/Site Visit.....	3/30/17
Complete Topographic Survey and base maps.....	4/7/17
60% Design Submittal.....	5/19/17
95% Design Submittal.....	7/14/17
100% Plans, Specs and Estimate.....	8/21/17
Bid Opening Date.....	10/18/17
Relocation of Utilities Complete (120 days).....	11/6/17
Construction Complete (60 days).....	1/5/18
One-Year Warranty Inspection.....	1/8/19

**EXHIBIT D**  
**Professional Services Agreement**  
**COMPENSATION**

**METHOD AND AMOUNT OF COMPENSATION**

Compensation shall be hourly rates plus allowable reimbursement expenses.

**NOT-TO-EXCEED AMOUNT**

The total amount of compensation paid to Consultant for full completion of all work required by required by the Project during the entire term of the Project must not exceed \$147,961.

**DETAILED PROJECT COMPENSATION**

See attached spreadsheets for details.

<b>HEROES REGIONAL PARK HALF STREET IMPROVEMENTS DESIGN AND CONSTRUCTION FEE SCHEDULE</b>		
<b>TASKS</b>	<b>HOURS</b>	<b>COST</b>
<b>PREMIER</b>		
TASK A - Project Management and Administration	95	\$14,895.00
TASK B - Topographic Survey	77	\$7,158.00
TASK C - 60% Design Submittal	105	\$11,196.00
TASK D - 95% Design Submittal	101	\$11,329.00
TASK E - Final 100% Design Submittal	39	\$3,924.00
TASK K - Bid Phase	7	\$1,078.00
TASK L - Construction Administration Services	257	\$34,922.00
Estimated Direct Expenses (Printing, Mileage)	-	\$1,017.00
Estimated Direct Expenses (Roadsafe)	-	\$506.00
Estimated Direct Expenses (VCP Coring)	-	\$200.00
Estimated Direct Expenses (Cardno)	-	\$7,275.00
<b>SUBCONSULTANTS</b>		
<b>SOUTHWEST TRAFFIC ENGINEERING</b>		
TASK F - Roadway Lighting Plans	60	\$8,664.00
TASK G - Traffic Signal "Box In" Plans	43	\$6,209.00
TASK H - Roadway Signing and Pavement Marking Plans	56	\$8,086.00
TASK K & L - Post Design	32	\$4,621.00
Estimated Direct Expenses (Printing, Mileage)		\$164.00
<b>LOGAN SIMPSON DESIGN</b>		
TASK I - 60% Landscape and Irrigation Design	53	\$5,352.00
TASK J - 95-100% Landscape and Irrigation Design	46	\$4,645.00
TASK K & L - Post Design	30	\$3,029.00
Estimated Direct Expenses (Printing, Mileage)	-	\$240.00
<b>Owner's Contingency (10%)</b>		<b>\$13,451.00</b>
<b>TOTAL PROJECT COST</b>		<b>\$147,961.00</b>



## Legislation Description

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**File #:** 17-064, **Version:** 1

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**AUTHORIZATION TO ENTER INTO A COMMUNICATIONS FACILITIES LICENSE AGREEMENT WITH COX COMMUNICATIONS ARIZONA, LLC, FOR THE INSTALLATION OF FACILITIES AT 9380 WEST GLENDALE AVENUE**

Staff Contact: Jack Friedline, Director, Public Works

**Purpose and Recommended Action**

This is a request for the City Council to authorize the City Manager to enter into a communications facilities license agreement with Cox Communications Arizona, LLC (Cox) for the installation of facilities across city-owned property located at 9380 West Glendale Avenue.

**Background**

Cox contacted the city to request permission to expand its existing facilities in Glendale. This license will allow Cox to extend service to the Cabela's facility, located at 9380 West Glendale Avenue. Providing cable and communication service to Cabela's will allow them to meet their current and future customer's needs.

**Analysis**

There are no costs incurred by the city as a result of this action. Approval of this license will provide the required cable services needed to operate this facility.

**Community Benefit/Public Involvement**

Cox Communication's infrastructure investment in Glendale allows them to enhance customer needs by streamlining service to Glendale residents.



**COMMUNICATIONS FACILITIES LICENSE AGREEMENT (Commercial)**

This Communications Facilities License Agreement ("**Agreement**") is entered into on \_\_\_\_\_, 2017, by and between **Cox Communications Arizona, LLC** on behalf of itself and its affiliates ("**Cox**") and:

**CITY OF GLENDALE ("Owner").**

Owner holds title to, or is the authorized agent of the titleholder of the real property located at

**9380 W GLENDALE AVE, Glendale, AZ 85305 ("Property").**

The parties agree as follows:

**1. Grant.** Owner grants Cox permission to install and maintain its communications, distribution and other facilities, including, but not limited to, equipment, electronics, security and automation systems, cabling, wiring and other needed equipment ("**Facilities**") on the Property to provide voice, video, data, monitored security and automation services, and any other service now or hereafter offered by Cox (collectively, "**Services**") to occupants at the Property ("**Tenants**") and to utilize the Property, on a non-exclusive basis, for the transmission of Services and to install and maintain appropriate facilities for such Services. Owner further grants to Cox the non-exclusive right to enter the Property including all common areas to install, connect, disconnect, transfer, service, remove and repair the Facilities during normal business hours, except in case of emergency in which event Cox shall have the right to enter the Property outside of normal business hours. Owner further grants to Cox (i) the right to use any available conduit space which is now, or is hereafter, located upon, under or over the Property, for the installation, operation, maintenance, and removal of Cox's Facilities and (ii) the right to intersect any such existing conduit from the public right of way or from Cox's Facilities located outside of the Property. Owner hereby approves of the construction and installation of the Facilities in accordance with the plans set forth on **EXHIBIT A** attached hereto, or, if no plans are attached as of the date of execution of this Agreement, the parties will, prior to Cox commencing construction, cooperate in good faith to mutually approve the construction scope of work, and/or plans, as the case may be, such approval not to be unreasonably withheld, conditioned or delayed. If Owner requests, in writing within ninety (90) days after the expiration or earlier termination of this Agreement, Cox shall remove the Facilities (excluding "**Internal Wiring**" (defined below)) within sixty (60) days after receipt of Owner's request. Otherwise, Cox have shall have the right to enter upon the Property and remove any portion or all of the Facilities and such right shall survive the expiration or earlier termination of this Agreement. At Cox's option, wiring and cabling may remain on the Property. The Facilities are and shall remain the sole and exclusive property of Cox and shall not become fixtures of the Property, except for the "**Internal Wiring**" which is defined as the wiring, ports and outlets located within a commercial unit receiving Services back to the demarcation point.

**2. Obligations of Cox/Relocation.** Cox agrees: (i) to pay for any materials and labor reasonably necessary to install the Facilities; (ii) to keep the Property free of liens resulting from Cox's installation or removal of the Facilities; (iii) to repair any damage to the Property if such damage results directly from Cox's installation or removal of the Facilities; (iv) to obtain all applicable government permits for the installation of the Facilities on the Property; (v) to shall maintain (a) Commercial General Liability insurance with a policy limit of at least \$2,000,000 to protect Owner against bodily injury or damage resulting from Cox's negligence or intentional misconduct with respect to the installation, operation or maintenance of the Facilities on the Property, and (b) Worker's Compensation insurance in statutory amounts. Cox insurance policies hereunder shall be with insurers (i) licensed to do business in the state in which the Property is located and (ii) carrying an A.M. Best rating of at least A-VIII. All policies, including any renewals thereof, shall specify that such policy cannot be canceled without at least thirty (30) days written notice to the other party. In the event that Owner requires relocation of the Facilities in connection with any City requirements or in connection with other utilities, Cox shall relocate the Facilities upon at least ninety (90) days prior written notice (or such shorter time as may be reasonably practicable given the circumstances).

**3. Obligations of Owner.** Owner agrees: (i) not to use, move, disturb, or alter the Facilities, or interfere with the Services, or knowingly permit any third party to do so; and (ii) to the extent not prohibited by applicable law, disclose to Cox any information known to Owner regarding the nature and location of private utility lines located on the Property which are not identifiable under local Utility Protection laws.

**4. Indemnification.** Cox agrees to indemnify, defend and hold Owner harmless from all third party claims, suits, proceedings, liabilities, losses, costs, damages, and expenses, including reasonable attorneys' fees (the "**Claims**") for personal injury or property damages arising out of (a) the negligence or willful misconduct of Cox in connection with Cox's installation or removal of the Facilities at the Property; or (b) Cox's breach of this Agreement beyond any applicable notice



and cure periods. Owner agrees to indemnify, defend and hold Cox harmless from all Claims for personal injury or property damages arising out of (a) the negligence or willful misconduct of Owner, its employees or agents; or (b) Owner's breach of this Agreement beyond any applicable notice and cure periods. This provision shall survive the expiration or earlier termination of this Agreement.

**5. Term.** The "Term" shall begin upon the date of execution by the last signing party hereunder, and continue for five (5) years from the first day of the first full calendar month thereafter. Thereafter, the Term of this Agreement shall automatically renew for consecutive month-to-month terms provided that either party may terminate this Agreement with at least thirty (30) days prior written notice. Cox may terminate this Agreement (i) in the event Cox is unable to continue the distribution of any Services because of any law, rule, regulation or judgment of any court (or any similar reason beyond the reasonable control of Cox), (ii) if the applicable franchise or licenses are assigned, terminated, surrendered or revoked for any reason, or (iii) in the event that Cox elects to no longer provide Services to the Property.

**6. Default.** If either party fails to perform any material condition or agreement to be performed or observed by it hereunder and such default is not cured within thirty (30) days after the defaulting party's receipt of written notice from the non-defaulting party, the non-defaulting party may immediately terminate this Agreement by providing written notice to the defaulting party.

**7. Miscellaneous.** This Agreement is the entire understanding between the parties and supersedes any prior agreements or understandings whether oral or written. This Agreement may not be amended except by a written instrument executed by both parties. This Agreement is governed by the laws of the state where the Property is located. Owner acknowledges that (i) this Agreement and Cox's rights granted herein shall be binding upon Owner's successors and assigns, and (ii) Owner shall notify any successor Property owner of Cox's right under this Agreement and provide such party a copy hereof. Each Party has the full right and authority to execute this Agreement and grant the rights and/or accept the obligations contained herein. Owner represents that there are no prior or existing agreements, nor will there be any agreements during the Term, that would be breached by Owner's execution of this Agreement or by Cox's provision of the Services. Cox may assign this Agreement without consent, in whole or part, to (i) to any affiliate of Cox; (ii) any entity merging with, or acquiring substantially all of the assets of, Cox or (iii) any services provider that provides Services to any Tenant. Notices required to be given shall be sent by U.S. Certified Mail, postage prepaid, return receipt requested, or national overnight courier to the address set forth below. Cox shall determine the appropriate date to begin construction and/or installation of the Facilities at the Property and the commencement of the provision of Services to Tenants. Owner shall have no responsibility for the Services provided by Cox, or for the proper functioning of the Facilities. In the event of bankruptcy of any Tenant or Owner, or in the event of a Service disconnection order, Cox shall have the right to enter upon the Property to recover the Facilities.

**RE: 9380 W GLENDALE AVE, Glendale, AZ 85305**

**OWNER: CITY OF GLENDALE**

**Signature:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

**Property Contact:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Cox Communications Arizona, LLC**

**Signature:** \_\_\_\_\_

**Name:** **Gayle Porterfield**  
**Title:** **Director Cox Business**

**Date:** \_\_\_\_\_

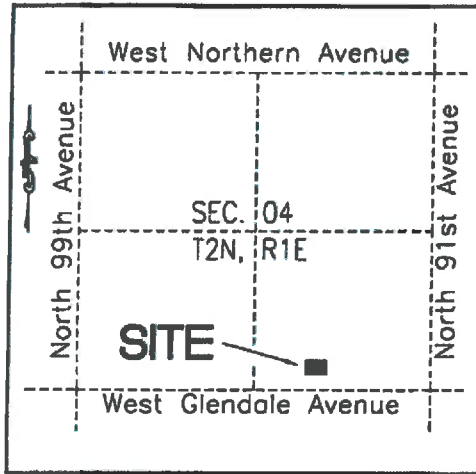
**Address:** **20401 N 29<sup>th</sup> Ave, Suite 100**  
**Phoenix, AZ 85027**

**EXHIBIT "A"**

**Tax Parcel ID Number:  
142-56-021B  
CITY OF GLENDALE**

**Site Plan – See Attached**

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**FOR A COX COMMUNICATIONS UNDERGROUND CABLE EASEMENT**  
**LOCATED IN THE SE 1/4, SECTION 04, TOWNSHIP 2 NORTH, RANGE 1 EAST**  
**OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, AZ**



**TOTAL AREA=**  
**798 SQUARE FEET**  
**OR 0.02 ACRE**

**VICINITY MAP**

NTS

**NOTE**

ALL (R) RECORD, (M) MEASURED AND (C) CALCULATED DIMENSIONS SHOWN ON THIS DRAWING REPRESENT HORIZONTAL GROUND DISTANCES, REPORTED IN INTERNATIONAL SURVEY FEET AND DECIMALS OF U.S. INTERNATIONAL FEET, UNLESS SPECIFICALLY NOTED OTHERWISE.

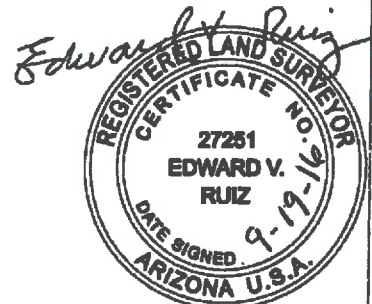
**BASIS OF BEARING**

THE BASIS OF BEARING FOR THIS DRAWING IS THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

BASIS OF BEARING= S88°12'50"W (R) PER M.C.R. PLAT BOOK 764 PAGE 42

**CERTIFICATION**

THESE RESULTS ARE BASED ON DATA GATHERED FROM FIELD SURVEY MEASUREMENT WORK PERFORMED UNDER MY OVERALL SUPERVISION. THE PURPOSE OF SAID RESULTS OF SURVEY IS A COX COMMUNICATIONS EASEMENT.



BY EDWARD V. RUIZ DATE 09-19-16 NUMBER 27251 AZ Expires: 6/30/17

DRAWN BY **BPG** 7307 SOUTH HARL AVENUE, SUITE TEMPE, ARIZONA 85283 (602)954-2223 FAX (602)954-0801

**COX COMMUNICATIONS**  
**Cabela's (CIR 218013)**  
**9380 W. GLENDALE AVENUE**  
**GLENDALE, ARIZONA**

DATE: 09-19-16	SCALE: N.T.S.
SHEET NO.: 1 OF 4	BPG DWG NO.: E19816

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**FOR A COX COMMUNICATIONS UNDERGROUND CABLE EASEMENT**  
**LOCATED IN THE SE 1/4, SECTION 04, TOWNSHIP 2 NORTH, RANGE 1 EAST**  
**OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, AZ**

SITE: Cabela's'S (CIR 218013)  
9380 W. GLENDALE AVENUE  
GLENDALE, ARIZONA

REFERENCE: COX COMMUNICATIONS – JOB 16M300078  
DATE: SEPTEMBER 19, 2016

SITUATED IN THE THE SOUTHEAST QUARTER OF SECTION 04, TOWNSHIP 2  
NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN.

A 4.00 FOOT WIDE EASEMENT, BEING 2.00 FEET ON EACH SIDE OF FOLLOWING  
DESCRIBED CENTERLINE:

**COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 04;**

THENCE ALONG THE SOUTH LINE OF SAID SECTION 04, ALSO BEING THE  
CENTERLINE OF WEST GLENDALE AVENUE, SOUTH 88°12'50" WEST A DISTANCE  
OF 1213.32 FEET TO THE INTERSECTION OF WEST GLENDALE AVENUE AND  
ZANJERO BOULEVARD;

THENCE LEAVING THE SOUTH LINE OF SAID SECTION 04, ALONG THE  
CENTERLINE OF ZANJERO BOULEVARD, NORTH 01°47'10" WEST A DISTANCE OF  
122.23 FEET TO A POINT OF CURVE, HAVING A RADIUS OF 1500.00 FEET;

THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 19°18'43", AN  
ARC DISTANCE OF 505.58 FEET TO A POINT OF TANGENCY;

THENCE NORTH 21°05'06" WEST A DISTANCE OF 157.09 TO A POINT;

THENCE LEAVING THE CENTERLINE OF SAID ZANJERO BOULEVARD, SOUTH  
68°54'54" WEST A DISTANCE OF 55.50 FEET TO THE WESTERLY LINE OF AN  
8.00 WIDE PUBLIC UTILITY EASEMENT, AS RECORDED IN LOT 2 OF ZANJERO IN  
BOOK 764, PAGE 42 IN THE PLAT OF RECORD, MARICOPA COUNTY RECORDER'S  
OFFICE, BEING THE POINT OF BEGINNING OF THE EASEMENT HEREIN DESCRIBED;

(CONTINUED ON SHEET 3 OF 4)

DRAWN BY  7307 SOUTH HARL AVENUE, SUITE 1  
TEMPE, ARIZONA 85283  
(602)954-2223 FAX (602)954-0601

COX COMMUNICATIONS  
Cabela's (CIR 218013)  
9380 W. GLENDALE AVENUE  
GLENDALE, ARIZONA

DATE:  
09-19-16

SCALE:  
N.T.S.

SHEET NO.:  
2 OF 4

BPG DWG NO.:  
E19816

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**FOR A COX COMMUNICATIONS UNDERGROUND CABLE EASEMENT**  
**LOCATED IN THE SE 1/4, SECTION 04, TOWNSHIP 2 NORTH, RANGE 1 EAST**  
**OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, AZ**

SITE: Cabela's'S (CIR 218013)  
 9380 W. GLENDALE AVENUE  
 GLENDALE, ARIZONA

REFERENCE: COX COMMUNICATIONS – JOB 16M300078

DATE: SEPTEMBER 19, 2016

(CONTINUED FROM SHEET 2 OF 4)

THENCE SOUTH 67°07'03" WEST A DISTANCE OF 4.51 FEET;  
 THENCE SOUTH 88°25'07" WEST A DISTANCE OF 24.07 FEET;  
 THENCE NORTH 40°25'56" WEST A DISTANCE OF 16.55 FEET;  
 THENCE NORTH 82°56'37" WEST A DISTANCE OF 12.25 FEET;  
 THENCE NORTH 76°56'02" WEST A DISTANCE OF 16.13 FEET;  
 THENCE NORTH 28°29'54" WEST A DISTANCE OF 59.10 FEET;  
 THENCE NORTH 30°09'34" WEST A DISTANCE OF 66.81 FEET TO THE POINT OF  
 TERMINATION.

SAID 4.00 FOOT WIDE EASEMENT CONSIST OF 798.00 SQUARE FEET OR  
 0.02 ACRE.

DRAWN BY  7307 SOUTH HARL AVENUE, SUITE 1  
 TEMPE, ARIZONA 85283  
 (602)954-2223 FAX (602)954-0801

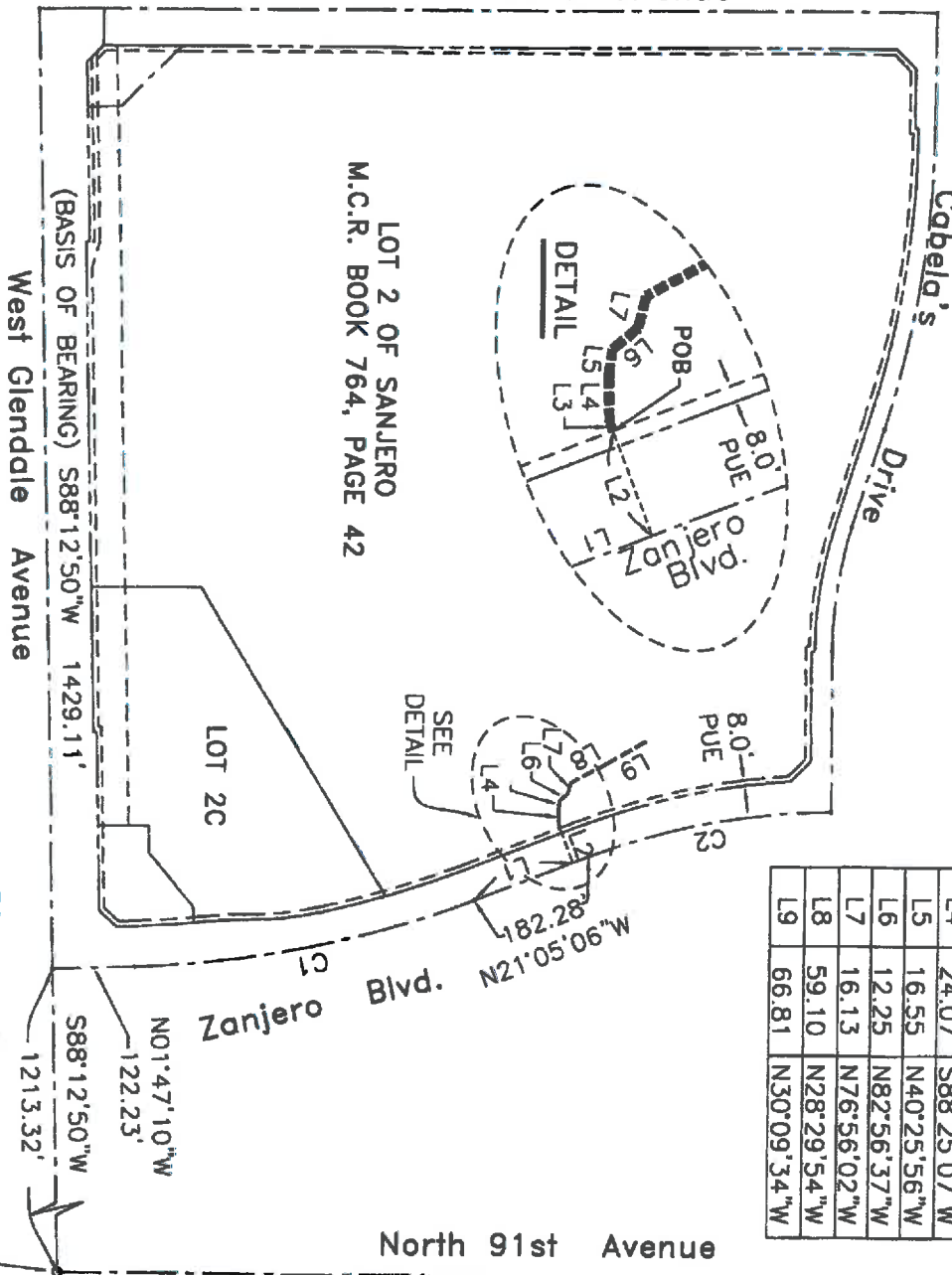
<b>COX COMMUNICATIONS</b> <b>Cabela's (CIR 218013)</b> <b>9380 W. GLENDALE AVENUE</b> <b>GLENDALE, ARIZONA</b>	DATE: 09-19-16	SCALE: N.T.S.
	SHEET NO.: 3 OF 4	BPG DWG NO.: E19816

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**FOR A COX COMMUNICATIONS UNDERGROUND CABLE EASEMENT**  
**LOCATED IN THE SE 1/4, SECTION 04, TOWNSHIP 2 NORTH, RANGE 1 EAST**  
**OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, AZ**

North 95th Avenue



CURVE TABLE			
CURVE	LENGTH	RADIUS	Delta
C1	505.58	1500.00	19°18'43"
C2	362.08	1000.00	20°44'44"



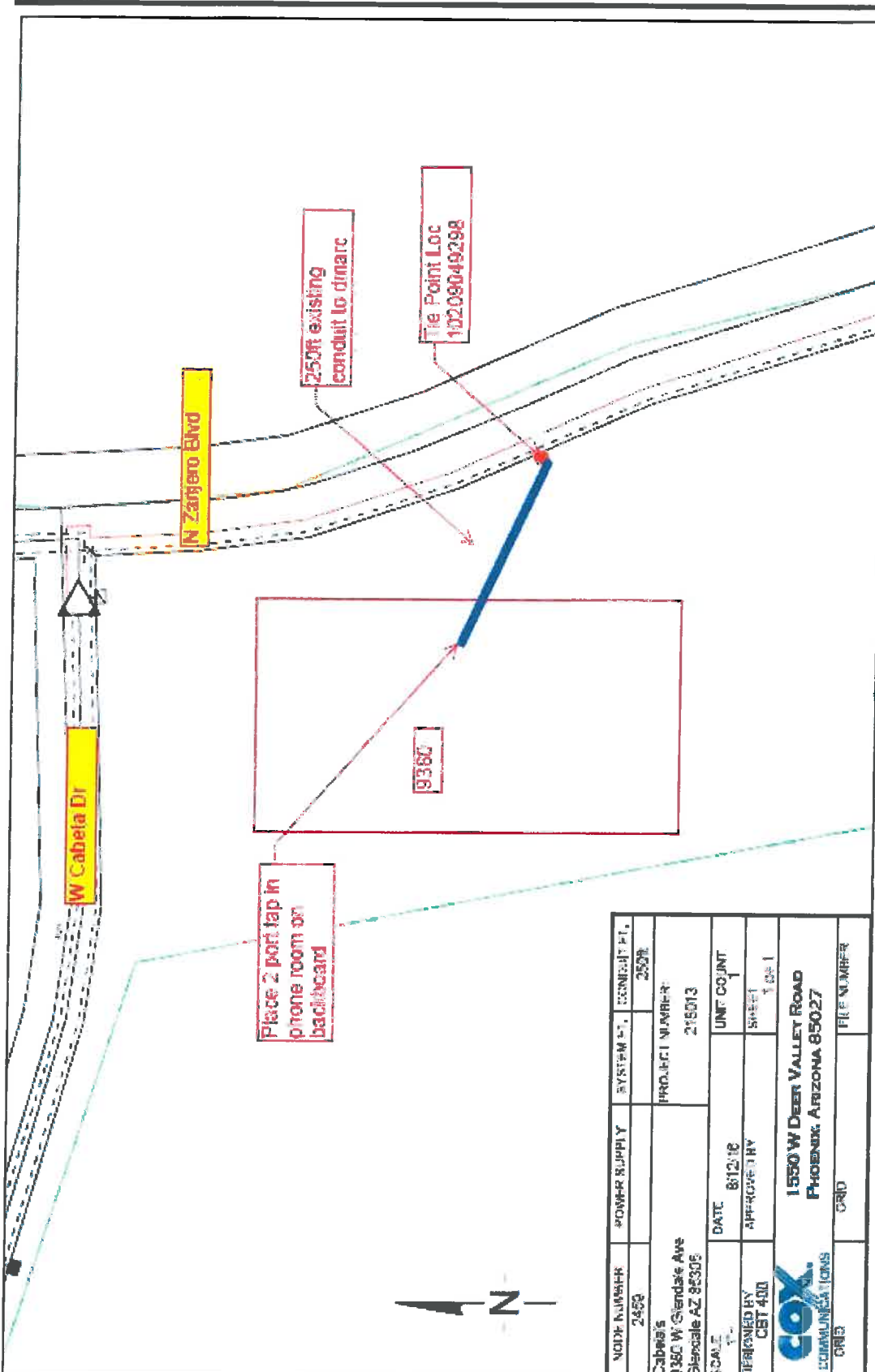
LINE TABLE		
LINE	LENGTH	BEARING
L1	157.09	N21°05'06"W
L2	55.50	S68°54'54"W
L3	4.51	S67°07'03"W
L4	24.07	S88°25'07"W
L5	16.55	N40°25'56"W
L6	12.25	N82°56'37"W
L7	16.13	N76°56'02"W
L8	59.10	N28°29'54"W
L9	66.81	N30°09'34"W

POINT OF COMMENCEMENT  
 SE. COR. SEC. 04, T2N, R1E.  
 FND. PK. NAIL.

North 91st Avenue

<b>COX COMMUNICATIONS</b> <b>Cabela's (CIR 218013)</b> <b>9380 W. GLENDALE AVENUE</b> <b>GLENDALE, ARIZONA</b>	DATE: 09-19-16	SCALE: N.T.S.
	SHEET NO.: 4 OF 4	BPG DWG NO.: E19816

DRAWN BY **BPG** 7307 SOUTH HARL AVENUE, SUITE 1  
 TEMPE, ARIZONA 85283  
 (602)954-2223 FAX (602)954-0801



1550 W Deer Valley Road Phoenix, AZ 85027

NOID# NUMBER 2458	POWER SUPPLY	SYSTEM ST.	CONDUIT FT. 250ft.
Cabela's 8380 W Glendale Ave Glendale AZ 85305		PROJECT NUMBER 215013	UNIT COUNT 1
SCALE 1" = 10'	DATE 8/12/16	APPROVED BY CBT 480	SHEET 1 OF 1
		<b>1550 W DEER VALLEY ROAD</b> <b>PHOENIX, ARIZONA 85027</b>	
ORDER	GRID	FILE NUMBER	

Notes:

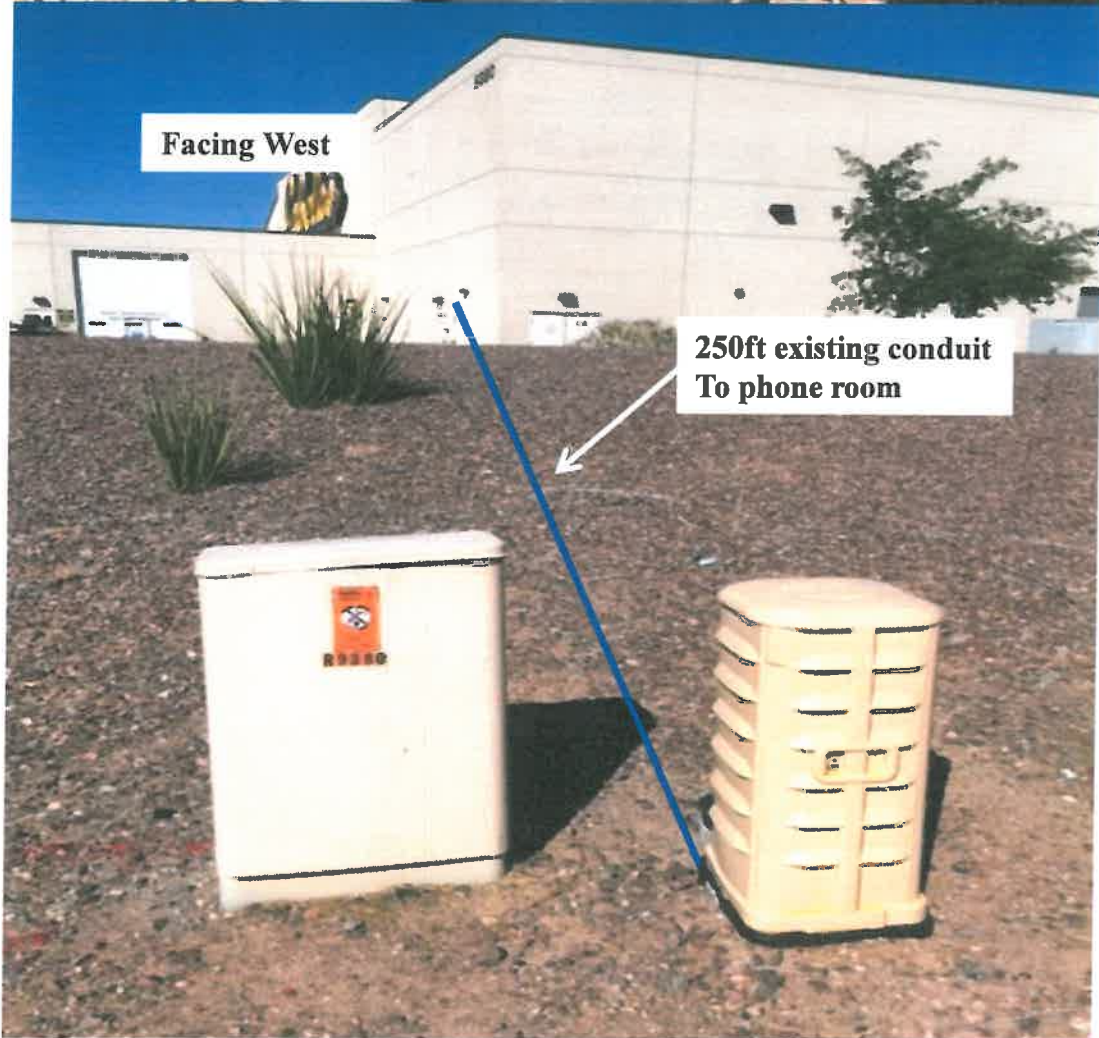


**Tie Point Loc 10209049298**  
**Existing conduit 250ft to phone room**  
**Will need to be verified. If not to phone room**  
**Intercept Century Link to phone room**

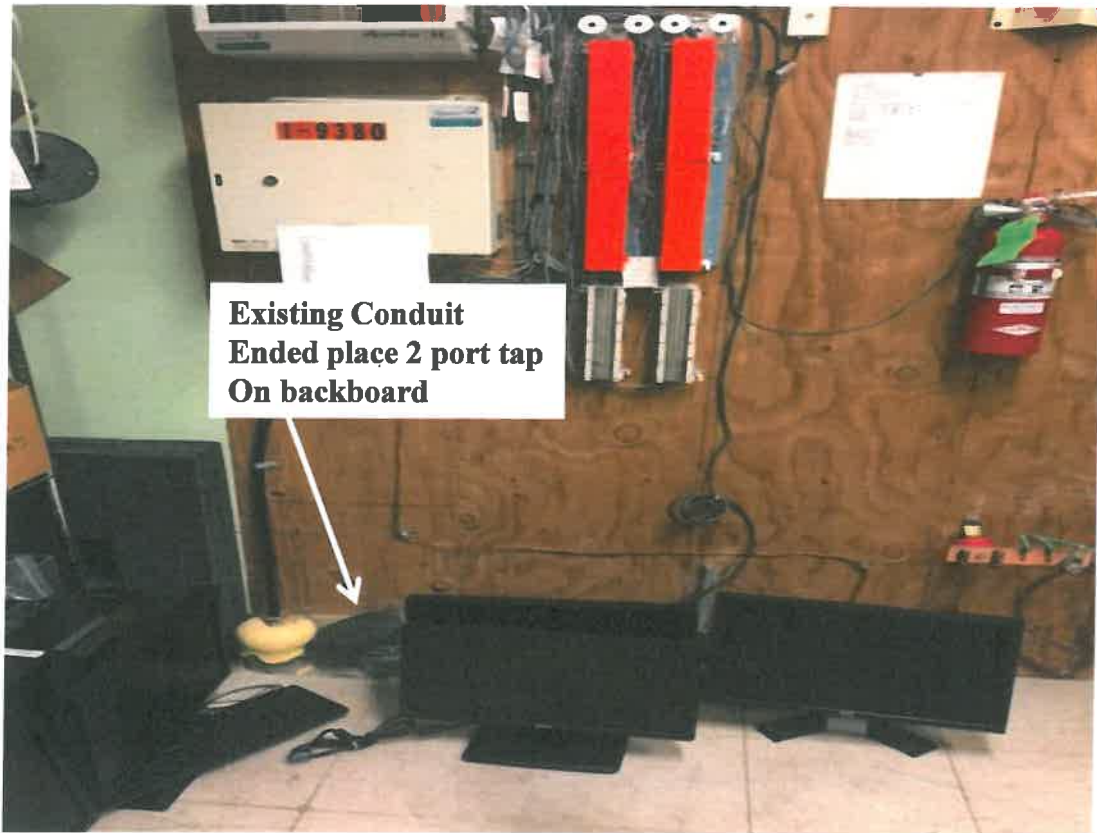


**Facing West**

**250ft existing conduit**  
**To phone room**







**Existing Conduit  
Ended place 2 port tap  
On backboard**



## Legislation Description

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**File #:** 17-065, **Version:** 1

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**AUTHORIZATION TO ENTER INTO A LINKING AGREEMENT WITH B & F CONTRACTING, INC., FOR THE 83RD AND GEORGIA AVENUES DRAINAGE PROJECT**

Staff Contact: Jack Friedline, Director, Public Works

**Purpose and Recommended Action**

This is a request for City Council to authorize the City Manager to enter into a Linking Agreement with B & F Contracting, Inc., in an amount not to exceed \$843,168.66 for the design and construction of the 83rd and Georgia Avenues Drainage project, and to authorize the City Manager to renew the Agreement, at the City Manager's discretion, for an additional two, one-year renewals. The initial term of the Agreement is effective until May 31, 2017.

**Background**

The existing retention basin on the southeast corner of 83rd and Georgia Avenues has proven insufficient during significant storm events, with water backing up into Georgia Avenue and flooding several residential properties. After the storm passes, the water remains standing in Georgia Avenue at an elevation above some of the low-lying garages. City crews have pumped the storm water out of the retention basin and into 83rd Avenue to lower the water level each time there is a significant storm event.

B & F Contracting, Inc. was awarded a bid by the City of Peoria for wet utility pipeline projects. Staff is requesting to utilize the cooperative purchase with Strategic Alliance for Volume Expenditures (SAVE). SAVE is a consortium of local municipalities, in which Glendale is a member. Contract No. ACON 223314 for Wet Utility and Pipeline Projects was awarded on May 22, 2014, is effective through May 31, 2017, and includes an option to renew the contract an additional two, one-year renewals, allowing the contract to be extended through May 31, 2019.

On February 5, 2015, Gavan & Barker, Inc. was administratively awarded a Professional Services Agreement in the amount of \$45,000 for 2014-2015 Drainage Studies including the 83rd and Georgia Avenues Preliminary Drainage Study which produced conceptual solutions to flooding at this intersection.

Cooperative purchasing allows counties, municipalities, schools, colleges and universities in Arizona to use a contract that was competitively procured by another governmental entity or purchasing cooperative. Such purchasing helps reduce the cost of procurement, allows access to a multitude of competitively bid contracts, and provides the opportunity to take advantage of volume pricing. The Glendale City Code authorizes cooperative purchases when the solicitation process utilized complies with the intent of Glendale's procurement processes. This cooperative purchase is compliant with Chapter 2, Article V, Division 2, Section 2-149 of the Glendale City Code, per review by Materials Management.

**Analysis**

The purpose of the 83rd and Georgia Avenues Drainage project is to minimize flooding that occurs on the residential properties within the Emerald Point Subdivision by completing the design and construction of the recommended structures identified in the 83rd Avenue and Georgia Avenue Preliminary Drainage Study.

It is important that these flooding issues be address in an expedient manner, where the use of a linking agreement will allow the city to procure design and construction services through a single vender, minimizing the design time and improving the efficiency of the construction.

Staff anticipates issuing a Notice to Proceed for the design phase in late March, with construction beginning in early May.

**Community Benefit/Public Involvement**

Residents in the area surrounding 83rd and Georgia Avenues have had storm water flooding onto their properties during significant rain events. This design and construction of the recommended improvements will greatly reduce the storm water from encroaching onto private property and encourage runoff to be contained within the city right-of-way and the retention basins.

**Budget and Financial Impacts**

Funding is available in the Fiscal Years 2016-17 Capital Improvement Program budget. Expenditures with B & F Contracting, Inc., are not to exceed \$843,168.66.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$843,168.66</b>	<b>2180-79004-550800, Local Drainage Problems</b>

Capital Expense? Yes

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
B & F CONTRACTING, INC.**

THIS LINKING AGREEMENT (this "Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017, between the City of Glendale, an Arizona municipal corporation (the "City"), and B & F Contracting, Inc., an Arizona corporation authorized to do business in Arizona ("Contractor"), collectively, the "Parties."

**RECITALS**

- A. On May 22, 2014, under the S.A.V.E. Cooperative Purchasing Agreement, the City of Peoria entered into a contract with Contractor to purchase the goods and services described in the Job Order Contract for Wet Utility Pipeline Projects Contract No. ACON23314 ("Cooperative Purchasing Agreement"), which is attached hereto as Exhibit A. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the City.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Linking Agreement, the parties agree as follows:

1. **Term of Agreement.** The City is purchasing supplies and/or services from Contractor pursuant to the Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement, purchases can be made by governmental entities from the date of award, which was May 22, 2014, until the date the contract expires on May 31, 2017, unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not be extended beyond May 31, 2019. The initial period of this Agreement, therefore, is the

period from the Effective Date of this Agreement until May 31, 2017. The City Manager or designee, however, may renew the term of this Agreement for two (2) one-year periods until the Cooperative Purchasing Agreement expires on May 31, 2019. Renewals are not automatic and shall only occur if the City gives the Contractor notice of its intent to renew. The City may give the Contractor notice of its intent to renew this Agreement 30 days prior to the anniversary of the Effective Date to effectuate such renewal.

2. Scope of Work; Terms, Conditions, and Specifications.

- A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as Exhibit B.
- B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.

3. Compensation.

- A. City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit C.
- B. The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed eight hundred forty-three thousand, one hundred and sixty-eight and 66/100 dollars (\$843,168.66) for the entire term of the Agreement.

4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.

5. Non-discrimination. Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

6. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.

7. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.

8. No Boycott of Israel. The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.

9. Attestation of PCI Compliance. When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.
10. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale  
c/o Ms. Kelly A. Hargadin  
5850 W. Glendale Avenue, Ste. 315  
Glendale, Arizona 8530  
623-930-3641

and

B & F Contracting, Inc.  
c/o Mr. Bruce W. Balls  
11011 North 23<sup>rd</sup> Avenue  
Phoenix, AZ 85029  
623-582-1170

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

"City"

City of Glendale, an Arizona  
municipal corporation

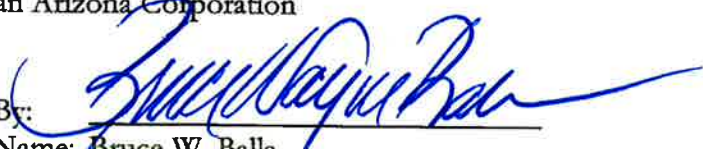
By: \_\_\_\_\_

Kevin R. Phelps  
City Manager

"Contractor"

B & F Contracting, Inc.,  
an Arizona Corporation

By: \_\_\_\_\_

  
Name: Bruce W. Balls  
Title: General Manager

ATTEST:

\_\_\_\_\_  
Julie K. Bower (SEAL)  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael D. Bailey  
City Attorney

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
B & F CONTRACINT, INC.**

**EXHIBIT A**

Job Order Contract for Wet Utility Pipeline Projects - ACON23314  
Acceptance of Offer and Contract Award June 1, 2014  
Contract Amendment to extend term to May 31, 2017  
Contract Amendment to extend term to May 31, 2016



# CONTRACT AMENDMENT

**Materials Management  
Procurement**  
 9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
 Peoria, AZ 85345  
 Telephone: (623) 773-7115  
 Fax: (623) 773-7118  
 Buyer: Lisa Houg, CPPB

Solicitation No. P14-0082A      Page 1 of 1  
 Description: JOC for Wet Utility Pipeline Projects  
 Amendment No. Two (2)      Date: 4/18/16

In accordance with the Contract Special Terms and Conditions, Contract Extension, the above referenced contract shall expire on 5/31/16. The contract is being extended and the new contract term is: 8/1/16 to 5/31/17.

Contractor hereby acknowledges receipt and agreement. A signed copy shall be filed with the City of Peoria, Materials Management Division.

	4-18-2016	Thomas F. Foley, President	B & F Contracting, Inc.	
Signature	Date	Typed Name and Title	Company Name	
11011 N. 23 <sup>rd</sup> Avenue		Phoenix	AZ	85028
Address		City	State	Zip Code

Attested By:

Rhonda Geriminsky, City Clerk



City Seal  
 Copyright 2003  
 City of Peoria, Arizona

CC Number  
 ACON23314B  
 Contract Number

Director: Andrew Granger, Engineering Director

Department Rep: Joe Kurus, Engineering Supervisor

Approved as to Form:  
  
 Stephen M. Kemp, City Attorney

The above referenced Contract Amendment is hereby Executed:

May 3, 2016 at Peoria, Arizona  
  
 Dan Zenko, Materials Manager





# CONTRACT AMENDMENT

Solicitation No. P14-0032A Page 1 of 1

Description: JOC for Wet Utility Pipeline Projects

Amendment No. One (1) Date: April 1, 2015

Materials Management  
Procurement  
6875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, AZ 85345  
Telephone: (923) 773-7115  
Fax: (923) 773-7118  
Buyer: Lisa Houg, CPPB

In accordance with the Contract Special Terms and Conditions, Contract Extension, the above referenced contract shall expire on May 31, 2015. The contract is being extended and the new contract term is: June 1, 2015 to May 31, 2016.

Contractor hereby acknowledges receipt and agreement. A signed copy shall be filed with the City of Peoria, Materials Management Division.

*Bruce Wayne Balle*  
Signature Date 4/1/15

Bruce Wayne Balle  
Typed Name and Title

B & F Contracting, Inc.  
Company Name

11011 N. 23<sup>rd</sup> Avenue  
Address

Phoenix  
City

AZ  
State

85029  
Zip Code

Attended By:

*Rhonda Germinsky*  
Rhonda Germinsky, City Clerk

*Andrew Granger*  
Director: Andrew Granger, Engineering Director

*Joe Kurus*  
Department Rep: Joe Kurus, Engineering Supervisor

Approved as to Form:  
*Stephen M. Kemp*  
Stephen M. Kemp, City Attorney



City Seal  
Copyright 2003  
City of Peoria, Arizona

CC Number

ACON23314A

Contract Number

The above referenced Contract Amendment is hereby Executed:

*April 14, 2015* at Peoria, Arizona

*Dan Zenko*  
Dan Zenko, Materials Manager



# City of Peoria, Arizona Job Order Contract



Statement of Qualifications No: **P14-0062A**

Description of Work: **JOC for Wet Utility Pipeline Projects**

Location: City of Peoria, Materials Management

Contact: **Lisa Houg, CPPB**

Mailing Address: **9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl., Peoria, AZ 85345**

Phone: **(623) 773-7115**

### OFFER

Contractor's License Number:  
**RCC 089744 A-General Engineering**

**B & F Contracting, Inc.**  
Job Order Contractor Name

*[Signature]*  
Authorized Signature for Offer

**11011 N. 23<sup>rd</sup> Avenue**  
Address

**Thomas F. Foley**  
Printed Name

**Phoenix**                      **AZ**                      **85029**  
City                                      State                      Zip Code

**President**  
Title

**623-582-1170**                      **623-582-3761**  
Telephone                      Fax

**tomf@bfcontracting.com**  
E-mail

### ACCEPTANCE OF OFFER AND CONTRACT AWARD (For City of Peoria Use Only)

Your offer is hereby accepted. The Contractor is now bound to sell the construction services listed by the attached award notice based upon the solicitation, including all terms conditions, specifications, amendments, etc., of the contract and the Contractor's offer as accepted by the City. The Contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until Contractor receives an executed Notice to Proceed and Purchase Order.

Attested by: *[Signature]*  
Rhonda Geriminsky, City Clerk

City of Peoria, Arizona.  
Eff. Date: **May 23, 2014**

Approved as to form: *[Signature]*  
Stephen M. Kern, City Attorney



CC  
**ACON 2334**  
Contract Number

Awarded on **May 22, 2014**

*[Signature]*  
Dan Zenko, Materials Manager

City Seal  
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Official File

ACON 23314

**JOB ORDER CONTRACT**



**P14-0062**

**Wet Utility Pipeline Projects**

**CONTRACT FOR CONSTRUCTION**

**JOB ORDER CONTRACT AGREEMENT  
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**JOB ORDER CONTRACTING  
CONTRACT**

THIS CONTRACT is entered into and made effective the 1st day of June, 2014  
by and between the City of Peoria, Arizona, an Arizona charter municipality (the "Owner"), and B&F Contracting, (the "Job Order Contractor"). The parties agree as follows:

**1. DEFINITIONS.**

**1.1. Owner.** Owner means Owner's senior manager, Contracting Officer or a duly authorized representative which means any person specifically authorized to act for Owner by executing the Contract and any modification thereto. Owner's duties include administration of the Contract, including the negotiation of change orders and modifications and assessing Job Order Contractor's technical performance and progress; inspecting and periodically reporting on such performance and progress during the stated period of performance, and finally certifying as to the acceptance of the Work in its entirety or any portion thereof, as required by the Contract documents.

**1.2. Job Order Contractor.** Job Order Contractor means Job Order Contractor's senior manager or its duly authorized representative or any person specifically authorized to act for Job Order Contractor by executing the Contract, and any modifications thereto. Job Order Contractor's duties include administration of the Contract and performance of the Work.

**1.3. Contract.** Contract means this agreement including its attachments and any Job Orders that may be issued.

**1.4. Subcontract.** Subcontract means any Contract including purchase orders (other than one involving an employer-employee relationship) entered into by Job Order Contractor calling for equipment, supplies or services required for Contract performance, including any modifications thereto.

**1.5. Job Order.** Job Order means a specific written agreement between the Owner and the Job Order Contractor for Work to be performed under this Contract for an individual, mutually agreed upon scope of work, schedule and price.

**1.6. Work.** Work means in response to Job Orders that may be mutually agreed upon and issued periodically by Owner, Job Order Contractor shall, except as may be specified elsewhere in the Contract, furnish all necessary labor, materials, tools, supplies, equipment, transportation, supervision, management, and perform all operations necessary and required for survey, design, and construction work which will be defined and further described as to specific project requirements in each Job Order. The Work shall be performed in accordance with the requirements set forth in each Job Order and as further specified in *Attachment "A"* (JOC General Scope of Services), *Attachment "B"* (SIQ & Contractor's Response), *Attachment "C"* (JOC Cost Proposal Forms), and in *Attachment "D"* (Contractor's Contacts), all of which are incorporated herein and made a part hereof.

**1.7. Punch List Preparation.** A minimum of thirty (30) days prior to Final Completion the Job Order Contractor, in conjunction with the Owner, shall prepare a comprehensive list of Punch list items, which the Owner may edit and supplement. The Job Order Contractor shall proceed promptly to complete and correct Punch list items. Failure to include an item on the Punch list does not alter the responsibility of the Job Order Contractor to complete all Work in accordance with the Contract Documents. Warranties required by the Contract Documents shall not commence until the date of Final Completion unless otherwise provided in the Contract Documents.

**1.8. Final Completion.** Final Completion of the Work shall be deemed to have occurred on the later of the dates that the Work passes a Final Completion inspection and acceptance by the Owner. Final Completion shall not be deemed to have occurred and no final payment shall be due the Job Order Contractor or any of its subcontractors or suppliers until the Work has passed the Final Completion inspection and acceptance and all required Final Completion close-out documentation items has been produced to the Owner by the Job Order Contractor.

**1.9. Reference Standards**

1.9.1. The "Uniform Standard Specifications for Public Works Construction" and the "Uniform Standard Details for Public Works Construction" which are sponsored and distributed by the Maricopa Association of Governments (MAG), and which are hereinafter referred to as the "MAG Specifications", are hereby adopted as part of these contract documents.

1.9.2. July 15, 1997 by Section 23-50a of Ordinance 97-38, the City of Peoria adopted the "Uniform Standard Details for Public Works Construction from the Maricopa County Association of Governments by reference with certain exceptions.

1.9.3. A copy of these documents is kept on file at the Office of the City Clerk at the City of Peoria.

## 2. CONTRACT TERM

2.1. Contract Term. The term of the Contract shall commence on the date it was executed by both parties and shall continue for a period of one (1) year thereafter in accordance with the terms and conditions of this Contract. By mutual written Contract Amendment, any resultant contract may be extended for supplemental periods of up to a maximum of forty-eight (48) months. Job Orders may be issued at any time during the term of this Contract. This Contract will remain in full force and effect during the performance of any Job Order.

2.2. Job Order. In response to Job Orders that may be mutually agreed upon and issued periodically by Owner, Job Order Contractor shall perform the Work, except as may be specified elsewhere in the Contract, which will be defined and further described as to specific project requirements in each Job Order. The Work shall be performed in accordance with the requirements set forth in each Job Order and as further specified in *Attachment "A"* (JOC General Scope of Services), *Attachment "B"* (SIQ & Contractor's Response), *Attachment "C"* (JOC Cost Proposal Forms), and in *Attachment "D"* (Contractor's Contacts), all of which are incorporated herein and made a part hereof.

2.3. Mutual Agreement. This Contract embodies the agreement of Owner and Job Order Contractor to terms and conditions which will govern any Work that may be prescribed under a Job Order that may be issued by Owner and agreed to by Job Order Contractor. Nothing herein shall be construed as requiring Owner to issue any Job Order, nor requiring Job Order Contractor to accept any Job Order, it being the intent that both parties must mutually agree to any specific Work before a Job Order may be issued.

2.4. Cooperative Purchasing: This contract shall be for the use of the City of Peoria. In addition, specific eligible political subdivisions and nonprofit educational or public health institutions may also participate at their discretion. In order to participate in any the contract, a political subdivision or nonprofit educational or public health institution must have been invited to participate in this specific solicitation and the contractor must be in agreement with the cooperative transaction. In addition to cooperative purchasing, any eligible agency may elect to participate (piggyback) on the contract; the specific eligible political subdivision, nonprofit educational or public health institution and the contractor must be in agreement. Any orders placed to the contractor will be placed by the specific agencies participating in this purchase. Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The City shall not be responsible for any disputes arising out of transactions made by others.

## 3. PERFORMANCE OF THE WORK

3.1. Job Order Agreement. Performance of the Work shall be undertaken only upon the issuance of written Job Orders by Owner. Job Orders shall be in accordance with the requirements specified in *Attachment "A"* (JOC General Scope of Services), and shall set forth, with the necessary particularity, the following:

- 3.1.1. Contract number along with Job Order Contractor's name;
- 3.1.2. Job Order number and date;
- 3.1.3. The agreed Work and applicable technical specifications and drawings;
- 3.1.4. The agreed period of performance and, if required by Owner, a work schedule;
- 3.1.5. The place of performance;

- 3.1.6. The agreed total price for the Work to be performed;
  - 3.1.7. Submittal requirements;
  - 3.1.8. Owner's authorized representative who will accept the completed Work;
  - 3.1.9. Signatures by the parties hereto signifying agreement with the specific terms of the Job Order;
- and
- 3.1.10. Such other information as may be necessary to perform the Work.

**3.2. Job Order Contractor Duties and Obligations.**

**3.2.1. Permits & Responsibilities.** Job Order Contractor shall be responsible for processing of drawings, for approval by appropriate oversight bodies; for obtaining any necessary licenses and permits; and for complying with any Federal, State and municipal laws, codes, and regulations applicable to the performance of the Work. Owner will reimburse Job Order Contractor for the actual, documented costs of construction permits required for the performance of the Work. Job Order Contractor shall also be responsible for all damages to persons or property that occur as a result of Job Order Contractor's fault or negligence, and shall take proper safety and health precautions to protect the Work, the workers, the public, and the property of others. Job Order Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire Work, except for any completed unit of Work which may have been accepted under the Contract.

**3.2.2. Outdoor Construction Restrictions.** Peoria Ordinance No. 98-11 restricts outdoor construction as listed in the following table:

	Construction Type	April 2 – September 29	September 30 – April 1
A	Concrete Work	5:00 a.m. to 7:00 p.m.	6:00 a.m. to 7:00 p.m.
B	Other Construction (within 500 feet of residential area)	6:00 a.m. to 7:00 p.m.	7:00 a.m. to 7:00 p.m.
C	Construction Work (more than 500 feet of residential area)	5:00 a.m. to 7:00 p.m.	5:00 a.m. to 7:00 p.m.

3.2.2.1. No interference with the traffic flow on arterial streets shall be permitted during the hours of 6:00 a.m. to 8:30 a.m. or from 4:00 p.m. to 7:00 p.m. unless prior authorization is obtained in writing by the City of Peoria Traffic Engineer or their assignee. Specific work hours may be stipulated by the City of Peoria on the project barricade plan.

3.2.2.2. During off peak hours, the minimum number of lanes shall be two lanes (one in each direction) on streets with four lanes or less and four lanes (two in each direction) on streets with five or more lanes.

3.2.2.3. Night work must have prior authorization from the City. In addition, certain areas of the City may have seasonal or special event restrictions for construction work as designated by the City on a case by case basis.

**3.2.3. Jobsite Superintendent.** During performance of a Job Order and until the Work is completed and accepted, Job Order Contractor shall directly superintend the Work or assign a competent superintendent who will supervise the performance of Work and is satisfactory to Owner and has authority to act for Job Order Contractor.

3.2.3.1. Job Order Contractor will ensure that the site supervisor for the project is English proficient and that there is at least one English proficient person at the construction site at all times work is being performed in order to communicate with the City's project manager.

**3.2.4. Construction Layout.** Job Order Contractor shall lay out its work in accordance with the Contract plans and specifications and shall be responsible for all measurements in connection with the layout of the Work. Job Order Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools,

materials, and labor required to layout any part of the Work. Job Order Contractor shall also be responsible for maintaining and preserving all control points established by Owner.

**3.2.5. Survey Control Points.** Existing survey markers (either brass caps or iron pipes) shall be protected by the Contractor or removed and replaced under direct supervision of the City Engineer or his authorized representatives. Survey monuments shall be constructed to the requirements of MAG Specifications, Section 405, and Standard Details. Lot corners shall not be disturbed without knowledge and consent of the property owner. The Contractor shall replace benchmarks, monuments, or lot corners moved or destroyed during construction at no expense to the Owner. Contractor and his sureties shall be liable for correct replacement of disturbed survey benchmarks except where the Owner elects to replace survey benchmarks using his own forces.

**3.2.6. Traffic Regulations.** All traffic affected by this construction shall be regulated in accordance with the City of Phoenix – Traffic Barricade manual, latest edition, and the City of Phoenix in the Traffic Barricade Manual shall be referred to as the City of Peoria City Engineer for interpretation.

At the time of the pre-construction conference, the Contractor shall designate an employee who is well qualified and experienced in construction traffic control and safety to be responsible for implementing, monitoring and altering traffic control measure, as necessary. At the same time the City will designate a representative who will be responsible to see that all traffic control and any alterations are implemented and monitored to the extent that traffic is carried throughout the work area in an effective manner and that manner and that motorists, pedestrians, bicyclists and workers are protected from hazard and accidents.

**3.2.6.1.** The following shall be considered major streets: All major Parkway, mile (section line), arterial and collector (mid-section line and quarter section line) streets so classified by the City of Peoria.

**3.2.6.2.** All traffic control devices required for this project shall be the responsibility of the Contractor. The Contractor shall place advance warnings; **REDUCE SPEED, LOOSE GRAVEL, 25 MPH SPEED LIMIT** and **DO NOT PASS** signs in accordance with the Traffic Barricade Manual.

**3.2.6.3.** The Contractor shall provide, erect and maintain all necessary flashing arrow boards, barricades, suitable and sufficient warning lights signals and signs, and shall take all necessary precautions for the protection of the work and safety of the public. The Contractor shall provide, erect and maintain acceptable and adequate detour signs at all closures and along detour routes.

**3.2.6.4.** All barricades and obstructions shall be illuminated at night, and all safety lights shall be kept burning from sunset until sunrise. All barricades and signs used by the Contractor shall conform to the standard design, generally accepted for such purposes and payment for all such services and materials shall be considered as included in the other pay items of the Contract.

**3.2.6.5.** The Contractor shall insure that all existing traffic signs are erect, clean and in full view of the intended traffic at all times. Street name signs at major street intersections shall be maintained erect at all times. If these signs should interfere with construction, the Contractor shall notify the Inspector at least forty eight (48) hours in advance for City personnel to temporarily relocate said signs. The City Engineer will re-set all traffic and street name signs to permanent locations when notified by the Engineer that construction is complete unless otherwise stated in the specifications Payment for this item shall be made at the contract lump sum price for **TRAFFIC CONTROL.**

**3.2.6.6.** The Police Department shall determine if construction activities or traffic hazards at the construction project *require* the use of Police Assistants or AZ Post Certified Peace Officers, alternatively, *if the Police Department determines that flagmen are sufficient*, it shall be the Contractor's responsibility to provide adequate personnel including flagmen to direct traffic safely. All City of Peoria projects shall use only City of Peoria Police Assistants or City of Peoria AZ Post Certified Officers, unless the Police Chief or their designee has determined that no such assistants or officers are available. Arrangements for Police Assistant or Police Officer services should be made with the liaison officer at the Peoria Police Department at telephone number (623) 773-7062 or [offduty@peoriaaz.gov](mailto:offduty@peoriaaz.gov).



3.2.6.7. Manual traffic control shall be in conformity with the Traffic Barricade Manual. A traffic control plan shall be submitted to the Peoria Police Department indicating whether a need for traffic control exists during the project. The traffic control plan shall be submitted electronically and the liaison officer shall be contacted at the Peoria Police Department at telephone number (623) 773-7062.

3.2.6.8. When traffic hazards at construction sites warrant the use of certified police personnel to direct traffic, arrangement should be made with the liaison officer at the Peoria Police Department at telephone number (623) 773-7062.

3.2.6.9. The assembly and turnarounds of the Contractor's equipment shall be accomplished using adjacent local streets when possible.

3.2.6.10. Equipment used and/or directed by the Contractor shall travel with traffic at all times. Supply trucks shall travel with traffic except when being spotted. Provide a flagman or officer to assist with this operation.

3.2.6.11. During construction, it may be necessary to alter traffic control. Alterations shall be in accordance with the Traffic Barricade Manual.

3.2.6.12. No street within this project may be closed to through traffic or to local emergency traffic without prior written approval of the City Engineer of the City of Peoria. Written approval may be given if sufficient time exists to allow for notification of the public at least two (2) days in advance of such closing. Partial closure of streets within the project shall be done in strict conformity with written directions to be obtained from the City Engineer.

3.2.6.13. Caution should be used when excavating near intersections with traffic signal underground cable. Notify the City Engineer twenty four (24) hours in advance of any work at such intersections. The Contractor shall install and maintain temporary overhead traffic signal cable as specified by the City Engineer when underground conduit is to be severed by excavations at intersections. The Contractor shall provide an off-duty uniformed police officer to direct traffic while the traffic signal is turned off and the wiring is transferred. All damaged or modified traffic signal overhead and underground items shall be repaired and restored to the City Engineer's satisfaction. Magnetic detector loops shall under no circumstances be spliced.

3.2.6.14. The Contractor shall address how local access to adjacent properties will be handled in accordance with the specification herein.

3.2.6.15. Where crossings of existing pavements occur, no open trenches shall be permitted overnight, but plating may be permitted if conditions allow as determined by the City Engineer or his authorized representative. If plates cannot be used, crossings shall be back-filled or the Contractor shall provide a detour.

3.2.7. Operations & Storage. Job Order Contractor shall confine all operations (including storage of materials) to areas authorized or approved by Owner.

3.2.8. Cleaning Up & Refuse Disposal. Job Order Contractor shall at all times keep the site, including storage areas, free from accumulations of waste materials. Before completing the Work, Job Order Contractor shall remove from the premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of Owner. Upon completing the Work, Job Order Contractor shall leave the site in a clean and orderly condition satisfactory to Owner.

3.2.8.1. Final cleanup of the premises shall be included in the period of performance of the Job Order.

3.2.8.2. Job Order Contractor shall be responsible for all construction refuse disposal containers and their removal from the site.

3.2.8.3. Disposal of any hazardous materials not addressed and priced in the Job Order will be segregated for disposal by Owner unless Owner requires Job Order Contractor to dispose of the materials in which case, an equitable adjustment in the price will be negotiated and agreed.

3.2.8.4. The Contractor and/or subcontractor shall be required to use the City of Peoria Solid Waste Division's services for commercial collection of Solid Waste. This requirement is not intended to preclude other methods or means for hauling debris or excess material from the project site such as trucking large volumes of material, including soil, building demolition, or hazardous and special wastes. The intent is to use City of Peoria Solid Waste service where standard waste disposal is needed. Specifically, all roll-off and front-load containers used on a City of Peoria construction site shall be contracted for through the City of Peoria Solid Waste Division at the prevailing rate. It is the contractor's responsibility to contact and make all necessary arrangements with the City of Peoria Solid Waste Division for these services. Any and all charges for these services are the responsibility of the contractor. The City Solid Waste Division may, at its option, decline to provide service for business reasons at any time during the contract. Any exceptions to this requirement will be at the sole discretion of the City Solid Waste Division. Please contact the Solid Waste Customer Service Representatives at 623-773-7160.

3.2.9. Existing Improvements and Utilities. Job Order Contractor shall protect from damage all existing improvements and utilities at or near the site and on adjacent property of third parties, the locations of which are made known to or should be known by Job Order Contractor. Job Order Contractor shall repair any damage to those facilities, including those that are the property of third parties, resulting from failure to comply with the requirements of the Job Order or failure to exercise reasonable care in performing the Work. If Job Order Contractor fails or refuses to repair the damage promptly, Owner may have the necessary repair work performed and charge the cost to Job Order Contractor.

3.2.10. Safety. Job Order Contractor shall be responsible for compliance with all safety rules and regulations of the Federal Occupational Safety and Health Act of 1970 (OSHA), all applicable state and local laws, ordinances, and regulations during the performance of the Work. Job Order Contractor shall indemnify Owner for fines, penalties, and corrective measures that result from the acts of commission or omission of Job Order Contractor, its subcontractors, if any, agents, employees, and assigns and its failure to comply with such safety rules and regulations.

3.2.10.1. Job Order Contractor Safety Compliance. Job Order Contractor shall furnish and enforce the use of individual protective equipment as needed to complete the Work, including hard hats, rain gear, protective foot wear, protective clothing and gloves, eye protection, ear protection, respirators, safety belts, safety harnesses, safety lifelines and lanyards, and high visibility reflective safety vests.

3.2.10.2. Job Order Contractor Provided Warnings. Job Order Contractor shall provide warning signs, barricades and verbal warnings as required.

3.2.10.3. Emergency Procedures. Job Order Contractor shall inform its employees of emergency procedures to be adhered to in case of a fire, medical emergency, or any other life-threatening situations.

3.2.10.4. Accident Notification. Job Order Contractor shall promptly notify Owner of any recordable accident involving personnel or damage to material and equipment. Copies of any injury reports or accident investigation reports shall be provided to the Owner.

3.2.10.5. Jobsite Safety Documents. Job Order Contractor shall maintain a set of OSHA articles and Material Safety Data Sheets (MSDS) at the jobsite office as they apply to the Work being performed. Copies shall be provided to Owner when requested.

3.2.10.6. Job Order Contractor's Safety Program. Job Order Contractor shall submit to Owner a copy of its safety policies and program procedures which establish the safety rules and regulations as they are to be applied to performance of the Work. These documents shall be submitted by Job Order Contractor within fourteen (14) calendar days after issuance of the initial Job Order and prior to the commencement of the Work.

3.2.10.7. Job Order Contractor Safety Representative. Job Order Contractor shall assign, during performance of the Work, a designated safety representative to develop and monitor the project safety program. The name, company address, and telephone number of the assigned individual shall be submitted to Owner by Job Order Contractor along with its safety policies and program procedures.

3.2.10.8. Emergency Medical Treatment. Job Order Contractor shall make available for its employees and those of its subcontractors, while they are performing Work on the site, emergency medical treatment either at the site or at a nearby medical facility.

3.2.10.9. Owner's Right to Monitor. Owner reserves the right to approve and monitor Job Order Contractor's safety policies and program procedures as applied during performance of the Work. Failure to comply with safety policies and program procedures, once approved by Owner, shall be cause for the termination of the Job Order in accordance with § 14.

3.2.10.10. First Aid Kit. Job Order Contractor shall provide and maintain on the jobsite, at all times when Work is in progress, a completely stocked first aid kit which contains all standard emergency medical supplies.

3.2.10.11. Fire Extinguisher. Job Order Contractor shall provide and maintain on the jobsite, at all times when Work is in progress, a fully charged fire extinguisher appropriate for the potential fire hazard.

3.2.11. Dissemination of Contract Information. Job Order Contractor shall not publish, permit to be published, or distribute for public consumption, any information, oral or written, concerning this Contract, any Job Order or the Work performed under this Contract, without the prior consent of Owner.

3.2.12. Shop Drawings. Job Order Contractor's duties under this Contract include the preparation of shop drawings or sketches necessary to permit orderly construction of Owner's design plans. Job Order Contractor agrees to provide detailed design drawings and plans if requested by Owner.

3.2.13. Jobsite Drawings and Specifications. Job Order Contractor shall keep on the Work site a copy of the drawings and specifications and shall at all times give Owner access thereto.

### 3.3. Owner Rights and Obligations.

#### 3.3.1. Suspension of Work.

3.3.1.1. Owner's Written Order. Owner may order Job Order Contractor, in writing, to suspend, delay, or interrupt all or any part of the Work for a period of time that Owner determines reasonably appropriate.

3.3.1.2. Work Delay or Suspension. If the performance of all or any part of the Work is suspended, delayed, or interrupted by an act of Owner in the administration of a Job Order, or by Owner's failure to act within the time specified in the Job Order, an adjustment shall be made for any increase in the cost of performance of the Job Order necessarily caused by the suspension, delay, or interruption, and the Job Order will be modified in writing accordingly.

3.3.1.3. Job Order Contractor Costs. A claim under this Subparagraph 3.3.1 shall not be allowed for any costs incurred more than thirty (30) calendar days before Job Order Contractor shall have notified Owner in writing of the act or failure to act (but this requirement shall not apply as to a claim resulting from a suspension order), and unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the Job Order.

3.3.2. Owner's Right to Possession. Owner shall have the right to take possession of or use any completed or partially completed part of the Work. Before taking possession of or using any Work, Owner shall furnish Job Order Contractor a list of items of work remaining to be performed or corrected on those portions of the Work that Owner intends to take possession of or use. However, failure of Owner to list any item of Work shall not relieve Job Order Contractor of responsibility for complying with the terms of this Contract. Owner possession or use shall not be deemed an acceptance of any Work under this Contract.

3.3.2.1. Owner's Possession or Use. While Owner has such possession or use, Job Order Contractor shall be relieved of the responsibility for the loss of or damage to the Work resulting from Owner's possession or use, notwithstanding the terms of Subparagraph 3.2.1. If prior possession or use by Owner delays the progress of the Work or causes additional expense to Job Order Contractor, an equitable adjustment shall be made in the Job Order price or the period of performance, and the Job Order shall be modified in writing accordingly.

**3.3.3. Other Contracts.** Owner may undertake or award other Contracts for additional work at or near the site of Work under this Contract. Job Order Contractor shall fully cooperate with the other Job Order Contractors and with Owner's employees and shall carefully adapt scheduling and performing the Work under this Contract to accommodate the additional work, heeding any direction that may be provided by Owner. Job Order Contractor shall not commit or permit any act that will interfere with the performance of its Work by any other contractor or by Owner's employees.

**3.4. Job Order Amendment.** Job Orders may be amended by Owner in the same manner as they are issued.

**3.5. Job Order Value.** The maximum Job Order value is Three Million Dollars (\$3,000,000), except as provided by § 16.32.1.

#### **4. JOB ORDER DOCUMENTS**

**4.1. Specification and Drawings.** Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of differences between drawings and specifications, the drawings shall govern. In case of discrepancy either in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to Owner, who shall promptly make a determination in writing. Any adjustment by Job Order Contractor without such a determination shall be at its own risk and expense. Owner shall furnish from time to time such detail drawings and other information as considered necessary, unless otherwise provided.

**4.1.1.** Wherever in the specifications or upon the drawings the words "directed," "required," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the "direction," "requirement," "order," "designation," or "prescription," of Owner is intended and similarly the words "approved," "acceptable," "satisfactory," or words of like import shall mean "approved by," or "acceptable to," or "satisfactory to" Owner, unless otherwise expressly stated.

**4.1.2.** Where "as shown," "as indicated," "as detailed," or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying the Contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place," that is "furnished and installed.

**4.2. Shop Drawings.** Shop drawings include sketches, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by Job Order Contractor to explain in detail specific portions of the Work. Owner may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under the Contract. Shop drawings means drawings submitted to Owner by Job Order Contractor showing in detail:

**4.2.1.** The proposed fabrication and assembly of structural elements and,

**4.2.2.** The installation (i.e., form, fit and attachment details) of materials or equipment.

**4.2.3.** The construction and detailing of elements of the Work.

**4.3. Shop Drawing Coordination.** Job Order Contractor shall coordinate all shop drawings, and review them for accuracy, completeness, and compliance with Contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to Owner without evidence of Job Order Contractor's approval may be returned for resubmission. Owner will indicate its approval or disapproval of the shop drawings and if not approved as submitted shall indicate Owner's reasons therefore. Any work done before such approval shall be at Job Order Contractor's risk. Approval by Owner shall not relieve Job Order Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of the Contract, except with respect to variations described and approved in accordance with § 4.4 below.

**4.4. Shop Drawing Modifications.** If shop drawings show variations from the Job Order requirements, Job Order Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If Owner approves any such variation, Owner shall issue an appropriate Contract modification, except that, if the

variation is minor and does not involve a change in price or in time of performance, a modification need not be issued.

**4.5. Shop Drawing Omissions.** Omissions from the drawings or specifications or the mis-description of details of work which are manifestly necessary to carry out the intent of the drawings and specifications, or which are customarily performed, shall not relieve Job Order Contractor from performing such omitted or mis-described details of the Work but they shall be performed as if fully and correctly set forth and described in the drawings and specifications.

**4.6. Owner Furnished Drawings.** Job Order Contractor shall check all Owner furnished drawings immediately upon receipt and shall promptly notify Owner of any discrepancies. Any errors or omissions in Owner furnished drawings are the responsibility of the Owner to rectify, including associated costs. Figures marked on drawings shall be followed in preference to scale measurements. Large scale drawings shall govern small scale drawings. Job Order Contractor shall compare all drawings and verify the figures before laying out the Work and will be responsible for any errors which might have been avoided thereby.

**4.7. Shop Drawing Submittal.** Job Order Contractor shall submit to Owner for approval an appropriate number of copies of all shop drawings as called for under the various headings of these specifications. Sets of all shop drawings will be retained by Owner and one set will be returned to Job Order Contractor with annotation of approval or rejection within one (1) week after submission, unless a longer review period is necessary by mutual agreement between Owner and Job Order Contractor.

**4.8. Use of Job Order Documents.** All drawings (to include as-built drawings), sketches, designs, design data, specifications, note books, technical and scientific data provided to Job Order Contractor or developed by Job Order Contractor pursuant to the Contract and all photographs, negatives, reports, findings, recommendations, data and memoranda of every description relating thereto, as well as all copies of the foregoing relating to the Work or any part thereof, shall be the property of Owner and may be used by Owner without any claim by Job Order Contractor for additional compensation, unless such material developed by Job Order Contractor does not result in an issued Job Order. In such cases, Job Order Contractor will receive reasonable reimbursement for the development of such materials before Owner uses them in any manner whatsoever. In addition, Owner agrees to hold Job Order Contractor harmless to the extent permitted by law from any legal liability arising out of the Owner's use of such materials.

## **5. MATERIAL AND WORKMANSHIP**

**5.1. Suitability of Material and Equipment.** All equipment, material, and articles incorporated in the Work covered by this Contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in the Contract. References in the specifications to equipment, material, article, or patented process by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. Job Order Contractor may, at its option, use any equipment, material, article, or process that, in the sole judgment and prior written approval of the Owner, is equal to that named in the specifications.

**5.2. Owner Approval.** Job Order Contractor shall obtain Owner's approval of the equipment to be incorporated into the Work. When requesting approval, Job Order Contractor shall furnish to Owner the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the equipment. When required by the Contract or by Owner, Job Order Contractor shall also obtain Owner's approval of the material or articles which Job Order Contractor contemplates incorporating into the Work. When requesting approval, Job Order Contractor shall provide full information concerning the material or articles. When directed to do so, Job Order Contractor shall submit samples for approval. Machinery, equipment, material and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

**5.3. Testing of Materials.** Unless otherwise specified in a Job Order, the Job Order Contractor shall be responsible for any required testing of materials prior to incorporation into the Work. Reimbursement for testing required by third party entities will be included in the individual Job Order.

**5.4. Workmanship.** All work under the Contract shall be performed in a skillful and workmanlike manner.

## 6. SITE CONDITIONS

6.1. Site Investigation. Job Order Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the Work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the Work or its cost, including but not limited to:

- 6.1.1. Conditions bearing upon transportation, disposal, handling, and storage of materials;
- 6.1.2. The availability of labor, water, electric power, and roads;
- 6.1.3. Uncertainties of weather, river stages, tides, or similar physical conditions at the site;
- 6.1.4. The visible conformation and conditions of the ground; and
- 6.1.5. The character of equipment and facilities needed preliminary to and during work performance.

6.2. Surface and Subsurface Investigation. Job Order Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by Owner, as well as from the drawings and specifications made a part of this Contract. Owner will provide to Job Order Contractor all subsurface investigation reports it has commissioned, and has knowledge of, that reasonably reflect expected conditions at the location of the Job Order.

6.3. Differing Site Conditions. Job Order Contractor shall promptly, and before the conditions are disturbed, give a written notice to Owner of:

6.3.1. Subsurface or latent physical conditions at the site which differ materially from those indicated in the Contract, or

6.3.2. Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

6.4. Owner Investigation. Owner shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in Job Order Contractor's cost of, or the time required for, performing any part of the Work, whether or not changed as a result of the conditions, an equitable adjustment shall be made and the Job Order modified in writing accordingly.

6.5. Written Notice of Differing Site Conditions. No request by Job Order Contractor for an equitable adjustment to a Job Order under this § 6 shall be allowed, unless Job Order Contractor has given the written notice required.

6.6. Payment Adjustment. No request by Job Order Contractor for an equitable adjustment to a Job Order for differing site conditions shall be allowed if made after final payment under such Job Order.

## 7. JOB ORDER SCHEDULES

7.1. Construction Schedule. If the Job Order Contractor fails to submit a schedule with the Job Order, Owner may withhold approval of progress payments until Job Order Contractor submits the required schedule. If required, the Job Order Contractor will submit for approval with the signed Job Order a practicable schedule showing the sequence in which Job Order Contractor proposes to perform the Work, and the dates on which Job Order Contractor contemplates starting and completing the several salient features of the Work (including acquiring materials, plant and equipment). The schedule may be a formal computerized schedule or a progress chart in a bar chart format of suitable scale to indicate appropriately the percentage of Work scheduled for completion by any given date during the period. In either case, the basic information should be the same and the schedule or chart must contain as a minimum:

7.1.1. A detailed list of work activities or work elements.

7.1.2. Show the logical dependencies (ties) to indicate what Work must be accomplished before other Work can begin.

7.1.3. Show early start and early finish dates along with late start and late finish dates for each work activity or work element.

7.2. **Failure to Submit Schedule.** Failure of Job Order Contractor to comply with the requirements of Owner under this clause shall be grounds for a determination by Owner that Job Order Contractor is not prosecuting the Work with sufficient diligence to ensure completion within the time specified in the Job Order. Upon making this determination, Owner may terminate Job Order Contractor's right to proceed with the Work if not cured within seven (7) days after written notice is provided, or any separable part of it, in accordance with § 14.

7.3. **Progress Report.** Job Order Contractor shall submit a progress report every thirty (30) days, or as directed by Owner, and upon doing so shall immediately deliver a current schedule to Owner if it has materially changed since the last submission of a schedule. If Job Order Contractor falls behind the approved schedule, Job Order Contractor shall take steps necessary to improve its progress, including those that may be reasonably required by Owner. Without additional cost to Owner, Owner may require Job Order Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant or equipment, and to submit for approval any supplementary schedule or schedules in chart form as Owner deems necessary to demonstrate how the approved rate of progress will be regained.

7.4. **Emergency Work.** Job Order Contractor will give top priority to any emergency Work Owner may have and will allocate all resources necessary to accomplish such Work in accordance with Owner's schedule requirements. To the extent the Job Order Contractor incurs additional cost, expense or schedule delay in performing Owner's emergency Work, Owner will equitably adjust the Contract in accordance with § 19.

## **8. INSPECTION OF CONSTRUCTION AND ACCEPTANCE**

8.1. **Job Order Contractor Inspection System.** Job Order Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the Work called for conforms to Job Order requirements. Job Order Contractor shall maintain complete inspection records and make them available to Owner. All work shall be conducted under the general direction of Owner and is subject to inspection and test by Owner at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the Contract.

8.2. **Owner Inspections and Tests.** Owner inspections and tests are for the sole benefit of Owner and do not:

8.2.1. Relieve Job Order Contractor of responsibility for providing adequate quality control measures;

8.2.2. Relieve Job Order Contractor of responsibility for damage to or loss of the material before acceptance;

8.2.3. Constitute or imply acceptance; or

8.2.4. Affect the continuing rights of Owner after acceptance of the complete work.

8.3. **Job Order Contractor Responsibilities.** The presence or absence of an inspector does not relieve Job Order Contractor from any Contract requirement, nor is the inspector authorized to change any term or condition of the specification without Owner's written authorization.

8.4. **Job Order Contractor Performance.** Job Order Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by Owner. Owner may charge to Job Order Contractor any additional cost of inspection or test when Work is not ready at the time specified by Job Order Contractor for inspection or test, or when prior rejection makes re-inspection or retest necessary. Owner shall perform all inspections and tests in a manner that will not unnecessarily delay the Work. Special, full size and performance tests shall be performed as described in the Job Order.

8.5. **Job Order Contractor Corrective Work.** Job Order Contractor shall, without charge, replace or correct Work found by Owner not to conform to Job Order requirements, unless Owner consents to accept the Work with an appropriate adjustment in Contract price. Job Order Contractor shall promptly segregate and remove rejected material from the premises.

**8.6. Failure to Replace or Correct Work.** If Job Order Contractor does not promptly replace or correct rejected Work, Owner may:

8.6.1. By Contract or otherwise, replace or correct the Work and charge the cost to Job Order Contractor;  
or

8.6.2. Terminate for default Job Order Contractor's right to proceed.

**8.7. Owner Inspection before Acceptance.** If, before acceptance of the entire Work, Owner decides to examine already completed Work by removing it or tearing it out, Job Order Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the Work is found to be defective or nonconforming in any material respect due to the fault of Job Order Contractor or its subcontractors, Job Order Contractor shall bear the expenses of the examination and of satisfactory reconstruction. However, if the Work is found to meet requirements, Owner shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the Work was thereby delayed, an extension of the period of time for performance.

**8.8. Owner Acceptance.** Unless otherwise specified in the Job Order, Owner shall accept, as promptly as practicable after completion and inspection, all work required by the Job Order or that portion of the Work that the Owner determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or Owner's rights under any warranty or guarantee.

## **9. INVOICING AND PAYMENT**

**9.1. Compensation.** As full consideration for the satisfactory performance by Job Order Contractor of Work prescribed under the Contract, Owner shall pay Job Order Contractor the amounts specified in the individual Job Orders.

**9.2. Invoices.** Job Order Contractor shall submit invoices to the following address:

City of Peoria  
8401 W. Monroe St  
Peoria, AZ 85345

**9.3. Job Order Cost Proposal Structure.** For each Job Order, the Job Order Contractor shall prepare a Job Order Cost Proposal with the sufficient level of cost detail as required by the Owner. Cost detail may include, but is not limited to: schedule of values, work schedule, direct labor cost and fringe benefits, direct material costs (supported by quotes), direct equipment costs (supported by quotes), cost of subcontractors (supported by quotes) and allowable indirect costs (includes insurance). The contractor shall utilize the markups established in the JOC Pricing Matrix (*Attachment C*) to calculate the overhead and profit for all Job Order Cost Proposals, unless otherwise requested by the Owner. Profit on subcontractors/subconsultants shall not exceed 5 percent.

**9.4. Progress Payments.** Owner shall make progress payments monthly as the Work proceeds, or at more frequent intervals as determined by Owner, on estimates of Work completed submitted by the Job Order Contractor and approved by Owner. Job Order Contractor shall use an acceptable invoice form and shall include supporting documents to reflect a breakdown of the total price showing the amount included therein for each principal category of the Work, in such detail as requested, to provide a basis for determining progress payments. In the estimation of Work completed, Owner will authorize payment for material delivered on the site and preparatory work done if Job Order Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform the Work.

**9.5. Retention.** Not applicable.

**9.6. Owner's Property.** All material and work covered by progress payments made shall, at the time of payment, become the sole property of Owner, but this provision shall not be construed as:

9.6.1. Relieving Job Order Contractor from the sole responsibility for all material and Work upon which payments have been made or the restoration of any damaged Work; or



**9.6.2. Waiving the right of Owner to require the fulfillment of all of the terms of the Contract.**

**9.7. Approval and Certification.** An estimate of the Work submitted shall be deemed approved and certified for payment after seven days from the date of submission unless before that time the Owner or Owner's agent prepares and issues a specific written finding setting forth those items in detail in the estimate of the Work that are not approved for payment under this contract. The Owner may withhold an amount from the progress payment sufficient to pay the expenses the Owner reasonably expects to incur in correcting the deficiency set forth in the written finding. The progress payments shall be paid on or before fourteen days after the estimate of the Work is certified and approved. The estimate of the Work shall be deemed received by the Owner on submission to any person designated by the Owner for the submission, review or approval of the estimate of the Work.

**9.8. Unpaid Amounts.** Owner shall pay all unpaid amounts due Job Order Contractor under this Contract within thirty (30) days, after:

**9.8.1. Completion and acceptance of the Work;**

**9.8.2. Presentation of a properly executed invoice;**

**9.8.3. Presentation of release of all claims against Owner arising by virtue of the Contract, other than claims, in stated amounts, that Job Order Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if Job Order Contractor's claim to amounts payable under this Contract has been assigned. Job Order Contractor shall complete a Job Order Contractor's release form acceptable to Owner; or**

**9.8.4. Consent of Job Order Contractor's surety, if any.**

## **10. CHANGES**

**10.1. Owner Changes.** Owner may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the Work within the general scope of the Job Orders, including changes:

**10.1.1. In the specifications (including drawings and designs);**

**10.1.2. In Owner-furnished facilities, equipment, materials, services, or site; or**

**10.1.3. Directing acceleration in the performance of the Work, or otherwise altering the schedule for performance of the Work.**

**10.2. Owner Change Orders.** Any other written order (which, as used in this paragraph, includes direction, instruction, interpretation, or determination) from Owner that causes a change shall be treated as a change order under this § 10; provided, that Job Order Contractor gives Owner timely written notice stating the date, circumstances, and source of the order and that Job Order Contractor regards the order as a change order.

**10.3. Contract Adjustments.** Except as provided in this § 10, no order, statement, or conduct of Owner shall be treated as a change under this § 10 or entitle Job Order Contractor to an equitable adjustment hereunder.

**10.4. Modification of the Job Order.** If any change under this § 10 causes an increase or decrease in Job Order Contractor's cost of, or the time required for, the performance of any part of the Work under a Job Order, whether or not changed by any such order, Owner shall negotiate an equitable adjustment and modify the Job Order in writing.

**10.5. Job Order Contractor Proposal.** Job Order Contractor must submit any proposal under this § 10 within thirty (30) calendar days after:

**10.5.1. Receipt of a written change order under § 10.1 above; or**

**10.5.2. The furnishing of a written notice under § 10.2 above by submitting to Owner a written statement describing the general nature and amount of the proposal, unless this period is extended by Owner. The statement of proposal for adjustment may be included in the notice under § 10.2 above.**

10.6. Final Payment Limitation. No proposal by Job Order Contractor for an equitable adjustment shall be allowed if asserted after final payment under the Job Order.

10.7. Job Order Contractor Extension Justification. Job Order Contractor shall furnish to the Owner a written proposal for any proposed extension in the period of performance. The proposal shall contain a price breakdown and period of performance extension justification.

10.8. Job Order Contractor Price Breakdown Structure. Job Order Contractor, in connection with any proposal it makes for a Job Order change shall furnish a price breakdown itemized as required by Owner and the pricing matrix as required in the awarded contract.

## 11. INSURANCE & BONDS

11.1. Job Order Contractor Insurance. Job Order Contractor shall purchase and maintain in effect during the term of this Contract insurance of the types and with minimum limits of liability as stated below. Such insurance shall protect Job Order Contractor and Owner from claims which may arise out of or result from Job Order Contractor's operations whether such operations are performed by Job Order Contractor or by any subcontractor or by anyone for whose acts any of them may be liable.

11.1.1. WORKERS' COMPENSATION INSURANCE providing statutory benefits in accordance with the laws of the State of Arizona or any Federal statutes as may be applicable to the Work being performed under this Contract.

11.1.2. EMPLOYER'S LIABILITY INSURANCE with limits of liability not less than: \$1,000,000 Each Accident; \$1,000,000 Each Employee for Disease; and \$1,000,000 Policy Limit for Disease.

11.1.3. COMMERCIAL GENERAL LIABILITY INSURANCE including Products/Completed Operations and Contractual Liability with limits of liability not less than: \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate; and \$2,000,000 Each Occurrence.

11.1.4. AUTOMOBILE LIABILITY INSURANCE covering all owned, hired and non-owned motor vehicles used in connection with the Work being performed under this Contract with limits of liability not less than: \$1,000,000 Each Person for Bodily Injury; \$1,000,000 Each Accident for Bodily Injury; and \$1,000,000 Each Occurrence for Property Damage.

11.2. Owner as Additional Insured. The policies providing Commercial General Liability and Automobile Liability insurance as required in § 11.1 shall be endorsed to name Owner as Additional Insured. Such insurance as is provided herein shall be primary and non-contributing with any other valid and collectible insurance available to Owner.

11.3. Policy Endorsement. All policies providing Job Order Contractor's insurance as required in § 11.1 above shall be endorsed to provide the following:

11.3.1. Thirty days written notice of cancellation or non-renewal given to Owner at the address designated in § 16.2.

11.3.2. Waiver of subrogation in favor of Owner.

11.4. Limits of Liability. The limits of liability as required above may be provided by a single policy of insurance or by a combination of primary, excess or umbrella policies. But in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required above.

11.5. Certificate of Insurance. Proof of compliance with these insurance requirements shall be furnished Owner in the form of an original certificate of insurance signed by an authorized representative or agent of the insurance company(ies) within ten (10) days of execution of this agreement. Renewal or replacement certificates shall be furnished Owner not less than twenty-one (21) days prior to the expiration or termination date of the applicable policy(ies).

11.6. Subcontractor Insurance. Job Order Contractor shall require any and all subcontractors performing Work under this Contract to carry insurance of the types and with limits of liability as Job Order Contractor shall

deem appropriate and adequate for the Work being performed. Job Order Contractor shall obtain and make available for inspection by Owner upon request current certificates of insurance evidencing insurance coverages carried by such subcontractors.

**11.7. Bonds.** If required by Owner, Job Order Contractor shall furnish Performance and Payment Bonds, each in an amount equal to one hundred percent (100%) of the Construction Work, (excluding design and pre-construction services) in a penal sum equal to the aggregate price of all Job Orders issued to the Job Order Contractor. The Performance and Payment Bonds must be submitted to Owner within ten (10) calendar days after issuance of a Job Order.

**11.8. Notice to Proceed.** Notice to Proceed will not be issued until properly executed bonds are received and accepted by Owner. A separate Notice to Proceed will be issued for each Job Order. The Notice to Proceed shall stipulate the actual contract start date, the contract duration and the contract completion date. The time required for the Contractor to obtain permits, licenses and easements shall be included in the contract duration and shall not be justification for a delay claim by the Contractor. The time required for the Contractor to prepare, transmit and obtain approval of applicable submittals shall be included in the contract duration and shall not be justification for a delay claim by the Contractor. No work shall be started until after all required permits, licenses, and easements have been obtained. No work shall be started until all applicable submittals have been submitted and returned approved by the Owner's Representative. The Contractor shall notify the City of Peoria's project manager or engineer at least seventy-two (72) hours before the following events:

11.8.1. The start of construction in order to arrange for inspection.

11.8.2. Shutdown of City water, sewer, drainage, irrigation and traffic control facility.

11.8.3. Shutdown of existing water wells and booster pumps. Shutdown shall not exceed seventy-two (72) hours for any installation. Only one installation may be shutdown at any time.

11.8.4. Coordination of all draining and filling of water lines and irrigation laterals and all operations of existing valves or gages with the project manager.

11.8.5. Start-up or testing of any water well or booster pump to be connected to any part of the existing City water system. This includes operation of existing valves necessary to accommodate the water.

**12. INDEMNIFICATION.** To the fullest extent permitted by law, the Job Order Contractor shall defend, indemnify and hold harmless the Owner, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Job Order Contractor, its employees, agents, or any tier of subcontractors in the performance of this Contract. Job Order Contractor's duty to defend, hold harmless and indemnify the Owner, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting there from, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of the Job Order Contractor or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Job Order Contractor may be legally liable. 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.

### **13. DISPUTES.**

**13.1. Party Cooperation.** The parties are fully committed to working with each other throughout the term of the Contract and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Job Order Contractor and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

**13.2. Field Level Resolution.** Job Order Contractor and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between the parties' representatives named herein.

**13.3. Job Order Contractor Performance.** The Job Order Contractor shall continue to perform the Work and Owner shall continue to satisfy its payment obligations to Job Order Contractor, pending the final resolution of any dispute or disagreements between the parties.

**13.4. Partnering.** If requested and mutually agreed upon, the Owner and Job Order Contractor will share in the expense of an initial facilitated partnering workshop, followed up by periodic refresher meetings at mutually agreed times. The goal of the workshop will be to identify common goals, common interests, lines of communication, and a commitment to cooperative problem solving.

**13.5. Owner's Representative.** Owner designates the individual listed below as its representative, which individual has the authority and responsibility for avoiding and resolving disputes under this Contract. (Identify individual's name, title, address and telephone numbers)

City of Peoria, Materials Management  
Dan Zenko, Materials Manager  
9875 N. 85<sup>th</sup> Ave - 2<sup>nd</sup> Floor  
Peoria, AZ 85345  
(623) 773-7115

**13.6. Job Order Contractor's Representative.** Job Order Contractor designates the individual listed below as its representative, which individual has the authority and responsibility for avoiding and resolving disputes under this Contract. (Identify individual's name, title, address and telephone numbers)

B & F Contracting Inc.  
Thomas F. Foley, President  
11011 N. 23<sup>rd</sup> Avenue  
Phoenix, AZ 85029  
(623) 582-1170

**13.7. Owner's Resolution.** Any dispute which is not disposed of by agreement will be decided by the Owner, who will reduce its decision to writing and mail or otherwise furnish a copy thereof to the Job Order Contractor. Any disputes not finally resolved under this § 13 may be brought before the state courts of the State of Arizona and adjudicated in accordance with the laws of Arizona.

#### **14. TERMINATION AND DEFAULT**

**14.1. Termination for Convenience.** Owner may terminate performance of the Work under this Contract in whole or, from time to time, in part if Owner determines that termination is in Owner's interest. Owner shall effect such termination by delivering to Job Order Contractor a Notice of Termination specifying the extent of termination and the effective date.

**14.2. Notice of Termination.** After receipt of a Notice of Termination, and except as directed by Owner, Job Order Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this § 14:

14.2.1. Stop work as specified in the notice;

14.2.2. Place no further subcontracts or orders (referred to as subcontracts in this § 14) for materials, services or facilities, except as necessary to complete any Work not terminated;

14.2.3. Assign to Owner, if directed by Owner, all right, title, and interest of Job Order Contractor under the subcontracts to the extent they relate to the Work terminated, in which case Owner shall have the right to settle or to pay any termination settlement proposal arising out of those terminations, or with approval or ratification to the extent required by Owner, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, the approval or ratification of which will be final for purposes of this § 14;

14.2.4. As directed by Owner, transfer title and deliver to Owner:

14.2.4.1. The fabricated or unfabricated parts, Work in progress, completed Work, supplies, and other material produced or acquired for the Work terminated;

14.2.4.2. The completed or partially completed plans, drawings, information, and other property that, if the Contract had been completed, would be required to be furnished to Owner;

14.2.5. Complete performance of the Work not terminated;

14.2.6. Take any action that may be necessary, or that Owner may direct, for the protection and preservation of the property related to this Contract that is in the possession of Job Order Contractor and in which Owner has or may acquire an interest; and

14.2.7. Use its best efforts to sell, as directed or authorized by Owner, any property of the types referred to in § 14.2.3 above; provided, however, that Job Order Contractor is not required to extend credit to any purchaser and may acquire the property under the conditions prescribed by, and at prices approved by, Owner. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by Owner under the Contract, credited to the price or cost of the Work, or paid in any other manner directed by Owner.

14.3. Final Termination Settlement Proposal. After termination, Job Order Contractor shall submit a final termination settlement proposal to Owner in the form and with the certification prescribed by Owner. Job Order Contractor shall submit the proposal promptly, but no later than one year from the effective date of termination.

14.4. Owner Payment. Job Order Contractor and Owner may agree upon the whole or any part of the amount to be paid because of the termination. The amount will include a reasonable allowance for profit on work done. The Contract shall be amended, and Job Order Contractor paid the agreed amount.

14.4.1. If Job Order Contractor and Owner fail to agree on the whole amount to be paid Job Order Contractor because of the termination of work, Owner shall pay Job Order Contractor the amounts determined as follows, but without duplication of any amounts agreed upon under § 14.4 above:

14.4.1.1. For Work performed before the effective date of termination, the total (without duplication of any items) of:

14.4.1.1.1. The cost of this Work;

14.4.1.1.2. The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the Contract if not included in § 14.4.1.1.1. above; and

14.4.1.1.3. A markup, including overhead and profit, on § 14.4.1.1.1. above as is determined for pricing changes.

14.4.1.2. The reasonable costs of settlement of the Work terminated, including:

14.4.1.2.1. Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

14.4.1.2.2. The termination and settlement of subcontracts (excluding the amounts of such settlements); and

14.4.1.2.3. Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

14.5. Destroyed, Lost, Stolen or Damaged Property. Except for normal spoilage, and except to the extent that Owner expressly assumed the risk of loss, Owner shall exclude from the amounts payable to Job Order Contractor under Subparagraph 14.4.1 above, the fair value, as determined by Owner, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to Owner or to a buyer.

14.6. Amount Due Job Order Contractor. In arriving at the amount due Job Order Contractor under this § 14, there shall be deducted:

14.6.1. All unliquidated advances or other payments to Job Order Contractor under the terminated portion of the Job Order;

14.6.2. Any claim which Owner has against Job Order Contractor under the Contract; and

14.6.3. The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by Job Order Contractor or sold under the provisions of this § 14 and not recovered by or credited to Owner.

14.7. Partial Termination. If the termination is partial, Job Order Contractor may file a proposal with Owner for an equitable adjustment of the price(s) of the continued portion of any Job Order. Any proposal by Job Order Contractor for an equitable adjustment under this § 14 shall be requested within ninety (90) calendar days from the effective date of termination unless extended in writing by Owner. Owner may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by Job Order Contractor of the terminated portion of any Job Order, if Owner believes the total of these payments will not exceed the amount to which Job Order Contractor will be entitled.

14.8. Excess Payments. If the total payments exceed the amount finally determined to be due, Job Order Contractor shall repay the excess to Owner upon demand.

14.9. Job Order Contractor Records. Unless otherwise provided in this Contract or by statute, Job Order Contractor shall maintain all records and documents relating to the terminated portion of this Contract for three (3) years after final settlement. This includes all books and other evidence bearing on Job Order Contractor's costs and expenses under this Contract. Job Order Contractor shall make these records and documents available to Owner, at Job Order Contractor's office, at all reasonable times, without cost. If approved by Owner, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

14.10. Default. If Job Order Contractor refuses or fails to prosecute the Work, or any separable part, with the diligence that will ensure its completion within the time specified in the Job Order including any extension, or fails to complete the Work within this time, Owner may terminate the Job Order Contractor's right to proceed with the Work (or separable part of the Work), upon thirty (30) days written notice to the Job Order Contractor. In this event, Owner may take over the Work and complete it by Contract or otherwise and may take possession of and use any materials, appliances, and plant on the site necessary for completing the Work.

14.11. Job Order Contractor's Right to Proceed. Job Order Contractor's right to proceed shall not be terminated under this § 14, if:

14.11.1. The delay in completing the Work arises from unforeseeable causes beyond the control and without the fault or negligence of Job Order Contractor. Examples of such causes include: acts of God or of the public enemy, acts of Owner in its Contractual capacity, acts of another contractor in the performance of a Contract with Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather (The basis used to define normal weather will be data showing high and low temperatures, precipitation, and number of days of severe weather in the city closest to the site for the previous ten (10) years, as compiled by the United States Department of Commerce National Weather Service.), or delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both Job Order Contractor and the subcontractors or suppliers; and

14.11.2. Job Order Contractor, within 30 calendar days from the beginning of any such delay (unless extended by Owner), notifies Owner in writing of the causes of delay. The Owner shall ascertain the facts and the extent of delay. If, in the judgment of Owner, the findings of fact warrant such action, the time for completing the Work shall be extended. The findings of Owner shall be final and conclusive on the parties, but subject to appeal and review under § 13.

14.12. Owner's Right to Terminate. The rights and remedies of Owner in this § 14 are in addition to any other rights and remedies provided by law or under this Contract.

14.13. Owner and Job Order Contractor Rights. If, after termination of Job Order Contractor's right to proceed, it is determined that Job Order Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Owner.

**14.14. Liquidated Damages.** Liquidated Damages shall be assessed for each calendar of delay. Liquidated Damages shall be per MAG Specs, Section 108.9. If the contract is not terminated, the contractor shall continue performance and be liable to the Owner for the liquidated damages until the products are delivered or services performed. In the event the City exercises its right of termination, the contractor shall be liable to the Owner for any excess costs, and in addition, for liquidated damages until such time the Owner may reasonably obtain delivery or performance of similar supplies or services.

**14.15. Immigration Act.** Contractor understands and acknowledges the applicability to Contractor of the Immigration Reform and Control Act of 1986 (IRCA). Contractor agrees to comply with the IRCA in performing under this contract and to permit City inspection of personnel records to verify such compliance.

## **15. WARRANTY OF CONSTRUCTION**

**15.1. Applicable Warranties.** In addition to any other warranties in any Job Orders, Job Order Contractor warrants, except as provided in § 15.10, that work performed conforms to the Job Order requirements and is free of any defect in equipment, material or design furnished, or workmanship performed by Job Order Contractor or any of its subcontractors or suppliers at any tier.

**15.2. Warranty Duration.** This warranty shall continue for a period of one (1) year from the date of final acceptance of the Work. If Owner takes possession of any part of the Work before final acceptance, this warranty shall continue for a period of one (1) year from the date possession is taken.

**15.3. Job Order Contractor Corrective Work.** Job Order Contractor shall remedy at Job Order Contractor's expense any failure of the Work to conform to the plans and specifications, or any construction defect. In addition, the Job Order Contractor shall remedy at Job Order Contractor's expense any damage to Owner's real or personal property, when that damage is the result of:

15.3.1. Job Order Contractor's failure to conform to requirements; or

15.3.2. Any defect of equipment, material, workmanship, or design furnished by the Job Order Contractor.

**15.4. Job Order Contractor Restoration.** Job Order Contractor shall restore any work damaged in fulfilling the terms and conditions of this § 15. Job Order Contractor's warranty with respect to work repaired or replaced will run for one (1) year from the date of repair or replacement.

**15.5. Owner Notification.** Owner shall notify Job Order Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.

**15.6. Failure to Correct Work.** If Job Order Contractor fails to remedy any failure, defect, or damage within ten (10) days after receipt of notice, Owner shall have the right to replace, repair, or otherwise remedy the failure, defect or damage at Job Order Contractor's expense.

**15.7. Subcontractor and Supplier Warranties.** With respect to all warranties, expressed or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished for Job Orders issued under this Contract, Job Order Contractor shall:

15.7.1. Obtain all warranties required by the Job Order;

15.7.2. Require all warranties to be executed, in writing, for the benefit of Owner; and

15.7.3. Enforce all warranties for the benefit of Owner.

**15.8. Owner Remedy.** In the event Job Order Contractor's warranty under § 15.2 has expired, Owner may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

**15.9. Owner Furnished Material or Design.** Unless a defect is caused by the negligence of Job Order Contractor or subcontractor or supplier at any tier, Job Order Contractor shall not be liable for the repair of any defects of material or design furnished by Owner or for the repair of any damage that results from any defect in Owner-furnished material or design.

**15.10. Pre-Existing Work.** Job Order Contractor is not responsible for and does not warranty pre-existing work or facilities that may be assigned to Job Order Contractor except as modified by the Job Order.

**15.11. Owner's Rights.** This warranty shall not limit Owner's rights under § 8 of this Contract with respect to latent defects, gross mistakes, or fraud.

## **16. STANDARD TERMS AND CONDITIONS**

**16.1. Contract Order of Precedence.** In the event of an inconsistency between provisions of this Contract, the inconsistency shall be resolved by giving precedence in the following order:

16.1.1. Contract Modifications, if any;

16.1.2. This Contract, including Attachments;

16.1.3. Job Orders;

16.1.4. Drawings; and

16.1.5. Specifications.

**16.2. Certification.** By signature in the Offer section of the Offer and Contract Award page the Job Order Contractor certifies:

16.2.1. The submission of the offer did not involve collusion or other anti-competitive practices.

16.2.2. The Job Order Contractor shall not discriminate against any employee or applicant for employment.

16.2.3. The Job Order Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor, or service to a public servant in connection with the submitted offer. Failure to sign the offer, or signing it with a false statement, shall void the submitted offer or any resulting contracts, and the vendor may be debarred.

16.2.4. The Job Order Contractor is licensed to perform the Work pursuant to Arizona Revised Statutes Title 32, Chapter 10.

**16.3. Bribes and Kick-Backs.** The Job Order Contractor shall not by any means:

16.3.1. Induce any person or entity employed in the construction of the Project to give up any part of the compensation to which that person or entity is entitled;

16.3.2. Confer on any governmental, public or quasi-public official having any authority or influence over the Project, any payment, loan subscription, advance, deposit of money, services or anything of value, present or promised;

16.3.3. Offer nor accept any bribes or kick-backs in connection with the Project from or to any individual or entity, including any of its trade contractors, subcontractors, consultants, suppliers or manufacturers of Project goods and materials; or,

16.3.4. Without the express written permission of the Owner, call for or by exclusion require or recommend the use of any subcontractor, consultant, product, material, equipment, system, process or procedure in which the Job Order Contractor has a direct or indirect proprietary or other pecuniary interest.

**16.4. Applicable Law.** In the performance of this agreement, contractors shall abide by and conform to any and all laws of the United States, State of Arizona and City of Peoria including but not limited to federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this agreement.

Contractor specifically understands and acknowledges the applicability to it of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986, and the Drug Free Workplace Act of 1989. In addition, if this agreement pertains to construction, Contractor must also comply with A.R.S. § 34-301, as amended



(Employment of Aliens on Public Works Prohibited) and A.R.S. § 34-302, as amended (Residence Requirements for Employees).

Under the provisions of A.R.S. § 41-4401, Contractor hereby warrants to the City that Contractor and each of its subcontractors ("Subcontractors") will comply with, and are contractually obligated to comply with, all Federal immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A) (hereinafter, "Contractor Immigration Warranty").

A breach of the Contractor Immigration Warranty shall constitute a material breach of this agreement and shall subject Contractor to penalties up to and including termination of this agreement at the sole discretion of the City. The City may, at its sole discretion, conduct random verification of the employment records of Contractor and any Subcontractors to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any random verifications performed.

Neither Contractor nor any Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if Contractor or the Subcontractor establishes that it has complied with the employment verification provisions prescribed by §§ 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A).

The provisions of this Paragraph must be included in any contract Contractor enters into with any Subcontractors who provide services under this agreement or any subcontract. "Services" is 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.

Contractor warrants, for the term of this agreement and for six months thereafter, that it has fully complied with the requirements of the Immigration Reform and Control Act of 1986 and all related or similar legal authorities.

This contract shall be governed by the City and Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this contract or in statutes pertaining specifically to the City. This contract shall be governed by the laws of the State of Arizona and suit pertaining to this contract may be brought only in courts in the State of Arizona.

This contract is subject to the provisions of ARS §38-511; the City may cancel this contract without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City or any of its departments or agencies, is at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

16.4.1. Job Order Contractor warrants, for the term of this agreement and for six months thereafter, that it has fully complied with the requirements of the Immigration Reform and Control Act of 1986 and all related or similar legal authorities.

16.4.2. This contract shall be governed by the Owner, City and Job Order Contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this contract or in statutes pertaining specifically to the Owner. This contract shall be governed by the laws of the State of Arizona. Any lawsuit pertaining to this contract may be brought only in courts in the State of Arizona.

16.4.3. This contract is subject to the provisions of ARS § 38-511; the Owner may cancel this contract without penalty or further obligations by the Owner or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the Owner or any of its departments or agencies, is at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

16.5. **Legal Remedies:** All claims and controversies shall be subject to resolution according to the terms of the City of Peoria Procurement Code.

16.6. **Contract:** The contract between the Owner and the Job Order Contractor shall consist of (1) the Solicitation, including instructions, all terms and conditions, specifications, scopes of work, attachments, price sheet(s) and any amendments thereto, and (2) the offer submitted by the Job Order Contractor in response to the solicitation. In the event of a conflict in language between the Solicitation and the Offer, the provisions and requirements in the Solicitation shall govern. However, the Owner reserves the right to clarify, in writing, any contractual terms with the concurrence of the Job Order Contractor, and such written contract shall govern in case of conflict with the applicable requirements stated in the Solicitation or the Vendor's offer. The Solicitation shall govern in all other matters not affected by the written contract.

16.7. **Contract Amendments:** This contract may be modified only by a written Contract Amendment signed by persons duly authorized to enter into contracts on behalf of the Owner and the Job Order Contractor.

16.8. **Contract Applicability:** The Offeror shall substantially conform to the terms, conditions, specifications and other requirements found within the text of this Solicitation. All previous agreements, contracts, or other documents, which have been executed between the Offeror and the Owner are not applicable to this Solicitation or any resultant contract.

16.9. **Severability:** The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

16.10. **Relationship to Parties:** It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Job Order Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and that the Job Order Contractor should make arrangements to directly pay such expenses, if any.

16.11. **No Delegation or Assignment:** Contractor shall not delegate any duty under this Contract, and no right or interest in this Contract shall be assigned by Contractor to any successor entity or third party, including but not limited to an affiliated successor or purchaser of Contractor or its assets, without prior written permission of the City. The City, at its option, may cancel this Contract in the event Contractor undertakes a delegation or assignment without first obtaining the City's written approval. Contractor agrees and acknowledges that it would not be unreasonable for the City to decline to approve a delegation or assignment that results in a material change to the services provided under this Contract or an increased cost to the City.

16.12. **Job Order Contractor/Supplier Contract:** The Job Order Contractor shall enter into written contracts with its subcontractor(s) and supplier(s), if any, and those written contracts shall be consistent with this Contract for Construction. It is the intent of the Owner and the Job Order Contractor that the obligations of the Job Order Contractor's subcontractor(s) and supplier(s), if any, inure to the benefit of the Owner and the Job Order Contractor, and that the Owner be a third-party beneficiary of the Job Order Contractor's agreements with its subcontractor(s) and supplier(s).

16.12.1. The Job Order Contractor shall make available to each subcontractor and supplier, if any, prior to the execution of written contracts with any of them, a copy of the pertinent portions of this Contract for Construction, including those portions of the Construction documents to which the subcontractor or supplier will be bound, and shall require that each subcontractor and supplier shall similarly make copies of applicable parts of such documents available to its respective subcontractor(s) and supplier(s).

16.12.2. The Job Order Contractor shall engage each of its subcontractor(s) and supplier(s) with written contracts which preserve and protect the rights of the Owner and include the acknowledgment and agreement of each subcontractor or supplier that the Owner is a third-party beneficiary of the contract. The Job Order Contractor's agreements with its subcontractor(s) and supplier(s) shall require that in the event of default under, or termination of, this Contract for Construction, and upon request of the Owner, the Job Order Contractor's subcontractor(s) and supplier(s) will perform services for the Owner.

**16.12.3.** The Job Order Contractor shall include in its agreements with its subcontractor(s) and supplier(s) a provision which contains the acknowledgment and agreement of the subcontractor or supplier that it has received and reviewed the applicable terms, conditions and requirements of this Contract for Construction that are included by reference in its written contract with the Job Order Contractor, and that it will abide by those terms, conditions and requirements.

**16.13. Rights and Remedies.** No provision in this document or in the vendor's offer shall be construed, expressly or by implication, as waiver by the Owner of any existing or future right and/or remedy available by law in the event of any claim of default or breach of contract. The failure of the Owner to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the Owner's acceptance of and payment for materials or services, shall not release the Job Order Contractor from any responsibilities or obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of the Owner to insist upon the strict performance of the Contract.

**16.14. Overcharges By Antitrust Violations.** The Owner maintains that, in practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Job Order Contractor hereby assigns to the Owner any and all claims for such overcharges as to the goods and services used to fulfill the Contract.

**16.15. Force Majeure.** Except for payment for sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force Majeure.

**16.15.1.** The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; floods; lockouts, injunctions-intervention-acts, or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this Contract.

**16.15.2.** Force majeure shall not include the following occurrences: late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences; late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this Force Majeure term and Condition; or any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure. If either party is delayed at any time in the progress of the work by force majeure, then the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand delivered or mailed *Certified-Return Receipt* and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing. The time of completion shall be extended by contract modification for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this contract.

**16.16. Right To Assurance.** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

**16.17. Right To Audit Records.** The City may, at reasonable times and places, audit the books and records of any Contractor as related to any contract held with the City. This right to audit also empowers the City 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 made pursuant to Paragraph 16.4 above.

**16.18. Warranties.** Job Order Contractor warrants that all material, service or construction delivered under this contract shall conform to the specifications of this contract. Unless otherwise stated in Job Order Contractor's response, the Owner is responsible for selecting items, their use, and the results obtained from any other items used with the items furnished under this contract. Mere receipt of shipment of the material/service specified and any inspection incidental thereto by the Owner shall not alter or affect the obligations of the Job Order Contractor or the rights of the Owner under the foregoing warranties. Additional warranty requirements may be set forth in the solicitation.

**16.19. Inspection.** All material and/or services are subject to inspection and acceptance by the Owner. Materials and/or services failing to conform to the specifications of this Contract will be held at Job Order Contractor's risk and may be returned to the Job Order Contractor. If so returned, all costs are the responsibility of the Job Order Contractor. The Owner may elect to do any or all of the following:

16.19.1. Waive the non-conformance.

16.19.2. Stop the work immediately.

16.19.3. Bring material into compliance.

16.19.4. This shall be accomplished by a written determination from the Owner.

**16.20. Title and Risk of Loss.** The title and risk of loss of material and/or service shall not pass to the Owner until the Owner actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.

**16.21. No Replacement of Defective Tender.** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach of the Contract as a whole.

**16.22. Shipment Under Reservation Prohibited.** Job Order Contractor is not authorized to ship materials under reservation and no tender of a bill of lading will operate as a tender of the materials.

**16.23. Liens.** All materials, service or construction shall be free of all liens, and if the Owner requests, a formal release of all liens shall be delivered to the Owner.

**16.24. Licenses.** shall maintain in current status, all Federal, State and Local licenses and created under this contract are the property of the Owner and shall not be used or released by the Job Order Contractor or any other person except with the prior written permission of the Owner.

**16.25. Patents and Copyrights.** All services, information, computer program elements, reports and other deliverables, which may be patented or copyrighted and created under this contract are the property of the Owner and shall not be used or released by the Job Order Contractor or any other person except with the prior written permission of the Owner.

**16.26. Cost of Bid/Proposal Preparation.** The Owner shall not reimburse the cost of developing presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner.

**16.27. Public Records.** All offers submitted in response to this solicitation shall become the property of the City and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Code. However, subsequent to the award of the contract, any information and documents obtained by the City during the course of an audit conducted in accordance with Paragraph 16.17 above for the purpose of determining compliance by Contractor or a Subcontractor with the Contractor Immigration Warranty mandated by Paragraph 16.4 above shall remain confidential and shall not be made available for public review or produced in response to a public records request, unless the City is ordered or otherwise directed to do so by a court of competent jurisdiction.

**16.28. Advertising.** Job Order Contractor shall not advertise or publish information concerning this Contract, without prior written consent of the Owner.

**16.29. Delivery Orders.** The Owner shall issue a Purchase Order for the material and/or services covered by this contract. All such documents shall reference the contract number as indicated on the signature page of the contract

**16.30. Funding.** Any contract entered into by the Owner of Peoria is subject to funding availability. Fiscal years for the Owner of Peoria are July 1 to June 30. The Owner Council approves all budget requests. If a specific funding request is not approved, the contract shall be terminated.

**16.31. Federal Funding.** It is the responsibility of the Contractor to determine on any single job order project if federal wage rates will apply. It is also the responsibility of the Contractor to incorporate any necessary amounts in the bid to accommodate for required federal record keeping and necessary pay structures. The Contractor should contact the City of Peoria regarding any applicable Davis Bacon wage rates.

**16.31.1 Davis-Bacon Act - (40 U.S.C. 276a-276a-5).** All contracts or subsequent subcontracts for construction, alteration, renovation, or repair, including painting and decorating, of a public building or public work, or building or work, financed by federal funds which meets the \$2,000 threshold are required to pay the federal prevailing wage rate for each class of laborer or mechanic employed. Regulations applicable to grant-enabling statutes incorporating the Act can be found in 29 Code of Federal Regulations (CFR), Parts 1,3,5 and 7. These regulations stipulate that grant funds appropriated under statutes imposing the Davis-Bacon Act requirements shall not be paid to a grantee (the Department) until contractors or subcontractors performing work under the grant certify that they will comply with the Act's requirements. The Act also applies to any contract or subcontract for similar work on public grants from a federal agency, or where the federal government acts as guarantors of mortgages. The only exception is for the transportation of materials and supplies by persons who are not employed directly at the work site, but are employed solely to make deliveries to the work site.

Provider Agencies must ensure that contracts or subcontracts for any construction/alteration projects contain the wage determinations issued and that the appropriate clauses required by the Davis-Bacon regulations (29 CFR, section 5.5) are present. It should be made clear in any announcements of projects or RFPs that federal grant funds are being used and that Davis-Bacon will apply even if the federal government is not a party to the contract or subcontract. The prevailing wage must be paid regardless of any contractual relationship that may exist between a contractor or a subcontractor. Although the Department is not responsible to review sub-contracts for compliance, it has the right to require a prevailing wage.

Sanctions for post-certification violations include suspension of payment, advances, or guarantees of grant funds, and the forced restitution of wages that should have been paid and the removal of offending contractors or subcontractors from active employment lists.

Failure to comply can bring penalties that can be severe. The contractor or subcontractor and their sureties are liable for any excess costs for completing the work; the Department may withhold accruals to ensure payment of prevailing wages to the workers; the contract or subcontract may be terminated and/or the contractor or subcontractor may be debarred for a period of three years.

**16.32. A.R.S. Title 34 Provisions.**

**16.32.1.** The maximum dollar amount of an individual job order shall be Three Million Dollars (\$3,000,000) or such higher or lower amount prescribed by the Owner in an action notice pursuant to A.R.S. title 38, chapter 3, article 3.1 or a rule adopted by the Owner as the maximum amount of an individual job order. Requirements shall not be artificially divided or fragmented in order to constitute a job order that satisfies this requirement.

**16.32.2.** If the Job Order Contractor subcontracts or intends to subcontract part or all of the work under a job order and if this contract includes descriptions of standard individual tasks, standard unit prices for standard individual tasks and pricing of job orders based on the number of units of standard individual tasks in the job order, then:

**16.32.2.1.** The Job Order Contractor has a duty to deliver promptly to each subcontractor invited to bid a coefficient to the Job Order Contractor to do all or part of the work under one or more job orders:

**16.32.2.1.1.** A copy of the descriptions of all standard individual tasks on which the subcontractor is invited to bid.

**16.32.2.1.2.** A copy of the standard unit prices for the individual tasks on which the subcontractor is invited to bid.

**16.32.2.2.** If not previously delivered to the subcontractor, the Job Order Contractor has a duty to deliver promptly the following to each subcontractor invited to or that has agreed to do any of the work included in any job order:

**16.32.2.2.1.** A copy of the description of each standard individual task that is included in the job order and that the subcontractor is invited to perform.

**16.32.2.2.2.** The number of units of each standard individual task that is included in the job order and that the subcontractor is invited to perform.

**16.32.2.2.3.** The standard unit price for each standard individual task that is included in the job order and that the subcontractor is invited to perform.

**16.32.3.** The Owner will include the full street or physical address of each separate location at which the construction will be performed for each individual Job Order. The Job Order Contractor (and on behalf of each subcontractor at any level) hereby agrees to include in each of its subcontracts the same address information. The Job Order Contractor and each subcontractor at any level shall include in each subcontract the full street or physical address of each separate location at which construction work will be performed.

**16.33 Prohibited Lobbying Activities.** The Offeror, his/her agent or representative shall not contact, orally or in any written form any City elected official or any City employee other than the Materials Management Division, the procuring department, City Manager, Deputy City Manager or City Attorney's office (for legal issues only) regarding the contents of this solicitation or the solicitation process commencing from receipt of a copy of this request for proposals and ending upon submission of a staff report for placement on a City Council agenda. The Materials Manager shall disqualify an Offeror's proposal for violation of this provision. This provision shall not prohibit an Offeror from petitioning an elected official after submission of a staff report for placement on a City Council agenda or engaging in any other protected first amendment activity after submission of a staff report for placement on a City Council agenda.

**16.34 Prohibited Political Contributions.** Consultant during the term of this Agreement shall not make a contribution reportable under Title 16, Chapter 6, Article 1, Arizona Revised Statutes to a candidate or candidate committee for any city elective office during the term of this Agreement. The City reserves the right to terminate the Agreement without penalty for any violation of this provision.

**16.35 ARRA Sec. 1505.** Use of American Iron, Steel, and Manufactured Goods. (a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. (b) Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency involved finds that— applying subsection (a) would be inconsistent with the public interest;

- iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.
- If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

- This section shall be applied in a manner consistent with United States obligations under international agreements.

**16.36 ARRA Sec. 1606, Davis-Bacon Act.** Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

**16.37 Compliance with Davis-Bacon Act (40 U.S.C. §276a-276a-5) Prevailing Wage Requirements (ARRA Section 1606).** All laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and the through the Federal Government pursuant to the ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with subchapter IV of chapter 31 of Title 40, United States Code. In addition, all covered contracts shall include the standard contract clauses regarding prevailing wages and benefits included in the United States Department of Labor regulations found at 29 Code of Federal Regulations ("CFR") § 5.5, which are incorporated by reference in this contract. The contractor shall comply with the requirements of 29 CFR Part 3, which are also incorporated by reference in this Contract.

The contractor or subcontractors shall insert in any subcontracts the clauses contained in 29 CFR § 5.5(a) (1) through (10) and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR § 5.5.

A breach of the contract clauses in 29 CFR § 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR § 5.12.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the United States Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the City, the State of Arizona ("State"), the United States Department of Labor, or their employees or their representatives.

By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

No part of this contract shall be subcontracted to any person or firm ineligible for award of a government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

**16.38. Use of American Iron, Steel, and Manufactured Goods – Buy American Requirements (ARRA Section 1605):**

The contractor acknowledges to and for the benefit of the City ("Purchaser") and the State that it understands the goods and services under this contract are being funded with monies made available by the ARRA (or are being made available for a project being funded with monies made available by the ARRA) and such law contains provisions commonly known as "Buy American" that require all of the iron, steel, and manufactured goods used in the project be produced in the United States ("Buy American Requirements") including iron, steel, and manufactured goods provided by the Contractor pursuant to this contract. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the State that (a) the Contractor has reviewed and understands the Buy American Requirements, (b) all of the iron, steel, and manufactured goods used in the project will be

and/or have been produced in the United States in a manner that complies with the Buy American Requirements, unless a waiver of the requirements is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the Buy American Requirements, as may be requested by the Purchaser or the State. Notwithstanding any other provision of this contract, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or State to recover as damages against the Contractor any loss, expense or cost (including without limitation attorney's fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Purchaser). While the Contractor has no direct contractual privity with the State, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this contract necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

**16.39. Whistleblower Protections Under The ARRA:**

(a) The Contractor shall post a notice of employees' rights and remedies for whistleblower protections provided under Section 1553 of the ARRA (Pub. L. 111-5).

(b) The Contractor shall require that this provision be included in all subcontracts.

**16.40. Reporting Requirements under the ARRA:**

(a) This Contract requires the Contractor to provide products and/or services that are funded under the ARRA. Section 1512(c) of the ARRA requires each contractor to report on its use of Recovery Act funds under this Contract. These reports will be made available to the public.

(b) Reports from contractors for all work funded, in whole or in part, by the ARRA, and for which an invoice is submitted prior to June 30, 2009, are due no later than July 10, 2009. Thereafter, reports shall be submitted no later than the 10th day after the end of each calendar quarter.

(c) The Contractor shall report the following information, using the online reporting tool available at [www.FederalReporting.gov](http://www.FederalReporting.gov):

(1) The City of Peoria contract and order number, as applicable.

(2) The amount of ARRA funds invoiced by the Contractor for the reporting period.

(3) A list of all significant services performed or supplies delivered, including construction, for which the Contractor invoiced in the calendar quarter.

(4) Program or project title, if any.

(5) A description of the overall purpose and expected outcomes or results of the Contract, including significant deliverables and, if appropriate, associated units of measure.

(6) An assessment of the Contractor's progress towards the completion of the overall purpose and expected outcomes or results of the Contract (*i.e.*, not started, less than 50 percent completed, completed 50 percent or more, or fully completed). This covers the Contract (or portion thereof) funded by the ARRA.

(7) A narrative description of the employment impact of work funded by the ARRA. This narrative should be cumulative for each calendar quarter and only address the impact on the Contractor's workforce. At a minimum, the Contractor shall provide—

(i) A brief description of the types of jobs created and jobs retained in the United States and outlying areas (see definition in Federal Acquisition Regulation (FAR) 2.101). This description may rely on job titles, broader labor categories, or the Contractor's existing practice for describing jobs as long as the terms used are widely understood and describe the general nature of the work; and

(ii) An estimate of the number of jobs created and jobs retained by the prime contractor, in the United States and outlying areas. A job cannot be reported as both created and retained.



**(8) Names and total compensation of each of the five most highly compensated officers of the Contractor for the calendar year in which the Contract is awarded if—**

**(i) In the Contractor's preceding fiscal year, the Contractor received—**

**(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and**

**(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and**

**(ii) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.**

**(9) For subcontracts valued at less than \$25,000 or any subcontracts awarded to an individual, or subcontracts awarded to a subcontractor that in the previous tax year had gross income under \$300,000, the Contractor shall only report the aggregate number of such first tier subcontracts awarded in the quarter and their aggregate total dollar amount.**

**(10) For any first-tier subcontract funded in whole or in part under the ARRA, that is over \$25,000 and not subject to reporting under paragraph 9, the Contractor shall require the subcontractor to provide the information described in (i), (ix), (x), and (xi) below to the Contractor for the purposes of the quarterly report. The Contractor shall advise the subcontractor that the information will be made available to the public as required by Section 1512 of the ARRA. The Contractor shall provide detailed information on these first-tier subcontracts as follows:**

**(i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.**

**(ii) Name of the subcontractor.**

**(iii) Amount of the subcontract award.**

**(iv) Date of the subcontract award.**

**(v) The applicable North American industry Classification System (NAICS) code.**

**(vi) Funding agency.**

**(vii) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.**

**(viii) Subcontract number (the contract number assigned by the prime contractor).**

**(ix) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.**

**(x) Subcontract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.**

**(xi) Names and total compensation of each of the subcontractor's five most highly compensated officers, for the calendar year in which the subcontract is awarded if—**

**(A) In the subcontractor's preceding fiscal year, the subcontractor received—**

**(1) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and**

**(2) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and**

(B) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

**16.41. Central Contractor Registration Required:**

(a) The Contractor is required to properly register and maintain an updated registration with the Central Contractor Registration (CCR), which is the primary Federal Government repository for contractor information required for the conduct of business with the Federal Government. The requirements for such registration are set forth in the Federal Acquisition Regulation (FAR), including the establishment of a "Data Universal Numbering System (DUNS) number," the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

(b) "Registered in the CCR database" means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

(2) The Federal Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record "Active". The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.

(c) The DUNS number will be used by the City to verify that the Contractor is registered in the CCR database.

(d) If the Contractor does not become registered in the CCR database in the time prescribed by the City, the City will proceed to award the Contract to the next otherwise successful registered responding entity.

(e) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the City's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this Contract and is not a substitute for a properly executed contractual document.

**16.42 Contract Work Hours and Safety Standards Act – Overtime Compensation.**

(a) *Overtime requirements.* No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.

(b) *Violation; liability for unpaid wages; liquidated damages.* The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the Contract Work Hours and Safety Standards Act.

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contracting Officer will withhold payments from other Federal or Federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act.

(d) *Payrolls and basic records.*

(1) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security

number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

(2) The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.

(e) *Subcontracts.* The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower-tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

**16.43 Compliance with Copeland Act Requirements.** The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

## **ATTACHMENTS**

- Attachment A**      **JOC General Scope of Services**
- Attachment B**      **SIQ & Contractor's Response**
- Attachment C**      **JOC Cost Proposal Forms (Pricing Matrix, Project Cost Sheet)**
- Attachment D**      **Contractor's Contacts (Contact List & Authorized Signature Form)**

**ATTACHMENT A**  
**JOC General Scope of Services**

**1.0 GENERAL INFORMATION**

1.1 This is a fixed price, indefinite quantity type Contract for the performance of various Wet Utility Pipeline Projects on an as-needed basis as may be required by Owner. The specific work requirements will be identified in Job Orders to be issued by Owner.

1.2 Depending on what is required by the Individual Job Order Agreement, the type of Contract will be either "Lump Sum Fixed Price" or "Guaranteed Maximum Price (with savings returned to owner)".

**2.0 DOCUMENTS**

2.1 The currently applicable pricing structure contains pricing information for the Work to be accomplished in the pricing matrix specified. The Pricing matrix can only be updated at time of yearly contract renewal by mutually agreeable change order. Previously issued Job Orders and changes will not be retroactively re-priced although any changes priced after receipt of an update will be priced by the updated version of the new pricing matrix.

2.2 The construction specifications in effect at Contract signing, and provided to the Job Order Contractor, shall be the specifications under this Contract.

**3.0 WORK AUTHORIZATION**

Any Work required under this Contract shall be authorized by issuance of formal, written Job Orders, as follows:

3.1 As the need exists (as determined by Owner) for performance under the terms of this Contract, Owner will notify Job Order Contractor of an existing requirement.

3.2 Upon the receipt of this notification, Job Order Contractor shall respond within two (2) working days, or as otherwise agreed, by:

3.2.1 Visiting the proposed site in the company of Owner, or;

3.2.2 Establishing contact with Owner to further define the scope of the requirement.

3.3 After mutual agreement on the scope of the individual requirement, Job Order Contractor shall then prepare a proposal for accomplishment of the task unless Job Order Contractor, in its sole discretion, elects not to undertake the Work. If the Work is declined, Job Order Contractor will so notify Owner in a timely manner.

3.4 The price matrix shall serve as the basis for establishing the value of the Work to be performed.

3.5 Job Order Contractor's proposal shall be submitted within ten (10) working days unless otherwise agreed.

3.6 Upon receipt of Job Order Contractor's proposal, Owner will review the proposal for completeness and will reach agreement with Job Order Contractor on pricing, schedule, and all other terms, prior to issuance of a Job Order.

3.7 In the event Owner does not issue a Job Order after receipt of Job Order Contractor's proposal, Owner is not obligated to reimburse Job Order Contractor for any costs incurred in the preparation of the proposal, except as noted in § 4.3.

**4.0 SCHEDULING OF WORK**

4.1 For each Job Order, Owner will issue a Notice to Proceed. The first day of performance under a Job Order shall be the effective date specified in the Notice to Proceed. Any preliminary work started or material ordered or

purchased before receipt of the Notice to Proceed shall be at the risk and expense of Job Order Contractor. Job Order Contractor shall diligently prosecute the Work to completion within the time set forth in the Job Order. The period of performance includes allowance for mobilization, holidays, weekend days, normal inclement weather, and cleanup. Therefore, claims for delay based on these elements will not be allowed. When Job Order Contractor considers the Work complete and ready for its intended use, Job Order Contractor shall request Owner to inspect the Work to determine the status of completion. When Owner determines the Work to be Punch List Prepared as defined in Article 1, Owner will provide Contractor with a list of items to be completed or corrected prior to final payment for the Job Order. Job Order Contractor shall proceed promptly to complete and correct items on the list.

4.2 Job placement of materials and equipment shall be made with a minimum of interference to Owner operations and personnel.

4.3 Furniture and portable office equipment in the immediate work area will be moved by Job Order Contractor and replaced to its original location. If the furniture and portable office equipment cannot be replaced to its original location, Owner will designate new locations. If furniture and portable office equipment (or other items) must be moved and/or stored outside the immediate area, Owner will compensate Job Order Contractor for any such transportation and storage costs incurred.

4.4 Job Order Contractor shall take all precautions to ensure that no damage will result from its operations to private or public property. All damages shall be repaired or replaced by Job Order Contractor at no cost to Owner.

4.5 Job Order Contractor shall be responsible for providing all necessary traffic control, such as street blockages, traffic cones, flagmen, etc., as required for each Job Order. Proposed traffic control methods shall be submitted to Owner for approval.

## 5.0 QUALITY ASSURANCE/QUALITY CONTROL PROGRAM

5.1 Job Order Contractor shall submit, for Owner approval, a Quality Assurance/Quality Control Plan within fifteen (15) calendar days after issuance of the initial Job Order. This plan should address all aspects of quality control including responsibility for surveillance of work, documentation, trend analysis, corrective action and interface with Owner's inspectors.

## 6.0 DESIGN

6.1 In accordance with the provisions of ARS § 34-602 & 603, the City may require the Job Order Contractor to contract with one or more Design Professionals to provide architectural or engineering design of the Project.

6.2 As an alternative to § 6.1, and in accordance with the provisions of ARS § 34-602 & 603, the City may elect to contract separately with one or more Design Professionals to provide architectural or engineering design of the Project.

6.3 Whether the City or the Job Order contractor contracts with the Design Professional, it is expected that some or all of the following services will be provided during the performance of the work:

6.3.1 The Design Professional will provide administration of the work. The City and the Contractor will endeavor to communicate through the Design Professional. Communications by and with the Design Professionals' consultants will be through the Design Professional.

6.3.2 The Design Professional will visit the Site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed work and to determine in general if the work is being performed in accordance with the contract documents. The Design Professional will keep the City informed of progress of the work and will endeavor to guard the City against defects and deficiencies in the work.

6.3.3 Upon the Job Order Contractor's submittals, the Design professional will review and approve or take other appropriate action on submittals as Shop Drawings, Product Data, and Samples.

6.3.4 All drawings produced for projects under this contract are the property of the City, and are owned in whole by the City for any and all future use and considerations.

## **7.0 PROJECT AS-BUILTS**

7.1 An individual Job Order's scale, complexity, and proximity to agency rights-of-way will determine the specific as-built requirements for each individual job order project. Unless otherwise determined at the time of the job order award that project as-builts will not be required, the Job Order Contractor shall assume that they must satisfy the as-built requirements of both the City of Peoria as the permitting agency and the City of Peoria as the project owner. For river trail and trailhead projects, additional as-built requirements may be imposed by the Flood Control District of Maricopa County and the Arizona Department of Transportation.

7.2 To satisfy the requirements of the City of Peoria as the permitting agency, the Job Order Contractor shall retain the services of an Arizona Registered Land Surveyor to as-built the constructed condition of all grading, drainage, hardscape, and underground utility civil improvements. The Job Order Contractor will be required to meet the requirements of Chapter 7 of the City of Peoria Infrastructure Development Design Guidelines and shall make the required submissions to the permitting agency sufficiently in advance of Final Completion.

7.3 To satisfy the requirements of the City of Peoria as the owner, the Job Order Contractor shall prepare industry standard redline as-built drawings on a clean print of the construction documents or relevant shop drawing. The Job Order Contractor shall neatly mark and post to these drawings any clarification or scope changing documents issued by the design professional and shall neatly mark the drawings to indicate variances from the designed condition. The Job Order Contractor shall submit the as-built documents to the job order project manager for review, correction, and approval sufficiently in advance of Final Completion.

## **8.0 UTILITY COMPANY COORDINATION**

8.1 Unless specifically excluded by the Individual Job Order Agreement, the Job Order Contractor will be responsible for coordinating with utility design work for permanent service to the project and will ensure that the work takes place in a timely manner and does not impact the project schedule. Any utility design fees for permanent services to a project will be paid by the City.

## **9.0 TEMPORARY SANITATION FACILITIES**

9.1 The Contractor shall provide ample toilet facilities with proper enclosures for the use of workmen employed on the work site. Toilet facilities shall be installed and maintained in conformity with all applicable state and local laws, codes, regulations and ordinances. They shall be properly lit and ventilated, and kept clean at all times.

9.2 Adequate and satisfactory drinking water shall be provided at all times and under no circumstances and under no conditions will the use of common cups be permitted. The Contractor must supply sanitary drinking cups for the benefit of all employees.

## **10.0 DUST CONTROL AND WATER**

10.1 The dust control measures shall be in accordance with the requirements of the "*Maricopa County Health Department Air Pollution Control Regulations*," namely Regulation II, Rule 21, subparagraph C and Regulation III, Rule 310 shall be rigidly observed and enforced. Water or other approved dust palliative in sufficient quantities shall be applied during all phases of construction involving open earthwork to prevent unnecessary discharge of dust and dirt into the air. The Contractor shall be responsible for compliance with these regulations. A Notice to Proceed will not be issued until the City of Peoria has received a copy of the Contractor's Dust Control Permit and Plan.

10.2 The Contractor shall be required to obtain the necessary permit and all pertinent information from the Maricopa County Air Pollution Control Bureau, 2406 S. 24th Street #E-214, Phoenix, Arizona, (602) 506-6700 extension 372.

10.3 The Contractor shall keep suitable equipment on hand at the job site for maintaining dust control on the project streets, and shall employ sufficient labor, materials and equipment for that purpose at all times during the project to the satisfaction of the City Engineer.

10.4 Watering shall conform to the provisions of Section 225 of the MAG Standard Specifications. The cost of watering will be included in the price bid for the construction operation to which such watering is incidental or appurtenant.

10.5 Installation and removal of fire hydrant meters should be scheduled at least forty-eight (48) hours in advance through the City of Peoria Utilities Division at (623) 773-7150. A \$1,000 deposit is required for each meter. An additional \$28.00 service fee is also required. The cost of the water is at the prevailing rate.

#### **11.0 ELECTRICITY**

11.1 Except for remote locations or unless otherwise specified in a Job Order, Owner shall furnish to Job Order Contractor from existing Owner facilities and without cost to Job Order Contractor, electricity necessary for the performance of work under this Contract. It is the responsibility of Job Order Contractor to determine the extent to which existing Owner electrical facilities are adequate for the needs of this Contract.

11.2 Upon completion of this Contract the removal of all taps, connections and accessories will be accomplished by and at the expense of Job Order Contractor, and costs included in the Job Order Proposal, so as to leave the electrical power source and facility in its original condition. Such removal shall also be subject to the approval of Owner.

#### **12.0 WORK BY OWNER**

Owner reserves the right to undertake or award Contracts for the performance of the same or similar type work contemplated herein, and to do so will not breach or otherwise violate the Contract.



**ATTACHMENT B**  
**SIQ & Contractor's Response**  
**(See Attached)**



**STATEMENT OF INTEREST AND  
QUALIFICATIONS**

Solicitation Number: P14-0062

Materials Management  
Procurement  
9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, Arizona 85345-6560  
Phone: (623) 773-7115  
Fax: (623) 773-7118

**REQUEST FOR  
STATEMENT OF INTEREST & QUALIFICATIONS**

**JOB ORDER CONTRACTING**

for

**WET UTILITY PIPELINE PROJECTS**

**P14-0062**

**Due Date: April 2, 2014, 5:00 PM Arizona Time**

City of Peoria  
Materials Management Division  
Contact: Lisa Houg  
9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, Arizona 85345  
(623) 773-7115



# SOLICITATION AMENDMENT

Solicitation No: P14-0062  
 Description: JOC for Wet Utility Pipeline Projects  
 Amendment No: One (1)  
 Solicitation Due Date: April 2, 2014  
 Solicitation Due Time: 5:00 p.m.

**Materials Management  
 Procurement**  
 9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
 Peoria, Arizona 85345-6560  
 Telephone: (623) 773-7115  
 Fax: (623) 773-7118

Buyer: Lisa Houg

A signed copy of this Amendment shall be received by the City of Peoria, Materials Management no later than the Solicitation Due Date and Time.

Section 2.3, Sample Project, second paragraph is revised and replaced as indicated below.

The sample project identified by the City is the construction of a replacement 8" water line along with a replacement sewer on 85<sup>th</sup> Avenue from Mountain View Road to Peoria Avenue. The sample project scope includes preparing plans and specifications (design phase), acquiring the necessary right-of-way and permits, traffic control, public involvement, relocation of existing utilities, excavation, installation and testing of the reclaimed water line and sewer, fittings, valves and services, meter boxes, pavement and landscaping restoration.

In addition, the following has been added to the City's FTP site:

- Water and Sewer Quarter Section Maps for the Sample Project. *No other information about the sample project will be provided.*
- Pre-Submittal meeting Sign-In sheet.
- Pre-Submittal meeting Presentation.

*All other provisions of this Solicitation shall remain in their entirety.*

Vendor hereby acknowledges receipt and agreement with the amendment.

\_\_\_\_\_  
 Signature Date

\_\_\_\_\_  
 Typed Name and Title

\_\_\_\_\_  
 Company Name

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 City State Zip

The above referenced Solicitation Amendment is hereby Executed

March 25, 2014

at Peoria, Arizona

*Lisa Houg*  
 \_\_\_\_\_  
 Lisa Houg, CPPB  
 Contract Officer



## STATEMENT OF INTEREST AND QUALIFICATIONS

Solicitation Number: P14-0062

Materials Management  
Procurement  
9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, Arizona 85345-6560  
Phone: (623) 773-7115  
Fax: (623) 773-7118

### SECTION 1 - INTRODUCTION

#### 1.1 Introduction

The City of Peoria is currently looking to establish a Job Order Contract (JOC) for indefinite quantity and indefinite delivery for various wet utility pipeline projects, utilizing the Job Order Contracting (JOC) project delivery method. Interested contractors will have the opportunity to show related experience and a proven track record in projects of the same nature and magnitude. The selected contractors will be expected to deliver turn key projects, including design and preconstruction services, permitting and regulatory requirements, and as-builts/close-out documents.

It is the intent of the City of Peoria to select three (3) Contractors for the award of a JOC. The contract period will be for an initial term of one (1) year with no more than four (4) additional one-year extensions. During the term of the contract, work shall be conducted as a series of individual job orders.

#### 1.2 Cooperative Purchasing

While this contract is for the City of Peoria, other public agencies and political subdivisions have expressed interest in utilizing the contract. In addition to the City of Peoria, and with approval of the contractor, this contract may be extended for use by other eligible public agencies (i.e. municipalities, school districts, nonprofit educational institutions, public health institutions, community facilities districts, and government agencies of the State). Eligible public agencies may elect to utilize the contract through cooperative purchasing (or piggybacking) on the contract and do so at their discretion. No volume is implied or guaranteed, and the contractor must be in agreement with the cooperative transaction. The Strategic Alliance for Volume Expenditures (SAVE), a group of school districts and other public agencies, have signed an intergovernmental cooperative purchase agreement to obtain economies of scale. As a member of SAVE, the City of Peoria will act as the lead agency. Any such usage by other participating public agencies must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective public agency. School District Procurement Rules A.A.C. R7-2-1191 through R7-2-1195 authorizes and governs intergovernmental procurements. Potential participating public agencies (i.e. municipalities, school districts, nonprofit educational institutions, public health institutions, community facilities districts, and government agencies of the State) recognize potential equipment, logistical and capacity limitations by the contractor may limit the contractor's ability to extend use of this contract. Any orders placed to the contractor will be placed by the specific public agency participating in this purchase, and payment for purchases made under this agreement will be the sole responsibility of each participating public agency. The City of Peoria shall not be responsible for any disputes arising out of transactions made by others.

#### 1.3 Project Budget

The City of Peoria Capital Improvement Program identifies funding for projects in fiscal year 2014 and shows planned projects for the next ten years. A copy of the City's ten year CIP can be viewed at <http://www.peoriaaz.gov/NewSecondary.aspx?id=54959>. The approved 2014 budget is available to fund various projects utilizing the awarded JOC contract.

Estimated cumulative values for individual projects total \$2,000,000 to \$3,000,000 in the first year. Projects may extend into the next fiscal year and beyond but in no instance will any one project under this JOC exceed \$3,000,000.



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Solicitation Number: P14-0062

Materials Management  
Procurement  
9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, Arizona 85345-6560  
Phone: (623) 773-7115  
Fax: (623) 773-7118

## 1.4 Project Schedule

The City of Peoria has elected to use the JOC delivery method for these projects as outlined under A.R.S. Title 34. Cost effective construction in the shortest possible time frame and within the City's tolerance of financial risk will be the guiding principles behind the various wet utility pipeline projects.

## SECTION 2 – PROJECT DESCRIPTION & SCOPE OF WORK

### 2.1 Description

This JOC is for a broad range of maintenance, repair, rehabilitation and new construction on public right of way and real utility property in the City of Peoria. For projects determined by the City to be appropriate for this JOC, the City will request that the Contractor prepare a scope of work, cost proposal and project schedule. If acceptable, the City will issue an individual job order agreement and direct the Contractor to proceed with the work. Although the City anticipates that awarded Contractors will be issued work, the Contractor is neither guaranteed a minimum amount of work nor any jobs at all. The City reserves the right and will issue job orders based on ability of the Contractor to meet the City's work schedule and the availability of trades and expertise in relation to each project.

Interested contractors must have experience in the following areas:

**Professional Services:** The contracting of professional design services from licensed Arizona professionals. When the professional services are not provided by the Owner, the Contractor will act as Design Builder and as such may be required to possess Professional Liability Insurance. The single project limit of \$3,000,000 shall be inclusive of professional services fees when acquired under this JOC.

**Preconstruction Services:** The management of design consultants (when included under the JOC), public engagement, construction cost estimating, constructability review, and value engineering as required to achieve the City's project budget.

**Permit Management:** The attainment of permits from any and all jurisdictions which the project may require, including but not limited to the City of Peoria and Maricopa County.

**Construction:** The physical construction of the improvements, through competitive subcontractor bidding and/or self performance as dictated by the unique needs of each individual project. Where federal grants are utilized, the scope shall include prevailing wage compliance as per the Davis Bacon Act. Unless otherwise agreed upon all project pricing shall be cost based with a guaranteed maximum price (GMP) and, all project finances shall be "open book" with all project savings returned to the Owner.

**Project Close-Out:** The preparation, maintenance, or modification of the Owner's project close-out documentation including, but not limited to: RLS certified survey as-builts, CAD updates to as-built documents, operations and maintenance manuals, warranty manuals, turnover of certified payroll documentation, City, County, State, or Federal agency special close-out requirements, and maintenance personnel training.

### 2.2 Scope of Work

- A. The scope of work will include work tasks as requested and described below on wet utility pipeline construction projects including water, wastewater, reclaimed water and storm drainage. The work is required to support the City of Peoria Capital Improvement Program (CIP).
- B. Other related work such as public involvement, utility relocation, traffic control, road repair, etc. as more



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fully described below may also be required.

- C. Design services and/or post design services may be requested for some of the projects. The scope of work for design or post design services, when applicable, will be defined by the City. All as-builts required to be completed as part of the post design services shall be in accordance with Chapter 7 of the City of Peoria Infrastructure Design Guidelines.
- D. The following work activities may be included in individual projects. Not all activities will be included in all projects. Subcontractors and consultants may be used to accomplish some tasks.
  - 1) Public Involvement – prepare and distribute public notices, attend public meetings, maintain a construction hotline.
  - 2) Permitting – obtain all necessary permits required to complete the project, including but not limited to; Engineering Off-site, haul route, stockpile, SWPPP, dust control, traffic control plans, MCESD approval to construct, approval of construction, etc.
  - 3) Installation of new water, reclaimed water, wastewater and storm drainage pipelines including all related work.
  - 4) Rehabilitation of water, reclaimed water, wastewater and storm drainage pipelines and appurtenances including all related work.
  - 5) Placing asphalt pavements including full depth sections, overlays, patches and repairs to restore areas damaged by construction.
  - 6) Placing concrete pavements including curb and gutter, driveways, sidewalks, to restore areas damaged by construction.
  - 7) Installation of landscaping to restore areas damaged by construction.
  - 8) Utility locating (potholing) underground utilities and obstructions.

### 2.3 Sample Project

The following is a sample scope of work for a typical project that may be done under this JOC. This sample project is provided for contractors to use in completing their Project Assessment Plan so the City can see how your firm would approach this type of project if awarded the contract. This is a sample project, please do not contact the local business owners or residents in the area.

The sample project identified by the City is the construction of a replacement 8" water line along with a replacement sewer on 85<sup>th</sup> Avenue from Mountain View Road to Peoria Avenue. The sample project scope includes preparing plans and specifications (design phase), acquiring the necessary right-of-way and permits, traffic control, public involvement, relocation of existing utilities, excavation, installation and testing of the reclaimed water line fittings, valves and services, meter boxes, pavement and landscaping restoration.

The Contractor will be required to provide a project scope plan and schedule showing the process to be followed through the right-of-way acquisition, design, estimating, permitting, construction and close-out phases of the project.

## SECTION 3 – EVALUATION CRITERIA

### 3.1 Job Order Contractor Selection

The Job Order Contractors will be selected through a qualification based selection process - do not include pricing information with the Statement of Qualifications. A short list of qualified and available firms will be developed and contracts will be awarded based on the City's needs.

### 3.2 Evaluation Process



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The City expects to award three (3) Job Order Contracts to the best valued contractors based on the evaluation requirements outlined in this solicitation. The contractors selected will be the contractors whose qualification is responsive, responsible, and the most advantageous to City, as determined by City in its sole discretion. The City reserves the right to add, delete, or modify any part of this solicitation at City's sole discretion. The City will evaluate contractors based on the overall value of each qualification. Contractors interested in providing services must address the points as outlined herein.

### 3.3 Key Personnel

The City expects the interested firms to identify per Attachment A, within their organizations, individual(s) assigned to specific key roles to provide the associated functions throughout the life of the contract.

- Project Manager
- Project Leader
- Project Superintendent
- Project Estimator

### 3.4 Criteria and Weights

The City will evaluate contractors based on the overall value of each qualification. Evaluation criteria will be weighted according to the following categories:

Category	Weight
Responsiveness & References	Pass/Fail
Relevant Project Experience	15%
Project Assessment (PA) Plan:	
Scope Plan	15%
Risk Assessment / Value Added	10%
Project Schedule	5%
Subcontractor Selection Plan	5%
Interview	50%

#### 3.4.1 Responsiveness (Pass/Fail)

Contractors must prepare qualifications that follow the format and sequence specified in this solicitation. This includes adherence to the format of any attachments. The following conditions/criteria must be met in order to be considered responsive:

- The Contractor will complete and provide all information in Attachment A (Proposal Form & References)
- The Contractor will complete and provide all information in Attachment B (Relevant Experience)
- The Contractor will complete and provide all information in Attachment C (Project Assessment Plan)
- The Contractor will complete and provide all information in Attachment D (Project Schedule and Subcontractor Selection Plan)

#### 3.4.2 Attachment A - Proposal Form & References (Pass/Fail)

- The Contractor will complete Attachment A providing all the information requested:
  - 1-page Proposal Form – project team, bonding capacity, etc.
  - 1-page References – list five (5) references.

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### 3.4.3 Attachment B - Relevant Project Experience (Weighted at 16%)

- The Contractor will complete Attachment B providing all the information requested:
  - The Relevant Project Experience section must be 5-pages (1-page for each relevant project).
  - The Relevant Project Experience section must NOT contain any names or information that can be used to identify the Contractor and must be projects completed within the last five (5) years.
  - The Contractor must use the template as provided in Attachment B. Contractors may not re-create or modify this attachment (no color, black ink only, no font changes, no pictures, no diagrams, etc).
  - The Relevant Project Experience must not contain projects where the City of Peoria was a client.
  - Any Relevant Project Experience provided that does not comply with the above requirements may be marked as unresponsive and eliminated from the evaluation process.

### 3.4.4 Attachment C - Project Assessment Plan; Scope Plan (Weighted at 15%) & Risk Assessment / Value Added (Weighted at 10%)

- The Contractor will complete Attachment C providing all the information requested:
  - The PA Plan must be 4 pages or less (2-pages for Scope Plan and 2 pages for risk assessment and value added items).
  - The PA Plan shall NOT contain any names or information that can be used to identify the Contractor.
  - The Contractor must use the template as provided in Attachment C. Contractors may not re-create or modify this attachment (no color, black ink only, no font changes, no pictures, no diagrams, etc).
  - Any plan that does not follow these requirements, or contains names or information that can be used to identify who the contractor is, may be marked as unresponsive and eliminated from the evaluation process.

### 3.4.5 Attachment D - Project Schedule (Weighted at 5%) & Subcontractor Selection Plan (Weighted at 5%)

- The Contractor will complete Attachment D providing all the information requested:
  - Project Duration Schedule - Provide a 1 page Gantt style schedule for the sample project that conveys major milestones, including City approval processes, and final submittal to the City.
  - Subcontractor Selection Plan - Provide a detailed 1 page subcontractor selection plan that uses qualification and price in the selection criteria. The contractor should describe how they will pre-qualify and select their subcontractor as required per ARS 34-603.
  - The Project Duration Schedule and Subcontractor Selection Plan must NOT contain any names or information that can be used to identify the Contractor.

### 3.4.5 Interviews (Weighted at 50%)

- The City will shortlist contractors based on the criteria outlined in this section.
- The City may interview all of the critical team components proposed.
- The City may request to interview additional personnel.
- The City may interview individuals separately and/or as a group.
- The City may request a list of similar past projects from each team member.
- For this project, Contractors may bring up to two additional team members at their discretion to the interview. These additional team members will not be interviewed or scored. The purpose of this is to allow Contractors to bring in up to two additional team members whom they feel are important to this projects success.





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- **Important Note:** All proposed team members must be available for interview on the date specified in this solicitation. No substitutes or proxies will be allowed. Individuals who fail to attend the interview will not be given a score which may jeopardize the contractor's competitiveness.

## SECTION 4 – SELECTION PROCESS

### 4.1 Interview and Selection Process

Contractors will be ranked and selected through a qualifications based selection process based on the criteria in Section 3. A selection committee will evaluate and score each submittal. The City will use a Linear Relationship Model (LRM) as outlined in Appendix 1 to assist the City in ranking the contractors.

A selection committee will evaluate and score each SOQ and interview the top 4 to 6 contractors based on the scores from the Relevant Project Experience, Project Assessment Plan, Schedule and Subcontractor Selection Plan. After conducting the interviews, investigations of the contractors may be performed by the City.

For this project the Final List will consist of the top 4 to 6 scoring contractors (based on Relevant Project Experience, PA Plan scores, Schedule, Subcontractor Selection Plan, Interview scores, Pass/Fail References, and Pass/Fail Responsiveness).

### 4.2 Identification of Potential Best-Value

Scores from the interview will be used to determine the final ranking order of the shortlisted contractors.

The top selected contractor(s) on the final list will then enter into negotiations with the City to reach agreement on final contract form, content and fee structure.

If the City is satisfied with the potential best-value contractor(s), they will proceed to issue an award. If the City is not satisfied with the negotiations, the City may consider breaking off negotiations and selecting the next contractor on the final list for potential award.

## SECTION 5 – POST AWARD ACTIVITIES

### 5.1 Weekly Reporting System

Once a Notice to Proceed has been issued, the awarded Contractor will be required to submit weekly reports documenting progress, risks and schedule updates on the project. The weekly reports are due every Friday, until the project is closed out or project has been accepted and final payment is received. For projects with a duration of less than 6 months, the weekly report will be at the discretion of the City's project manager.

### 5.2 Post Project Evaluation

For contracts that span over multiple years, the City will perform annual project evaluations prior to contract renewal. The City will evaluate the overall performance of the project team (including, but not limited to: overall quality, on-time completion, change orders, compliance to budget, no complaints, ability to work with the City staff, and submission of accurate weekly reports). The final rating will be used in consideration of award of future City of Peoria projects.

## SECTION 6 – CRITICAL DATES

### 6.1 Pre-Submittal Conference



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A pre-submittal conference will be held on **March 24, 2014 at 2:00 p.m. Arizona Time**. The meeting location is the City of Peoria, Development and Community Services Building, Point of View Conference Room, 9875 N. 85<sup>th</sup> Avenue, Peoria AZ, 85345.

Staff may not be available to respond to individual inquiries regarding the project scope outside of this pre-submittal conference. All interested parties are urged to attend this meeting.

### 6.2 Critical Dates:

The following are the critical dates for this project. Please be advised that these dates are subject to change as deemed necessary by the City.

March 24, 2014	Pre-Submittal Conference
April 2, 2014	Submittals Due
April 16, 2014	Notification of Interviews
April 24, 2014	Interviews (shortlisted contractors only)
April 30, 2014	Best-Value Contractor Notification

## **SECTION 7 – SOQ SUBMITTAL FORMAT**

### 7.1 Submittal Format

- The SOQ must be submitted to the contact listed in Section 7.2. The copies should be stapled (and not bound) to facilitate easy handling, photocopying, and reading by the evaluation committee.
- No faxed or emailed SOQs will be considered.
- The SOQ must be received by the date listed in Section 7.2.
- Use the following SOQ submittal format/checklist to ensure:
  - Attachment A: Proposal Form & References – One (1) original must be submitted.
    - 2-pages max (1-page Proposal Form & 1-page References).
  - Attachment B: Relevant Project Experience – One (1) original and five (5) copies.
    - 5-pages max (1-page per project listed).
  - Attachment C: Project Assessment Plan – One (1) original and five (5) copies.
    - 4-pages max (2-page scope plan, 2-page risk assessment/value added).
  - Attachment D: One (1) original and five (5) copies.
    - 2-pages max (1-page Project Schedule and 1-page Subcontractor Selection Plan).
  - Collate & Staple the originals together in order of Attachments A thru D.
  - Collate & Staple the copies together in order of Attachments B thru D.

### 7.2 Submittal Due Date and Contact Information

- Proposal Responses must be received by 5:00 p.m. (AZ time) on April 2, 2014.
- Contact Information



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Phone: (623) 773-7115  
Fax: (623) 773-7118

Attention: Lisa Houg, Contract Officer  
SOQ #: P14-0062 – JOC for Wet Utility Pipeline Projects  
City of Peoria Materials Management  
9875 N. 85<sup>th</sup> Avenue, 2<sup>nd</sup> Floor  
Peoria, Arizona 85345

### 7.3 Disqualification

Please be advised that failure to comply with the following criteria may be grounds for disqualification and will be strictly enforced:

- Receipt of SOQ at the proper location by the specified date and time
- The number of copies of the submittal requested
- Adherence to maximum page requirements
- Not submitting all required documentation
- Adherence to having no identifying information (except for Attachment A)

## SECTION 8 – GENERAL INFORMATION

### 8.1 Questions

- All questions regarding this SOQ must be submitted in writing by emailing: [Lisa.Houg@PeoriaAZ.Gov](mailto:Lisa.Houg@PeoriaAZ.Gov)
- Inquiries within 48 hours preceding the due date & time will not be addressed.

### 8.2 General Information

- **Instructions:** The City of Peoria shall not be held responsible for any oral instructions. Any changes to this SOQ shall be in the form of a published addendum.
- **Contact:** Contact with City of Peoria staff, elected or appointed officials, or selection committee members concerning this SOQ, at any time, in any venue, is strictly prohibited, except as described in Section 8.1 above, and may be grounds for disqualification.
- **Costs:** The City of Peoria will not be responsible for any costs incurred by any contractor submitting an SOQ or responding to this notice. The City reserves the right to waive any irregularities in any submittal and to reject all submittals and re-advertise or cancel the project in its entirety, at its sole discretion. The City reserves the right to request clarification or additional information.
- **Material:** All materials submitted in response to this solicitation will become the property of the City, and may become a part of any resulting contract. Award or rejection of a proposal does not affect this right.
- **Compliance:** The selected contractor will be required to comply with the Legal Arizona Workers Act.
- **Federal Funds:** The selected contractor will be required to comply with all associated Federal Compliance Regulations for any federally funded projects that may be done under this JOC contract.

### 8.3 Protest Policy and Procedures

- The City of Peoria Protest Policy and Procedures are available online at
- <http://www.peoriaaz.gov/NewSecondary.aspx?id=53287>. The policy is contained within the City of Peoria Procurement Code, Chapter 2- Administration, Section 2-321. Procurement Code Protests; Informal and Formal.



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- The specific protest procedures are contained in the Materials Management "Administrative Guidelines" and can be accessed at <http://www.peoriaaz.gov/NewSecondary.aspx?Id=54837> under the "DOWNLOADS" box on the right side of the web page.

## 8.4 Attachments (All must be completed and returned to be considered responsive)

Attachment A: Proposal Form & References  
 Attachment B: Relevant Project Experience  
 Attachment C: Project Assessment Plan (Scope Plan & Risk Assessment/Value Added)  
 Attachment D: Project Schedule and Subcontractor Selection Plan

## 8.5 Appendices

Appendix 1: Scoring and Ranking Submittals Information

*Templates for Attachments A, B, C, and D can be accessed on the City's FTP website.*

### FTP Site Access Directions:

Using your Web Browser, enter the following address:

<https://cityftps.peoriaaz.gov>

You will be prompted for a User ID and Password.

User ID: *ftpsolicitation*

Password: *AEC91&lv*

*(password is case sensitive)*

You should then see the available folder. The folder name for this project is *P14-0062 - JOC for Wet Utility Pipeline Projects*.

You can copy or download the files contained in this folder to your computer or server. Download speed will depend on the internet connection speeds on both sides.

If you have trouble moving beyond the prompt for user id and password, it is likely your network or pc's firewall and/or anti-virus software is blocking access. Temporarily turning off your firewall and/or anti-virus software should allow you to continue with access.



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## ATTACHMENT A PROPOSAL FORM

**Project Team:**

Name of Job Order Contractor (Firm): B&F Contracting Inc.

Name of Project Manager (Individual): Tom Foley

Name of Project Leader (Individual): John Norton

Name of Project Superintendent (Individual): Mike Elkins

Name of Project Estimator (Individual): Jerry Hine

**Bonding:**

Individual project bonding capacity: \$10 Million

Total bonding capacity: \$30 Million

Amount of bonded contracts currently in process: \$6.1 Million

The Relevant Project Experience, Project Assessment Plan, Project Schedule and Subcontractor Selection Plan must NOT contain any information that may identify the Contractor or critical team members.

B&F Contracting Inc.

Name of Company Thomas F. Foley President			
Printed Name and Title of Contractor Representative 11011 N 23 <sup>rd</sup> Ave	City, State Phoenix, AZ	Signature of Contractor Representative	85029
Address 623-582-1170	City, State 623-582-3761	Zip Code	4/2/2014
Phone tomf@bfcontracting.com	Fax	Date	
Email Address ROC-009744 Gen Engineering "A"			
Contractor License Number			



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## ATTACHMENT A REFERENCES

1. The references you provide shall be for the projects listed in Attachment B.

1. Client Name: City of Mesa  
 Project Name: County Line Pump Station #2 – 24 Inch Water Transmission Main  
Project #C10577  
 Contact Name: Curtis Krausman – Project Manager  
 Phone: Office : 480-644-5448 FAX: 480-644-3392  
 E-mail address: Curtis.Krausman@mesaaz.gov

2. Client Name: City of Mesa  
 Project Name: Hibbert Street Sewer Siphon Air Jumper Replacement  
 Contact Name: Kurt Krause – Project Manager  
 Phone: Office: 480-644-5528 Fax: 480-644-3392  
 E-mail address: kurt.krause@mesaaz.gov

3. Client Name: Pima County Regional Wastewater Reclamation Department  
 Project Name: SEI Rehabilitation at Congress Street – Phase 1  
 Contact Name: John Warner – Deputy Director  
 Phone: Office: 520-443-6500 Fax: 520-325-2832  
 E-mail address: John.Warner@pima.gov

4. Client Name: Pima County Regional Wastewater Reclamation Department  
 Project Name: Wilmot Road Manhole Rehabilitation Project  
 Contact Name: Glen Peterson  
 Phone: Office: 520-724-6349  
 E-mail address: Glen.Peterson@pima.gov

5. Client Name: City of Mesa  
 Project Name: Water Lines and Asphalt Replacement – 87<sup>th</sup> Way  
 Contact Name: Kurt Krause – Project Manager  
 Phone: Office: 480-644-5528 Fax: 480-644-3392  
 E-mail address: kurt.krause@mesaaz.gov



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## ATTACHMENT B RELEVANT PROJECT EXPERIENCE

1. Project Type: Large Diameter Water Transmission Main Installation- 24" DIP
- Description of Work: This project installed a 24" water line from a new pump station to 8", 16" and 24" existing mains. The project required 4 separate tie-ins, 3 at the existing mains and 1ea at the Pump Station. The project consisted of 4130 LF of 24 Inch DIP and 200 LF of 16" DIP, 1 ea 24", 1 ea 16" & 1 ea 8" valve. This project involved working in the City, ADOT and County Flood Control Right of Way which required acquiring the proper permits for Construction and Traffic Control. The contractor also provided the County Dust Control permit and the SWPP Plan. The project work scope included Pressure testing, chlorinating and BAC-T testing of the new watermain along with coordination with the Pump Station operations, asphalt paving, concrete sidewalk and hydro seeding restoration items. Engineering was contracted by the owner who provided 100% plans. As-Builts were provided to the owner in our close out package. 95% of the work was Self-Performed. There was an Owner Initiated Change Order to Remove & Replace an existing inline 24" Valve and abandon the valve vault at a separate location which added to the original contract total.
- Delivery Method: Job Order Contract (JOC)
- Original Contract Amount: \$898,575.32
- Final Contract Amount: \$ 923,724.35
- Date Completed: 1/17/2014



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## ATTACHMENT B RELEVANT PROJECT EXPERIENCE (CONTINUED)

2. Project Type: Sewer Siphon Air Jumper Replacement

Description of Work: This project scope was to open cut a major arterial street in order to replace an existing 15" concrete pipe sewer siphon air jumper with an 18" PVC pipe due the deterioration of the concrete pipe from the H2S gas. Also included was the rehabilitation of the inlet and outlet siphon structure manholes along with traffic control and police officers since this was at a signalized intersection. This project had to be completed before the reconstruction of the arterial road which was under contract and approaching the siphon. We offered a value engineering alternative to clean the plugged 15 " pipe and CIPP line the air jumper. Since the CIPP liner was done first the manhole coating was applied to the manhole and transitioned into the CIPP lining making the rehabilitation of the structure complete. Prior to the manhole rehabilitation, the existing T-Lock lining was removed and the manhole surface area was prepped prior to coating. The manhole coating System was spark and adhesion bond tested prior to acceptance. The value engineering alternative was accepted by the owner which eliminated the open cut and pavement expense saving \$29,189.98. The project was constructed using the Job Order Documents and the Sewer Quarter Section Maps. Subcontractors performed 60% of the work.

Delivery Method: Job Order Contract (JOC)

Original Contract Amount: \$94,230.34

Final Contract Amount: \$65,040.36

Date Completed: 1/14/2014





# STATEMENT OF INTEREST AND QUALIFICATIONS

Materials Management  
Procurement  
9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, Arizona 85345-8560  
Phone: (623) 773-7115  
Fax: (623) 773-7118

Solicitation Number: P14-0062

## ATTACHMENT B RELEVANT PROJECT EXPERIENCE (CONTINUED)

3. **Project Type:** Phase 1 - Large Diameter Interceptor Rehabilitation – 60" CIPP Lining
- Description of Work:** The scope of work included the rehabilitation of 1520 feet of existing 60-inch, 270 degree T-Locked lined RCP and associated bypass pumping and diversion of wastewater flows. The repair/rehabilitation of this sewer line was critical due to its location under a major arterial street and close proximity to the I-10 Freeway, both located in the busy downtown area. This project required close coordination with the City, Project Owner, downtown businesses, Public Transportation and one of the biggest yearly economic events to take place in the downtown area. Our team was able to plan and coordinate this construction project without any major complaint from Downtown Stakeholders, the City and the Owners representatives. We were able to identify and capitalize on Value Engineering Opportunities that included the use of an upstream junction structure where we installed a sewer plug to divert and reduce flows. This resulted in a significant cost savings to this project by reducing the overall risk and scope of work for the sewer bypass. We were also able to work with our CIPP Contractor to design this project for one (1) CIPP Inversion instead of 5 shots. This reduced the overall schedule and amount of CIPP inversion access points needed, resulting in reduced costs and minimizing our impact. The original contract amount increased due to additional odor control measures required and a second mob due to owner schedule changes.
- Delivery Method:** Job Order Contract (JOC)
- Original Contract Amount:** \$664,120.00
- Final Contract Amount:** \$706,889.93
- Date Completed:** 2/28/2014



# STATEMENT OF INTEREST AND QUALIFICATIONS

Materials Management  
Procurement  
9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, Arizona 85345-6560  
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Solicitation Number: P14-0062

## ATTACHMENT B RELEVANT PROJECT EXPERIENCE (CONTINUED)

4. **Project Type:** Removal/Replacement of Existing MH's with Corrosion Resistant Polymer Manholes & Composite Inserts

**Description of Work:** This project was awarded through a competitive bidding process on our Job Order Contract. This project called for the removal and Replacement of ten (10) existing deteriorated manholes, rated NASSCO Level 4 & 5. Manholes specified for replacement were located over existing 8-inch, 15-inch and 33-inch sanitary sewer lines which required design, installation and operation of separate flow management systems which was done in-house. The manholes installed on this project are part of a "pilot program" to test out the corrosion resistance properties of the polymer manholes which are made with a polyester resin, sand and aggregate (without any cement). We also installed two (2) composite structural manhole inserts in lieu of the polymer product to directly test their effectiveness. This project required coordination with the City, Owner, ADOT, Local Businesses and Private Property owners in order to complete the scope of work. Other scopes of work included Survey and Layout, Sewer Pipe Repairs, MH Base Rehabilitation and Concrete Collars. We self-performed over 90% of this project. Additional costs incurred on this project were due to the owner's request for extra investigative pre-survey work, along with a request to change the MH material from the Polymer to the Composite Inserts on two (2) manholes.

**Delivery Method:** Job Order Contract (JOC)

**Original Contract Amount:** \$198,610.00

**Final Contract Amount:** \$225,478.18

**Date Completed:** August 2013



# STATEMENT OF INTEREST AND QUALIFICATIONS

Solicitation Number: P14-0062

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Procurement  
9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, Arizona 85345-6560  
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## ATTACHMENT B RELEVANT PROJECT EXPERIENCE (CONTINUED)

5. **Project Type:** Replacement of 6" & 8" Watermain crisscrossing a residential intersection.
- Description of Work:** The water main had prior breaks requiring continuous repairs to the pipe and the intersection. This project replaced all existing problematic ACP water main and restored the pavement. Being located within a County ROW required coordination with the County to obtain permits and schedule the required inspections. The work was sequenced to reduce the overall impact to the residents. This included not only limiting the time their water would be shut down (4 hours or less), but also maintaining continuous access to their homes. A major component was keeping residents informed of the work scope and schedule. We handed out notifications 24 hours in advance and again on the morning of the work so that residents could plan around water outages. The project consisted of replacing existing ACP and Gate Valves with 270 LF of 8" & 6" DIP and Gate Valves, plus a Fire Hydrant for fire protection. Restoration included replacing concrete curb and gutter, landscape, removal of AC pavement within the entire intersection and repaving to County requirements. An additional challenge to the project coordination was completing the initial water main work shortly before Thanksgiving, providing temporary trench patching, and returning to repave the street after the Holiday Season. The contract increased because of additional materials needed due to the lack of existing valves needed for the water shut down.
- Delivery Method:** Job Order Contract (JOC)
- Original Contract Amount:** \$73,278.22
- Final Contract Amount:** \$80,296.54
- Date Completed:** 1/10/2014



## STATEMENT OF INTEREST AND QUALIFICATIONS

Solicitation Number: P14-0062

Materials Management  
Procurement  
9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
Peoria, Arizona 85345-6560  
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### ATTACHMENT C PROJECT ASSESSMENT PLAN TEMPLATE

#### SECTION 1 – SCOPE PLAN (Page 1 of 2)

##### Design Phase & Pre-Construction Services for 8" Waterline & New Sewerline in 85<sup>th</sup> Ave.:

- Review 85<sup>th</sup> Ave Water & Sewer Job Order documents for design criteria and scope of work.
- Coordinate and schedule a site visit with the City of Peoria and Project Stakeholders to address site specific safety concerns, new pipeline alignments, potential utility conflicts, permitting, traffic control and various constructability issues including verifying the required size of the new sewer line based on future usage.
- Perform blue stake verification of all existing utilities within the site limits. Utility conflicts will be further investigated and pot-holed. Contact and coordinate with utility stakeholders in conflict with the new 8" waterline and replacement sewer.
- Coordinate and assess traffic control minimum and maximum requirements for pedestrians and vehicles with the Peoria Traffic Engineering Division.
- 24 hour access to the Peoria Public Library, Community & Utilities Service Department, City Hall and nearby neighborhoods will be critical to a successful traffic control plan.
- Assess all Right of Way (ROW) boundaries and limits for procurement of necessary permits from Peoria and Project Stakeholders. Identify if there are any Temporary Construction Easements required for construction.
- Coordinate with an experienced civil engineering firm to provide project design documents for review.
- Upon receipt of 30% documents, we will begin our constructability review and value engineering opportunities review.
- Submission of project design drawings to Peoria after final review and comments are incorporated.
- Perform preliminary quantity takeoffs and cost estimates based on City of Peoria and Project Stakeholder recommendations, performance requirements and 90% Design Documents. Budgetary concerns are always factored into our cost estimates and we will work with Peoria to meet budget constraints through value-engineering, scope reduction and modification.
- Identify long lead material procurement items.
- Generate Quality Control Management Plan (QCMP). This plan will be utilized throughout the project as a baseline for our project superintendent, field crews and subcontractors to follow for QA/QC related issues.
- We will develop a Schedule of Values (SOV) to breakdown each scope item into key measurable project elements for review by Peoria.
- Select and qualify subcontractors, suppliers and vendors using our qualification based subcontractor selection process. Pre-qualified subcontractors and suppliers will be needed for the Water & Sewer Materials Supplier, Backfill Materials, SWPPP, Survey, Traffic Control Services, Landscape Replacement, Micro-Seal Restoration and Pavement Markings. We estimate our self-performance rate to be at least 86-95% of the scope of work.
- Preparation and distribution of 'Subcontractor Bid Packets' include: special bidder instructions, plans, specifications, subcontractor scope items, bid schedule, pre-bid information, project schedule and the bid date. Subcontractor bid review and award. The award process will include City of Peoria input.
- We will sequence the construction to minimize any customer's limited use of their water or sewer service.
- Preparation and submittal of finalized Guaranteed Maximum Price (GMP) Proposal to the City of Peoria for review and approval.
- Obtain all ROW, special use, construction and water meter permits from the City of Peoria.
- Submit traffic control plans for approval, after incorporation of review comments from the City of Peoria Traffic Engineering Department and Project Stakeholders.
- Locate and rent staging yard for equipment and materials.
- Schedule pre-construction meeting with Peoria, Subcontractors and Project Stakeholders.
- Coordination of Public Outreach/Notification utilizing ACS Conaid. We will notify nearby residents, Alta Loma Elementary, Peoria Public Library, Peoria City Hall and the Community/Utility Services Department of the impending road restrictions and associated dates.



## STATEMENT OF INTEREST AND QUALIFICATIONS

Solicitation Number: P14-0062

Materials Management  
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### ATTACHMENT C PROJECT ASSESSMENT PLAN TEMPLATE

#### Construction Phase Services for 8" Waterline & New Sewerline in 85<sup>th</sup> Ave.:

- Notice to Proceed received from the City of Peoria.
- Installation of Variable Message Boards for notification of construction work on 85<sup>th</sup> Avenue.
- Mobilization of company owned equipment and project related tools.
- Installation of Dust Control measures and track-out prevention at temporary project yard.
- Pipeline and backfill materials delivery.
- Installation of traffic control barricades, arrow boards, delineation and lane closure devices per the approved traffic control plans.
- Installation of required project signage (Dust Control & City of Peoria).
- Installation of Storm Water Pollution Prevention Plan (SWPPP) measures as required by the approved permit.
- Perform survey work by registered professional land surveyor in Arizona. Installation of horizontal and vertical elevation staking, benchmarks and control points.
- Layout and perform asphalt and concrete saw-cutting for utility relocations and installation of the 8" waterline and new sewer line. Remove saw-cut asphalt.
- Coordination and relocation of existing utilities found to be in conflict with the new utilities installation. We will provide advanced notice to all utility stakeholders during the pre-construction phase.
- Perform utility excavation work for the sewer line starting at Mountain View including mainline and lateral. The water piping, valves, fire hydrant and meter boxes on 85<sup>th</sup> Avenue will follow the sewer installation.
- Installation of 8-inch waterline and sewer line per the design elevations. Our team proposes to sequence the work from Mountain View Road to Peoria. We plan on performing the installation in separate street sections to minimize impact (Mountain View to Cinnabar, Cinnabar to Monroe, Monroe to Jefferson & Jefferson to Peoria). The sewer will go in first followed by the water in each section.
- Backfill and compaction of trench up to sub grade per the City of Peoria design specifications. Compaction will be completed in 12" lifts. We will provide compaction testing as required throughout the backfill/compaction phase. All trench backfill will be done per Detail PE-401 or the project Special Conditions or JOC documents.
- Our crews will perform all flushing, chlorination and pressure testing of the waterline and CCTV and pressure testing of the sewer line as required by the City of Peoria and MAG specifications.
- Perform fine grade work on backfilled trenches prior to pavement replacement.
- Place pavement and compact asphalt within the reclaimed waterline trenches. Existing pavement grade elevations will be matched within the trench. Special care will be given to maintain a clean straight edge when matching the existing pavement.
- Replace concrete sidewalk sections at 85<sup>th</sup> and Peoria Ave., Mountain View Rd. and concrete swale on Cinnabar Avenue due to any required fire hydrant, lateral main piping, meter box or sewer tap.
- Provide compaction testing on asphaltic pavement as required by the design specifications.
- Utility adjustments performed on valves, manholes and clean-outs. Concrete collars will be poured around all roadway valves and manholes per Detail PE-270 & PE-271.
- Perform Micro-Seal pavement restoration.
- Installation of new pavement markings and restoration of old markings as required.
- Landscape restoration.

#### Project Closeout & As-Built Documentation

- Our team will coordinate and provide a project review and punch list walk with the City of Peoria and design engineer for adherence to the design documents.
- Furnish all test results from backfill/asphalt compaction testing, waterline, valves and hydrant testing plus the sewer line CCTV videos and pressure testing to the City of Peoria.
- Provide certified as-built drawings to the City of Peoria.
- Coordinate and schedule post construction meeting with City of Peoria, Design Engineer and Project Stakeholders to discuss our Team, Sub-contractor and Supplier's performance throughout the construction.



# STATEMENT OF INTEREST AND QUALIFICATIONS

**Materials Management  
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 Phone: (623) 773-7115  
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Solicitation Number: P14-0062

## ATTACHMENT C PROJECT ASSESSMENT PLAN TEMPLATE

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### SECTION 2 - RISK ASSESSMENT (Page 1 of 2)

<b>Risk 1:</b>	<b>Shoring &amp; Trench Safety</b>
<b>Solution:</b>	Our company has a comprehensive safety training program managed by a third party Safety Management Firm that performs weekly jobsite safety visits and assessments. Field management and pipeline crews are all trained in shoring, trench, PPE, confined space and excavation safety. Superintendents and Foreman are all competent person, confined space trained. We foresee the use of multi-shores and aluminum trench shields throughout the waterline and sewer line installation with confined space for manhole entry.
<b>Risk 2:</b>	<b>Disruption to Peoria City Hall, Public Library, Local Residents &amp; Business</b>
<b>Solution:</b>	Our company will coordinate with the City of Peoria Traffic Engineering Division to develop traffic control and public access plans in order to minimize traffic restrictions and disruptions along 85 <sup>th</sup> Ave. We will take into consideration City Hall, Public Library, local business, residents and local events when scheduling and sequencing the work.
<b>Risk 3:</b>	<b>Restriction of Traffic on 85<sup>th</sup> Avenue During Construction</b>
<b>Solution:</b>	Our team will work closely with the City of Peoria and their Public Information Services Company to provide advanced notification along with continual updates of the construction work. Local residents, businesses, schools and the City of Peoria will be contacted during the pre-construction phase to discuss the project schedule, restrictions and work hours. On similar projects we have successfully used newsletters, door hangers, public meetings and variable message boards to promote public outreach and awareness. Night work close to the intersection of 85 <sup>th</sup> Ave. and Peoria will require a police officer during construction.
<b>Risk 4:</b>	<b>Pedestrians &amp; Bike Lane Safety</b>
<b>Solution:</b>	After our site visit, we anticipate restrictions for pedestrians at the intersections where mainline and lateral utility installations will conflict with existing crosswalks. We plan on re-routing pedestrians to the opposite side of the road during these occurrences. Bike lanes will need to be closed and alternate routes established away from the construction zone.
<b>Risk 5:</b>	<b>Existing Utility Conflicts &amp; Utility Separation Issues</b>
<b>Solution:</b>	During the design phase constructability review, our team will closely analyze the drawings along with existing utility maps provided by the City of Peoria to identify any potential conflicts. We will then Blue Stake the project to identify all existing utilities in both pipeline alignments. All located utilities will be pot-holed for verification. We will use this information to obtain the required clearances from all potable water mains per ADEQ standards for the sewer line installation and verify the viability of the running line for both water and sewer.
<b>Risk 6:</b>	<b>Possible SRP Irrigation Crossing (85<sup>th</sup> Ave. &amp; Peoria Intersection)</b>
<b>Solution:</b>	We will identify any SRP permit requirements in the design phase.
<b>Risk 7:</b>	<b>Traffic Safety Management for Schools, Bus Routing, Police &amp; Fire Departments etc:</b>
<b>Solution:</b>	We will conduct a traffic safety management meeting with affected stakeholders to coordinate our project with the Alta Loma School Transportation group, Peoria Police and Fire Departments, Public Transportation and Sanitation. This meeting will outline our project, identify the work limits and give the invitees a chance to voice any concerns they may have.



# STATEMENT OF INTEREST AND QUALIFICATIONS

Solicitation Number: P14-0062

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Peoria, Arizona 85345-6560  
Phone: (623) 773-7115  
Fax: (623) 773-7118

## ATTACHMENT C PROJECT ASSESSMENT PLAN TEMPLATE

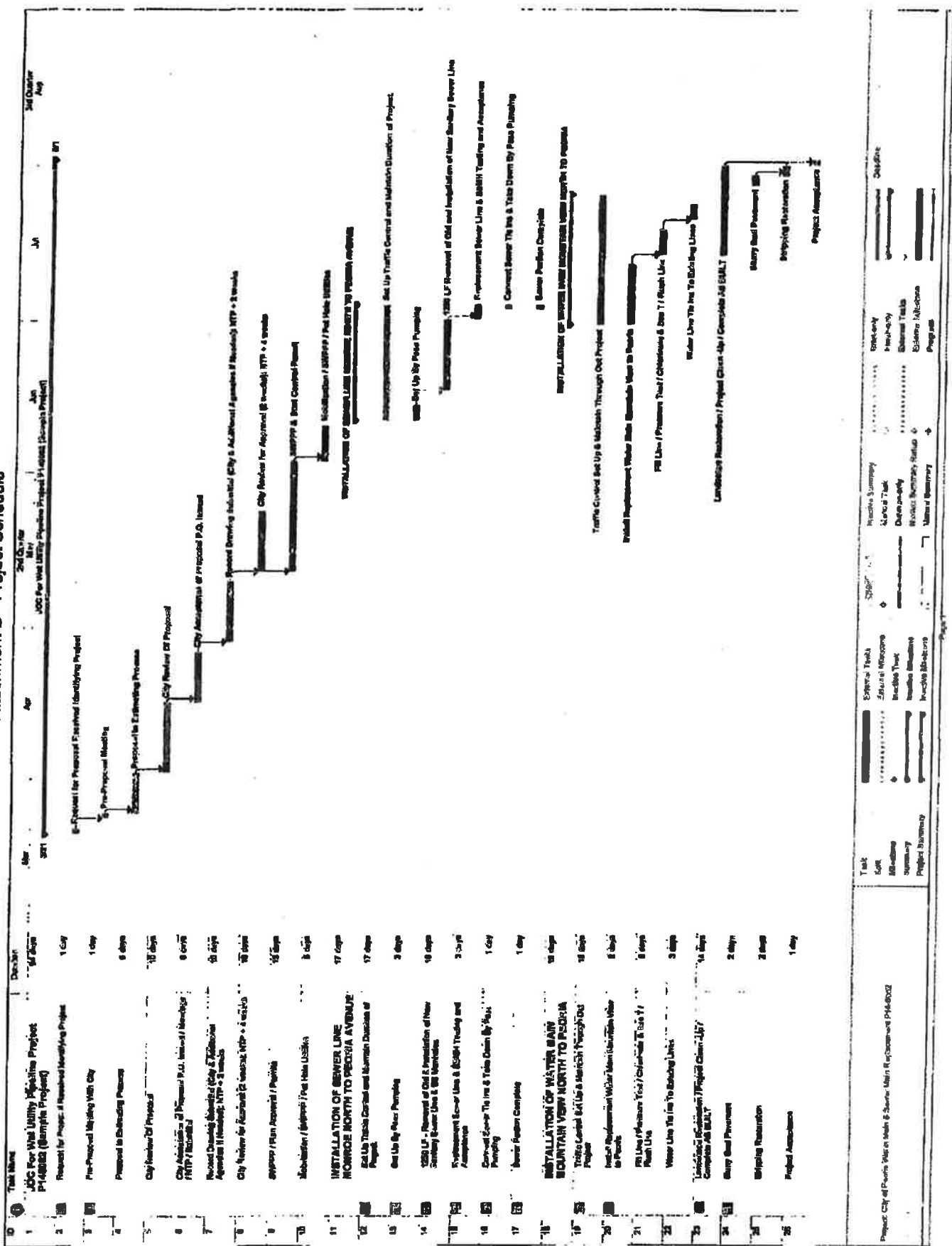
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**SECTION 2 - VALUE ADDED OPTIONS (Page 2 of 2):**

<b>Item 1:</b>	<b>Sequence Sewer Work to limit potential bypass costs:</b> We will work with the design firm to determine if a new sewer alignment is possible which will limit any potential bypass pumping to the tie-ins only. At the tie-ins we will see if we can use flow thru plugs at low flow instead of pumping. We will work closely with Peoria to obtain the ADEQ Request for Discharge Authorization as soon as possible, supplying original construction plans, as-builts, mandrel testing and CCTV reports.			
<b>Impact:</b>	Cost (\$)	Cost Savings Approximately \$20,000	Schedule (Days)	Decreased by 6 days
<b>Item 2:</b>	<b>Competitive bidding of Design Services between Qualified Firms:</b> We will prepare and distribute a Project Design Packet to selected firms in order to get competitive bids.			
<b>Impact:</b>	Cost (\$)	Cost Savings on design (\$15,000.00)	Schedule (Days)	No Impact
<b>Item 3:</b>	<b>Subsurface Utility Investigation -</b> Location of existing utilities by Blue Stake and Pot-Holing during the pre-construction phase of this project will help to identify and minimize utility conflicts, eliminating potential costly delays during the construction of the new water and sewer line. Coordination with the appropriate utility entities during pre-construction will be incorporated into design documents further minimizing delays or additional costs.			
<b>Impact:</b>	Cost (\$)	Increased production during construction phase.	Schedule (Days)	Decreased by 8 days
<b>Item 4:</b>	<b>85<sup>th</sup> Ave. Traffic Closure During Construction -</b> A potential option would be to close 85 <sup>th</sup> Avenue with "Local Traffic Only" signs due to the safety and schedule benefits of a larger work zone during excavation, waterline installation and pavement restoration activities. This will increase pipe-laying and pavement daily production with the intent to reduce the overall schedule and impact on local residents, business and City of Peoria Municipal Complex employees. Traffic access will be restricted from the east neighborhood exits onto 85 <sup>th</sup> , block by block as the job progresses. Access will be immediately re-opened as our restoration activities are completed for each block.			
<b>Impact:</b>	Cost (\$)	\$12,000.00 Cost Savings	Schedule (Days)	Decreased by 12 days
<b>Item 5:</b>	<b>Self-Performance Capabilities -</b> Our company has the ability to self-perform 95% of the construction work needed to install both the water and sewer lines. We operate a large corporate fleet of equipment which allows us a competitive advantage when performing Wet Utility Pipeline projects. If sewer bypass is required we will design the bypass system and use our own forces to construct and operate the system with the proper sized equipment.			
<b>Impact:</b>	Cost (\$)	\$6500.00 Cost Savings	Schedule (Days)	Decreased duration TBD



# Attachment D - Project Schedule



Task	Start	End	Duration	Precedence	Relationship	Summary	Project Summary
1	12/15/17	12/15/17	1 day				
2	12/15/17	12/15/17	1 day	1	Finish-to-Start		
3	12/15/17	12/15/17	1 day	2	Finish-to-Start		
4	12/15/17	12/15/17	1 day	3	Finish-to-Start		
5	12/15/17	12/15/17	1 day	4	Finish-to-Start		
6	12/15/17	12/15/17	1 day	5	Finish-to-Start		
7	12/15/17	12/15/17	1 day	6	Finish-to-Start		
8	12/15/17	12/15/17	1 day	7	Finish-to-Start		
9	12/15/17	12/15/17	1 day	8	Finish-to-Start		
10	12/15/17	12/15/17	1 day	9	Finish-to-Start		
11	12/15/17	12/15/17	1 day	10	Finish-to-Start		
12	12/15/17	12/15/17	1 day	11	Finish-to-Start		
13	12/15/17	12/15/17	1 day	12	Finish-to-Start		
14	12/15/17	12/15/17	1 day	13	Finish-to-Start		
15	12/15/17	12/15/17	1 day	14	Finish-to-Start		
16	12/15/17	12/15/17	1 day	15	Finish-to-Start		
17	12/15/17	12/15/17	1 day	16	Finish-to-Start		
18	12/15/17	12/15/17	1 day	17	Finish-to-Start		
19	12/15/17	12/15/17	1 day	18	Finish-to-Start		
20	12/15/17	12/15/17	1 day	19	Finish-to-Start		
21	12/15/17	12/15/17	1 day	20	Finish-to-Start		
22	12/15/17	12/15/17	1 day	21	Finish-to-Start		
23	12/15/17	12/15/17	1 day	22	Finish-to-Start		
24	12/15/17	12/15/17	1 day	23	Finish-to-Start		
25	12/15/17	12/15/17	1 day	24	Finish-to-Start		
26	12/15/17	12/15/17	1 day	25	Finish-to-Start		





# STATEMENT OF INTEREST AND QUALIFICATIONS

Solicitation Number: P14-0062

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## ATTACHMENT D SUBCONTRACTOR SELECTION PLAN

We recognize the importance of selecting qualified and cost competitive subcontractors and factor this into our qualification based selection process. Relevant project experience, ability to meet project schedules, safety and resource availability, response time and Arizona Revised Statutes Titles 34 and 41 are all factors associated with the selection process for each Job Order. Our selection process will follow a standardize set of criteria that ensures the pricing for the work will be provided through a fair, competitive process, obtaining the "Best Value" for the City of Peoria.

Using our qualification based subcontractor selection plan, we anticipated selecting 2-3 qualified bidders for each scope of work. The City of Peoria will be integral component during the qualification based selection process, collaborating as a team effort with our management team as selections are made. We will prequalify subcontractors based on the following criteria:  
**Qualification Based Selection Criteria**

### Comparable Projects & Experience:

- Has the subcontractor successfully completed comparable projects and similar scopes of work in the past?
- Subcontractor to provide our team with five (5) comparable projects in complexity and scope for review.
- Subcontractor to provide our team with five (5) comparable projects for their Project Manager and Superintendent and key personnel of similar complexity and scope.
- Our team will request three (3) reference forms be filled out for past similar projects.

### Capacity to Perform the Work

- Does the subcontractor have the necessary crew and equipment resources available to complete the work as required by the proposed schedule?
- Do their qualifications/materials meet the project performance and/or proprietary specifications?
- Is the subcontractor able to obtain the necessary bonding and insurance requirements for the Job Order?
- Does this subcontractor meet any SBE/MBE/DBE requirements, if required?
- Does the subcontractor understand the project specific challenges and/or issues with the Job Order?
- Subcontractor to provide company and personnel specific licenses, training certifications and company safety program.

### **Job Order Price Proposal**

### Technical Proposal Package:

- Our management team will generate the 'Instructions to Bidders' for each of the required scopes of work for distribution to the qualified subcontractors.
- The bid packages will detail their respective scopes of work, special instructions, bid documents requirements, bid due date, location and time. Bid Packages will be available one (1) week prior to the mandatory pre-bid conference.
- A mandatory pre-bid conference will be held by our company prior to the bid to address project specific related issues for discussion. All questions raised during the pre-bid will be addressed by our team and the City of Peoria one (1) week prior to the bid date.

### **Qualified Subcontractor Bid Submittal & Review**

### Bid Opening:

- All bids will be opened publicly with a City of Peoria representatives present. Our company will confirm that all addenda and special instructions and/or requirements were acknowledged by each subcontractor.
- Bid results will be read aloud during the opening. Bid tabulations will be calculated and sent out to all bidding subcontractors within one (1) day.
- Low bid subcontractors will be notified within one (1) week regarding the acceptance of their bid after a final bid review completed by our team and the City of Peoria

### Bid Evaluation/Review and Selection:

- We will verify that each subcontractors bid package is in compliance with the 'Instructions to Bidders' document provided during the pre-bid conference and will evaluate each bid against the selected scoring criteria.
- MBE/SBE/DBE percentages and amounts will be verified for each subcontractor, if applicable.
- Determination of lowest, qualified and responsible bidder will be decided with input from the City of Peoria.
- Lowest, qualified subcontractors will be notified after review period.
- Our team will prepare the subcontract agreements in order to enter into contract with the selected subcontractors.

8



### SOLICITATION AMENDMENT

Solicitation No: P14-0082  
 Description: JOC for Wet Utility Pipeline Projects  
 Amendment No: One (1)  
 Solicitation Due Date: April 2, 2014  
 Solicitation Due Time: 5:00 p.m.

**Materials Management Procurement**  
 9875 N. 85<sup>th</sup> Ave., 2<sup>nd</sup> Fl.  
 Peoria, Arizona 85345-6560  
 Telephone: (623) 773-7115  
 Fax: (623) 773-7118

Buyer: Lisa Houg

A signed copy of this Amendment shall be received by the City of Peoria, Materials Management no later than the Solicitation Due Date and Time.

Section 2.3, Sample Project, second paragraph is revised and replaced as indicated below.

The sample project identified by the City is the construction of a replacement 8" water line along with a replacement sewer on 85<sup>th</sup> Avenue from Mountain View Road to Peoria Avenue. The sample project scope includes preparing plans and specifications (design phase), acquiring the necessary right-of-way and permits, traffic control, public involvement, relocation of existing utilities, excavation, installation and testing of the reclaimed water line and sewer, fittings, valves and services, meter boxes, pavement and landscaping restoration.

In addition, the following has been added to the City's FTP site:

- Water and Sewer Quarter Section Maps for the Sample Project. *No other information about the sample project will be provided.*
- Pre-Submittal meeting Sign-In sheet.
- Pre-Submittal meeting Presentation.

All other provisions of this Solicitation shall remain in their entirety.

Vendor hereby acknowledges receipt and agreement with the amendment.

The above referenced Solicitation Amendment is hereby Executed

*[Signature]* 3-29-2014  
 Signature Date

March 25, 2014

Thomas F. Foley President  
 Typed Name and Title

at Peoria, Arizona

B+F Contracting Inc  
 Company Name

*[Signature]*  
 Lisa Houg, CPPB  
 Contract Officer

1101 N 23<sup>rd</sup> AVE  
 Address

Phoenix Az 85024  
 City State Zip

**ATTACHMENT C**

**JOC Cost Proposal Forms  
(Pricing Matrix & Project Cost Sheet)**

**(See Attached)**



## City of Peoria Job Order Cost Proposal

**CONTRACTOR NAME:** B & F Contracting Inc

Contract Type: Water Utility Pipeline Projects  
 Job Order No. P14-0082A  
 City Project Mgr: \_\_\_\_\_  
 Fee Type: Specify Lump Sum Fixed Price or GMP  
 Location: \_\_\_\_\_  
 Job Title: \_\_\_\_\_

City Project No.: \_\_\_\_\_  
 Contractor's Job No.: \_\_\_\_\_  
 Prepared by: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Revision: \_\_\_\_\_

**SECTION D: SUBCONTRACTORS & CONSULTANTS**

Company	Description of Work to be Performed (Supporting quote & information attached)	Item Total
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
		\$ -
<b>Total Subcontractor Costs:</b>		<b>\$ 0.00</b>

**OVERHEAD:** 0% (% to be taken from matrix)  
**PROFIT:** 0% (% to be taken from matrix)

Subtotal General Contractor Costs (A+B+C): \$0.00  
 O&P (% of A+C): \$0.00  
 Total General Contractor Costs including O&P: \$0.00

Subtotal Subcontractor Costs (D) \$10.00  
 Subcontractor Profit (5% of D) \$0.50  
 Total Subcontractor Costs including Profit: \$10.50

TOTAL GC Cost (including O&P) and Subcontractor Costs (including Subcontractor Profit): \$0.00  
 Insurance Costs @ 1.00% \$0.00  
 Bond Costs @ 1.50% to 1.00% \$0.00  
 Sales Tax (85% of 8.1%) \$0.00  
 Tax Exemption Credit \$0.00

**Subtotal Job Cost: \$0.00**

Contingencies \$0.00

**TOTAL JOB COST: \$0.00**

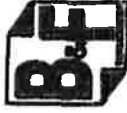
Submitted by: \_\_\_\_\_

Name, Title

Date

rev 5/19/2014 LH

**P14-0062A - JOC for Wet Utility Pipeline Projects**  
**Company Name: B&F Contracting**



May 6, 2014

JOC Pricing Matrix	\$1.00 to \$100,000	\$100,000 to \$250,000	\$250,000 to \$500,000	\$500,000 to \$1M	\$1M to \$2M	\$2M to \$3M
ROC-089744						
Indirect Cost of the Work						
GC Overhead	7.00%	7.00%	6.00%	6.00%	6.00%	5.50%
GC Profit	6.00%	6.00%	6.00%	6.00%	5.50%	5.00%
Subcontractor Profit	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%
Bonds	1.50%	1.50%	1.50%	1.50%	1.45%	1.00%
Insurance	1.00%	1.00%	1.00%	1.00%	1.00%	1.00%
AZ/County/City Taxes	5.265%	5.265%	5.265%	5.265%	5.265%	5.265%
<b>Total Indirect Cost %</b>	<b>25.77%</b>	<b>25.77%</b>	<b>24.77%</b>	<b>24.77%</b>	<b>24.22%</b>	<b>22.77%</b>



ROC-089744

## City of Peoria Job Order Cost Proposal

### B & F LABOR RATES FOR P14-0062A (2014 CONTRACT)

**CONTRACTOR NAME:** B & F Contracting Inc.

**Contract Type:** Wet Utility Pipeline Projects  
**Job Order No.** P14-0062A  
**City Project Mgr.** \_\_\_\_\_  
**Fee Type:** Specify Lump Sum Fixed Price or GMP  
**Location:** \_\_\_\_\_  
**Job Title:** \_\_\_\_\_

**City Project No.:** \_\_\_\_\_  
**Contractor's Job No.:** \_\_\_\_\_  
**Prepared by:** \_\_\_\_\_  
**Date:** 5/13/2014 Pre-Award Meeting  
**Revision:** \_\_\_\_\_

**Description of Work to be Performed (supporting information attached):** \_\_\_\_\_

**SECTION A: LABOR (Inclusive of burden)**

Position	Unit	Quantity
Project Manager	Hours	1.0
Project Engineer	Hours	1.0
Superintendent	Hours	1.0
Foreman	Hours	1.0
Specialty Operator (Tractor-Front-Loader-Pinion)	Hours	1.0
Equipment Operator (Backhoe)	Hours	1.0
Skilled Tradesman (Journeyman) Pipelayer	Hours	1.0
Skilled Worker (Apprentice) Driver	Hours	1.0
Semi Skilled Worker	Hours	1.0
Laborer	Hours	1.0

	Labor Cost		Position
	Each	Total	Total
	\$ 67.00	\$ 67.00	\$ 67.00
	\$ 62.00	\$ 62.00	\$ 62.00
	\$ 64.00	\$ 64.00	\$ 64.00
	\$ 51.00	\$ 51.00	\$ 51.00
	\$ 36.10	\$ 36.10	\$ 36.10
	\$ 30.00	\$ 30.00	\$ 30.00
	\$ 31.00	\$ 31.00	\$ 31.00
	\$ 29.20	\$ 29.20	\$ 29.20
	\$ -	\$ -	\$ -
	\$ 24.00	\$ 24.00	\$ 24.00

**ATTACHMENT D**

**Contractor's Contacts  
(Contact List & Authorized Signature Form)**

**(See Attached)**





# B&F CONTRACTING, INC.

May 13, 2014

## Contact List

### P14-0062A – JOC for Wet Utility Pipeline Projects

<u>Name</u>	<u>Title</u>	<u>Email</u>	<u>Phone</u>
Bruce Balls	Principal	<a href="mailto:bruceb@bfcontracting.com">bruceb@bfcontracting.com</a>	623-764-7585
Tom Foley	Project Director	<a href="mailto:tomf@bfcontracting.com">tomf@bfcontracting.com</a>	623-764-7586
John Norton	Project Manager	<a href="mailto:jnorton@bfcontracting.com">jnorton@bfcontracting.com</a>	623-217-7763
Paul Morgan	Project Manager	<a href="mailto:p.morgan@bfcontracting.com">p.morgan@bfcontracting.com</a>	623-764-7622
Dan Foley	Project Manager	<a href="mailto:dfoley@bfcontracting.com">dfoley@bfcontracting.com</a>	480-620-1208
Mike Elkins	Superintendent	<a href="mailto:melkins@bfcontracting.com">melkins@bfcontracting.com</a>	602-361-2378
Jayson VanVolkinburg	Super.	<a href="mailto:jvanvolkinburg@bfcontracting.com">jvanvolkinburg@bfcontracting.com</a>	602-350-5578
Bill Soper	CFO	<a href="mailto:bsoper@bfcontracting.com">bsoper@bfcontracting.com</a>	623-582-1170
Leticia Rodarte	AR	<a href="mailto:lrodarte@bfcontracting.com">lrodarte@bfcontracting.com</a>	623-582-1170

Main Office Address:

11011 N. 23<sup>rd</sup> Avenue

Phoenix, AZ 85029

P: 623-582-1170

F: 623-582-3761

**B&F CONTRACTING, INC. | ROC089744 | WWW.BFCONTRACTING.COM**

11011 North 23<sup>rd</sup> Avenue | Phoenix, AZ 85029 | P: 623.582.1170 | F: 623.582.3761



# B&F CONTRACTING, INC.

## CERTIFICATION BY THE CONTRACTOR AUTHORIZING EMPLOYEES TO SIGN BINDING AGREEMENTS

City of Peoria  
Utility JOC

The following employees are duly authorized to sign binding agreements for and on behalf of the Corporation.

Name  
**Contracts:**  
Thomas F. Foley

Signature

Bruce W. Balls

Bill Soper

**Notice to Proceed:**  
Thomas F. Foley  
Bruce W. Balls

**Change Orders:**  
Thomas F. Foley  
Bruce W. Balls  
Bill Soper

John Norton

Paul Morgan

Dan Foley

**B&F Contracting, Inc.**

Signed By:

Thomas F. Foley  
President

Date: 5-7-2014

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
B & F CONTRACTING, INC.**

**EXHIBIT B  
Scope of Work**

**PROJECT**

At W. 83<sup>rd</sup> Ave. and W. Georgia Ave. in the City of Glendale, Arizona there are several properties within the Emerald Point Amendment Subdivision that have sustained flood damage due to heavy storm events. A preliminary design and drainage report was provided by Gavan and Barker identifying several alternative drainage improvements to mitigate flooding in this area.

With this agreement, this project is moving forward with final design and construction of various drainage improvement alternatives. The improvements selected shall be implemented in order to mitigate future flooding within the Emerald Point Amendment Subdivision at W. 83<sup>rd</sup> Ave/Georgia Ave. The drainage improvements alternatives include the following:

- Task 1 - W. 81st Ave. Retention Basin and Spillway Expansion
- Task 2 - Retention Basin and Spillway Expansion at Lot 220
- Task 3 - W. 83rd Ave. & W. Georgia Ave. Pavement Improvements
- Task 4 - Storm Drain with Bubbler Drainage Improvements
- Task 5 - W. 83rd Ave. & W. Missouri Ave. Improvements at NE Corner

Engineering services include general administration and project design services, land surveying and grading, drainage and pavement drawings, stormwater pollution prevention drawings, project specifications and technical provisions, and a final drainage report for Tasks 1 - 5.

Construction services include the necessary labor, equipment and materials in order to build Tasks 1 - 5 based on the design provided by the engineering firm.

For a complete list of inclusions and specific design and construction services, please see Section 2 of the attached, for design see Engineering Services for Storm Drain Tasks 1 - 5; and for construction see Task #1 81<sup>st</sup> Ave Basin Expansion; Task #3 83<sup>rd</sup> Ave. & Georgia Ave. PVT Improvement.

At this time the project cost proposals include the Engineering Design for Tasks 1 - 5 and Construction Services for Task 1 W. 81st Ave. Retention Basin and Spillway Expansion and Task 3 W. 83rd Ave. & W. Georgia Ave. Pavement Improvements. Task 2 Retention Basin and Spillway Expansion at Lot 220, Task 4 Storm Drain with Bubbler Drainage Improvements and Task 5 W. 83rd Ave. & W. Missouri Ave. Improvements at NE Corner will be presented to City Council at a later date.

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
B & F CONTRACTING**

**EXHIBIT C**

**METHOD AND AMOUNT OF COMPENSATION**

By JOC Linking Agreement, including all services, materials and costs.

**NOT TO EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project must not exceed \$843,168.66 for the entire term of the Agreement.

**DETAILED PROJECT COMPENSATION**

See attached Pricing Matrix, Projects Cost Sheet and Contractor's Labor Rates.

Item	Description	Amount
Engineering Design	Engineering Services for Storm Drain Tasks 1 - 5	\$128,521.09
Construction Task 1	W. 81st Ave. Retention Basin and Spillway Expansion	\$579,532.87
Construction Task 3	W. 83rd Ave. & W. Georgia Ave. Pavement Improvements	\$135,114.70
	Project Total	\$843,168.66

**City of Glendale  
JOC PROPOSAL - STORM DRAIN ENGINEERING**



**CONTRACTOR NAME: B & F CONTRACTING, INC. ROC-089744**

Contract Type: <u>Wet Utility Pipeline Projects</u>	City Project No.: <u>n/a</u>
Job Order No. <u>TBD</u>	Contractor's Job No.: <u>4325-002</u>
City Project Mgr: <u>Kelly Harwood</u>	Prepared by: <u>Bruce Sells</u>
Fee Type: <u>GMP</u>	Date: <u>12/22/2016</u>
Location: <u>83rd Ave &amp; Georgia Ave, Glendale, AZ</u>	Revision: <u>12/22/2016</u>
Job Title: <u>Engineering Services for Storm Drain Tasks #1 thru #5</u>	

**Description of Work to be Performed** (supporting information attached): Provide engineering/design services for storm drain tasks #1 thru #5, located in the Emerald Point Subdivision at 83rd Ave & Georgia Ave. in the City of Glendale.

**SECTION A: LABOR (inclusive of burden)**

Position	Unit	Quantity
Project Manager	Hours	60.0
Superintendent	Hours	20.0
Administrative Staff	Hours	60.0

Labor Cost		Position
Each	Total	Total
\$ 67.60	\$ 4,056.00	\$ 4,056.00
\$ 64.60	\$ 1,292.00	\$ 1,292.00
\$ 31.00	\$ 1,860.00	\$ 1,860.00
<b>Total Labor Cost</b>		<b>\$ 7,208.00</b>

**SECTION B: EQUIPMENT (supporting information attached, i.e. EquipmentWatch.com)**

Item	Unit	Quantity
Project Manager's Truck	Hours	40.0
Superintendent's Truck	Hours	20.0
	Hours	0.0

Equipment		Item
Each	Total	Total
\$ 15.30	\$ 612.00	\$ 612.00
\$ 15.30	\$ 306.00	\$ 306.00
<b>Total Equipment Cost</b>		<b>\$ 918.00</b>

**SECTION C: MATERIALS**

Item	Unit	Quantity

Material		Item
Each	Total	Total
\$ -	\$ -	\$ -
<b>Total Material Cost</b>		<b>\$ -</b>

**SECTION D: SUBCONTRACTORS & CONSULTANTS**

Company	Description of Work to be Performed	Item Total
Strand Associates, Inc.	General Administration Services	1 \$ 4,140.00
Strand Associates, Inc.	Retention Basin & Associated Spillway Expansion (Task #1) with Waterline Under Basin	1 \$ 17,620.00
Strand Associates, Inc.	Retention Basin & Associated Spillway at Lot No. 220 (Task #2)	1 \$ 8,440.00
Strand Associates, Inc.	83rd Ave and Georgia Ave Pavement Improvements (Task #3)	1 \$ 8,030.00
Strand Associates, Inc.	Storm Drain Piping and Bubbler Design (Task #4)	1 \$ 16,130.00
Strand Associates, Inc.	83rd Ave and Missouri Ave Improvements at NEC w/ Valley Gutter (Task #5)	1 \$ 7,700.00
Strand Associates, Inc.	SWPP Plans (Tasks #1 thru #5)	1 \$ 4,610.00
Strand Associates, Inc.	Specifications and Technical Provisions	1 \$ 7,050.00
Strand Associates, Inc.	Drainage Report	1 \$ 7,390.00
Strand Associates, Inc.	Construction-Related Services	1 \$ 9,960.00
Allowance	Reimbursable Expenses - (Printing, Mileage, & Postage)	1 \$ 5,000.00
TBD	Potholing Existing Utilities	1 \$ 3,000.00
TBD	Geotechnical Report	\$ 4,500.00
<b>Total Subcontractor Cost</b>		<b>\$104,270.00</b>

**City of Glendale  
JOC PROPOSAL - STORM DRAIN ENGINEERING**



**CONTRACTOR NAME:** B & F CONTRACTING, INC. **ROC-089744**

Contract Type: Wet Utility Pipeline Projects  
 Job Order No. TBD  
 City Project Mgr: Kelly Harpedin  
 Fee Type: GMP  
 Location: 83rd Ave & Georgia Ave, Glendale, AZ  
 Job Title: Engineering Services for Storm Drain Tasks #1 thru #5

City Project No.: n/a  
 Contractor's Job No.: 4325-002  
 Prepared by: Bruce Balls  
 Date: 12/22/2016  
 Revision: 12/22/2016

OVERHEAD:	8.0000%		(% to be taken from current contract matrix)
PROFIT:	8.0000%		(% to be taken from current contract matrix)
Subtotal General Contractor Costs (A+B+C):		\$8,128.00	
O&P (% of A+C):		\$884.96	
Total General Contractor Costs including O&P:		\$8,990.96	
Subtotal Subcontractor Costs (D)		\$104,270.00	
Subcontractor Profit	5.00%	\$5,213.50	(% to be taken from current contract matrix)
Total Subcontractor Costs including O&P:		\$109,483.50	
TOTAL GC Cost (including O&P) and Subcontractor Costs (including Subcontractor Profit):		\$118,474.46	
Insurance Costs @	1.00%	\$1,184.74	(% to be taken from current contract matrix)
Bond Costs @	1.50%	\$1,777.12	(% to be taken from current contract matrix)
Sales Tax	9.2% x 65% = 5.98%	\$7,084.77	(65% x City of Glendale Sales Tax)
<b>TOTAL JOB COST:</b>		<b><u>\$128,521.09</u></b>	

Submitted by:

Bruce Wayne Balls

12/22/2016  
Date

# City of Glendale ROUGH ORDER OF MAGNITUDE



CONTRACTOR NAME: B & F CONTRACTING, INC. ROC-089744

Contract Type: Wet Utility Pipeline Projects  
 Job Order No. TBD  
 City Project Mgr: Kelly Hargadln  
 Fee Type: GMP  
 Location: \_\_\_\_\_  
 Job Title: **TASK #1 81st Ave. Basin Expansion**

City Project No.: n/a  
 Contractor's Job No.: 4325-002  
 Prepared by: Bruce Balls  
 Date: 9/20/2016  
 Revision: 1/6/2017

**Description of Work to be Performed** See Attached Project Scope  
 (supporting information attached):

**SECTION A: LABOR (inclusive of burden)**

Position	Unit	Quantity
Project Manager	Hours	88.0
Superintendent	Hours	212.0
Foreman	Hours	283.0
Operator	Hours	75.0
Track Hoe/Loader Operator	Hours	437.0
Laborer	Hours	360.0
Pipe Layer	Hours	275.0
Truck Driver	Hours	286.0

Labor Cost		Position
Each	Total	Total
\$ 67.60	\$ 5,948.80	\$ 5,948.80
\$ 64.60	\$ 13,895.20	\$ 13,895.20
\$ 51.80	\$ 14,802.80	\$ 14,802.80
\$ 30.00	\$ 2,250.00	\$ 2,250.00
\$ 36.10	\$ 15,775.70	\$ 15,775.70
\$ 24.00	\$ 8,640.00	\$ 8,640.00
\$ 31.00	\$ 8,525.00	\$ 8,525.00
\$ 29.20	\$ 8,351.20	\$ 8,351.20
<b>Total Labor Cost</b>		<b>\$ 77,788.70</b>

**SECTION B: EQUIPMENT (supporting information attached, i.e. EquipmentWatch.com)**

Item	Unit	Quantity
Project Manager's Truck	Hours	88.0
Superintendent's Truck	Hours	212.0
Foreman's Truck	Hours	283.0
Crew Truck	Hours	283.0
Rubber Tire Backhoe 420D	Hours	291.0
Bobcat (W)	Hours	16.0
Jump Jack Compactor @ \$50 per day	Hours	107.0
Cat IT28G Loader	Hours	88.0
2500 Water Truck	Hours	48.0
10 Wheeler	Hours	51.0
CAT CC-34, 3-5Ton Roller	Hours	16.0
Compressor	Hours	16.0
Transport (Tractor with Trailer)	Hours	8.0
Blade 140 G	Hours	40.0
Cat 345	Hours	144.0
PC300	Hours	45.0
Sweeper	Hours	163.0
4000 Gallon Water Truck	Hours	176.0

Equipment		Item
Each	Total	Total
\$ 15.30	\$ 1,346.40	\$ 1,346.40
\$ 15.30	\$ 3,243.60	\$ 3,243.60
\$ 27.76	\$ 7,856.08	\$ 7,856.08
\$ 27.76	\$ 7,856.08	\$ 7,856.08
\$ 40.82	\$ 11,878.62	\$ 11,878.62
\$ 36.53	\$ 584.48	\$ 584.48
\$ 6.73	\$ 720.11	\$ 720.11
\$ 51.24	\$ 4,509.12	\$ 4,509.12
\$ 33.75	\$ 1,620.00	\$ 1,620.00
\$ 88.56	\$ 4,516.56	\$ 4,516.56
\$ 28.09	\$ 449.44	\$ 449.44
\$ 19.40	\$ 310.40	\$ 310.40
\$ 73.09	\$ 584.72	\$ 584.72
\$ 88.94	\$ 3,557.60	\$ 3,557.60
\$ 292.00	\$ 42,048.00	\$ 42,048.00
\$ 139.15	\$ 6,261.75	\$ 6,261.75
\$ 26.79	\$ 4,366.77	\$ 4,366.77
\$ 55.83	\$ 9,826.08	\$ 9,826.08
<b>Total Equipment Cost</b>		<b>\$ 91,081.21</b>

**City of Glendale**  
**ROUGH ORDER OF MAGNITUDE**



**CONTRACTOR NAME:** B & F CONTRACTING, INC. **ROC-089744**

Contract Type: Wet Utility Pipeline Projects  
 Job Order No. TBD  
 City Project Mgr: Kelly Hargadin  
 Fee Type: GMP  
 Location: \_\_\_\_\_  
 Job Title: **TASK #1 81st Ave. Basin Expansion**

City Project No.: n/a  
 Contractor's Job No.: 4325-002  
 Prepared by: Bruce Balle  
 Date: 9/20/2016  
 Revision: 1/6/2017

**SECTION C: MATERIALS**

Item	Unit	Quantity
Asphalt	TN	350.0
ABC-From Yard Stock Pile	TN	280.0
Asphalt Tack Oil	LS	1.0
Rebar	LS	1.0
18" RGRCP CL III	LF	200.0
Concrete	CY	8.0
8" Water Line Material	LS	1.0

Material		Item
Each	Total	Total
\$ 65.00	\$ 22,750.00	\$ 22,750.00
\$ 12.00	\$ 3,120.00	\$ 3,120.00
\$ 150.00	\$ 150.00	\$ 150.00
\$ 250.00	\$ 250.00	\$ 250.00
\$ 22.50	\$ 13,230.00	\$ 13,230.00
\$ 100.00	\$ 800.00	\$ 800.00
\$ 9,500.00	\$ 9,500.00	\$ 9,500.00
<b>Total Material Cost</b>		<b>\$ 49,800.00</b>

**SECTION D: SUBCONTRACTORS & CONSULTANTS**

Company	Description of Work to be Performed	Item Total
Trafficade	Barricades for traffic Control	1 \$ 4,000.00
TSR	Shoring	1 \$ 1,500.00
ibid	Saw Cut	1 \$ 250.00
Haver Concrete	Concrete	1 \$ 22,094.00
Pinal Excavation	Dry Well	7 \$ 77,000.00
ibid	Irrigation Structure	1 \$ 5,000.00
ibid	Paving Laydown Crew	1 \$ 5,200.00
ibid	Trucking	1 \$ 107,480.00
ibid	Cement Lined Ditch	1 \$ 15,840.00
Strand Engineering	Project Staking	\$ 5,000.00
ibid	Dust Control	1 \$ 3,500.00
ibid	Stripping	1 \$ 2,500.00
City of Glendale	Construction Water	1 \$ 3,000.00
ibid	Temporary Fence	1 \$ 900.00
ibid	Portable Toilet	1 \$ 450.00
City of Glendale	Trash Disposal Fee	1 \$ 2,950.00
ibid	Yard Rental	1 \$ 1,500.00
ARGUS	SWPP	1 \$ 6,000.00
ibid	8' Chain Link Fence	1 \$ 21,808.00
<b>Total Subcontractor Cost</b>		<b>\$285,952.00</b>



**City of Glendale  
ROUGH ORDER OF MAGNITUDE**



**CONTRACTOR NAME: B & F CONTRACTING, INC. ROC-089744**

Contract Type: Wet Utility Pipeline Projects  
 Job Order No. TBD  
 City Project Mgr: Kelly Hargadin  
 Fee Type: GMP  
 Location: \_\_\_\_\_  
 Job Title: **TASK #1 81st Ave. Basin Expansion**

City Project No.: n/a  
 Contractor's Job No.: 4325-002  
 Prepared by: Bruce Balls  
 Date: 9/20/2016  
 Revision: 1/6/2017

OVERHEAD:	6.0000%		(% to be taken from current contract matrix)
PROFIT:	6.0000%		(% to be taken from current contract matrix)
Subtotal General Contractor Costs (A+B+C):		\$218,669.91	
O&P (% of A+C):		\$15,310.64	
Total General Contractor Costs including O&P:		\$233,980.55	
Subtotal Subcontractor Costs (D)		\$285,952.00	
Subcontractor Profit 5.00%		\$14,297.80	(% to be taken from current contract matrix)
Total Subcontractor Costs including O&P:		\$300,249.80	
TOTAL GC Cost (including O&P) and Subcontractor Costs (including Subcontractor Profit):		\$534,230.15	
Insurance Costs @ 1.00%		\$5,342.30	(% to be taken from current contract matrix)
Bond Costs @ 1.50%		\$8,013.45	(% to be taken from current contract matrix)
Sales Tax 9.2% x 65% = 5.86%		\$31,948.96	(65% x City of Glendale Sales Tax)
<b>TOTAL JOB COST:</b>		<b><u>\$579,532.87</u></b>	

Submitted by:

Bruce Wayne Balls

1/6/2017

Date

**City of Glendale  
ROUGH ORDER OF MAGNITUDE**



**CONTRACTOR NAME: B & F CONTRACTING, INC. ROC-089744**

Contract Type: <u>Wet Utility Pipeline Projects</u>	City Project No.: <u>n/a</u>
Job Order No. <u>TBD</u>	Contractor's Job No.: <u>4325-002</u>
City Project Mgr: <u>Kelly Hargedín</u>	Prepared by: <u>Bruce Balla</u>
Fee Type: <u>GMP</u>	Date: <u>9/20/2016</u>
Location: _____	Revision: <u>1/6/2017</u>
Job Title: <b>Task #3 83rd Ave. &amp; Georgia Ave. PVT Improvements</b>	

**Description of Work to be Performed**    See Attached Project Scope  
(supporting information attached):

**SECTION A: LABOR (inclusive of burden)**

Position	Unit	Quantity
Project Manager	Hours	16.0
Superintendent	Hours	72.0
Foreman	Hours	73.0
Operator	Hours	57.0
Track Hoe/Loader Operator	Hours	40.0
Laborer	Hours	130.0
Truck Driver	Hours	60.0

Labor Cost		Position
Each	Total	Total
\$ 67.60	\$ 1,081.60	\$ 1,081.60
\$ 64.60	\$ 4,651.20	\$ 4,651.20
\$ 51.80	\$ 3,766.80	\$ 3,766.80
\$ 30.00	\$ 1,710.00	\$ 1,710.00
\$ 36.10	\$ 1,444.00	\$ 1,444.00
\$ 24.00	\$ 3,120.00	\$ 3,120.00
\$ 29.20	\$ 1,752.00	\$ 1,752.00
<b>Total Labor Cost</b>		<b>\$ 17,528.60</b>

**SECTION B: EQUIPMENT (supporting information attached, i.e. EquipmentWatch.com)**

Item	Unit	Quantity
Project Manager's Truck	Hours	15.0
Superintendent's Truck	Hours	20.0
Foreman's Truck	Hours	73.0
Crew Truck	Hours	73.0
Rubber Tire Backhoe 420D	Hours	45.0
Bobcat (W)	Hours	8.0
Jump Jack Compactor @ \$50 per day	Hours	53.0
Cat IT28G Loader	Hours	4.0
2500 Water Truck	Hours	16.0
10 Wheeler	Hours	21.0
CAT CC-34, 3-5Ton Roller	Hours	21.0
Compressor	Hours	8.0
Transport (Tractor with Trailer)	Hours	8.0
Blade 14G	Hours	4.0

Equipment		Item
Each	Total	Total
\$ 15.30	\$ 229.50	\$ 229.50
\$ 15.30	\$ 306.00	\$ 306.00
\$ 27.78	\$ 2,026.48	\$ 2,026.48
\$ 27.78	\$ 2,026.48	\$ 2,026.48
\$ 40.82	\$ 1,836.90	\$ 1,836.90
\$ 36.53	\$ 328.77	\$ 328.77
\$ 6.73	\$ 356.69	\$ 356.69
\$ 51.24	\$ 204.96	\$ 204.96
\$ 33.75	\$ 540.00	\$ 540.00
\$ 88.58	\$ 1,859.78	\$ 1,859.78
\$ 28.09	\$ 589.89	\$ 589.89
\$ 19.40	\$ 155.20	\$ 155.20
\$ 73.09	\$ 584.72	\$ 584.72
\$ 88.94	\$ 356.78	\$ 356.78
<b>Total Equipment Cost</b>		<b>\$ 11,401.11</b>

**SECTION C: MATERIALS**

Item	Unit	Quantity
Asphalt	TN	186.0
Tack Oil	LS	1.0
ABC	TN	25.0
Rebar	LS	1.0

Material		Item
Each	Total	Total
\$ 85.00	\$ 12,090.00	\$ 12,090.00
\$ 250.00	\$ 250.00	\$ 250.00
\$ 12.00	\$ 300.00	\$ 300.00
\$ 150.00	\$ 150.00	\$ 150.00
<b>Total Material Cost</b>		<b>\$ 12,790.00</b>

**City of Glendale  
ROUGH ORDER OF MAGNITUDE**



**CONTRACTOR NAME:** B & F CONTRACTING, INC. **ROC-089744**

Contract Type:	<u>Wet Utility Pipeline Projects</u>	City Project No.:	<u>n/a</u>
Job Order No.	<u>TBD</u>	Contractor's Job No.:	<u>4325-002</u>
City Project Mgr:	<u>Kelly Hargadin</u>	Prepared by:	<u>Bruce Balls</u>
Fee Type:	<u>GMP</u>	Date:	<u>9/20/2016</u>
Location:	<u></u>	Revision:	<u>1/8/2017</u>
Job Title:	<b>Task #3 83rd Ave. &amp; Georgia Ave. PVT Improvements</b>		

**SECTION D: SUBCONTRACTORS & CONSULTANTS**

Company	Description of Work to be Performed	Item Total
TBD	Barricades for traffic Control	1 \$ 5,000.00
TBD	Saw Cut	1 \$ 400.00
TBD	Sweeper	1 \$ 2,040.00
Haver Concrete	Concrete	1 \$ 38,148.00
lbd	Trucking	1 \$ 3,000.00
TBD	Asphalt Laydown Crew	1 \$ 3,900.00
TBD	MIR Asphalt	1 \$ 3,000.00
TBD	Pavement Stripping	1 \$ 2,000.00
ARGUS	SWPP	1 \$ 3,000.00
Maricopa County	Dust Control Permit	1 \$ 1,800.00
TBD	Project QA/QC Testing	1 \$ 5,000.00
Strand Engineering	Project Staking	1 \$ 3,500.00
City of Glendale	Construction Water	1 \$ 2,000.00
TBD	Temporary Fence	1 \$ 300.00
TBD	Temporary Toilet	1 \$ 150.00
City of Glendale	Trash Disposal Fee	1 \$ 1,900.00
<b>Total Subcontractor Cost</b>		<b>\$75,138.00</b>

OVERHEAD:	7.0000%	(% to be taken from current contract matrix)
PROFIT:	8.0000%	(% to be taken from current contract matrix)
Subtotal General Contractor Costs (A+B+C):	\$41,718.71	
O&P (% of A+C):	\$3,941.03	
Total General Contractor Costs including O&P:	\$45,659.74	
Subtotal Subcontractor Costs (D)	\$75,138.00	
Subcontractor Profit 5.00%	\$3,756.90	(% to be taken from current contract matrix)
Total Subcontractor Costs including O&P:	\$78,894.90	
TOTAL GC Cost (including O&P) and Subcontractor Costs (including Subcontractor Profit):	\$124,552.64	
Insurance Costs @ 1.00%	\$1,245.53	(% to be taken from current contract matrix)
Bond Costs @ 1.50%	\$1,868.29	(% to be taken from current contract matrix)
Sales Tax MRRA 9.2% x 85% = 7.82%	\$7,448.25	(85% x City of Glendale Sales Tax)
<b>TOTAL JOB COST:</b>	<b>\$135,114.70</b>	

Submitted by:

Bruce Wayne Balls

1/8/2017  
Date



## Legislation Description

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**File #:** 17-054, **Version:** 1

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### **RESOLUTION NO. R17-13**

#### **A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, ACCEPTING THE FY2016-17 INTERNET CRIMES AGAINST CHILDREN SUB-GRANT FUNDED BY THE U.S. DEPARTMENT OF JUSTICE ON BEHALF OF THE GLENDALE POLICE DEPARTMENT.**

Staff Contact: Rick St. John, Police Chief

#### **Purpose and Recommended Action**

This is request for City Council to waive reading beyond the title and adopt a resolution authorizing the City Manager to accept a Fiscal Year 2016-17 sub-grant award in the approximate amount of \$5000, on behalf of the Glendale Police Department. The sub-grant award is funded by the U.S. Department of Justice Internet Crimes Against Children (ICAC) Continuation Grant, through the Phoenix Police Department, for the Arizona ICAC Task Force.

#### **Background**

The Arizona ICAC Task Force is a partially grant-funded network of Arizona law enforcement agencies whose mission is to apprehend and bring to justice Internet sexual predators and Internet child pornographers. The Arizona ICAC Task Force is one of 61 Task Forces located throughout the United States. The Phoenix Police Department manages the Arizona ICAC Task Force and is the primary grantee for funding. Within Arizona, there are now 57 agencies affiliated with the Task Force through an Intergovernmental Agreement (IGA). The Glendale Police Department entered into an IGA with the Phoenix Police Department for continued participation in the Arizona ICAC Task Force in November 2015.

The U.S. Department of Justice ICAC Continuation Grant permits the Phoenix Police Department to share funding for training and equipment with affiliated law enforcement agencies. The Glendale Police Department has been accepting sub-grant awards, funded by the U.S. Department of Justice, through the Phoenix Police Department, since 2009. In December 2016, the Glendale Police Department submitted a "Sub-grant Application for Training and/or Equipment" request for funding. In January 2016, the Glendale Police Department was notified by the Phoenix Police Department that the sub-grant funding request was approved in the amount of \$5,000. Sub-grant funds must be used for training and/or equipment directly related to training, investigations, computer forensics, or public awareness of Internet crimes against children.

#### **Analysis**

The Glendale Police Department regularly receives tips from the Arizona ICAC Task Force and these tips are reviewed for potential assignment to a Child Crimes Detective. Once evidence is obtained, the digital evidence is processed by a Glendale Police Department Computer Forensics Examiner. If Council approves the

requested action, the Police Department plans to use the sub-grant funds awarded for the purchase of Sumuri Carbon - Virtual Forensic Suite, a Sumuri Talino KA-Nano forensic workstation, and two 27-inch computer monitors for reviewing digital evidence. Carbon is a revolutionary new product in computer forensics that allows for instant virtualization of any Windows computer without the need for disassembly or imaging. The Sumuri Carbon - Virtual Forensic Suite will allow forensic examiners to view information contained in a suspect's computer in a virtual environment that is safe and forensically sound. The new updated forensic workstation will allow forensics examiners to keep up with the demand and workload of suspect computer evidence, and the larger monitors will assist forensic examiners in viewing the fine detail with less eye strain. Staff is recommending Council adopt the proposed resolution authorizing the City Manager to accept the Fiscal Year 2016-17 sub-grant award in the approximate amount of \$5000, on behalf of the Glendale Police Department.

**Previous Related Council Action**

On March 22, 2016, Council adopted a resolution (No. 5076 New Series) authorizing the City Manager, on behalf of the Glendale Police Department, to accept sub-grant funding from the U.S. Department of Justice FY2015-16 ICAC Continuation Grant, through the Phoenix Police Department, in the approximate of \$5,000.

On November 24, 2015, Council adopted a resolution (No. 5041 New Series) authorizing the City Manager to enter into an IGA with the Phoenix Police Department for participation in the Arizona ICAC Task Force on behalf of the GPD.

**Budget and Financial Impacts**

The grant is part of a reimbursement program, which means the Glendale Police Department must first purchase the equipment or training and then submit receipts along with the financial report to the Phoenix Police Department Fiscal Management Bureau. Once the reimbursement is received, the funds will be deposited into 1840-33135-511400, the grant account established for prior year sub-grants. The total cost of the equipment including tax is approximately \$5470. Because the total cost of the equipment exceeds the amount of the actual award, the Glendale Police Department will be responsible for \$470.

<b>Cost</b>	<b>Fund-Department-Account</b>
<b>\$470</b>	<b>1000-12150-524400, PD Crime Investigations, Line Supplies</b>

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

RESOLUTION NO. R17-13

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, ACCEPTING THE FY2016-17 INTERNET CRIMES AGAINST CHILDREN SUB-GRANT FUNDED BY THE U.S. DEPARTMENT OF JUSTICE ON BEHALF OF THE GLENDALE POLICE DEPARTMENT.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That the City of Glendale hereby accepts the FY2016-17 Internet Crimes Against Children sub-grant in the approximate amount of \$5,000 funded by the U.S. Department of Justice through the Phoenix Police Department.

SECTION 2. That the City Manager or his designee is authorized and directed to execute any and all documents necessary for the acceptance of said sub-grant.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 28th day of February, 2017.

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Mayor Jerry P. Weiers

ATTEST:

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Julie K. Bower, City Clerk (SEAL)

APPROVED AS TO FORM:

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Michael D. Bailey, City Attorney

REVIEWED BY:

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Kevin R. Phelps, City Manager

**From:** Vanessa Y Villa  
**Sent:** Friday, January 13, 2017 9:55 AM  
**To:** Soto, Daniel; Rice, David  
**Cc:** Jerry W Barker ; Jeffrey M Benza ; Darren E Viner; Gary N Turner; Marleen K Bynum  
**Subject:** FY16-17 Continuation Grant Sub-Grant Application Award Glendale PD \$5000

Greetings Chief St. John,

We are pleased to inform you that the Arizona Internet Crimes Against Children (ICAC) Task Force FY2016-2017 Continuation Grant, sub-grant funding request is approved in the amount of \$5,000 for Glendale Police Department. If there is additional money left over at the end of the FY2016-2017 grant, you will be notified of additional opportunities for training and or equipment purchases.

Please consider this e-mail as notification of the approval.

**\*NOTE:**

During this application process, we had an overwhelming amount of people complete the IGA process and request funding. Please understand that we gave as much as we could with the limited Federal Funding OJJDP provided us this year. Also, please understand that even though we have State Funding to share, what and how we can share it is limited. We are currently working on ordering equipment to share with the affiliates, but this process takes time. Please be patient with us. Currently, we have ordered forensic work stations and laptops to distribute to each of you. Also, we have a number of training opportunities that will be posted in Phoenix this year.

Attached above is the Financial Reimbursement form, Monthly Measures form, and SOP's for Phoenix PD and the Federal Government for 2017.

**Important reminders:**

1. Sub-grant funds must be used for training and/or equipment directly related to training, investigations, computer forensics or public awareness of Internet Crimes Against Children.
2. Minor deviations from your original sub-grant requests are permissible if the final purchases are related to the ICAC requirements stated above in #1.
3. This is a reimbursement program. This means that your agency must first purchase the equipment or training and then submit receipts along with the attached financial report to Gary Turner of the Phoenix Police Department Fiscal Management Bureau. ([gary.turner@phoenix.gov](mailto:gary.turner@phoenix.gov))
4. The deadline for reimbursement requests is April 15, 2017. Requests for reimbursement will not be accepted after that date.
5. Monthly progress reports of your agencies activities related to ICAC investigations, training or public awareness are **REQUIRED** and must be e-mailed to Sgt. Barker or Operations Secretary Vanessa Villa. His and her email and address is provided below.

Your hard work and the work of your staff is greatly appreciated. Anyone who has questions about this information may contact me at 623-466-1828 or by email at [jerry.barker@phoenix.gov](mailto:jerry.barker@phoenix.gov).

*Jerry Barker, Sergeant  
Internet Crimes Against Children  
AZICAC Task Force Commander  
CETF FBI Phoenix Division  
Phoenix Police Department  
2120 N Central #250  
Phoenix, AZ 85004*

*Desk: (623) 466-1828*

*Fax: (602) 732-2016*

*Cell: (602) 757-4263 (24-7)*

*Life is about using the whole box of crayons!*



**Arizona Internet Crimes Against Children Task Force**

Sub-grant Application for Training and/or Equipment – FY 2016-2017  
Cooperative Agreement 2015-MC-FX-K027

**Upon approval, all purchases must be completed and receipts submitted  
on or before April 15, 2017.**

Request for:

Training   
and/or  
Equipment

Your Agency: Glendale Police Dept

Sgt. Daniel Soto / 623-930-3146 / dsoto@glendaleaz.com  
Contact person name Phone e-mail

David Rice / 623-930-3296 / drice@glendaleaz.com  
Alternate contact person Phone e-mail

1. Describe the training and/or equipment requested, including the estimated costs (use additional pages or attachments if needed): **The Glendale Police Department is requesting funding to send our Computer Forensic Examiner to the International Association of Computer Investigative Specialist's Basic Computer Forensic Examiner Training. This training is held once a year and is for two weeks. The training covers several areas of computer forensics and prepares the student to enter the Certified Forensic Computer Examiner program. This certification is the industry standard among law enforcement. The total cost of the training is \$5909.62 including tuition, travel, lodging per diem and car rental. A cost summary worksheet is attached. The Glendale Police Department is requesting the purchase of Sumuri Carbon – Virtual Forensic Suite for \$995. The Glendale Police Department is also requesting the purchase of Sumuri Talino KA-Nano forensic workstation for \$3695. The department is also in need of two 27" computer monitors for reviewing digital evidence. The cost of the two monitors is \$300. The total amount requested is \$10,899.62.**

2. Describe the Internet crimes against children problem(s) to be addressed through the use of the requested training and/or equipment. (attach additional information if necessary, not exceeding 250 words): **The Glendale Police Department regularly received tips from Arizona Internet Crimes Against Children and these tips are reviewed for potential assignment to a Child Crimes Detective. Once evidence is obtained the digital evidence is processed by a computer forensics examiner. The requested training will provide a solid understanding of computer forensics and prepare the investigator for the certification process. The training will further provide the investigator with the necessary understanding of how to properly process digital evidence, obtain the evidence, use standard tools to obtain the data and how to prepare the data for presentation in court. This Certification is highly recognized and useful when testifying in court as an expert. The department needs the ability view a suspect computer or device in a virtual environment. Sumuri Carbon will allow our forensic examiner to view files, folders and the setup of the computer in a virtual environment that is safe and forensically sound. Lastly the department is in need of a new updated forensic workstation in order to keep up with the demand and workload of examining suspect computer evidence. The monitors are necessary for examiners to see fine detail and to be less strain on the examiners eyes. The combination of all items requested will help the department combat Internet Crimes Against Children and other crimes against children in a forensic manner with the proper training.**

3. Does your agency agree to comply with Department of Justice, Office of Juvenile Justice and Delinquency Prevention assurances as described at the web page:  
(See attached screen shots)

Yes   
No

4. Does your agency agree to provide monthly statistical reports of ICAC investigations, arrests and trainings to the Arizona ICAC? (see attachment)

Yes   
No

5. Does your agency agree to abide by Internet Crimes Against Children Program Operational and Investigative Standards? (You may obtain the standards by contacting Sgt. Jerry Barker at 623-466-1828 or by email at [jerry.barker@phoenix.gov](mailto:jerry.barker@phoenix.gov).)

Yes   
No

Authorized signature:  Date: 12-15-16

Print name:     Rick St. John, Chief of Police    

Please return the completed form to:

Jerry Barker, Sgt. / Project Manager  
Phoenix PD / AZ ICAC Task Force  
620 W. Washington  
Phoenix, AZ 85003  
Desk: 623-466-1828  
Fax: 602-732-2016  
Email: [jerry.barker@phoenix.gov](mailto:jerry.barker@phoenix.gov)

Revised November 10, 2016

November 16, 2016

To: AZ ICAC Task Force Affiliates

From: Jerry Barker, Sgt. / Project Manager  
Phoenix PD / AZ ICAC Task Force  
620 W. Washington  
Phoenix, AZ 85003

Re: Arizona ICAC Task Force Sub-Grant Funds for 2016-2017

Greetings Arizona ICAC Task Force Affiliate,

The Arizona Internet Crimes Against Children (ICAC) Task Force is a partially grant-funded network of Arizona law enforcement agencies whose mission is to apprehend and bring to justice Internet sexual predators and Internet child pornographers. The Arizona ICAC is one of 61 Task Forces located throughout the United States (see [www.icactraining.org](http://www.icactraining.org)). Within Arizona, there are now 57 agencies affiliated with the Task Force through an Intergovernmental Agreement (IGA).

The FY 2016-2017 Department of Justice ICAC Continuation grant permits us to share funding for training and equipment with affiliated law enforcement agencies. We are pleased to offer the following support to your agency:

**Funding for equipment and/or training**

Reimbursement funds to affiliated agencies for the purpose of purchasing equipment and/or training to assist in the investigation of Internet crimes against children. There is a short application process (see attachment).

**Nationwide ICAC training program**

The ICAC Training and Technical Assistance Program web site ([www.icactraining.org](http://www.icactraining.org)) provides links and information about training that will assist law enforcement in dealing with Internet crimes against children.

We invite all affiliated agencies to submit the attached sub-grant applications and to visit our training and information web site ([www.azicac.org](http://www.azicac.org)). The sub-grant involves a reimbursement process. Once your agency is approved for funds, you will be required to complete all purchases using your departmental funds and your agency will then be reimbursed for the expenses.

For further information, contact Sgt. Jerry Barker at 623-466-1828, [jerry.barker@phoenix.gov](mailto:jerry.barker@phoenix.gov) or Vanessa Villa Secretary II at 623-466-1835, [vanessa.villa@phoenix.gov](mailto:vanessa.villa@phoenix.gov)



## Legislation Description

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**File #:** 17-055, **Version:** 1

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### **RESOLUTION NO. R17-14**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY TO ENTER INTO A GRANT AGREEMENT WITH THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY AND THE OVERSIGHT COUNCIL ON DRIVING OR OPERATING UNDER THE INFLUENCE ABATEMENT ON BEHALF OF THE GLENDALE POLICE DEPARTMENT.**

Staff Contact: Rick St. John, Police Chief

### **Purpose and Recommended Action**

This is a request for City Council to waive reading beyond the title and adopt a resolution authorizing the City Manager to enter into grant agreement DUIAC-E-082 with the Arizona Governor's Office of Highway Safety (GOHS) Oversight Council on Driving or Operating Under the Influence Abatement, and accept a grant award on behalf of the Glendale Police Department in the approximate amount of \$75,000 for overtime and employee related expenses to enhance Driving Under the Influence (DUI) enforcement throughout the City of Glendale.

### **Background**

The City of Glendale is a large municipality with an ever-growing population and expanding entertainment district. The Glendale Police Department is vigilant in the battle against driving under the influence and is dedicated to increasing its efforts in order to maintain safety on the roadways in Glendale. Since 1995, the Police Department has been receiving Arizona GOHS grant funds for use in the costs associated with the enforcement of traffic, seatbelt, and DUI violations. Past grant funding has allowed the Police Department to increase the number of hours officers dedicate specifically to DUI enforcement and education. The Police Department seeks to reduce impaired driving violations not only through enforcement, but also by promoting public awareness to the dangers of drinking and driving.

To assist in combating DUI violations and alcohol impaired drivers, the Glendale Police Department implemented a full-time DUI enforcement squad consisting of expertly trained DUI enforcement motorcycle officers that are well versed in detection and deterrence. Additionally, patrol officers are trained in the area of Horizontal Gaze Nystagmus and Intoxilyzer 8000 operation; and with the addition of a mobile DUI van to aid in faster processing of impaired drivers, officers are able to conduct DUI investigations and return to the field in a timely manner. The DUI enforcement squad performs pro-active patrols outside of normal shift hours and on weekends and holidays, when DUI violations are more prevalent, to increase DUI arrests and curb impaired driving.

### **Analysis**

The Glendale Police Department will continue to plan, host, and participate in all multi-agency saturation patrols in the West Valley scheduled for 2017 in focused efforts to identify impaired drivers and remove them from roadways before they hurt themselves or others. If approved, the grant funds will be used for the overtime expenses incurred as a result of the DUI squad hosting or co-hosting seven (7) multi-agency task force events, which will include 4<sup>th</sup> of July and New Year's Eve for 2018. Without these grant funds, the City would be responsible for the overtime expenses, or the overtime opportunity would be eliminated. Staff is requesting Council adopt the proposed resolution authorizing the City Manager to enter into a grant agreement with the Arizona GOHS Oversight Council on Driving or Operating Under the Influence Abatement, and accept a grant award in the approximate amount of \$75,000.

### **Previous Related Council Action**

On May 10, 2016, Council adopted a resolution (No. 5101 New Series) authorizing the City Manager to enter into grant agreement DUIAC-I-025 with the Arizona GOHS Oversight Council on Driving or Operating Under the Influence Abatement, and accept a grant award on behalf of the Glendale Police Department in the approximate amount of \$50,000 for employee overtime and related expenses to enhance DUI "Know You're Limit" innovative program and education throughout the City of Glendale.

### **Community Benefit/Public Involvement**

If the requested action is approved, the grant award will benefit the citizens and community by allowing the Police Department to use more resources and officers to detect impaired drivers on our roadways.

### **Budget and Financial Impacts**

There is no financial match required for this grant. A specific project account will be established in the City's grant fund, 1840, once the grant is fully executed.

RESOLUTION NO. R17-14

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY TO ENTER INTO A GRANT AGREEMENT WITH THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY AND THE OVERSIGHT COUNCIL ON DRIVING OR OPERATING UNDER THE INFLUENCE ABATEMENT ON BEHALF OF THE GLENDALE POLICE DEPARTMENT.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That the City of Glendale is authorized to enter into the following grant agreement:

Grantor:	Oversight Council on Driving or Operating Under the Influence Abatement
Agreement:	DUIAC-E-082
Project Title:	DUI Enforcement Overtime
Approximate Amount:	\$75,000

SECTION 2. That the City Manager or designee and the City Clerk is authorized and directed to execute and deliver any and all documents necessary for the acceptance of said agreement on behalf of the City of Glendale.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 28th day of February, 2017.

\_\_\_\_\_  
Mayor Jerry P. Weiers

ATTEST:

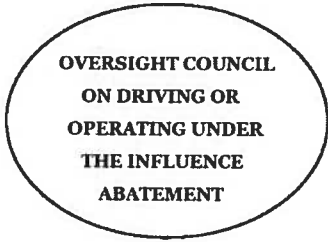
\_\_\_\_\_  
Julie K. Bower, City Clerk (SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael D. Bailey, City Attorney

REVIEWED BY:

\_\_\_\_\_  
Kevin R. Phelps, City Manager



# DUI ABATEMENT GRANT PROGRAM GRANT AGREEMENT



Douglas A. Ducey  
Governor

The Oversight Council on Driving or Operating Under the Influence Abatement is hereafter referred to as the DUI Abatement Council, DUIAC or Council in this agreement. This page and the DUIAC Project Director's Manual incorporated herein by reference constitute the entire agreement between the parties hereto unless deviation is authorized in writing by the DUI Abatement Council.

**APPLICANT AGENCY**

Glendale Police Department

**ADDRESS**

6835 North 57 Drive, Glendale, AZ 85301

**GOVERNMENTAL UNIT**

City of Glendale

**ADDRESS**

5850 W. Glendale Ave, Glendale, AZ 85301

**AGREEMENT NUMBER**

DUIAC-E-082

**PROGRAM AREA**

Enforcement

**AGENCY CONTACT**

Robert Jones

**PROJECT TITLE**

DUI Enforcement Overtime

**BRIEFLY STATE PURPOSE OF PROJECT:**

State DUI Abatement (E) funds will support Personnel Services (Overtime) and Employee Related Expenses to enhance DUI Enforcement Overtime throughout the City of Glendale.

**BUDGET**

**COST CATEGORY**

**Project Period  
SFY 2017-2018**

<b>I. Personnel Services</b>	\$50,625.00
<b>II. Employee Related Expenses</b>	\$24,375.00
<b>III. Professional and Outside Services</b>	\$0.00
<b>IV. Travel In-State</b>	\$0.00
<b>V. Travel Out-of-State</b>	\$0.00
<b>VI. Materials and Supplies</b>	\$0.00
<b>VII. Capital Outlay</b>	\$0.00
<b>TOTAL ESTIMATED COSTS</b>	<b>\$75,000.00</b>

**PROJECT PERIOD**

**FROM:** Effective Date (*Date of DUIAC  
Chairman Signature*)

**TO:** 01-31-2018

**CURRENT GRANT PERIOD**

**FROM:** 02-01-2017

**TO:** 01-31-2018

**TOTAL DUI ABATEMENT FUNDS OBLIGATED FOR THIS AGREEMENT PERIOD: \$75,000.00**

A political subdivision or state agency that is mandated to provide a certified resolution or ordinance authorizing entry into this agreement must do so prior to incurring any expenditures. Failure to do so may result in termination of the awarded agreement.



**PROBLEM IDENTIFICATION AND RESOLUTION:****Agency Background:**

The City of Glendale is Arizona's fourth largest city is the commercial, industrial, and educational hub of the northwest Phoenix metropolitan area. Currently, Glendale has an ever-growing estimated population of 230,000 people; with over 100,000 households. The City of Glendale is the home of the Phoenix Coyotes and Arizona Cardinals professional sports teams, as well as the new Camelback Ranch Major League Baseball Training Facility, home of the Los Angeles Dodgers, and Chicago White Sox.

The City of Glendale has approximately 70 square miles of roadway that consist of residential streets, main arterial roadways, and several miles of freeway. Glendale has a 14-mile stretch of the Loop 101 Agua Fria Freeway that borders its north and west portion of the city and the entertainment districts. The City is made up of over 198 controlled intersections. There are over 800 miles of paved roadway in Glendale, which currently encompasses 58.15 square miles. The Glendale Police Department (Glendale PD) comprises approximately 410 sworn officers and 140 civilians serving a population of over 228,000 residents whose median age is 32.2 years.

**Agency Problem:**

The problem/deficiency is an increase in the number of driving under the influence violations and impaired drivers on Glendale roadways. With the increased number of drivers that travel on Glendale roadways each day, the expansion of the city, and the higher number of entertainment districts, they have seen an increase in DUI violations and impaired drivers. The Glendale Police Department implemented a full-time DUI enforcement squad in March, 2004. They have since increased the squad from the initial 3 officers to a full squad of 6 with a dedicated sergeant to oversee the operations. Glendale PD has increased their DUI arrests each year since the formation of a squad dedicated to DUI Enforcement.

**Agency Attempts to Solve Problem:**

The Glendale Police Department is dedicated to increasing its efforts to curb impaired driving, while still making Glendale a safe place to travel to and from. Since the inception of the DUI Enforcement Squad, it has become a squad of expertly trained DUI Enforcement motorcycle officers that are well versed in DUI detection and deterrence. This training and experience allows officers to detect those offenders driving impaired by alcohol and/or drugs, which makes a large impact on the number of devastating traffic collisions when impairment is a factor. The department has continued its commitment to aggressively enforcing DUI related laws by training its patrol officers in the area of HGN and Intoxilyzer 8000 operation.

**Agency Funding:**

State DUI Abatement (E) funds will support Personnel Services (Overtime) and Employee Related Expenses to enhance DUI Enforcement Overtime throughout the City of Glendale.

**How Agency Will Solve Problem With Funding:**

The Glendale Police Department will continue to plan, host, and participate in focused efforts to identify impaired drivers. The Glendale Police Department plans to participate in all multi-agency saturation patrols in the West Valley scheduled for 2017. Also, The Glendale Police Department intends to host or co-host seven (7) multi-agency task force events which will include 4th of July and New Year's Eve 2018.

**GOALS/OBJECTIVES:**

State DUI Abatement (E) funds will support Personnel Services (Overtime) and Employee Related Expenses to enhance DUI Enforcement Overtime throughout the City of Glendale.

The following goals and objectives shall be accomplished as a result of this funding:

**Impaired Driving or Operating - Enforcement**

Expenditures of funding pertaining to Impaired Driving or Operating Enforcement or Innovative Programs including Personnel Services and ERE, Materials & Supplies, Capital Equipment and/or Travel In and Out of State shall comply with the Impaired Driving or Operating Program Goals of the DUI Abatement Council in conjunction with those provided by the Arizona Governor's Office of Highway Safety. The Impaired Driving or Operating Program Goal is to reduce the incidence of alcohol and drug related driving or operating, fatalities and injuries through enforcement, education and public awareness and through innovative programs throughout the State of Arizona. Law Enforcement personnel participating in Impaired Driving or Operating Enforcement/DUI activities including DUI Task Force details under this program shall be HGN/SFST certified. This is not a requirement for those participating in DUI Innovative programs.

**MEDIA RELEASE**

To prepare complete press release information for media (television, radio, print and on-line) during each campaign period including a main press release, schedule of events, departmental plans and relevant data. **The material will emphasize the campaign's purpose, aggressive enforcement and the high cost of DUI / Alcohol in terms of money, criminal and human consequences.**

The Glendale Police Department will maintain responsibility for **reporting sustained DUI enforcement** activity in a timely manner. Additionally, it is the responsibility of the Glendale Police Department to report all task force enforcement statistics in which they participate to GOHS on-line at the GOHS website **no later than 10:00a.m. the morning following each day of the event.**

**PLEASE NOTE: Failure to submit Statistics, Quarterly Reports and/or Report of Costs Incurred (RCIs) on time and correctly may delay reimbursement for expenditures to your agency, or a cancellation and return of unexpended advanced funding.**

**METHOD OF PROCEDURE:**

The Glendale Police Department will make expenditures as follows to meet the outlined Program Goals/Objectives:

Personnel Services – To support Overtime for Impaired Driver or Operator Activities

Employee Related Expenses – To support Employee Related Expenses for Agency Overtime

**PRESS RELEASE:**

Agencies are required to develop and distribute a press release announcing this grant award upon receipt of the executed agreement. A copy of this press release shall be sent to the DUI Abatement Council at the same time it is sent to the media. This press release shall include the objective and specify that the funding is from the Oversight Council on Driving or Operating Under the Influence Abatement.

**BAC TESTING AND REPORTING REQUIREMENTS:**

Alcohol impairment is a major contributing factor in fatality and serious injury motor vehicle collisions. Accurate data on alcohol involvement is essential to understanding the full extent of the role of alcohol and to assess progress toward reducing impaired driving.

Arizona is presently and consistently below the documented average among the states in the Blood Alcohol (BAC) testing of drivers involved in fatal motor vehicle collisions.

**Each law enforcement agency that receives an enforcement-related grant is required to ensure that this accurate data on all drivers involved are reported.** Failure to comply may result in withholding funds and cancellation of the enforcement contract until this requirement is met.

**PURSUIT POLICY:**

All law enforcement agencies receiving state funds are encouraged to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police (IACP) that are currently in effect.

**PROJECT EVALUATION:**

This project shall be administratively evaluated to ensure that the objectives have been met.

**Quarterly Report**

The purpose of the Quarterly Report is to provide information on agreement grant activities conducted at the conclusion of each respective quarter. The information provided is used to review progress of the funded project and the successfulness in meeting outlined goals and objectives. The information, photos, highlights, obstacles, and mandatory statistical data provided in this report are analyzed by the assigned project coordinator. It is critical that the on-line report contains the following information:

- **Original signatures on all Quarterly Reports and RCIs**
  - **Signatures must include Project Director unless prior authorization for another is on file with GOHS.**

**Report Schedule**

Reporting Period	Due Date
<b>2017-1 Quarterly Report</b> (February 1 to April 30)	May 31, 2017
<b>2017-2 Quarterly Report</b> (May 1 to July 31)	August 31, 2017
<b>2017-3 Quarterly Report</b> (August 1 to October 31)	November 30, 2017
<b>2017-4 Quarterly Report</b> (November 1 to January 31)	February 28, 2018
<b>Final Statement of Accomplishment</b>	February 28, 2018

The Quarterly Report **shall be completed on the form available on-line and submitted by mail** to the DUI Abatement Council at the Governor's Office of Highway Safety. The Quarterly Report title is based on the 3 month calendar period (Year-Calendar Quarter). **Note:** All law enforcement agencies must enter enforcement activity into the on-line GOHS DUI Reporting System.

**Final Statement of Accomplishments**

The Project Director shall submit a Final Statement of Accomplishments Report to the DUI Abatement Council **no later than 30 days following the agreement end date**. All agencies receiving funding are required to submit a Final Statement of Accomplishments Report.

**Note:** Failure to comply with the outlined DUI Abatement Council reporting requirements may result in withholding of state funds or termination of the agreement and return of any unexpended advanced funds.

**PROFESSIONAL AND TECHNICAL PERSONNEL:**

**Rick St. John, Chief, Glendale Police Department, shall serve as Project Director.**

**Robert Jones, Lieutenant, Glendale Police Department, shall serve as Project Administrator.**

**Shane Radford, Governor's Office of Highway Safety, shall serve as Project Coordinator.**

**REPORT OF COSTS INCURRED (RCI):**

The Project Director shall submit a Report of Costs Incurred (RCI) with supporting documentation attached, to the Governor's Office of Highway Safety at a minimum on a quarterly basis in correlation with the required report. Agencies may submit additional RCI forms for expenditures when funds have been expended for which reimbursement is being requested.

RCIs shall be typed and delivered via mail or hand with appropriate supporting documentation, delivered to the Governor's Office of Highway Safety. **Electronically submitted RCIs will not be accepted.** Final RCIs will not be accepted after thirty (30) days after the conclusion of the Agreement end date. **Expenditures submitted after the expiration date will not be reimbursed and the agency will accept fiscal responsibility.**

**The RCI template and instructions are available on the Governor's Office of Highway Safety website at <http://www.azgohs.gov/grant-opportunities/>. Failure to meet the reporting requirements may be cause to terminate the project.**

**PROJECT MONITORING:**

DUI Abatement Council grant project monitoring is used by GOHS project coordinators to track the progress of project objectives, performance measures and compliance with applicable procedures, laws, and regulations.

The process is used throughout the duration of the agreement project and serves as a continuous management tool. Project monitoring also presents a good opportunity for developing partnerships, sharing information and providing assistance to contracted agencies. Additionally, project monitoring outlines a set of procedures for project review and documentation.

Project monitoring also serves as a management tool for:

- Detecting and preventing problems
- Helping to identify needed changes
- Identifying training or assistance needed
- Obtaining data necessary for planning, and evaluation
- Identifying exemplary projects

**Types of Monitoring**

Monitoring is formal and informal, financial and operational. The most common types of monitoring are:

- Ongoing contact with the contracted grantee through phone calls, e-mails, correspondence, and meetings
- On-Site and/or In-House monitoring reviews of project operations, management, and financial records and systems
- Review of project Quarterly Reports
- Review and approval of Requests for Cost Incurred (RCIs)
- Desk review of other documents in the project-grant files for timely submission and completeness

<b>Monitoring Schedule</b>	
<b>Total Awarded Amount</b>	<b>Type of Monitoring</b>
Under \$50,000	Desk Review/Phone Conference.
\$50,000 and over	May have an In-House GOHS Review
\$100,000+	May have an On-Site Review
Capital Outlay Greater than \$25,000.00 (combined)	May have an On-Site Review
Desk Review and Phone Conference	Internal Review of all written documentation related to agreement project including but not limited to agreement, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. A phone conference call conducted during the course of the project which includes the date and time of the call, the person/s contacted and the results. Serves as an informational review to determine progress of programmatic/financial activities. Both the designated project administrator and fiscal contact should be present, if possible, during the phone conference. If identified financial or operational problems are present, GOHS reserves the right to bring the grantee in for an in-house meeting at GOHS. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
In-House Review	Documents performance review results including project activities, reimbursement claims review, equipment purchases, approvals, and other information. Reviews applicable information related to the project(s) including but not limited to agreement, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Completed at GOHS in a meeting with appropriate operational and financial personnel. Monitoring form written by Project Coordinator, any findings or areas of improvement, concern or recognition will be provided to the grantee.
On-Site Monitoring	Documents performance review results including project activities, reimbursement claims review, equipment purchases, and other information. Reviews applicable information related to the project(s) including but not limited to agreement, quarterly reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Conducted on-site at the grantee's agency with monitoring form completed on-site by Project Coordinator. Any findings or areas of improvement, concern, or recognition, will be provided to the grantee.

On-site and/or In-house monitoring for grantees of designated projects with large capital outlay purchases, personnel services, and complex projects must be completed within the second or third quarter of the Agreement period. Contracted projects displaying any problems might need on-site monitoring more than once during the fiscal year.

On-site and/or In-house monitoring includes a review and discussion of all issues related to assure the effective and administration of the contracted project. The following are the most important items to review:

- Progress toward meeting goals/objectives and performance measures
- Adherence to the contract specifications, timely submission of complete and correct reports, including required documentation
- Quarterly reports
- Status of expenditures related to the outlined budget
- Accounting records
- Supporting documentation (training documentation, inventory sheets, photographs, press releases etc)

In addition, the designated project administrator will assure that any equipment purchased will be available for inspection and is being used for the purpose for which it was bought under the outlined contractual agreement.

### **Documentation**

All findings will be documented on the GOHS Monitoring Form and placed in the grantee's respective state file. Findings will be discussed with the grantee designated agreement representative (project administrator, fiscal specialist) by phone and/or e-mail. All noted deficiencies will be provided to the grantee with guidance for improvement and solutions to problems. Grantees that exhibit significantly poor performance will be placed on a performance plan as outlined by the project coordinator. Grantee monitoring information will additionally provide documentation for potential funding in subsequent fiscal year grant proposal review.

### **PROJECT PERIOD:**

The Project Period shall commence on the date the DUI Abatement Council Chairman or GOHS Director in the Chairman's stead, signs the DUI Abatement Grant Agreement and terminates at the end of one year on the date as indicated on the DUI Abatement Council Grant Agreement.

### **DURATION:**

Agreements shall be effective on the date the DUI Abatement Council Chairman or GOHS Director in the Chairman's stead, signs the agreement and expire at the end of the project period.

If the Agency is unable to expend the funds in the time period specified and needs an extension, a typed extension request shall be signed by the Project Director on the Agency's letterhead and submitted via mail or hand delivered to the Chairman of the DUI Abatement Council at the Governor's Office of Highway Safety within ninety (90) days before the end of the project period.

The Agency shall address all requests to modify the contract to the Chairman of the DUI Abatement Council on Agency letterhead and either hand deliver or submit the request via regular mail to the GOHS office. All requests for modification must bear the signature of the Project Director.

Failure to comply may result in cancellation of the agreement. Any unexpended funds remaining at the termination of the agreement shall be released back to the DUI Abatement Fund.

**ESTIMATED COSTS:**

I.	Personnel Services (overtime)	\$50,625.00
	<b>DUI Enforcement Overtime activities</b>	
II.	Employee Related Expenses	\$24,375.00
III.	Professional and Outside Services	\$0.00
IV.	Travel In-State	\$0.00
V.	Travel Out-of-State	\$0.00
VI.	Materials and Supplies	\$0.00
VII.	Capital Outlay	\$0.00
	<b>TOTAL ESTIMATED COSTS</b>	<b>\$75,000.00</b>

The DUIAC reserves the right to limit reimbursement of Employee Related Expenses from zero (0) to a maximum rate of 40 percent. This is the maximum ERE amount to be reimbursed. It is agreed and understood that the Glendale Police Department shall absorb any and all expenditures in excess of **\$75,000.00**.

CERTIFICATIONS AND AGREEMENTS

This AGREEMENT, is made and entered into by and between the STATE OF ARIZONA, by and through the Oversight Council On Driving Or Operating Under The Influence Abatement (DUIAC) hereinafter referred to as "STATE", and the Glendale Police Department in this Agreement, hereinafter referred to as "AGENCY".

WHEREAS, the Arizona Revised Statutes (§§1303-1304), provides State funds to STATE for approved DUI Enforcement and DUI Innovative projects; and

WHEREAS, STATE may make said funds available to various state, county, tribal, or municipal agencies, governments, or political subdivisions upon application and approval by STATE; and

WHEREAS, AGENCY must comply with the requirements listed herein to be eligible for State funds for approved DUI Enforcement and DUI Innovative projects; and

WHEREAS, AGENCY has submitted an application for State funds for DUI Enforcement and DUI Innovative projects;

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOODS AND VALUABLE CONSIDERATION, it is mutually agreed that AGENCY will strictly comply with the following terms and conditions and the following Federal and State Statutes, Rules, and Regulations:

**I. Project Monitoring, Reports, and Inspections**

- A. AGENCY agrees to fully cooperate with representatives of STATE monitoring the project, either on-site or by telephone, during the life of the Agreement.
- B. AGENCY will submit Quarterly Reports (one for each three-month period of the project year) to STATE in the form and manner prescribed by STATE. Notice of the specific requirements for each report will be given in this Agreement or at any time thereafter by giving thirty (30) days written notice to AGENCY by ordinary mail at the address listed on the Agreement. Failure to comply with Quarterly Report requirements may result in withholding of State funds or termination of this Agreement.
- C. AGENCY will submit a Final Report/Statement of Accomplishment at completion of the Agreement to include all financial, performance, and other reports required as a condition of the grant to STATE within thirty (30) days of the completion of the Agreement.
- D. Representatives authorized by STATE will have the right to visit the site and inspect the work under this Agreement whenever such representatives may determine such inspection is necessary.

**II. Reimbursement of Eligible Expenses**

- A. AGENCY'S Project Director, or Finance Personnel, will submit a Report of Costs Incurred Form (RCI) to STATE each time there have been funds expended for which reimbursement is being requested. Failure to meet this requirement may be cause to terminate the project under section XIX herein, "Termination and Abandonment".



- B. AGENCY will reimburse STATE for any ineligible or unauthorized expenses for which State funds have been claimed and reimbursement received, as may have been determined by a State audit.
- C. STATE will have the right to withhold any installments equal to the reimbursement received by AGENCY for prior installments which have been subsequently determined to be ineligible or unauthorized.

### **III. Property Agreement**

- A. AGENCY will immediately notify STATE if any equipment purchased under this Agreement ceases to be used in the manner as set forth by this Agreement. In such event, AGENCY further agrees to either give credit to the project cost or to another active DUI Abatement project for the residual value of such equipment in an amount to be determined by STATE or to transfer or otherwise dispose of such equipment as directed by STATE.
- B. No equipment will be conveyed, sold, salvaged, transferred, etc., without the express written approval of STATE, or unless otherwise provided elsewhere in this Agreement.
- C. AGENCY will maintain or cause to be maintained for its useful life, any equipment purchased under this Agreement.
- D. AGENCY will incorporate any equipment purchased under this Agreement into its inventory records.
- E. AGENCY will insure any equipment purchased under this Agreement for the duration of its useful life. Self-insurance meets the requirements of this section.

### **IV. Travel**

#### In-State and Out-of-State Travel

In-state and out-of-state travel claims will be reimbursed at rates provided by AGENCY'S regulations, provided that such regulations are as restrictive as those of STATE. Where they are less restrictive, ARS §38-624 will apply.

All out-of-state travel must be approved in writing in advance by STATE.

### **V. Standard of Performance**

AGENCY hereby agrees to perform all work and services herein required or set forth, and to furnish all labor, materials, and equipment, except that labor, material, and equipment as STATE agrees to furnish pursuant to this Agreement.

**VI. Hold Harmless Agreement**

Neither party to this agreement agrees to indemnify the other party or hold harmless the other party from liability hereunder. However, if the common law or a statute provides for either a right to indemnify and/or a right to contribution to any party to this agreement then the right to pursue one or both of these remedies is preserved.

**VII. Non-Assignment and Sub-Contracts**

This Agreement is not assignable nor may any portion of the work to be performed be sub-contracted unless specifically agreed to in writing by STATE. No equipment purchased hereunder may be assigned or operated by other than AGENCY unless agreed to in writing by STATE.

**VIII. Work Products and Title to Commodities and Equipment**

A. The work product and results of the project are the property of STATE, unless otherwise specified elsewhere in this Agreement. All property, instruments, non-consumable materials, supplies, and the like, which are furnished or paid for by STATE under the terms of this Agreement, unless otherwise provided for elsewhere in this Agreement, are and remain the property of STATE and will be returned at the completion of this project upon request of STATE. The work product and results of the project will be furnished to STATE upon request, if no provision is otherwise made by this Agreement.

B. The provisions of subparagraph A apply whether or not the project agreed to herein is completed.

**IX. Copyrights and Patents**

Any copyrightable materials, patentable discovery, or invention produced in the course of this project may be claimed by STATE and a copyright or patent obtained by it at its expense. In the event STATE does not wish to obtain such copyright or patent, AGENCY may do so, but in any event, provision will be made by AGENCY for royalty-free, nonexclusive, nontransferable, and irrevocable licenses to be given the United States Government and STATE and its political subdivisions to use such copyrightable material, patented discoveries, or inventions in any manner they see fit. The STATE reserves the right to impose such other terms and conditions upon the use of such copyrights or patents as may be deemed in the best interest of STATE in the event AGENCY is allowed to obtain a copyright or patent.

**X. Arizona Procurement Code (ARS, §41-2501, et. seq.)**

AGENCY and sub-grantees will use their own procurement procedures, which reflect applicable State and local laws and regulations. The most stringent purchasing requirement at each level must be met.

The Arizona Procurement Code (ARS, §41-2501, et. seq.) and promulgated rules (A.A.C. Title 2, Chapter 7) are a part of this Agreement as if fully set forth herein and AGENCY agrees to fully comply with these requirements for any procurement using grant monies from this Agreement.

**XI. Equal Opportunity**

- A. Pursuant to the requirements of the Federal-Aid Highway Act of 1968 (U.S.C. §103 et. seq.), AGENCY, as a condition to receiving approval of this Agreement, hereby gives its assurance that employment in connection with the subject DUI Abatement Council Grant Project will be provided without regard to race, color, creed, sex, or national origin, and that any contract it enters into with any private agency pursuant hereto will include provisions in compliance with this paragraph (XI).

As a condition of receiving approval of this Agreement, AGENCY will be subject to and will comply with Title VI of the Civil Rights Act of 1964, providing that no person in the United States shall on the ground of race, color, creed, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the subject DUI Abatement Council Grant Project.

- B. If AGENCY fails or refuses to comply with its undertaking as set forth in these provisions, STATE may take any or all of the following actions.
1. Cancel, terminate, or suspend, in whole or in part, the agreement, contract, or other arrangement with respect to which the failure or refusal occurred; and
  2. Refrain from extending any further State financial assistance to AGENCY under the DUI Abatement Council Grant Program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from AGENCY.
- C. Pursuant to the requirement of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), AGENCY must operate this DUI Abatement Council Grant Project so that it is accessible and otherwise non-discriminatory to handicapped persons.

## **XII. Executive Order 2009-09**

It is mutually agreed that AGENCY will comply with the terms and conditions of Executive Order 2009-09, *Non-Discrimination in Employment by Government Contractors and Subcontractors*. Executive Order 2009-09 is located in Part II of the Project Director's Manual.

## **XIII. Arbitration Clause, ARS §12-1518**

Pursuant to ARS §12-1518, the parties agree to use arbitration, after exhausting applicable administrative reviews, to resolve disputes arising out of this Agreement where the provisions of mandatory arbitration apply.

## **XIV. Inspection and Audit, ARS §35-214**

Pursuant to ARS §35-214, all books, accounts, reports, files, and other records relating to this Agreement will be subject at all reasonable times to inspection and audit by STATE for five (5) years after completion of this Agreement. The records will be produced at the Governor's Office of Highway Safety.

## **XV. Appropriation of Funds by the Arizona Legislature**

It is agreed that in no event will this Agreement be binding on any party hereto unless and until such time as funds are appropriated and authorized by the Arizona Legislature and specifically allocated to the project submitted herein by the DUI Abatement Council and then only for the fiscal

year for which such allocation is made. In the event no funds are appropriated by the Arizona Legislature or no funds are allocated for the project proposed herein by the DUI Abatement Council for subsequent fiscal years, this Agreement will be null and void, except as to that portion for which funds have then been appropriated or allocated to this project, and no right of action or damages will accrue to the benefit of the parties hereto as to that portion of the Agreement or project that may so become null and void.

#### **XVI. Continuation of DUI Abatement Program**

It is the intention of AGENCY to continue the DUI Abatement Program identified in this Agreement once DUI Abatement Council funding is completed. This intended continuation will be based upon cost effectiveness and an evaluation by AGENCY of the program's impact on highway safety.

#### **XVII. E-Verify**

Both Parties acknowledge that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. Both Parties warrant that they have registered with and participate with E-Verify. If either Party later determines that the other non-compliant Party has not complied with E-Verify, it will notify the non-compliant Party by certified mail of the determination and of the right to appeal the determination.

#### **XVIII. Termination and Abandonment**

- A. The STATE and AGENCY hereby agree to the full performance of the covenants contained herein, except that STATE reserves the right, at its discretion, to terminate or abandon any portion of the project for which services have not been already performed by AGENCY.
- B. In the event STATE abandons the services or any part of the services as herein provided, STATE will notify AGENCY in writing and within twenty-four (24) hours after receiving such notice, AGENCY will discontinue advancing the work under this Agreement and proceed to close said operations under the Agreement.
- C. The appraisal value of work performed by AGENCY to the date of such termination or abandonment shall be made by STATE on a basis equitable to STATE and AGENCY and a final reimbursement made to AGENCY on the basis of costs incurred. Upon termination or abandonment, AGENCY will deliver to STATE all documents, completely or partially completed, together with all unused materials supplied by STATE.
- D. AGENCY may terminate or abandon this Agreement upon thirty (30) days written notice to STATE, provided there is subsequent concurrence by STATE. Termination or abandonment by AGENCY will provide that costs can be incurred against the project up to and including sixty (60) days after notice is given to STATE.
- E. Any equipment or commodities which have been purchased as a part of this Agreement and which have not been consumed or reached the end of its useful life will be returned to STATE upon its written request.

**XIX. Cancellation Statute**

All parties are hereby put on notice that this Agreement is subject to cancellation pursuant to ARS §38-511, the provisions of which are stated below.

In accordance with ARS §38-511, this Agreement may be cancelled without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of the STATE, its political subdivisions or any department or agency of either, 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 of the Agreement with respect to the subject matter or the Agreement.

The cancellation shall be effective when written notice from the Governor or chief executive officer or governing body of the political subdivision is received by all other parties to the Agreement unless the notice specifies a later time.

AGREEMENT OF UNDERSTANDING AND CERTIFICATION OF COMPLIANCE**Acceptance of Condition**

It is understood and agreed by the undersigned that a grant received as a result of this Agreement is subject to ARS §28-602, and all administrative regulations governing grants established by the STATE. It is expressly agreed that this DUI Abatement Grant Project constitutes an official part of the STATE's DUI Abatement Council Program and that AGENCY will meet the requirements as set forth in the accompanying DUIAC Project Director's Manual, which are incorporated herein and made a part of this Agreement. All State Statutes, Rules, Regulations, and Circulars referenced in this Agreement are a part of this document as if fully set forth herein. It is also agreed that no work will be performed nor any obligation incurred until AGENCY is notified in writing that this project has been approved by the DUI Abatement Council Representative.

**Certificate of Compliance**

This is to certify that AGENCY will comply with all of the State Statutes, Rules and Regulations identified in this Agreement.

**Certification of Non-Duplication of Grant Funds Expenditure**

This is to certify that AGENCY has no ongoing nor completed projects under agreement with other Federal or State fund sources which duplicate or overlap any work contemplated or described in this Agreement. It is further certified that any pending or proposed request for other Federal or State grant funds which would duplicate or overlap work described in the Agreement will be revised to exclude any such duplication of grant fund expenditures. It is understood that any such duplication of Federal or State funds expenditures subsequently determined by audit will be subject to recovery by STATE.

**Single Audit Act**

If your political subdivision has had an independent audit meeting the requirements of the Single Audit Act of 1984, (31 U.S.C.A. §7501 et. seq.), please forward a copy to GOHS, Attention: Fiscal Services Officer, within thirty (30) days of the effective date of this Agreement. If such audit has not been performed, please advise when it is being scheduled.

**Buy America Act**

In accordance with the Buy America Act (49 U.S.C. 5323(j)):  
Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

REIMBURSEMENT INSTRUCTIONS

1. Agency Official preparing the Report of Costs Incurred:

Name: RICK ST. JOHN

Title: POLICE CHIEF

Telephone Number: 623-930-3059 Fax Number: 623-931-2103

E-mail Address: rstjohn@glendaleaz.com

2. Agency's Fiscal Contact:

Name: DAVID RICE

Title: MANAGEMENT ASSISTANT

Telephone Number: 623-930-3296 Fax Number: 623-931-2103

E-mail Address: drice@glendaleaz.com

Federal Identification Number: 86-6000247

3. **REIMBURSEMENT INFORMATION:**

Warrant/Check to be made payable to:

CITY OF GLENDALE

Warrant/Check to be mailed to:

GLENDALE POLICE DEPARTMENT  
(Agency)

6835 N. 57TH DRIVE  
(Address)

GLENDALE, AZ 85301  
(City, State, Zip Code)

**Lobbying Restrictions**

**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No State appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of the Arizona Legislature, an officer or employee of the Arizona Legislature, or an employee of a Member of the Arizona Legislature in connection with the awarding of any State contract, the making of any State grant, the making of any State loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any State contract, grant, loan, or cooperative agreement.
- B. If any funds other than State appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of the Arizona Legislature, an officer or employee of the Arizona Legislature, or an employee of a Member of the Arizona Legislature in connection with this State contract, grant, loan, or cooperative agreement, the undersigned will complete and submit Standard Form, "Disclosure Form to Report Lobbying," in accordance with the Arizona Secretary of State instructions.
- C. The undersigned will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients will certify and disclose accordingly.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction.

*Signature of Project Director:*

*Signature of Authorized Official of Governmental Unit:*

Rick St. John, Chief  
Glendale Police Department

Kevin Phelps, City Manager  
City of Glendale



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2-7-17      623-930-3059  
Date                      Telephone

\_\_\_\_\_  
Date                      Telephone



**AUTHORITY & FUNDS**

1. This Project is authorized by ARS §28-1303, and the funds authorized for this Project have been provided for by ARS §28-1304. The expenses are **Up-Front** under DUI Abatement Council's **Enforcement** program area, as approved for by the DUI Abatement Council.

2.	<b>A. EFFECTIVE DATE:</b>	<b>B. STATE FUNDS:</b>
	<i>Authorization to Proceed Date</i>	<u><b>\$75,000.00</b></u>

3. **AGREEMENT AND AUTHORIZATION TO PROCEED**  
by State Official responsible to Governor for the  
administration of the Oversight Council on Driving or  
Operating Under the Influence Abatement

\_\_\_\_\_  
Alberto Gutier, Director  
Governor's Highway Safety Representative

\_\_\_\_\_  
Date



## Legislation Description

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**File #:** 17-060, **Version:** 1

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### **ORDINANCE NO. O17-07**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF SIX CONVEYANCE OF SEWERLINE EASEMENTS FOR SEWERLINES IN THE CITY OF GLENDALE AS PART OF THE PHASE FOUR WASTEWATER COLLECTION SYSTEM AND MANHOLE REHABILITATION CAPITAL IMPROVEMENT PROJECT AND DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE.**

Staff Contact: Jack Friedline, Director, Public Works

### **Purpose and Recommended Action**

This is a request for City Council to waive reading beyond the title and adopt an ordinance accepting easements to install, repair, operate, maintain, and remove sewerlines, as necessary, located at six locations: 7533, 7534, 7539 (East Parcel), 7539 (West Parcel), 7841 North 59th Lane and 7534 North 59th Avenue.

### **Background**

The city will be replacing existing sewerlines in order to upgrade the facilities. There are no known recorded easements for the existing sewerlines. The owners have agreed to dedicate the necessary sewerline easements so new improvements can be maintained by the city consistent with City Code.

### **Analysis**

Staff recommends acceptance of the new sewerline easements. There will be no impact on City departments, staff or service levels as a result of this action. There are no costs incurred to the city for this action.

### **Previous Related Council Action**

On November 24, 2014, Council authorized entering into a Professional Services Agreement with Primatech, L.L.C., Contract No. C-9453 for design services related to the Phase IV Wastewater Collection System and Manhole Rehabilitation project.

ORDINANCE NO. O17-07

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF SIX CONVEYANCE OF SEWERLINE EASEMENTS FOR SEWERLINES IN THE CITY OF GLENDALE AS PART OF THE PHASE FOUR WASTEWATER COLLECTION SYSTEM AND MANHOLE REHABILITATION CAPITAL IMPROVEMENT PROJECT AND DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE.

WHEREAS, the City Council took action to authorize entering into a professional services agreement with Primatech L.L.C. for Phase Four of the wastewater and collection system and manhole rehabilitation project, passed and approved by City Council on November 24, 2014; and

WHEREAS, the owners of six parcels located at five locations: 7534 North 59<sup>th</sup> Avenue; 7533, 7534, 7539 (East parcel owner), 7539 (West parcel owner) and 7841 North 59<sup>th</sup> Lane within the City of Glendale have agreed to grant sewerline easements so that the new sewerline improvements will be located within a City easement and allow the City to install, repair, operate, maintain, remove and replace said sewerline improvements.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. The City of Glendale shall construct sewerline improvements and maintain these improvements consistent with the City Code.

SECTION 2. The Council hereby authorizes and instructs the City Manager to execute the six Conveyances of Easement, which are attached hereto as Exhibits 1-6, granting the sewerline easements described herein to the City so that the City may repair, install, maintain, operate, remove and replace these sewerlines.

SECTION 3. The provisions of this ordinance shall become effective thirty (30) days after passage of this ordinance by the Glendale City Council.

SECTION 4. The City Clerk is accordingly instructed and authorized to forward a certified copy of this ordinance and accompanying sewerline easements for recording to the Maricopa County Recorder's Office.

[Signatures on the following page]

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 28th day of February, 2017.

\_\_\_\_\_  
Mayor Jerry P. Weiers

ATTEST:

\_\_\_\_\_  
Julie K. Bower, City Clerk (SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael D. Bailey, City Attorney

REVIEWED BY:

\_\_\_\_\_  
Kevin R. Phelps, City Manager

## EXHIBIT 1

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, We, **MICHAEL W. BAIRD AND MARTHA A. BAIRD as Trustees of the Baird Family Trust dated July 18, 2014**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances ("facilities") upon, over and under the surface of the following described property:

**See Attached Description, "Exhibit A"**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Signer: **(Michael W. Baird)**

**Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Martha A. Baird)**

Its: **(Trustees)**

STATE OF ARIZONA    )  
County of Maricopa    ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by **(Michael W. Baird and Martha A. Baird, Trustees of the Baird Family Trust, dated July 18, 2014)**, who acknowledged that they executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

7533 N. 59<sup>th</sup> Lane  
Glendale, AZ 85301

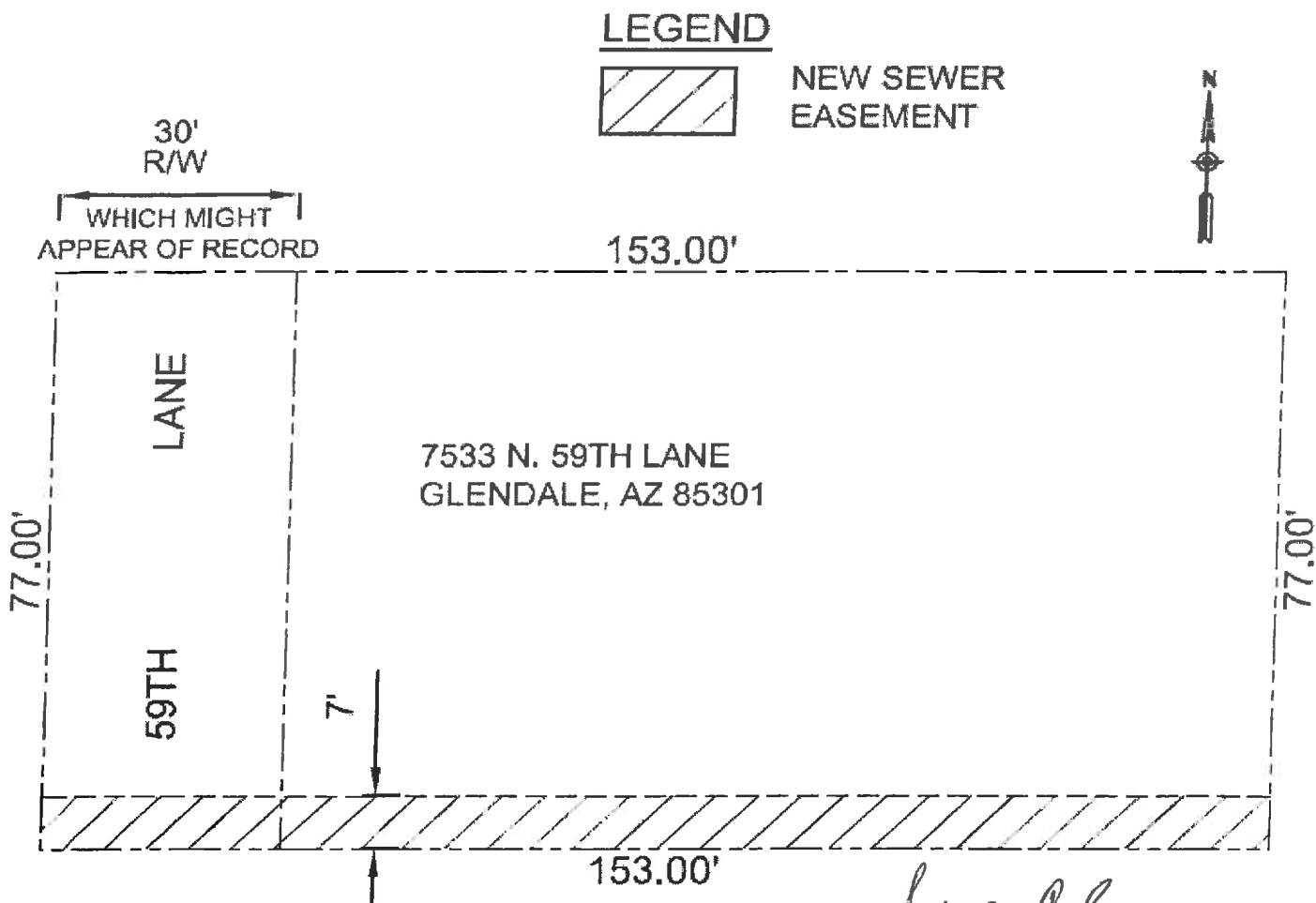
EXHIBIT "A"

A Portion of  
The West 153 feet of the South 77 feet of North 16 rods of the West half of the East half of Lot 16,  
HADSELL'S ADDITION TO GLENDALE, according to Book 2 of Maps, Page 10, records of Maricopa  
County, Arizona.

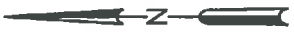
SUBJECT TO ALL EASEMENTS, RIGHTS-OF-WAY, ETC WHICH MAY APPEAR OF RECORD

DESCRIBED AS FOLLOWS:

The North 7 feet thereof.



EXPIRES 6/30/16



**7533 N 59TH LN**  
**NEW SEWER EASEMENT**  
**SEWER & MANHOLE REHABILITATION PHASE IV**  
**CIP # 131419**





## EXHIBIT 2

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, I, **Brian K. Patterson and Rachel M. Patterson, husband and wife**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a water line and appurtenances (“facilities”) upon, over and under the surface of the following described property:

**See Attached Description, “Exhibit A”**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Exempt Pursuant to A.R.S.§11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Brian K. Patterson)**  
Its: **(Grantor)**

STATE OF ARIZONA    )  
                                  ) ss.  
County of Maricopa    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by **(Brian K. Patterson, Husband, Grantor)**, who acknowledged that he executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

7534 N. 59<sup>th</sup> Lane  
Glendale, AZ 85301

EXHIBIT "A"

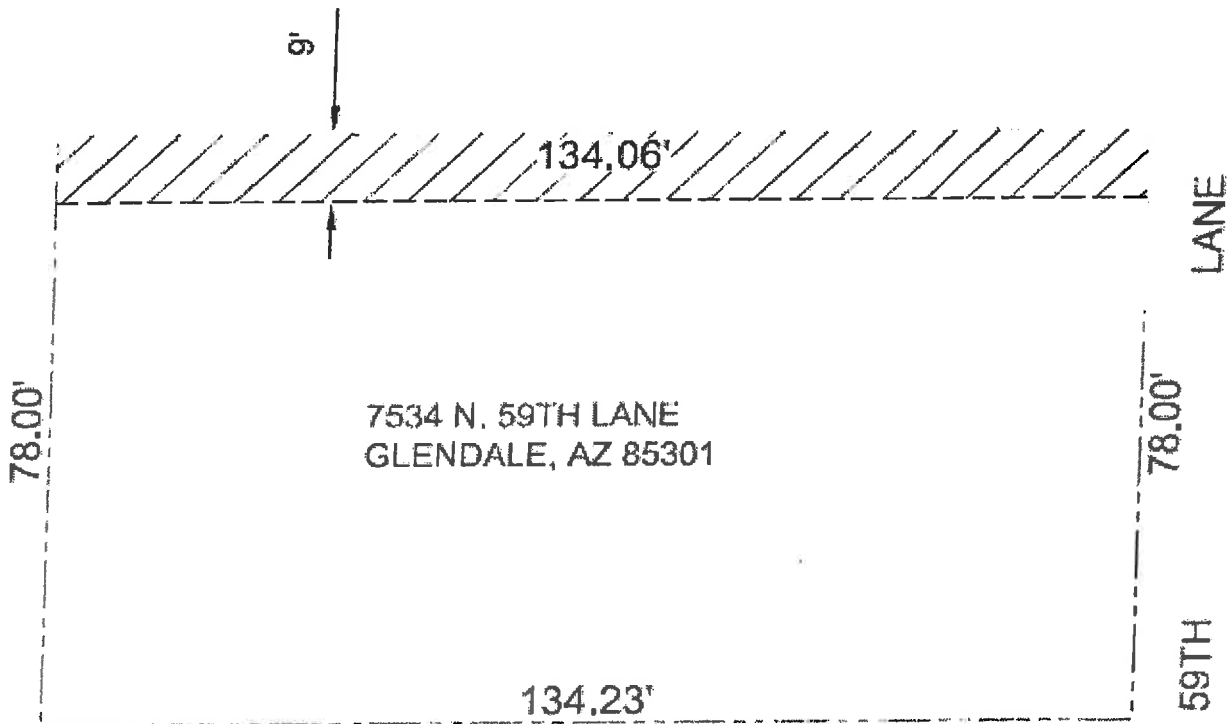
A Portion of  
Lot 25, ALSOBROOK PLACE No. 2, according to Book 54 of maps, page 25, records of Maricopa  
County, Arizona.

DESCRIBED AS FOLLOWS:  
The North 9 feet thereof.

LEGEND



NEW SEWER  
EASEMENT



EXPIRES 6/30/16



**7534 N 59TH LN**  
**NEW SEWER EASEMENT**  
**SEWER & MANHOLE REHABILITATION PHASE IV**  
**CIP # 131419**

RECORDING REQUESTED BY  
Chicago Title Agency, Inc.

C1

AND WHEN RECORDED MAIL TO:

Yo

Brian K. Patterson  
Rachel M. Patterson  
7534 N. 59th Ln.  
Glendale, AZ 85301

ESCROW NO.: C1602014 - 322 - KC6

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**WARRANTY DEED**

For the consideration of Ten Dollars, and other valuable consideration,

**Jeffrey B. Dieterich, Personal Representative of The Estate of Jean R. Dieterich, deceased**

("Grantor") conveys to

**Brian K. Patterson and Rachel M. Patterson, <sup>husband and wife</sup>~~Wife and Husband~~ as Community Property with  
Right of Survivorship**

the following real property situated in Maricopa County, Arizona:

LOT 25, ALSOBROOK PLACE NO. 2, ACCORDING TO BOOK 54 OF MAPS, PAGE 25,  
RECORDS OF MARICOPA COUNTY, ARIZONA.

SUBJECT TO: Current taxes and other assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations, and liabilities as may appear of record.

Grantor warrants the title against all persons whomsoever, subject to the matters set forth above.

Dated: April 14, 2016

Grantor(s):

The Estate of Jean R. Dieterich

  
\_\_\_\_\_  
Jeffrey B. Dieterich, as Personal Representative

Escrow No. C1602014-322-KC6  
Warranty Deed... Continued  
Page 2 of 2

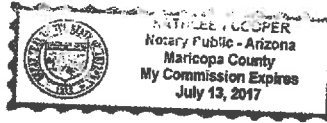
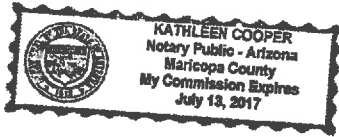
**NOTARY ACKNOWLEDGEMENT(S) TO WARRANTY DEED**

State of Arizona }  
County of Maricopa } ss:

The foregoing document was acknowledged before me this 15<sup>th</sup> day of April 2016

by Jeffrey B. Dieterich, Personal Representative of The Estate of Jean R. Dieterich, deceased

(Seal) Kathleen Cooper  
Notary Public  
My commission expires: 7-13-17



Unofficial Document



Chicago Title Agency, Inc.

Escrow No.: C1602014 322 KC6

ACCEPTANCE OF COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP "DEED"

Brian K. Patterson and Rachel M. Patterson, Wife and Husband as Community Property with Right of Survivorship, each being first duly sworn upon oath, deposes and says, THAT I am one of the Grantees named in the deed attached to this Acceptance, dated April 14, 2016 , and executed by Jeffrey B. Dieterich, Personal Representative of The Estate of Jean R. Dieterich, deceased as Grantors, to Brian K. Patterson and Rachel M. Patterson, Wife and Husband as Community Property with Right of Survivorship as Grantees, and which conveys the real property to the Grantees named in the deed, not as tenants in common, nor as community property, nor as joint tenants with right of survivorship, but as community property with right of survivorship.

Each of us individually and jointly as Grantees assert and affirm that it is our intention to accept this conveyance as community property with right of survivorship and to acquire any interest we may have in the real property under the terms of the Deed as community property with right of survivorship.

Dated: March 11, 2016

GRANTEES:

[Signature of Brian K. Patterson]
Brian K. Patterson

Unofficial Document

[Signature of Rachel M. Patterson]
Rachel M. Patterson

NOTARY ACKNOWLEDGEMENT(S) TO ACCEPTANCE OF COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP DEED

State of Arizona
County of Maricopa

} ss:

The foregoing document was acknowledged before me this 20th day of April, 2016 by Brian K. Patterson and Rachel M. Patterson

(Seal)

[Signature of Notary Public]
Notary Public

My commission expires: April 29, 2017



## EXHIBIT 3



When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

For Ten Dollars and other valuable consideration, We, **JOHN ROSALES GONZALES and BERTHA G. GONZALES, not as tenants in common, and not as joint tenants, but as community property with rights of survivorship**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances ("facilities") upon, over and under the surface of the following described property:

### See Attached Description, "Exhibit A"

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Signer: **(John Rosales Gonzales)**

**Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Bertha G. Gonzales)**

Its: **(Grantors)**

STATE OF ARIZONA    )  
                                  ) ss.  
County of Maricopa    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by **(JOHN ROSALES Gonzales and BERTHA G. GONZALES, not as tenants in common, and not as joint tenants, but as community property with rights of survivorship, Grantors)**, who acknowledged that they executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

7539 N. 59<sup>th</sup> Lane  
Glendale, AZ 85301

EXHIBIT "A"

A portion of:

The North 264 feet of the west half of the east half of Lot 16, HADSELL'S ADDITION TO GLENDALE, according to book 2 of Maps, Page 10, records of Maricopa County, Arizona.

EXCEPT The South 66 feet thereof; and

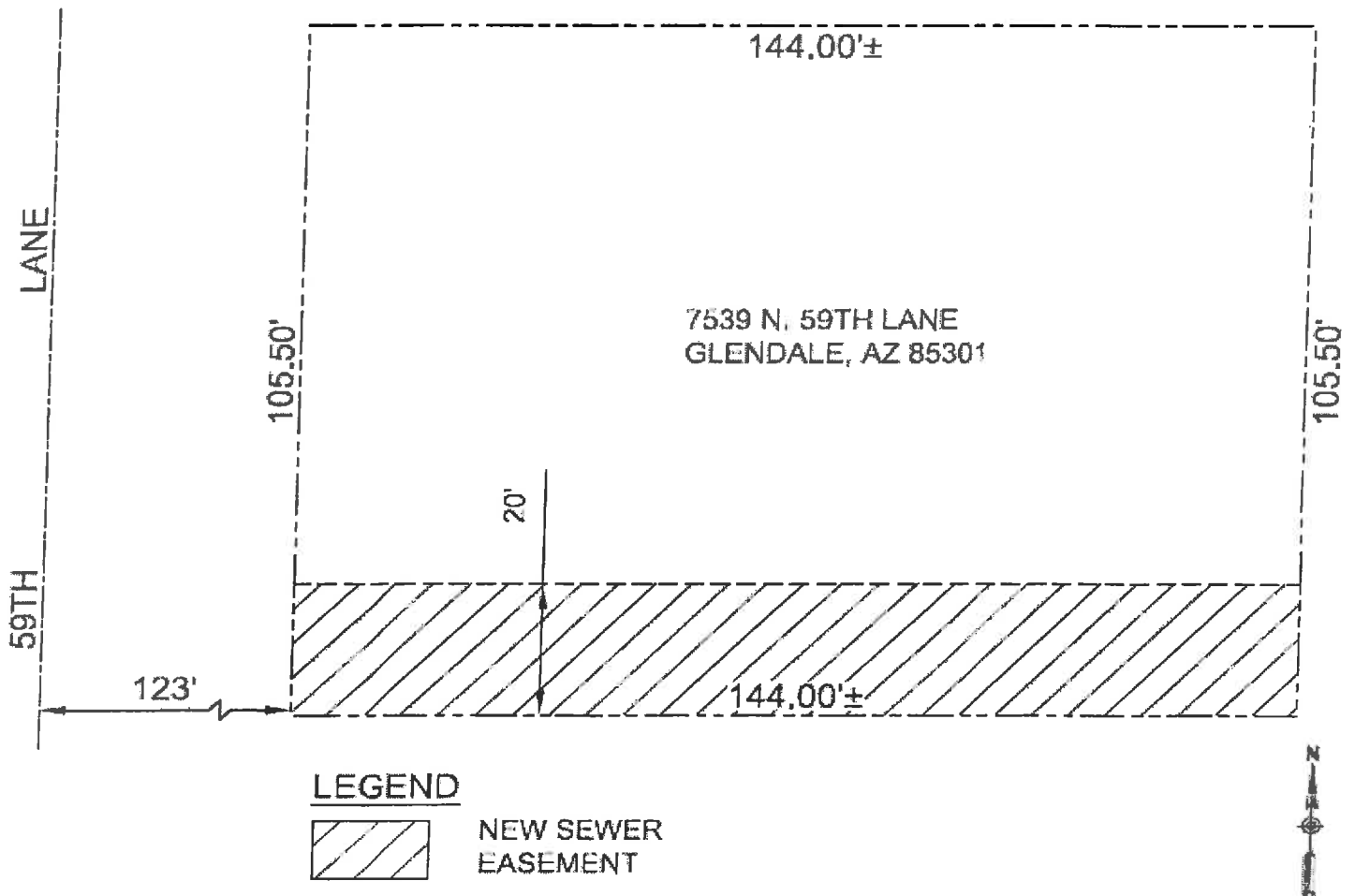
EXCEPT the North 92.50 feet of the North 198 feet thereof; and

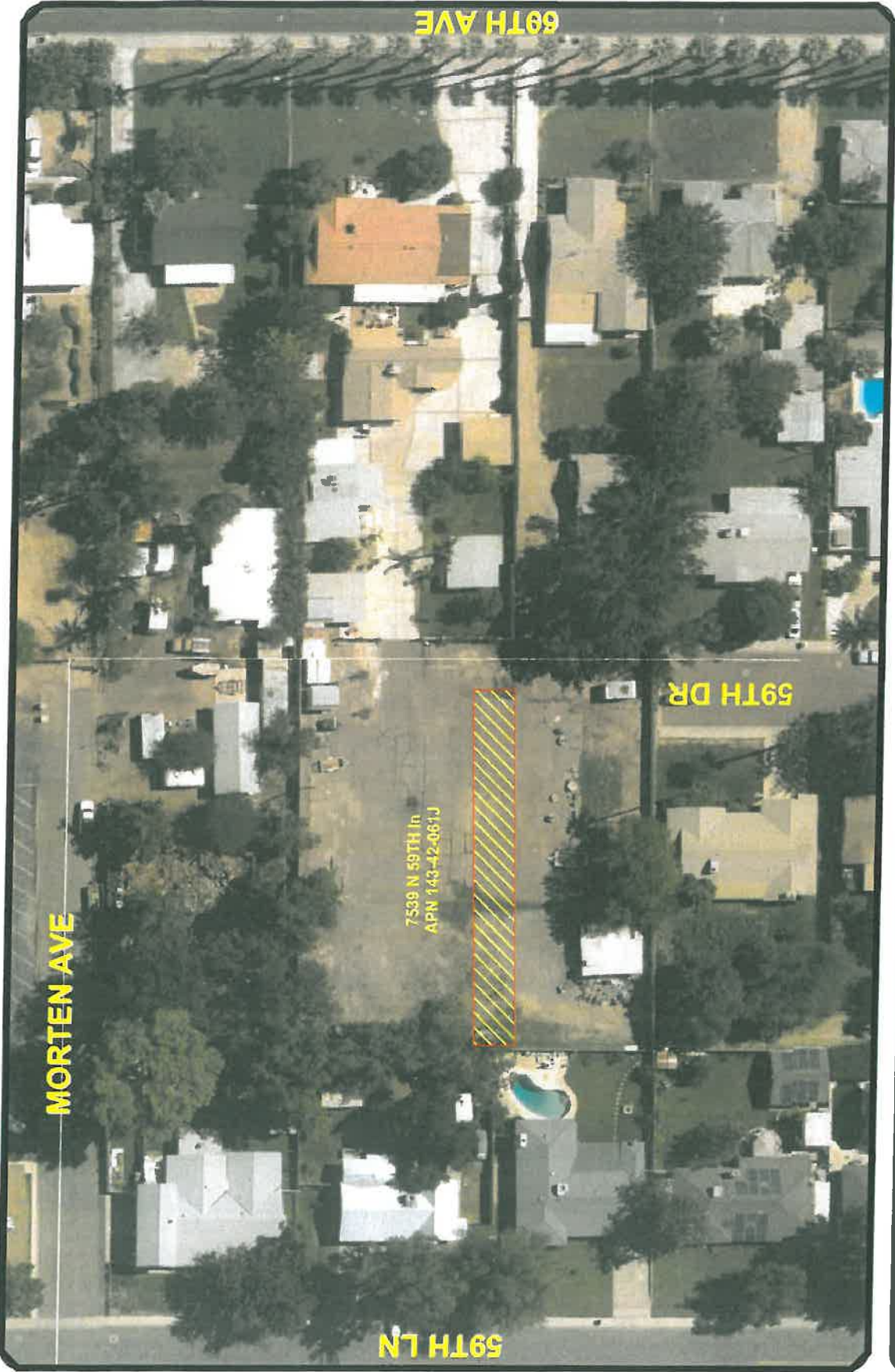
EXCEPT The west 153 feet thereof; and

EXCEPT the East 20 feet thereof.

DESCRIBED AS FOLLOWS:

The South 20 feet thereof.





**7539 N 59TH LN**  
**NEW SEWER EASEMENT**  
**SEWER & MANHOLE REHABILITATION PHASE IV**  
**CIP # 131419**

## EXHIBIT 4

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, I, **CAMERON JAMES BERRYHILL, A Single Man**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances ("facilities") upon, over and under the surface of the following described property:

**See Attached Description, "Exhibit A"**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Cameron James Berryhill)**  
Its: **(Grantor)**

STATE OF ARIZONA    )  
County of Maricopa    ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
by **(Cameron James Berryhill, a single man, Grantor)**, who acknowledged that he executed this  
instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

7539 N. 59<sup>th</sup> Lane  
Glendale, AZ 85301

EXHIBIT "A"

A Portion of  
THE WEST 153 FEET OF THE NORTH 264 FEET OF THE EAST HALF OF LOT 16, HADSELL'S  
ADDITION TO GLENDALE, ACCORDING TO BOOK 2 OF MAPS, PAGE 10, RECORDS OF  
MARICOPA.

EXCEPT THE NORTH 92.5 FEET THEREOF; AND

EXCEPT THE SOUTH 77 FEET THEREOF; AND

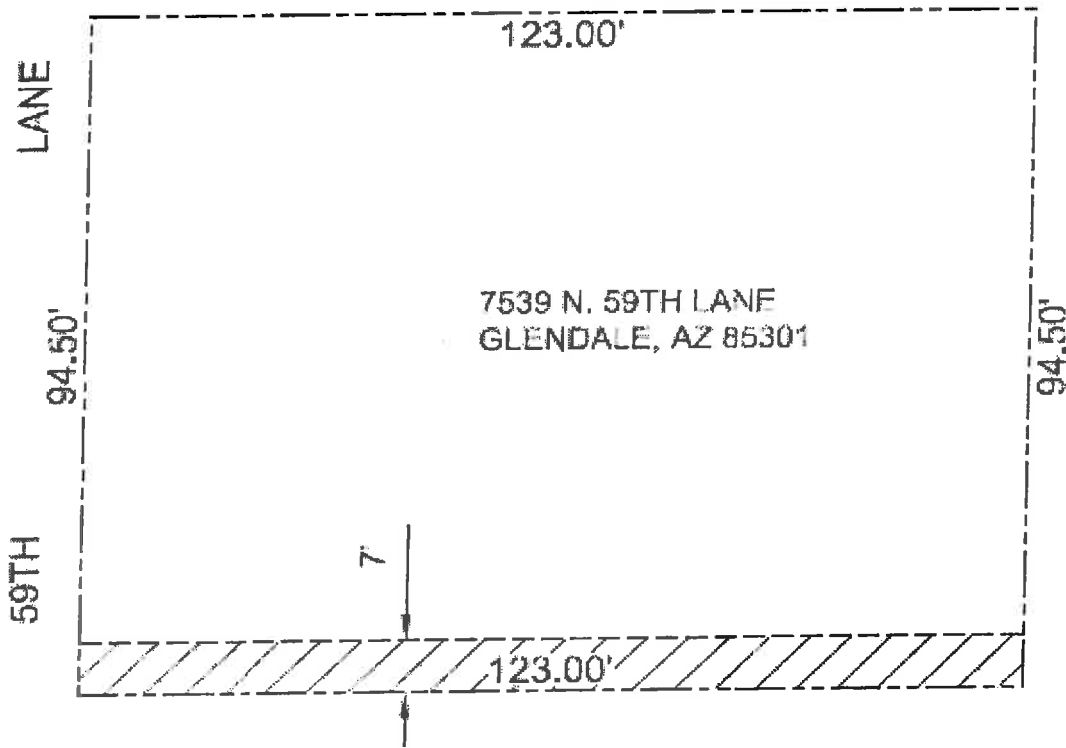
EXCEPT THE WEST 30 FEET THEREOF.

DESCRIBED AS FOLLOWS:

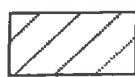
The South 7 feet there of.



EXPIRES 6/30/16



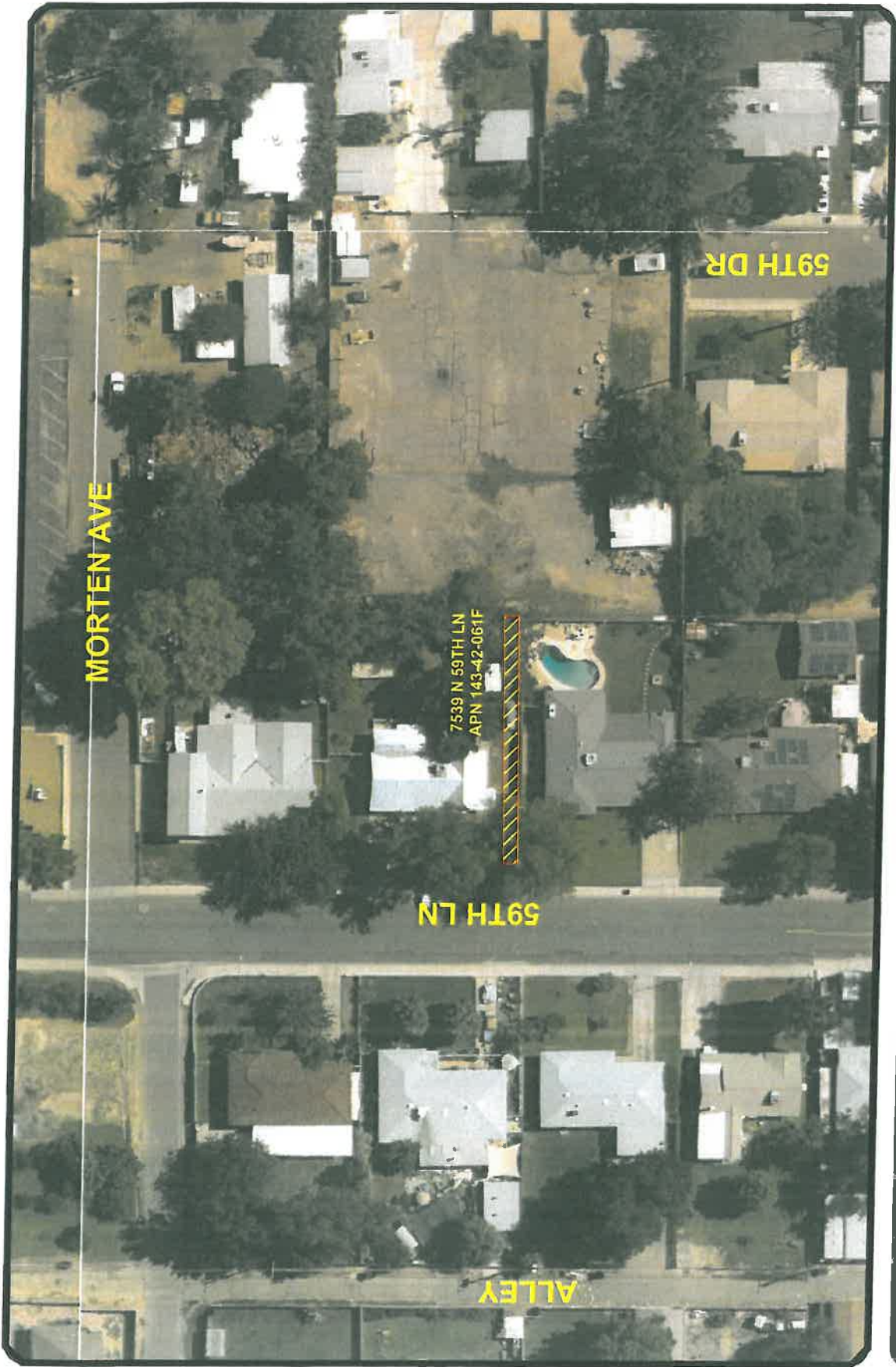
LEGEND



NEW SEWER  
EASEMENT







**7539 N 59TH LN**  
**NEW SEWER EASEMENT**  
**SEWER & MANHOLE REHABILITATION PHASE IV**  
**CIP # 131419**

## EXHIBIT 5



When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, **REAL ESTATE BABY 20, LLC, an Arizona limited liability company**, does hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances ("facilities") upon, over and under the surface of the following described property:

**See Attached Description, "Exhibit A"**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)**

STATE OF ARIZONA     )  
                                  ) ss.  
County of Maricopa    )

By: \_\_\_\_\_  
Signer:  
(Printed Name)  
Its:  
(Member, manager, etc)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
by (name of person acknowledged and title or capacity to sign on behalf of Grantor), who  
acknowledged that he executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

7841 N. 59<sup>th</sup> Lane  
Glendale, AZ 85301

EXHIBIT "A"

A Portion of  
THE WEST 440 FEET OF THE SOUTHEAST QUARTER OF LOT 1, HADSELL'S ADDITION TO  
GLENDALE, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY  
RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED IN BOOK 2 OF MAPS, PAGE 10;

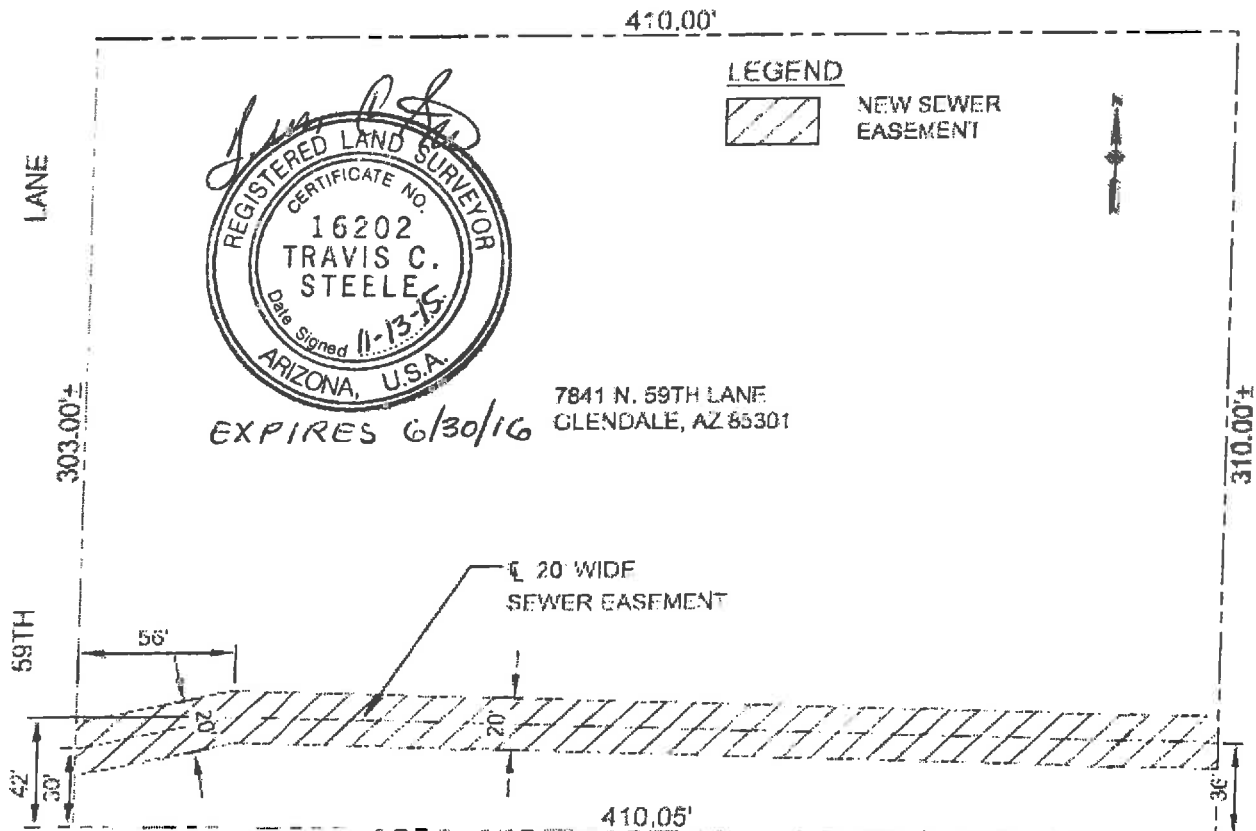
EXCEPT THE NORTH 16.5 FEET THEREOF; AND  
EXCEPT THE WEST 30 FEET THEREOF,

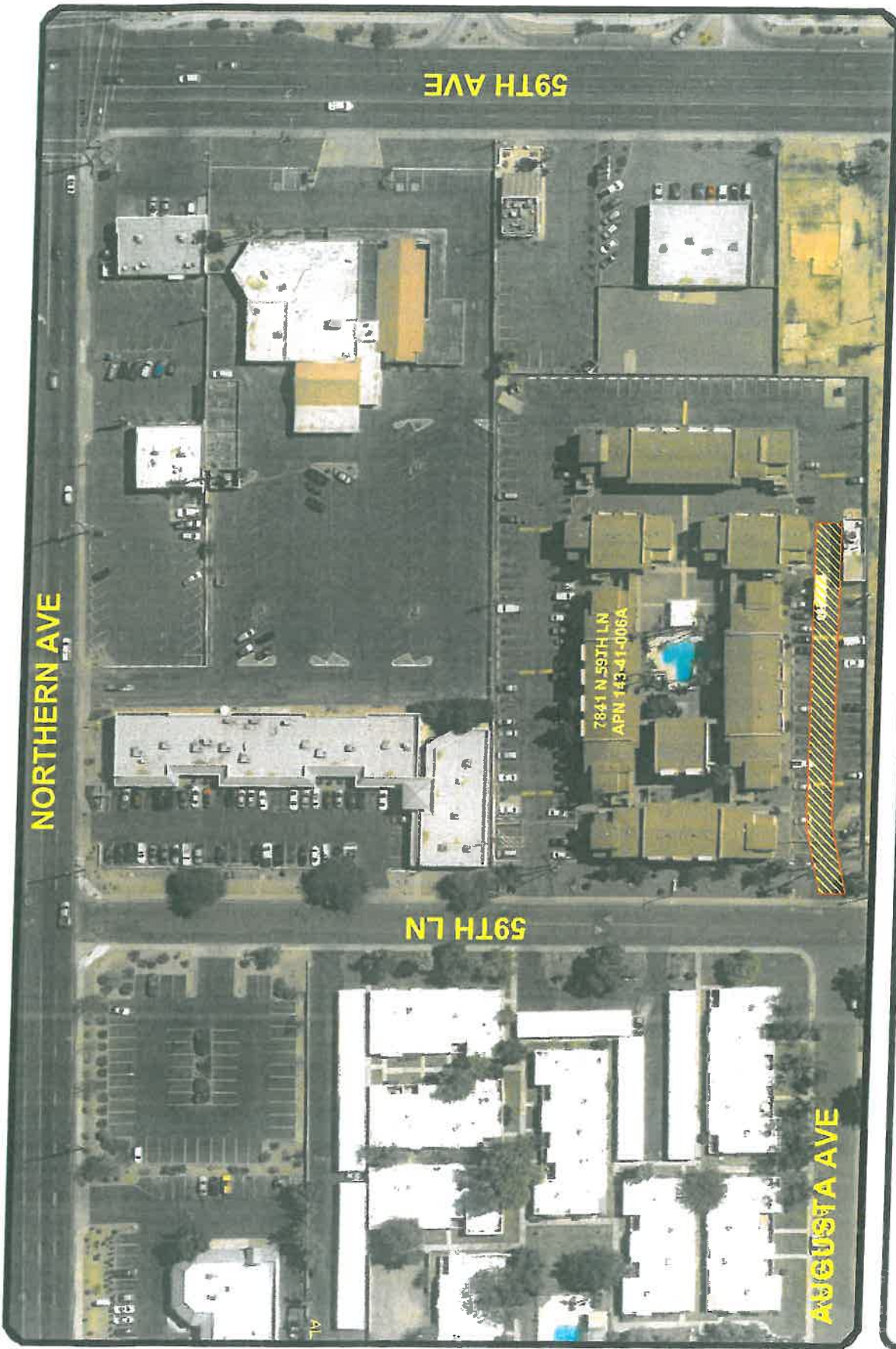
DESCRIBED AS FOLLOWS:

A 20 feet wide sewer easement the centerline of which is described as follows:  
Commencing at the southeast corner of said WEST 440 FEET  
thence north along the East boundary of said WEST 440  
36 feet to the POINT OF BEGINNING of said centerline.

Thence: Westerly to a point 42 feet North of and 56 feet East of the Southwest corner of said WEST 440  
FEET

Thence: South westerly to a point on the west boundary of said WEST 440 FEET  
which is 30 feet Northerly along the said west boundary from the southwest corner of said  
WEST 440 FEET  
Said 20 feet easement is lengthened or shortened to intersect the boundaries of the said WEST  
440 FEET





**7841 N 59TH LN  
NEW SEWER EASEMENT  
SEWER & MANHOLE REHABILITATION PHASE IV  
CIP # 131419**



## EXHIBIT 6

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

**CONVEYANCE OF EASEMENT**

---

For Ten Dollars and other valuable consideration, We, **JAMES H. COLEMAN AND PEGGY J. COLEMAN, husband and wife**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances (“facilities”) upon, over and under the surface of the following described property:

**See Attached Description, “Exhibit A”**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Signer: **(James H. Coleman)**

**Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Peggy J. Coleman)**

Its: **(Grantors)**

STATE OF ARIZONA    )  
                                  ) ss.  
County of Maricopa    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by **(James H. Coleman and Peggy J. Coleman, husband and wife, Grantors)**, who acknowledged that they executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

7534 N. 59<sup>th</sup> Avenue  
Glendale, AZ 85301

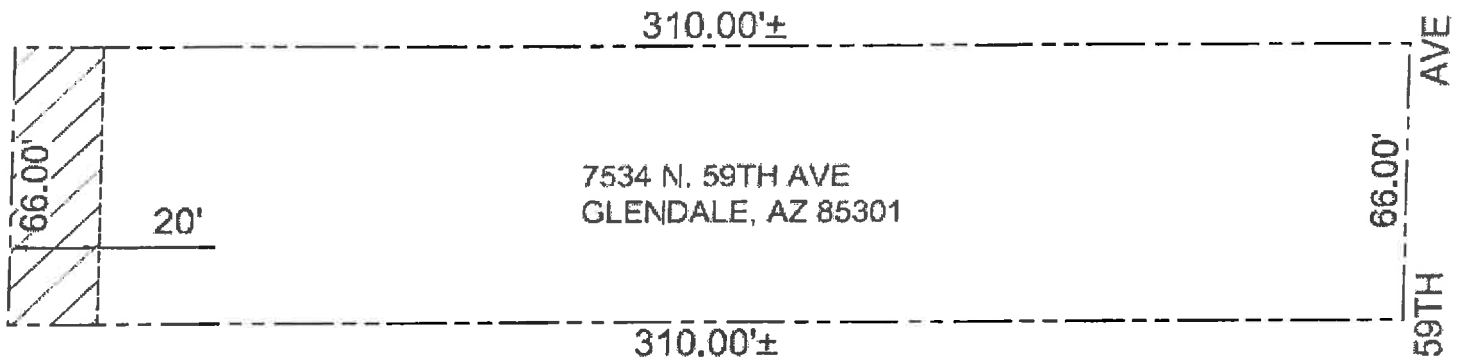
EXHIBIT "A"

A Portion of  
The South 66 feet of the North 16 Rods of the East half of the East half of Lot 16, of HADSELL'S  
ADDITION, according to the plat of record in the office of the County Recorder of Maricopa County,  
Arizona, recorded in the Book 2 of Maps Page 10;

EXCEPT the East 7 feet thereof.

DESCRIBED AS FOLLOWS:

The West 20 feet thereof.



EXPIRES 6/30/16

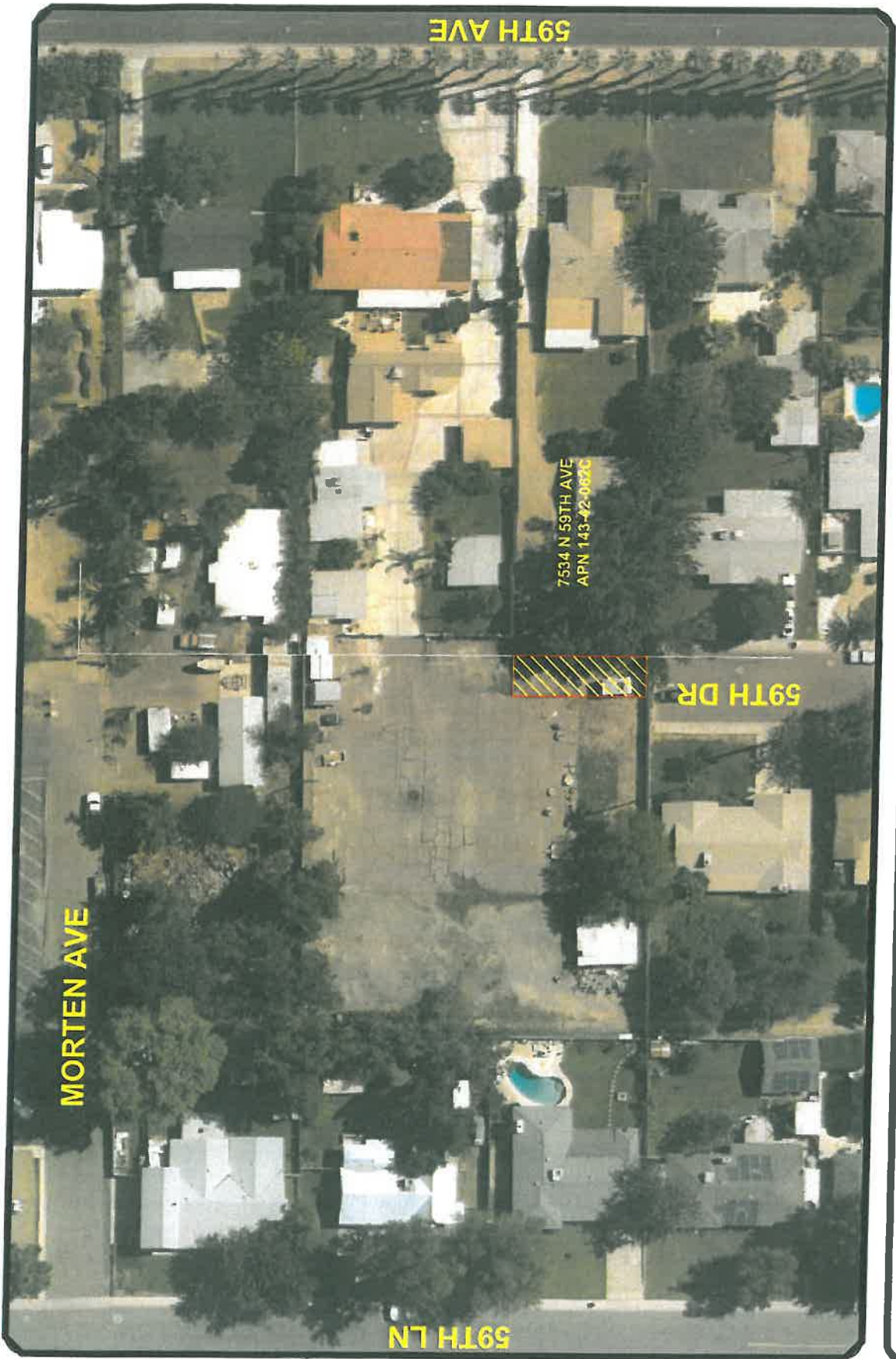
LEGEND



NEW SEWER  
EASEMENT







59TH AVE

7534 N 59TH AVE  
APN 143-42-082C

59TH DR

MORTEN AVE

59TH LN

**7534 N 59TH AVE  
NEW SEWER EASEMENT  
SEWER & MANHOLE REHABILITATION PHASE IV  
CIP # 131419**





## Legislation Description

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**File #:** 17-061, **Version:** 1

---

### **ORDINANCE NO. O17-08**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF SEVEN CONVEYANCE OF SEWERLINE EASEMENTS FOR SEWERLINES LOCATED AT SEVEN LOCATIONS IN THE CITY OF GLENDALE AS PART OF THE PHASE FOUR WASTEWATER COLLECTION SYSTEM AND MANHOLE REHABILITATION CAPITAL IMPROVEMENT PROJECT AND DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE.**

Staff Contact: Jack Friedline, Director, Public Works

### **Purpose and Recommended Action**

This is a request for City Council to waive reading beyond the title and adopt an ordinance accepting easements to install, repair, operate, maintain, and remove sewerlines, as necessary, located at seven locations: 6202, 6214(B), 6222, 6226, 6236, 6242 and 6246 West Maryland Avenue.

### **Background**

The city will be replacing existing sewerlines in order to upgrade the facilities. There are no known recorded easements for the existing sewerlines. The owners have agreed to dedicate the necessary sewerline easements so new improvements can be maintained by the city consistent with City Code.

### **Analysis**

Staff recommends acceptance of the new sewerline easements. There will be no impact on City departments, staff or service levels as a result of this action. There are no costs incurred to the city for this action.

### **Previous Related Council Action**

On November 24, 2014, Council authorized entering into a Professional Services Agreement with Primatch, L.L.C., Contract No. C-9453 for design services related to the Phase IV Wastewater Collection System and Manhole Rehabilitation project.



ORDINANCE NO. O17-08

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF SEVEN CONVEYANCE OF SEWERLINE EASEMENTS FOR SEWERLINES LOCATED AT SEVEN LOCATIONS IN THE CITY OF GLENDALE AS PART OF THE PHASE FOUR WASTEWATER COLLECTION SYSTEM AND MANHOLE REHABILITATION CAPITAL IMPROVEMENT PROJECT AND DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE.

WHEREAS, the City Council took action to authorize entering into a professional services agreement with Primatech L.L.C. for Phase Four of the wastewater and collection system and manhole rehabilitation project, passed and approved by City Council on November 24, 2014; and

WHEREAS, the owners of seven City of Glendale properties located at seven locations: 6202, 6214 (#B), 6222, 6226, 6236, 6242 and 6246 West Maryland Avenue, have agreed to grant sewerline easements so new sewerline improvements will be located within a City easement, allowing the City to maintain said sewerline improvements.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. The City of Glendale will construct sewerline improvements and maintain these improvements consistent with the City Code.

SECTION 2. The Council hereby authorizes and instructs the City Manager to execute the seven conveyances of Easements, which are attached hereto as Exhibits 1-7, granting the sewerline easements described herein to the City so that the City may install, repair, operate, maintain, remove and/or replace these sewerlines, as necessary.

SECTION 3. The City Clerk is accordingly instructed and authorized to forward a certified copy of this ordinance and accompanying sewerline easements for recording to the Maricopa County Recorder's Office.

SECTION 4. The provisions of this ordinance shall become effective thirty (30) days after passage of this ordinance by the Glendale City Council.

[Signatures on the following page]

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 28th day of February, 2017.

\_\_\_\_\_  
Mayor Jerry P. Weiers

ATTEST:

\_\_\_\_\_  
Julie K. Bower, City Clerk (SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael D. Bailey, City Attorney

REVIEWED BY:

\_\_\_\_\_  
Kevin R. Phelps, City Manager

## EXHIBIT 1

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, **KSH MARYLAND, LLC**, an Arizona limited liability company, does hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances ("facilities") upon, over and under the surface of the following described property:

**See Attached Description, "Exhibit A"**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)

By: \_\_\_\_\_  
Signer:  
(Printed Name)  
Its:  
(Member, manager, etc)

STATE OF ARIZONA    )  
                                  ) ss.  
County of Maricopa    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by (name of person acknowledged and title or capacity to sign on behalf of Grantor), who acknowledged that he executed this instrument for the purposes therein contained.

My commission expires:

---

Notary Public

6246 WEST MARYLAND AVENUE  
GLENDALE, AZ 85301

EXHIBIT "A"

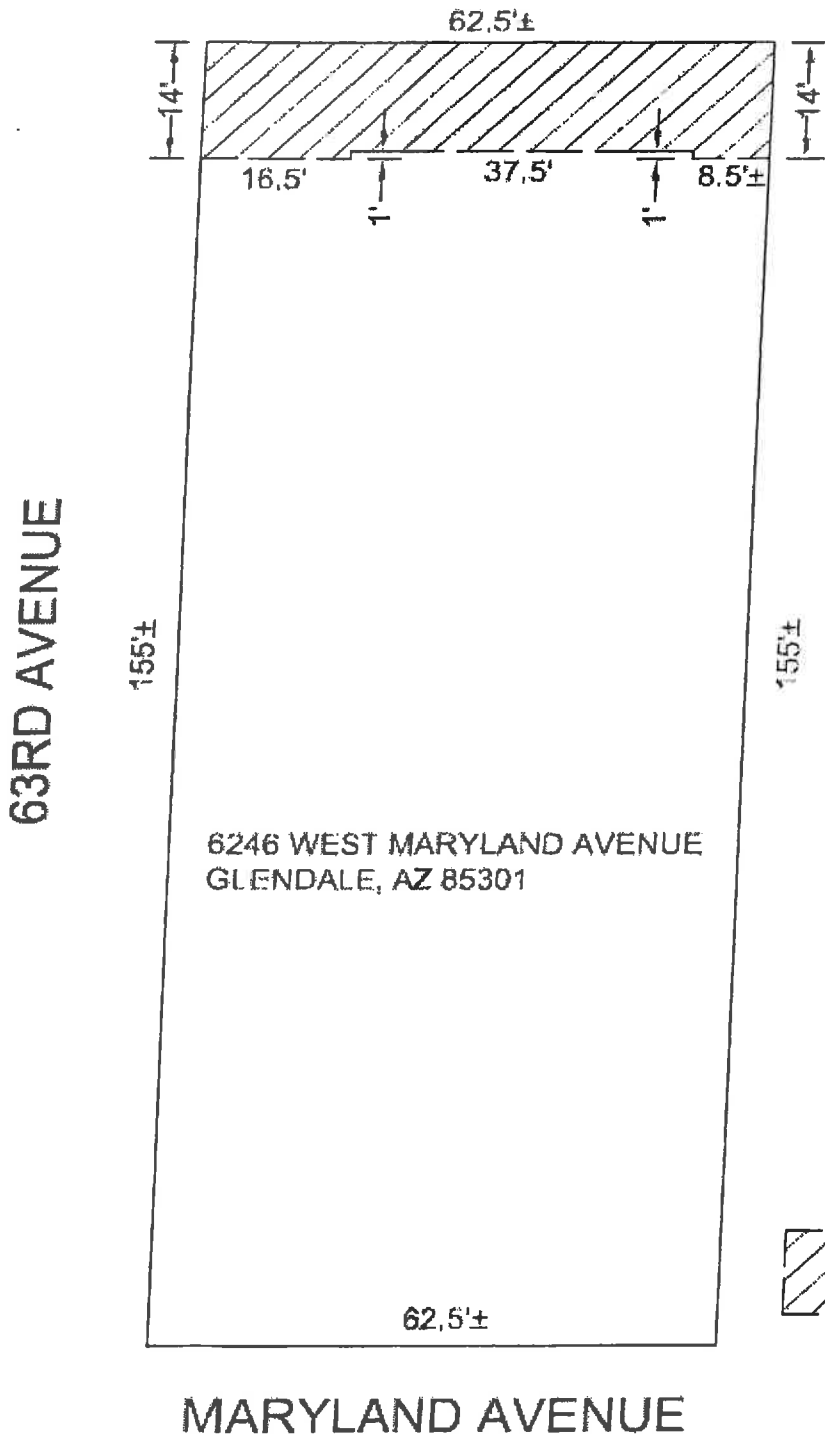
A Portion of

The South half of the West one-tenth (10) of the South half of Lot 3, Block 8, ORCHARD ADDITION TO GLENDALE, according to Book 3 of Maps, page 30, records of Maricopa County, Arizona.

DESCRIBED AS FOLLOWS:

The North 14 feet thereof.

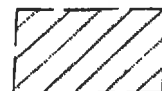
Except the East 37.5 feet of the West 54 feet of the South 1 foot of the said North 14 feet.



EXPIRES 6/30/16



LEGEND



SEWER  
EASEMENT



**6246 W MARYLAND AVE**  
**NEW SEWER EASEMENT**  
**SEWER & MANHOLE REHABILITATION PHASE IV**  
**CIP # 131419**



## EXHIBIT 2

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

**CONVEYANCE OF EASEMENT**

For Ten Dollars and other valuable consideration, I, **PATRICIA RAMIEZ, an unmarried woman**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances ("facilities") upon, over and under the surface of the following described property:

**See Attached Description, "Exhibit A"**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Patricia Ramirez)**  
Its: **(Grantor)**

STATE OF ARIZONA    )  
                                  ) ss.  
County of Maricopa    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by **(Patricia Ramirez, Grantor)**, who acknowledged that she executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

6242 West Maryland Avenue  
Glendale, AZ 85301



EXHIBIT "A"

A Portion of

The South half of the East half of the West two-tenths of the South half of Lot 3, Block 8, ORCHARD ADDITION TO GLENDALE, according to Book 3 of Maps, page 30, records of Maricopa County, Arizona.

DESCRIBED AS FOLLOWS:

The North 14 feet thereof.



EXPIRES 6/30/16



LEGEND



SEWER  
EASEMENT



**6242 W MARYLAND AVE  
NEW SEWER EASEMENT  
SEWER & MANHOLE REHABILITATION PHASE IV  
CIP # 131419**



## EXHIBIT 3

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, **CRESCENT STRATEGIC ASSET PARTNERS 2011A, LLC\***, an **Arizona limited liability company**, does hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances (“facilities”) upon, over and under the surface of the following described property:

**See Attached Description, “Exhibit A”**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Exempt Pursuant to A.R.S.§11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer:  
**(Printed Name)**  
Its:  
**(Member, manager, etc)**

STATE OF ARIZONA    )  
                                  ) ss.  
County of Maricopa    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
by **(name of person acknowledged and title or capacity to sign on behalf of Grantor)**, who  
acknowledged that he executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

6236 West Maryland Avenue  
Glendale, AZ 85301





**6236 W MARYLAND AVE**  
**NEW SEWER EASEMENT**  
**SEWER & MANHOLE REHABILITATION PHASE IV**  
**CIP # 131419**

## EXHIBIT 4

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, I, **EMMANUEL VALDEZ RAMIREZ, a single man**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances ("facilities") upon, over and under the surface of the following described property:

**See Attached Description, "Exhibit A"**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Emmanuel Valdez Ramirez)**  
Its: **(Grantor)**

STATE OF ARIZONA    )  
County of Maricopa    ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by **Emmanuel Valdez Ramirez, Grantor**, who acknowledged that he executed this instrument for the purposes therein contained.

My commission expires:

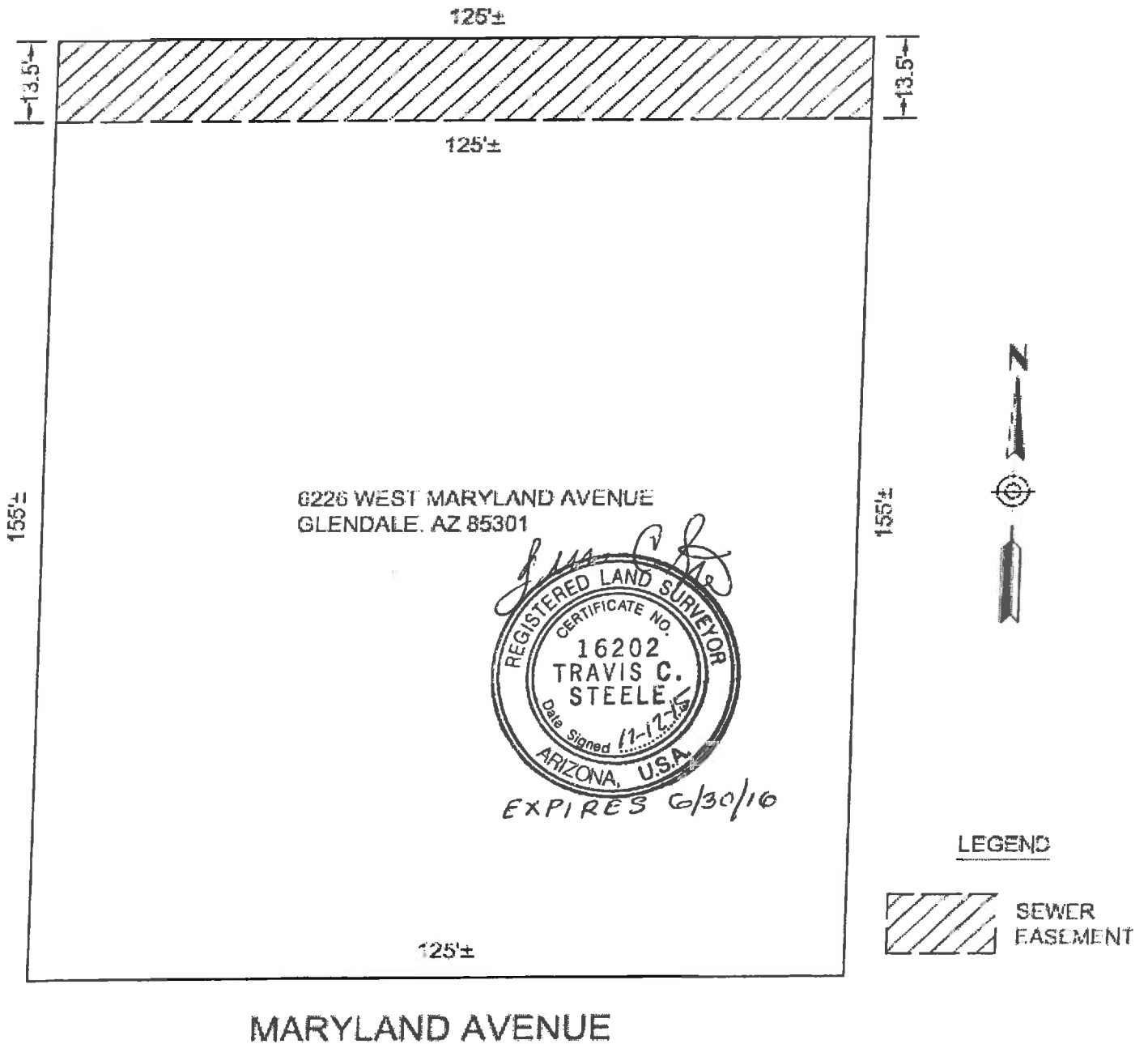
\_\_\_\_\_  
Notary Public

6226 W. Maryland Avenue  
Glendale, AZ 85301

EXHIBIT "A"

A Portion of  
THE SOUTH 155 FEET OF THE EAST 2/5THS OF THE WEST 5/10THS OF THE SOUTH HALF OF  
LOT 3, BLOCK 8, ORCHARD ADDITIONS TO GLENDALE, ACCORDING TO BOOK 3 OF MAPS,  
PAGE 30, RECORDS OF MARICOPA COUNTY, ARIZONA.

DESCRIBED AS FOLLOWS:  
The North 13.5 feet thereof.







**6226 W MARYLAND AVE  
NEW SEWER EASEMENT  
SEWER & MANHOLE REHABILITATION PHASE IV  
CIP # 131419**



## EXHIBIT 5

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, We, **PHILLIP S. YANEZ AND DOLORES A. YANEZ, husband and wife**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances ("facilities") upon, over and under the surface of the following described property:

### See Attached Description, "Exhibit A"

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Signer: **(Phillip S. Yanez)**

**Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Dolores A. Yanez)**

Its: **(Grantors)**

STATE OF ARIZONA    )  
County of Maricopa    ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
by **(PHILLIP S. YANEZ AND DOLORES A. YANEZ, husband and wife, Grantors)**, who  
acknowledged that they executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

6222 West Maryland Avenue  
Glendale, AZ 85301

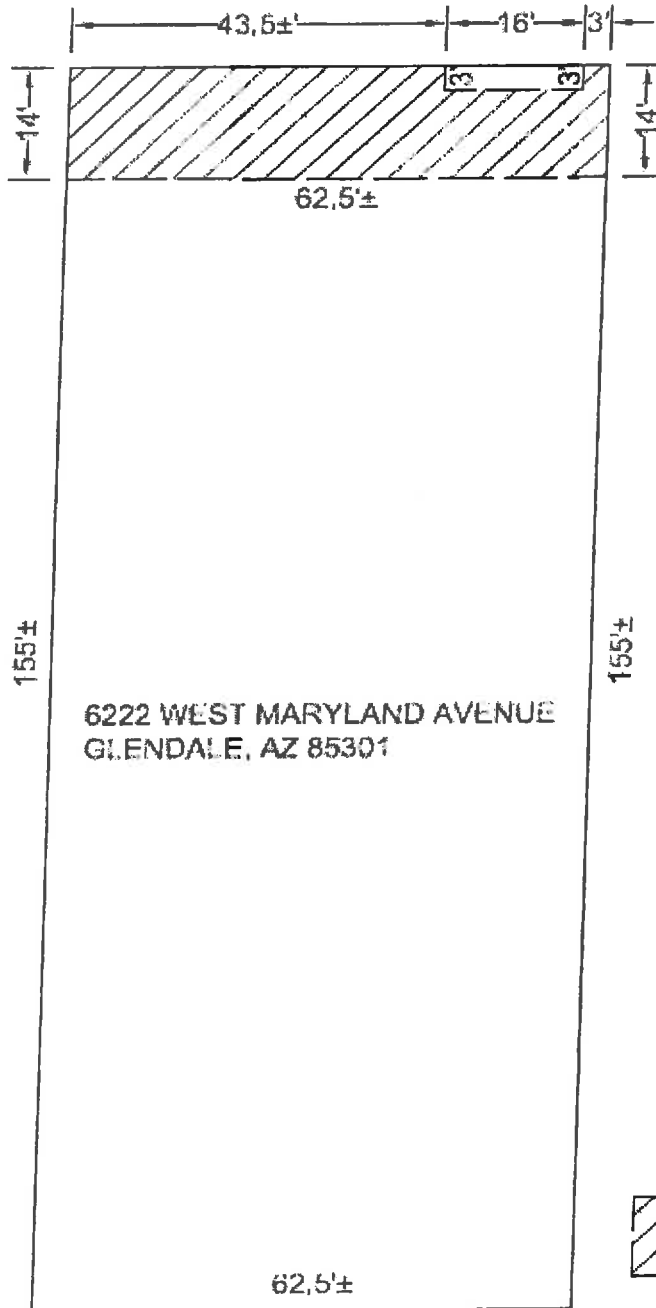
EXHIBIT "A"

A Portion of  
(THE) SOUTH ONE HALF OF (THE) WEST ONE FIFTH OF (THE) EAST FIVE TENTHS OF (THE)  
SOUTH ONE HALF OF LOT 3, OF BLOCK EIGHT OF ORCHARD ADDITION TO GLENDALE,  
BOOK 3 OF MAPS, PAGE 30 (MCR).

DESCRIBED AS FOLLOWS:

The North 14 feet thereof.

EXCEPT the West 16 feet of the East 19 feet of the North 3 feet of the said North 14 feet.



EXPIRES 6/30/16



LEGEND



SEWER  
EASEMENT

MARYLAND AVENUE





**6222 W MARYLAND AVE  
NEW SEWER EASEMENT  
SEWER & MANHOLE REHABILITATION PHASE IV  
CIP # 131419**



## EXHIBIT 6

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, I, **ROBERT ALAN LANE AS TRUSTEE OF THE ROBERT LANE REVOCABLE TRUST DATED Jan 29, 2010 and successor trustees thereto**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances (“facilities”) upon, over and under the surface of the following described property:

**See Attached Description, “Exhibit A”**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Exempt Pursuant to A.R.S.§11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Robert Alan Lane)**  
Its: **(Trustee)**

STATE OF ARIZONA    )  
                                  ) ss.  
County of Maricopa    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
by **(Robert Alan Lane, AS TRUSTEE OF THE ROBERT LANE REVOCABLE TRUST DATED  
Jan 29, 2010)**, who acknowledged that he executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

6214 West Maryland, #B  
Glendale, Arizona 85301

EXHIBIT "A"

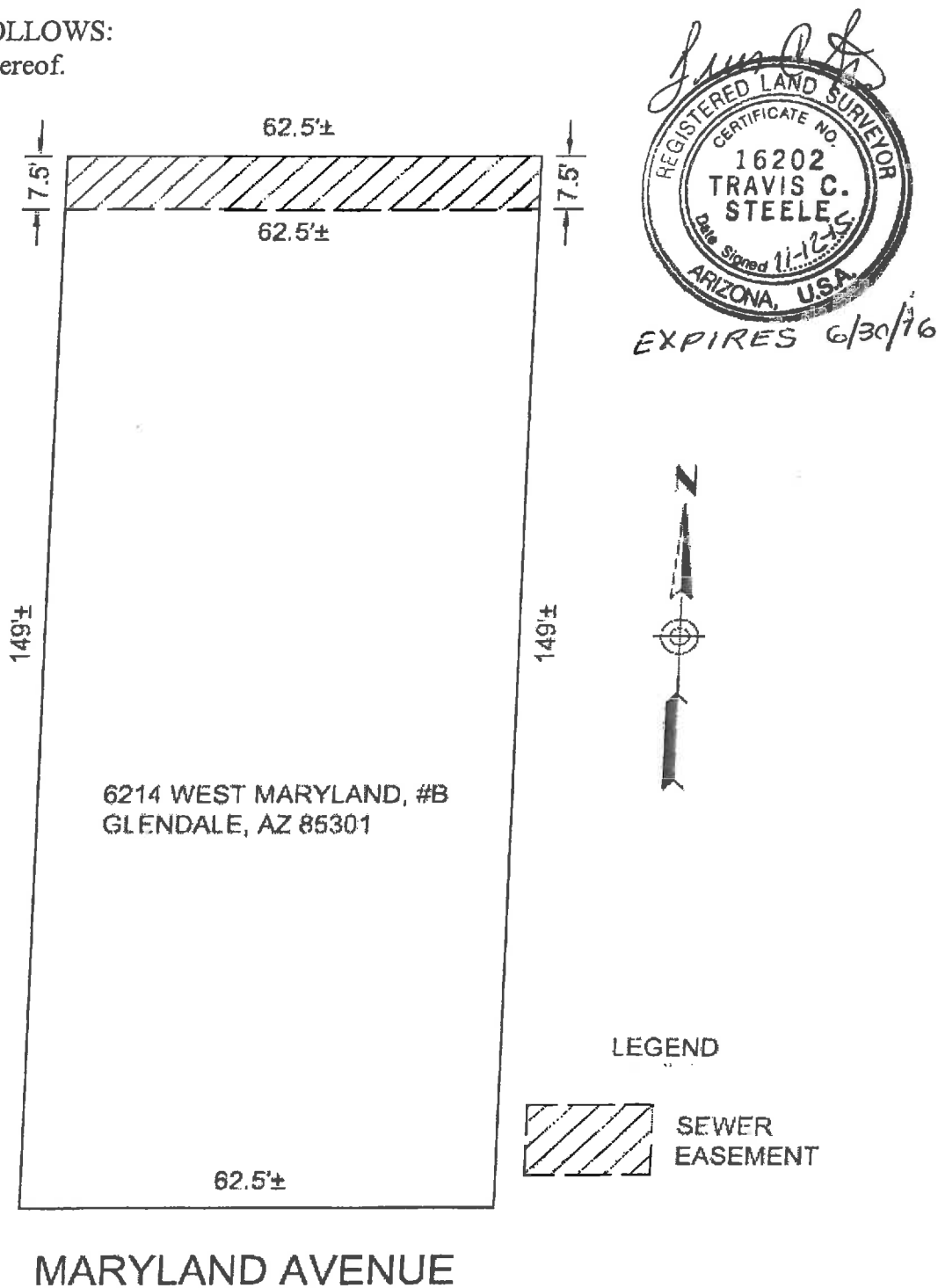
A Portion of

The West one-third (1/3) of the East three-tenths (3/10) of the South 149.00 feet of Lot 3, Block 8, ORCHARD ADDITION TO GLENDALE, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, in Book 3 of Maps, Page 30.

Subject to a public utility easement over and across the North 8 feet thereof.

DESCRIBED AS FOLLOWS:

The North 7.5 feet thereof.







**6214 W MARYLAND AVE #B  
NEW SEWER EASEMENT  
SEWER & MANHOLE REHABILITATION PHASE IV  
CIP # 131419**



## EXHIBIT 7

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, I, **MARK E. LAWLER, an unmarried man**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances ("facilities") upon, over and under the surface of the following described property:

### See Attached Description, "Exhibit A"

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Mark E. Lawler)**  
Its: **(Grantor)**

STATE OF ARIZONA     }  
County of Maricopa    } ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
by **(Mark E. Lawler, an unmarried man, Grantor)**, who acknowledged that he executed this instrument  
for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

6202 WEST MARYLAND AVENUE  
GLENDALE, AZ 85301

EXHIBIT "A"

A Portion of  
THE EAST ONE-TENTH OF SOUTH HALF OF LOT 3, BLOCK 8, ORCHARD ADDITION TO  
GLENDALE, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY  
RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED IN BOOK 3 OF MAPS, PAGE 30;

EXCEPT THE NORTH 145 FEET OF THE EAST ONE-TENTH OF THE SOUTH HALF OF SAID  
LOT 3; AND

EXCEPT THE EAST 10 FEET THEREOF.

DESCRIBED AS FOLLOWS:

The South 20 feet of the North 24 feet thereof;

Except the West 38.5 feet of the East 49 feet of the South 8 feet of the said South 20 feet of the North 24  
feet.



EXPIRES 6/30/16



62ND AVENUE

6202 WEST MARYLAND  
AVENUE  
GLENDALE, AZ 85301

LEGEND



SEWER  
EASEMENT

MARYLAND AVENUE





62ND AVE

6202 W MARYLAND AVE  
APN 144-12-002A

MARYLAND AVE

**6202 W MARYLAND AVE  
NEW SEWER EASEMENT  
SEWER & MANHOLE REHABILITATION PHASE IV  
CIP # 131419**





## Legislation Description

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**File #:** 17-062, **Version:** 1

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### **ORDINANCE NO. O17-09**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF NINE CONVEYANCE OF SEWERLINE EASEMENTS FOR SEWERLINES LOCATED AT NINE LOCATIONS IN THE CITY OF GLENDALE AS PART OF THE PHASE FOUR WASTEWATER COLLECTION SYSTEM AND MANHOLE REHABILITATION CAPITAL IMPROVEMENT PROJECT AND DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE.**

Staff Contact: Jack Friedline, Director, Public Works

### **Purpose and Recommended Action**

This is a request for City Council to waive reading beyond the title and adopt an ordinance accepting easements to install, repair, operate, maintain, and remove sewerlines, as necessary, located at nine locations: 6207, 6213, 6217, 6221, 6229 (A) & (B), 6235, 6239 and 6243 West Sierra Vista Drive.

### **Background**

The city will be replacing existing sewerlines in order to upgrade the facilities. There are no known recorded easements for the existing sewerlines. The owners have agreed to dedicate the necessary sewerline easements so new improvements can be maintained by the city consistent with City Code.

### **Analysis**

Staff recommends acceptance of the new sewerline easements. There will be no impact on City departments, staff or service levels as a result of this action. There are no costs incurred to the city for this action.

### **Previous Related Council Action**

On November 24, 2014, Council authorized entering into a Professional Services Agreement with Primatch, L.L.C., Contract No. C-9453 for design services related to the Phase IV Wastewater Collection System and Manhole Rehabilitation project.

ORDINANCE NO. O17-09

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE EXECUTION OF NINE CONVEYANCE OF SEWERLINE EASEMENTS FOR SEWERLINES LOCATED AT NINE LOCATIONS IN THE CITY OF GLENDALE AS PART OF THE PHASE FOUR WASTEWATER COLLECTION SYSTEM AND MANHOLE REHABILITATION CAPITAL IMPROVEMENT PROJECT AND DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE.

WHEREAS, the City Council took action to authorize entering into a professional services agreement with Primatech L.L.C. for Phase Four of the wastewater and collection system and manhole rehabilitation project, passed and approved by City Council on November 24, 2014; and

WHEREAS, the owners of nine City of Glendale properties located at nine locations: 6207, 6213, 6217, 6221, 6229 (A), 6229 (B), 6235, 6239 and 6243 West Sierra Vista Drive., have agreed to grant sewerline easements so new sewerline improvements will be located within a City easement, allowing the City to maintain said sewerline improvements.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. The City of Glendale will construct sewerline improvements and maintain these improvements consistent with the City Code.

SECTION 2. The Council hereby authorizes and instructs the City Manager to execute the nine conveyances of Easements, which are attached hereto as Exhibits 1-9, granting the sewerline easements described herein to the City so that the City may install, repair, operate, maintain, remove and replace these sewerlines, as necessary.

SECTION 3. The City Clerk is accordingly instructed and authorized to forward a certified copy of this ordinance and accompanying sewerline easements for recording to the Maricopa County Recorder's Office.

SECTION 4. The provisions of this ordinance shall become effective thirty (30) days after passage of this ordinance by the Glendale City Council.

[Signatures on the following page.]

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 28th day of February, 2017.

\_\_\_\_\_  
Mayor Jerry P. Weiers

ATTEST:

\_\_\_\_\_  
Julie K. Bower, City Clerk (SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael D. Bailey, City Attorney

REVIEWED BY:

\_\_\_\_\_  
Kevin R. Phelps, City Manager



## EXHIBIT 1

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, I, **Gabino and Sofia Valencia, Husband and wife**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances ("facilities") upon, over and under the surface of the following described property:

**See Attached Description, "Exhibit A"**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Signer: **(Gabino Valencia)**

**Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Sofia Valencia)**

STATE OF ARIZONA     )  
                                  ) ss.  
County of Maricopa    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
by **Gabino and Sofia Valencia, Husband and wife**, who acknowledged that he executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

6207 West Sierra Vista Drive  
Glendale, AZ 85301

EXHIBIT "A"

A Portion of

The North half of the West half of the East 2/10th of the South half of Lot 3 Block 8, and the North 15 feet of the South half of the west half of the east 2/10th of the South half of Lot 3 Block 8, ORCHARD ADDITION TO GLENDALE, according to Book 3 of Maps, Page 30, records of Maricopa County, Arizona;

EXCEPT the North 30 feet.

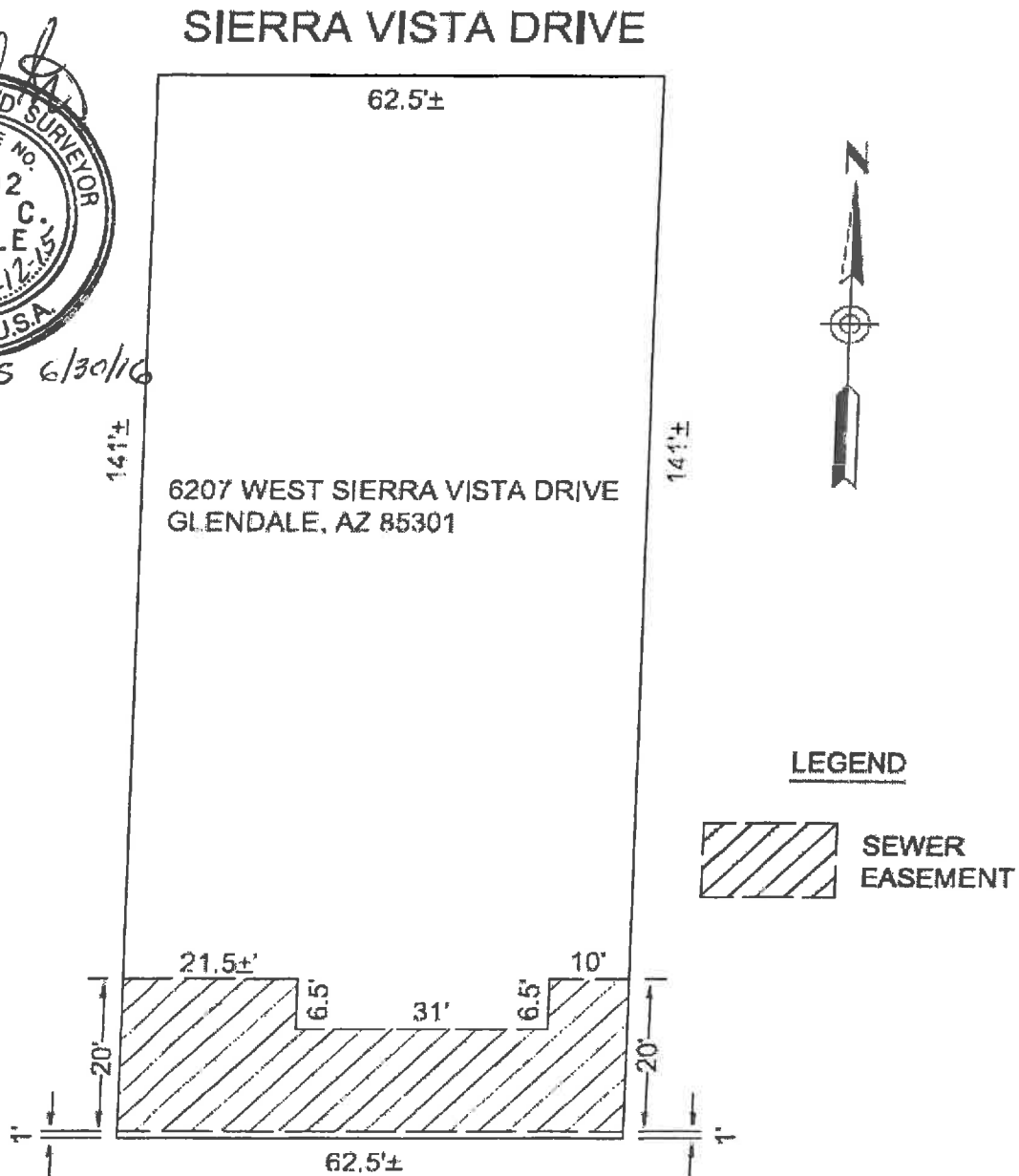
DESCRIBED AS FOLLOWS:

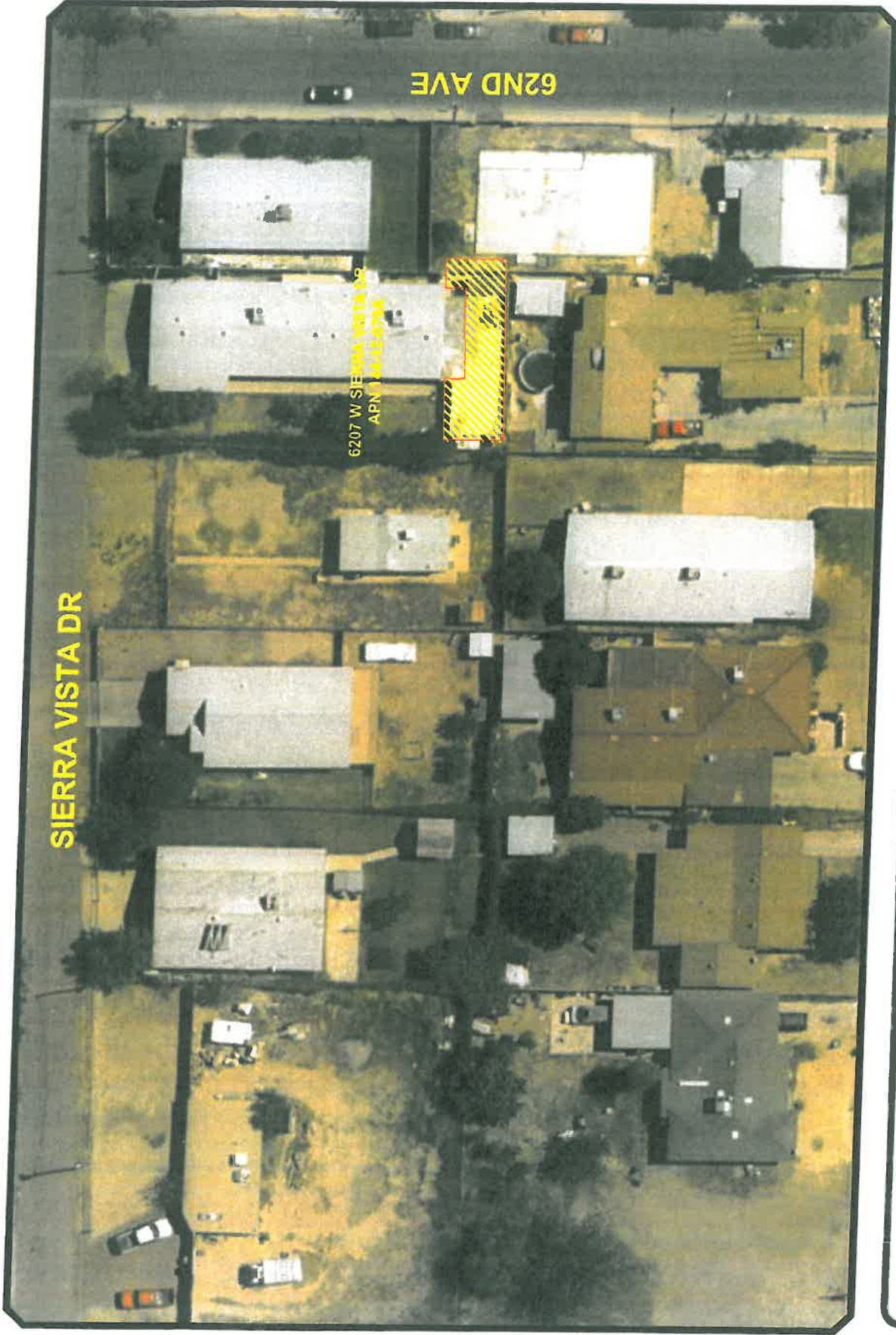
The North 20 feet of the South 21 feet thereof.

EXCEPT the West 31 feet of the East 41 feet of the North 6.5 feet of the said North 20 feet of the South 21 feet.



EXPIRES 6/30/16





**6207 W SIERRA VISTA DR**  
**NEW SEWER EASEMENT**  
**SEWER & MANHOLE REHABILITATION PHASE IV**  
**CIP # 131419**



## EXHIBIT 2

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, I, **ROBERT ALAN LANE AS TRUSTEE OF THE ROBERT LANE REVOCABLE TRUST DATED Jan 29, 2010 and successor trustees thereto**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances (“facilities”) upon, over and under the surface of the following described property:

**See Attached Description, “Exhibit A”**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Robert Alan Lane)**  
Its: **(Trustee)**

STATE OF ARIZONA    )  
County of Maricopa    ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by **(Robert Alan Lane, AS TRUSTEE OF THE ROBERT LANE REVOCABLE TRUST DATED Jan 29, 2010)**, who acknowledged that he executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

6213 West Sierra Vista Drive  
Glendale, Arizona 85301

EXHIBIT "A"

A Portion of

The West one-third (1/3) of the East three-tenths (3/10) of the South 149.00 feet of Lot 3, Block 8, ORCHARD ADDITION TO GLENDALE, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, in Book 3 of Maps, Page 30.

EXCEPT the North 30.00 feet for roadway; and

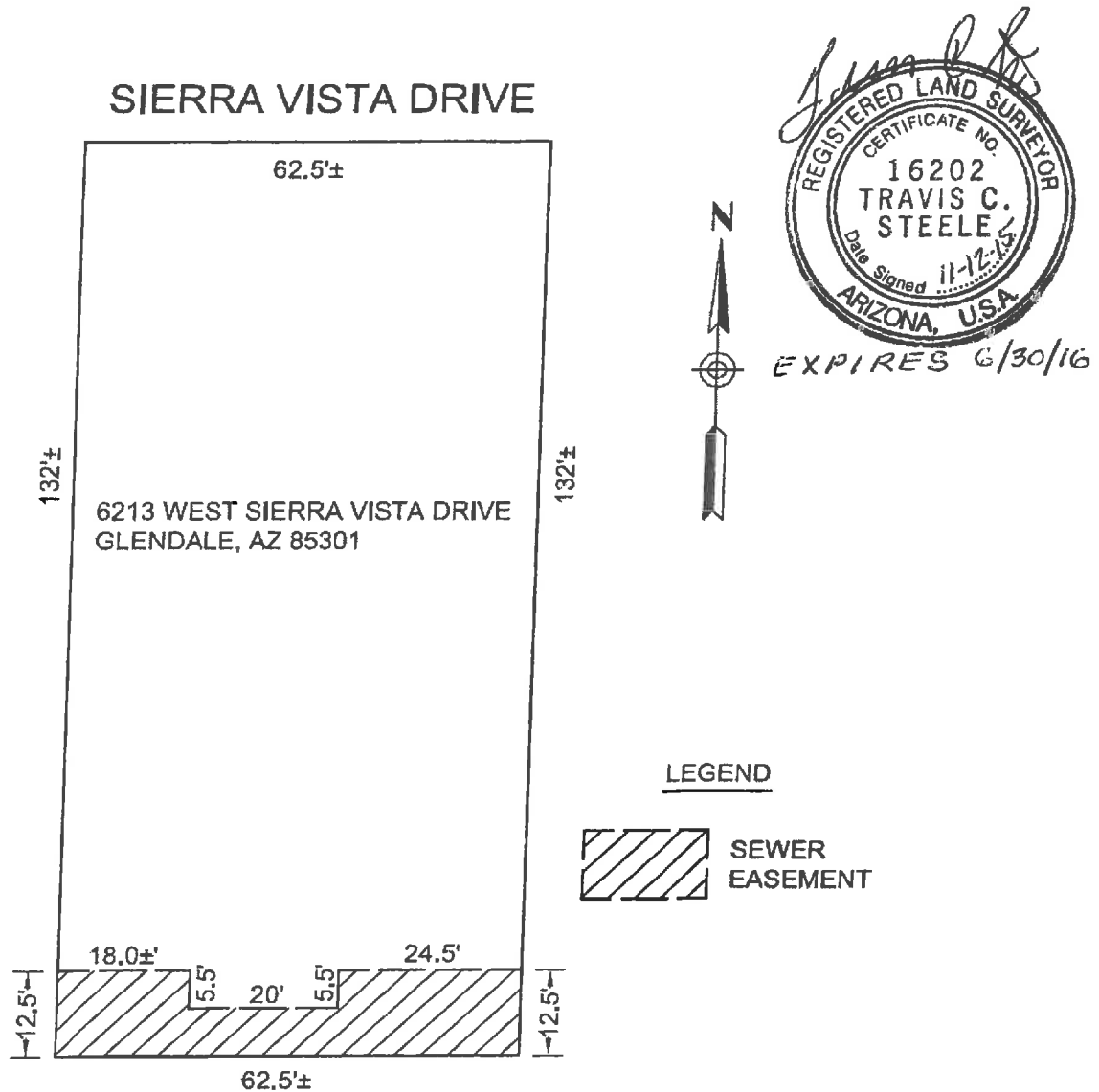
ECEPT the South 149.00 feet; and also

Subject to a public utility easement over and across the North 8 feet thereof.

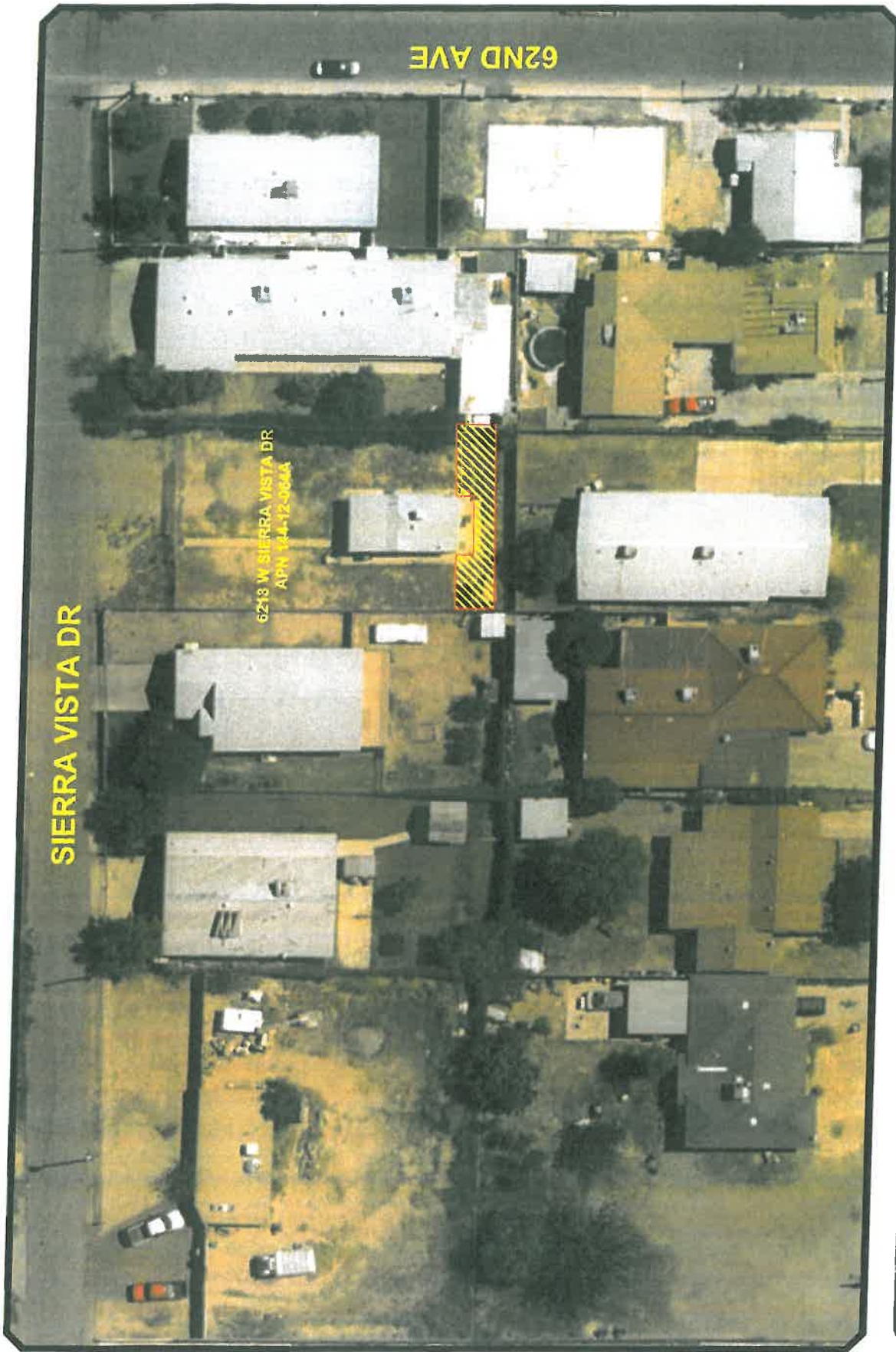
DESCRIBED AS FOLLOWS:

The South 12.5 feet thereof.

EXCEPT the West 20 feet of the East 44.5 feet of the North 5.5 feet of the said South 12.5 feet







**6213 W SIERRA VISTA DR  
NEW SEWER EASEMENT  
SEWER & MANHOLE REHABILITATION PHASE IV  
CIP # 131419**





## EXHIBIT 3

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, I, **DULCE YESENIA GARCIA CORTEZ**, a **single women (sic)**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances ("facilities") upon, over and under the surface of the following described property:

**See Attached Description, "Exhibit A"**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Dulce Yesenia Garcia Cortez)**  
Its: **(Grantor)**

STATE OF ARIZONA    )  
County of Maricopa    ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by **(Dulce Yesenia Garcia Cortez, a single woman, Grantor)**, who acknowledged that she executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

6217 W. Sierra Vista Dr.  
Glendale, AZ 85301

EXHIBIT "A"

A Portion of  
The West Quarter of the East 4/10 of the South Half of Lot 3, Block 8, ORCHARD ADDITION TO  
GLENDALE, according to Book 3 of Maps, page 30, records of Maricopa County, Arizona.

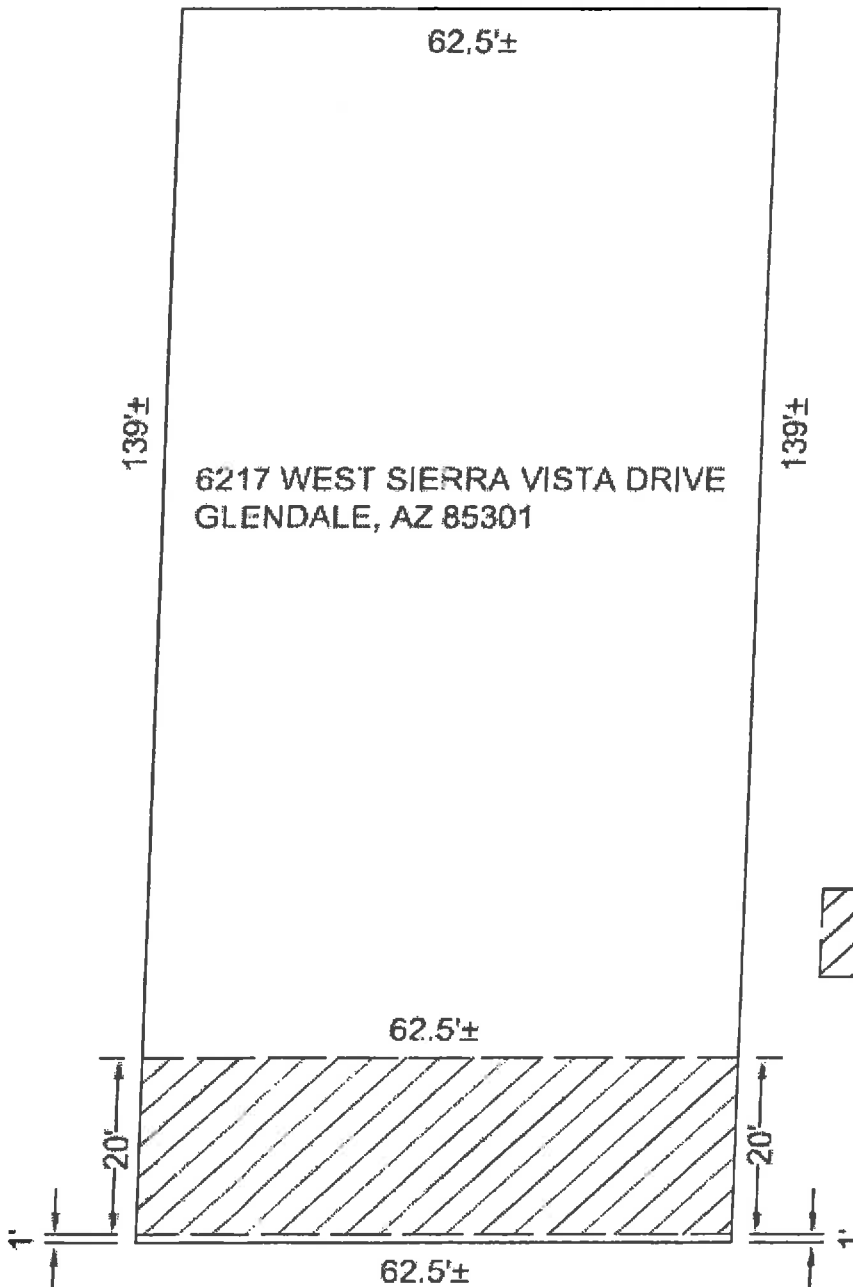
EXCEPT The South 142 feet: and  
EXCEPT The North 30 feet

DESCRIBED AS FOLLOWS:  
The North 20 feet of the South 21 feet thereof.



EXPIRES 6/30/16

SIERRA VISTA DRIVE



LEGEND





**6217 W SIERRA DR**  
**NEW SEWER EASEMENT**  
**SEWER & MANHOLE REHABILITATION PHASE IV**  
**CIP # 131419**



## EXHIBIT 4

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, I, **CRYSTAL LINDA BAZUA, a single woman**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances ("facilities") upon, over and under the surface of the following described property:

### See Attached Description, "Exhibit A"

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Crystal Linda Bazua)**  
Its: **(Grantor)**

STATE OF ARIZONA    )  
County of Maricopa    ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
by **(Crystal Linda Bazua, a single woman, Grantor)**, who acknowledged that she executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

6221 WEST SIERRA VISTA DRIVE  
GLENDALE, AZ 85301

EXHIBIT "A"

A Portion of

The North half of the West 1/5th of the East 5/10th's of the South half of Lot Three (sic) (3), Block Eight (8), of ORCHARD ADDITION TO GLENDALE, per map recorded in Book 3 of Maps, Page 30, in the office of the County Recorder of Maricopa County, Arizona.

Except the North 30 feet thereof conveyed to the City of Glendale in instrument recorded in Docket 1161, Page 475.

DESCRIBED AS FOLLOWS:

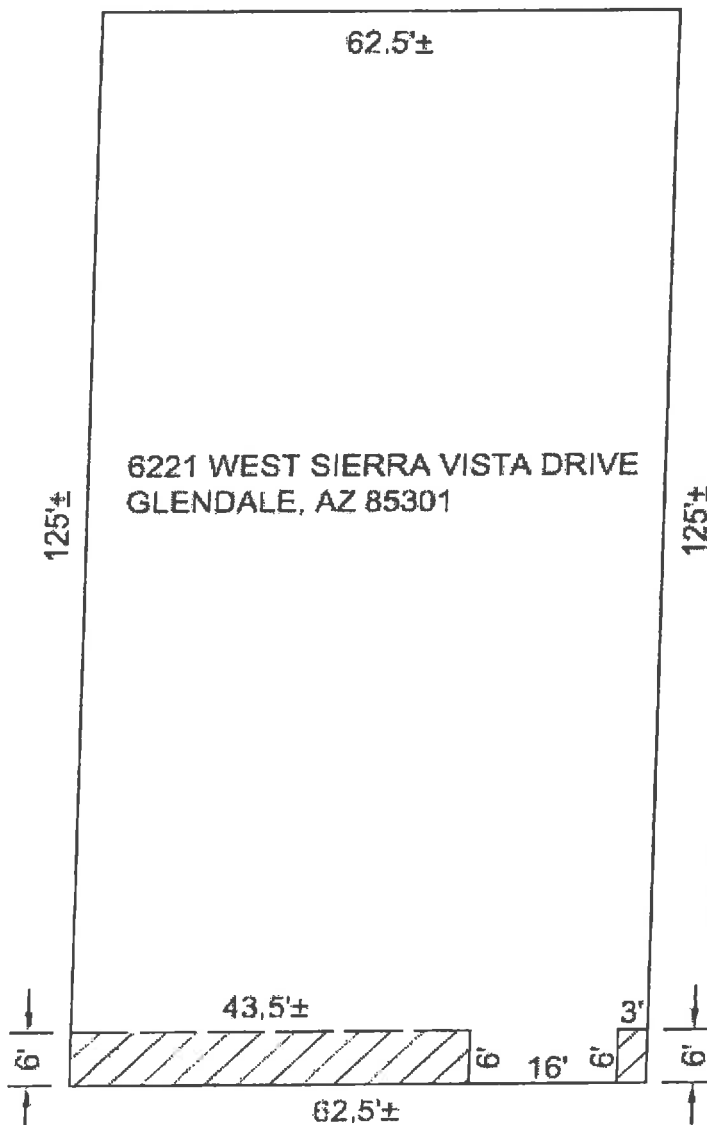
The South 6 feet thereof.

EXCEPT the West 16 feet of the East 19 feet of the said South 6 feet.



EXPIRES 6/30/16

SIERRA VISTA DRIVE



LEGEND



SEWER  
EASEMENT





SIERRA VISTA DR

62ND AVE

6221 W SIERRA VISTA DR  
APN 144-12-003A

**6221 W SIERRA VISTA DR  
NEW SEWER EASEMENT  
SEWER & MANHOLE REHABILITATION PHASE IV  
CIP # 131419**





## EXHIBIT 5

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, I, **VERONICA MARTINEZ, a married woman as her sole and separate property**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances ("facilities") upon, over and under the surface of the following described property:

**See Attached Description, "Exhibit A"**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Veronica Martinez)**  
Its: **(Grantor)**

STATE OF ARIZONA     )  
County of Maricopa    ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by **(Veronica Martinez, a married woman as her sole and separate property, Grantor)**, who acknowledged that she executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

6229 West Sierra Vista Drive  
Glendale, AZ 85301

EXHIBIT "A"

A Portion of  
THE EAST 2/5TH OF THE WEST 5/10TH OF THE SOUTH HALF OF LOT 3, BLOCK 8, ORCHARD  
ADDITION TO GLENDALE, A SUBDIVISION RECORDED IN THE OFFICE OF THE MARICOPA  
COUNTY RECORDER IN BOOK 3 OF MAPS, PAGE 30, RECORDS OF MARICOPA COUNTY,  
ARIZONA;

EXCEPT THE SOUTH 155 FEET THEREOF AND EXCEPT THE NORTH 30 FEET THEREOF.

DESCRIBED AS FOLLOWS:

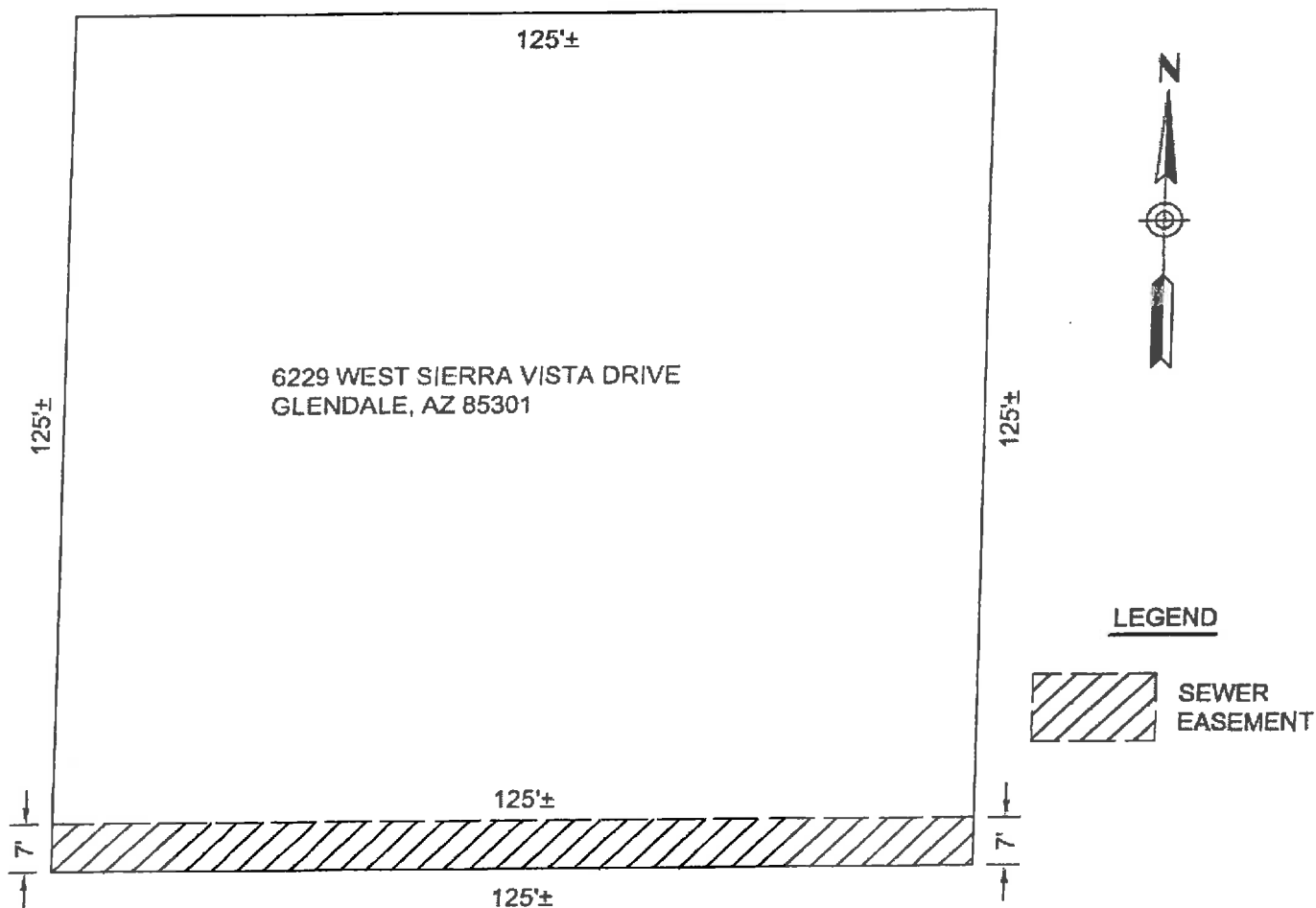
The East 15 feet thereof.

Except the South 7 feet thereof.



EXPIRES 6/30/16

SIERRA VISTA DRIVE





**6229 W SIERRA VISTA DR**  
**NEW SEWER EASEMENT**  
**SEWER & MANHOLE REHABILITATION PHASE IV**  
**CIP # 131419**



## EXHIBIT 6

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, I, **VERONICA MARTINEZ, a married woman as her sole and separate property**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement for sewer maintenance access upon, and over the surface of the following described property:

**See Attached Description, "Exhibit A"**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Veronica Martinez)**  
Its: **(Grantor)**

STATE OF ARIZONA    )  
                                  ) ss.  
County of Maricopa    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by **(Veronica Martinez, a married woman as her sole and separate property, Grantor)**, who acknowledged that she executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

6229 West Sierra Vista Drive  
Glendale, AZ 85301

EXHIBIT "A"

A Portion of  
THE EAST 2/5TH OF THE WEST 5/10TH OF THE SOUTH HALF OF LOT 3, BLOCK 8, ORCHARD  
ADDITION TO GLENDALE, A SUBDIVISION RECORDED IN THE OFFICE OF THE MARICOPA  
COUNTY RECORDER IN BOOK 3 OF MAPS, PAGE 30, RECORDS OF MARICOPA COUNTY,  
ARIZONA;

EXCEPT THE SOUTH 155 FEET THEREOF AND EXCEPT THE NORTH 30 FEET THEREOF.

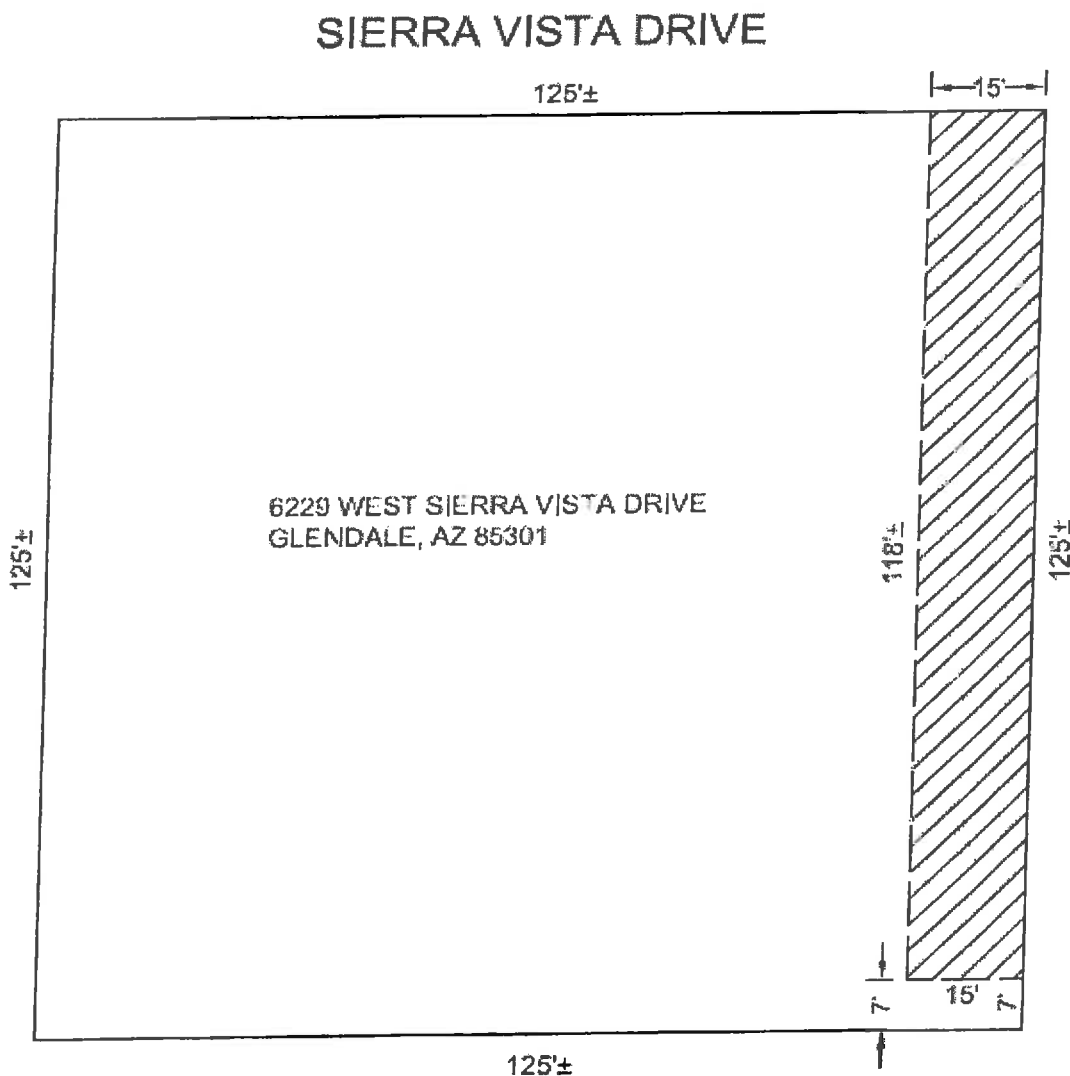
DESCRIBED AS FOLLOWS:

The East 15 feet thereof.

Except the South 7 feet of the said East 15 feet.



EXPIRES 6/30/16



LEGEND

 SEWER  
MAINTENANCE  
ACCESS  
EASEMENT





**6229 W SIERRA VISTA DR  
NEW SEWER EASEMENT  
SEWER & MANHOLE REHABILITATION PHASE IV  
CIP # 131419**





## EXHIBIT 7

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, I, **ADELA AVENDANA, A Married Woman as her Sole and Separate Property**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances ("facilities") upon, over and under the surface of the following described property:

**See Attached Description, "Exhibit A"**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: **(Adela Avendana)**  
Its: **(Grantor)**

STATE OF ARIZONA    )  
County of Maricopa    ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
by **(Adela Avedana, a married woman as her sole and separate property, Grantor)**, who  
acknowledged that she executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

6235 WEST SIERRA VISTA DRIVE  
GLENDALE, AZ 85301

EXHIBIT "A"

A Portion of  
THE EAST ONE-THIRD OF THE WEST THREE-TENTHS OF THE SOUTH ONE-HALF OF LOT  
THREE(3), BLOCK 8, OF ORCHARD ADDITION TO GLENDALE, AS PER MAP RECORDED IN  
BOOK 3 OF MAPS, PAGE 30, RECORDS OF MARICOPA COUNTY, ARIZONA.

EXCEPTING THEREFROM THE SOUTH 155 FEET, AND EXCEPT THE NORTH 30 FEET AS  
QUIT-CLAIMED TO THE CITY OF GLENDALE, BY QUIT-CLAIM DEED RECORDED DOCKET  
1161, PAGE 477.

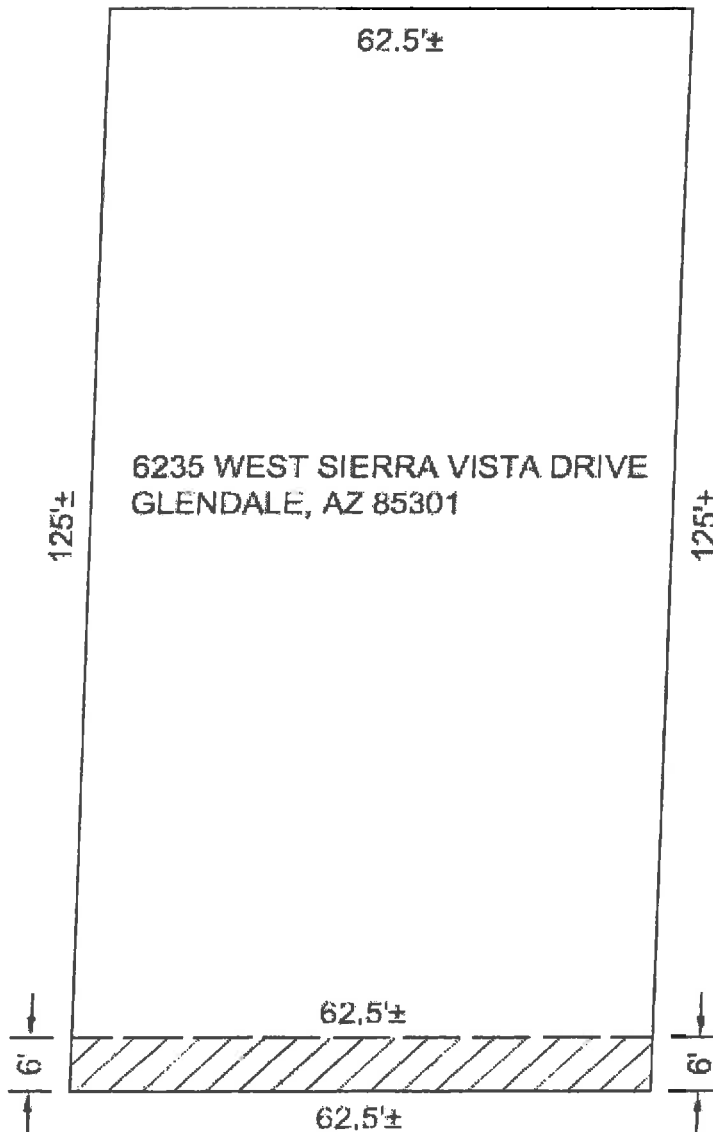
DESCRIBED AS FOLLOWS:

The South 6 feet thereof.



EXPIRES 6/30/16

SIERRA VISTA DRIVE



LEGEND





**6235 W SIERRA VISTA DR  
NEW SEWER EASEMENT  
SEWER & MANHOLE REHABILITATION PHASE IV  
CIP # 131419**



## EXHIBIT 8

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

## CONVEYANCE OF EASEMENT

---

For Ten Dollars and other valuable consideration, I, **MATTHEW HUBBARD**, a single man, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances ("facilities") upon, over and under the surface of the following described property:

**See Attached Description, "Exhibit A"**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Exempt Pursuant to A.R.S. §11-1134(A)(2),  
11-1134(A)(3)

By: \_\_\_\_\_  
Signer: (Matthew Hubbard)  
Its: (Grantor)

STATE OF ARIZONA    )  
County of Maricopa    ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
by (Matthew Hubbard, a single man, Grantor), who acknowledged that he executed this instrument for  
the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

6239 WEST SIERRA VISTA DRIVE  
GLENDALE, AZ 85301

EXHIBIT "A"

A Portion of  
THE NORTH HALF OF THE EAST HALF OF THE WEST ONE-FIFTH OF THE SOUTH HALF OF  
LOT 3, BLOCK 8, ORCHARD ADDITION TO GLENDALE, ACCORDING TO THE PLAT OF  
RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA,  
IN BOOK 3 OF MAPS, PAGE 30.

EXCEPT THE NORTH 30 FEET THEREOF.

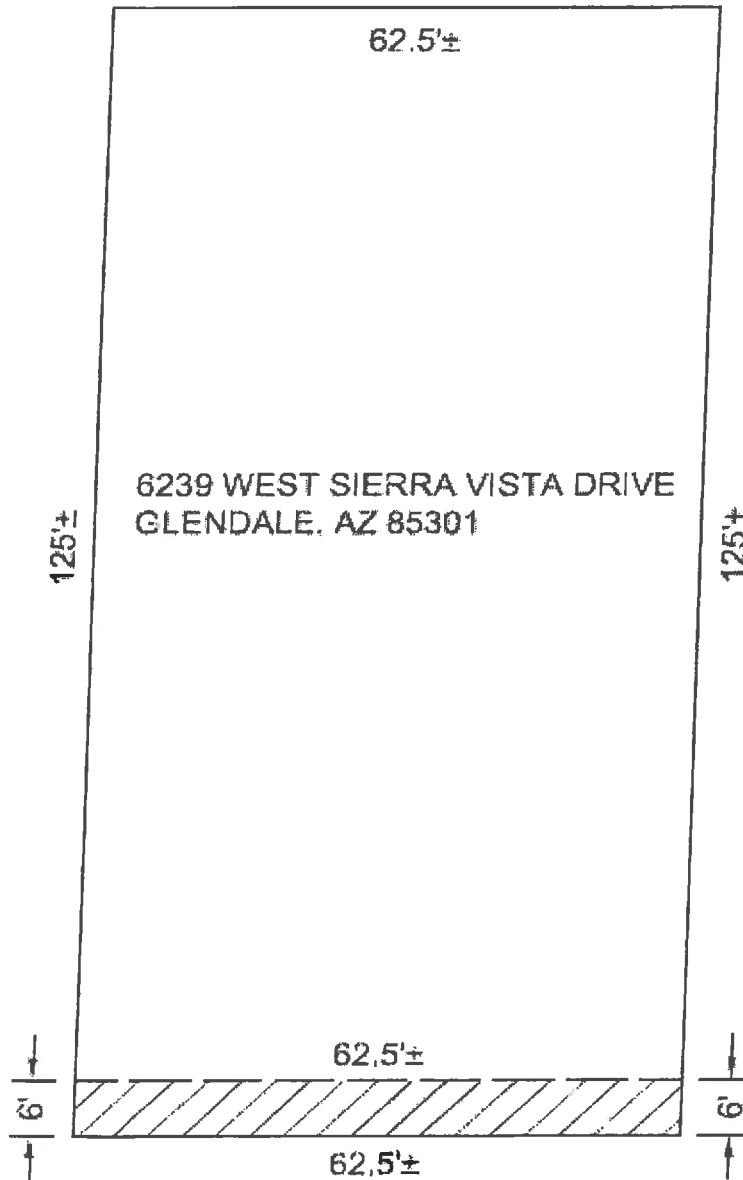
DESCRIBED AS FOLLOWS:

The South 6 feet thereof.



EXPIRES 6/30/16

SIERRA VISTA DRIVE



LEGEND







**6239 W SIERRA VISTA DR**  
**NEW SEWER EASEMENT**  
**SEWER & MANHOLE REHABILITATION PHASE IV**  
**CIP # 131419**





## EXHIBIT 9

When recorded, mail to:  
City Clerk, City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301

**CONVEYANCE OF EASEMENT**

For Ten Dollars and other valuable consideration, We, **MIGUEL A. SOLIS and MARTHA RAMIREZ, husband and wife, not as tenants in common and not as a community property estate, but as joint tenants with right of survivorship**, do hereby convey to the City of Glendale, an Arizona Municipal Corporation, an easement to install, repair, operate, maintain and remove a sewer line and appurtenances (“facilities”) upon, over and under the surface of the following described property:

**See Attached Description, “Exhibit A”**

Together with the right of ingress and egress to, from, across and along the Grantor's Property, and with the right to use lands adjacent to said easement during temporary periods of construction; the right to operate, repair, replace, maintain, and remove facilities and appurtenances from said premises; to add to or alter said facilities at any reasonable time; and to trim or remove any trees or shrubs that in the judgment of the City may interfere with the construction, operation or maintenance of said facilities.

By accepting this easement, the City of Glendale agrees to exercise reasonable care to avoid any damage to said real property above described.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Signer: (Miguel A. Solis)

**Exempt Pursuant to A.R.S.§11-1134(A)(2),  
11-1134(A)(3)**

By: \_\_\_\_\_  
Signer: (Martha Ramirez)

Its: (Grantors)

STATE OF ARIZONA    )  
County of Maricopa    ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by (Miguel A. Solis and Martha Ramirez, husband and wife, Grantors), who acknowledged that they executed this instrument for the purposes therein contained.

My commission expires:

\_\_\_\_\_  
Notary Public

6243 West Sierra Vista Drive  
Glendale, AZ 85301

EXHIBIT "A"

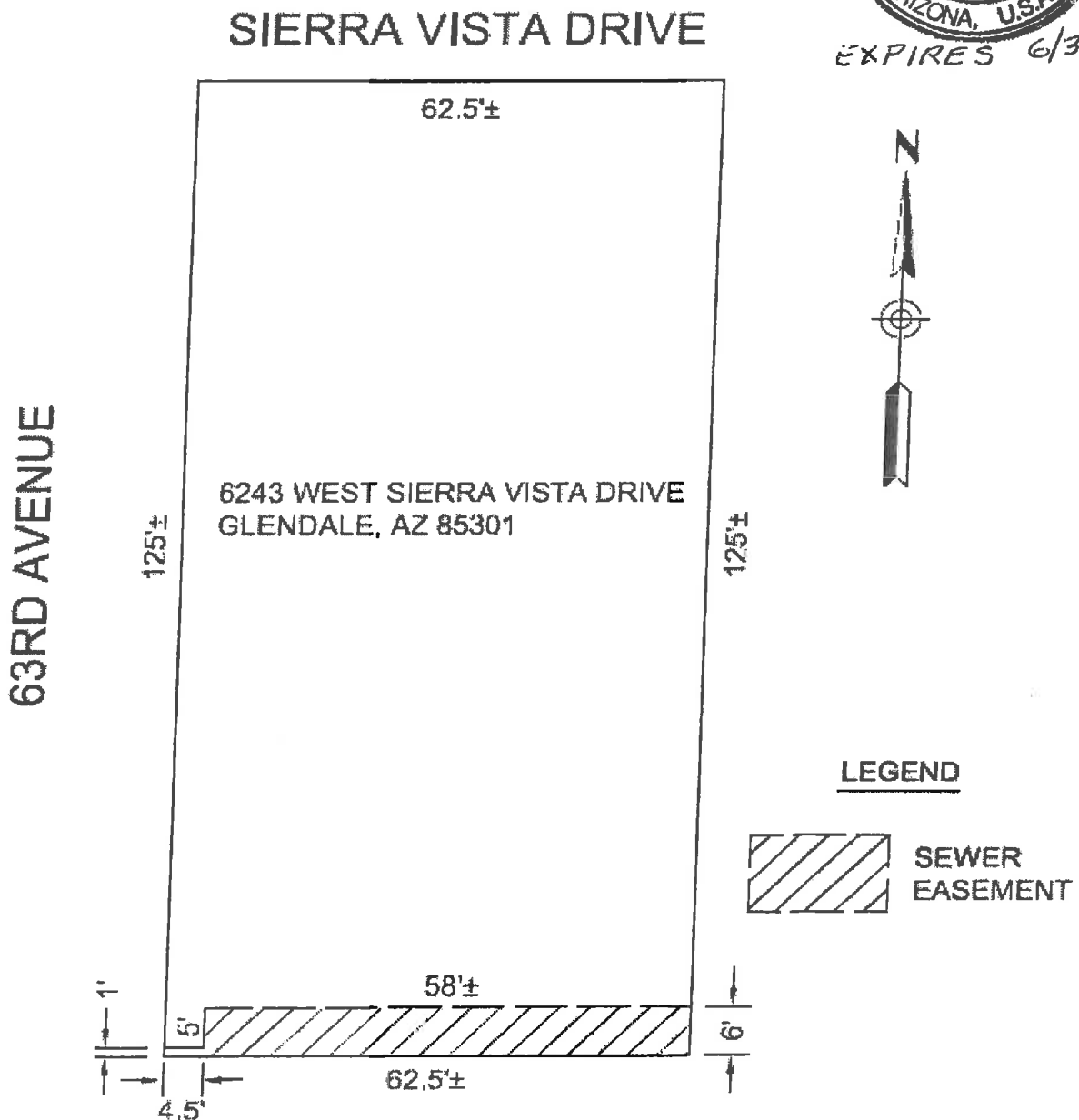
A Portion of  
THE NORTH HALF OF THE WEST 1/10TH OF THE SOUTH HALF OF LOT 3, BLOCK 8,  
ORCHARD ADDITION TO GLENDALE, ARIZONA, ACCORDING TO THE PLAT OF RECORD IN  
THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED  
IN BOOK 3 OF MAPS, PAGE 30.

EXCEPT THE NORTH 30 FEET.

DESCRIBED AS FOLLOWS:

The South 6 feet thereof.

EXCEPT the West 4.5 feet of the North 5 feet of the said South 6 feet.





6243 W SIERRA VISTA DR  
APN 166412-0026A

63RD AVE

MARYLAND AVE

**6243 W SIERRA VISTA DR  
NEW SEWER EASEMENT  
SEWER & MANHOLE REHABILITATION PHASE IV  
CIP # 131419**

