



**CITY OF PHOENIX, ARIZONA
OFFICE OF THE CITY ENGINEER
DESIGN AND CONSTRUCTION PROCUREMENT**

REQUEST FOR QUALIFICATIONS

**PHOENIX DEER VALLEY AIRPORT
RELOCATE TAXIWAY B AND CONSTRUCT CONNECTORS B6 AND B9
CONSTRUCTION MANAGER AT RISK SERVICES
AV31000092 FAA/ADOT**

**PROCUREPHX PRODUCT CATEGORY CODE 912000000
RFx 6000001297**

REQUEST FOR QUALIFICATIONS

The City of Phoenix is seeking a qualified Construction Manager at Risk (CMAR) to provide preconstruction services and complete construction services for the Phoenix Deer Valley Airport Relocate Taxiway B and Construct Connectors B6 and B9. The selected CMAR will work as a team with the designer of record and City staff to ensure an efficient design approach for the project. Phoenix Deer Valley Airport is located at 702 W. Deer Valley Road. The estimated construction cost is \$12.5 million.

SECTION I - PROJECT DESCRIPTION

This project is to relocate existing Taxiway B to a location 300' from runway 7L-25R (centerline to centerline) which is 100' further south from its current location. This is necessary for Taxiway B runway 7L-25R to meet ARC B-II design standards. Included are extensions of all existing connector taxilanes and addition of new acute angled connectors at B6 and B9. The relocation of Taxiway B is one of the recommendations of the DVT Master Plan Update (dated June 2015). The project will be constructed in phases consistent with FAA/ADOT grant funding availability.

SECTION II – SCOPE OF WORK

The Construction Manager at Risk will begin with the firm in an agency support role for preconstruction services. The CMAR will assume the risk of delivering the project through a Guaranteed Maximum Price (GMP) contract. The CMAR will be responsible for construction means and methods and will be required to solicit bids from prequalified subcontractors to perform the work using the City's subcontractor selection process. For this project the CMAR is responsible for self-performing a minimum of 45% of the construction work as measured by total contract price for construction. **The GMP must be submitted in MAG or CSI format or it will not be accepted.**

The scope of this project is to demolish existing Taxiway B and reconstruct at a location 300' from the north runway (centerline to centerline) which is 100' further south from its current location. Included are extensions of all existing connector taxilanes and addition of new acute angled connectors at B6 and B9 including the following components of the connectors: storm drains and inlets, shoulder pavements, markings, signage and LED lighting, relocate existing segmented circle, perform associated electrical work and interface with existing electrical vaults, manholes and controls.

All work shall be performed in accordance with the Federal Requirements as listed in Exhibit C.

The preferred CMAR shall have construction experience in an active airport operations area, familiarity with FAA Advisory Circulars and experience in coordinating projects with airport user groups. Services will be phased to include preconstruction and construction services.

A. Preconstruction phase services by the CMAR may include the following:

- provide detailed cost estimating and knowledge of marketplace conditions
- provide project planning and scheduling
- provide for construction phasing and scheduling that will minimize interruption to airport and stakeholder operations
- provide for construction phasing that matches grant funding amounts
- provide alternate systems evaluation and constructability studies
- advise City on ways to gain efficiencies in project delivery

- provide long-lead procurement studies and initiate procurement of long-lead items
- assist in the permitting processes
- participate with the City in a process to set a goal for local and SBE participation and implement the local and SBE process
- protect the owner's sensitivity to quality, safety, and environmental factors
- advise City on choosing green building materials.

B. Construction phase services by the CMAR may include:

- select and manage all subcontractors/suppliers for this project
- prepare multiple Guaranteed Maximum Price (GMP) proposals that meet the approval of the City and match the amount of grant funding
- coordinate with various City of Phoenix departments, other agencies, utility companies, etc.
- arrange for procurement of materials and equipment
- schedule and manage site operations
- bid, award, and manage all construction related contracts while meeting City bid requirements including the local and SBE participation goal
- provide quality controls
- bond and insure the construction
- address all federal, state and local permitting requirements
- deal with owner issues
- maintain a safe work site for all project participants

If the Project Manager has determined that use of UNIFIER may be required during this Contract, the following information provides a guideline for utilization. Any questions related to the requirements of UNIFIER should be directed to the Project Manager.

- The CMAR will be required to maintain all project records in electronic format.
- The City provides an Application Service Provider (ASP) web-based project management database which the CMAR will be required to utilize in the fulfillment of the contract requirements.
- The CMAR shall provide a computerized networked office platform with broadband internet connectivity.
- UNIFIER training will be provided through the City of Phoenix to firms under contract.

SECTION III – DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

This project will utilize federal funds and is subject to the requirements of 49 Code of Federal Regulations Part 26 and the U.S. Department of Transportation DBE Program. Submitters are required to meet the DBE program requirements detailed in this clause and, by the submittal of qualifications or subsequent acceptance of a contract, agrees to provide opportunities for the fair and full utilization of DBEs by complying with the submittal and post-award requirements of this clause. See Exhibit B.

SECTION IV - PRE-SUBMITTAL MEETING

A pre-submittal meeting will be held at 1:00 p.m., Phoenix time on September 8, 2022, via WebEx. At this meeting, City staff will discuss the scope of work, general project requirements, and respond to questions from the attendees. It is strongly recommended that interested firms

attend the pre-submittal meeting. Inquiries regarding the project scope outside of this pre-submittal meeting must be directed to the Contracts Specialist.

PRE-SUBMITTAL MEETING WEBEX INFORMATION:

Join from the meeting link

<https://cityofphoenix.webex.com/cityofphoenix/j.php?MTID=mfd033c996221eda18412740667df100d>

Pre-Submittal Meeting number (access code): 2466 910 3247

Join by phone

+1-415-655-0001 US Toll

SECTION V - STATEMENT OF QUALIFICATIONS EVALUATION CRITERIA

Firm will be selected through a qualifications-based selection process based on the criteria below. Subcriteria are listed in order of importance in relation to project services. City of Phoenix project experience is not required.

A. General Information (150 points)

1. Provide a general description of the firm that is proposing to provide construction management services and general construction services. Explain the legal organization of the proposed firm or team. Provide an organization chart showing key personnel.
2. Provide the following information:
 - a. List the Arizona contractor licenses held by the firm and the key personnel who will be assigned to this project. Provide the contractor license number. Reference the appropriate licenses held, if needed. In order to be considered for this project, the contractor must hold the correct license as deemed appropriate by the Arizona Registrar of Contractors prior to submitting a Statement of Qualifications (SOQ) for this project in accordance with Arizona Revised Statute §32-1151.
 - b. Identify the location of the firm's principal office and the home office location of key staff on this project.
 - c. Identify any contract or subcontract held by the firm or officers of the firm, which has been terminated within the last five years. Identify any claims arising from a contract which resulted in litigation or arbitration within the last three years. Briefly describe the circumstances and the outcomes.

B. Experience and Qualifications of the Firm (250 points)

1. Identify at least three comparable projects in which the firm served as either CMAR, agency Construction Manager during design and construction phases (without providing construction services), or General Contractor. Special consideration will be given to firms that have provided Construction Manager at Risk services on similar successful projects. For each project identified, provide the following:
 - a. Description of the project
 - b. Role of the firm (specify whether Construction Manager at Risk, Construction Manager or General Contractor. If CMAR or General Contractor, identify the percent of work self-performed. Also specify services provided during design phase, i.e. cost estimating, scheduling, value engineering, etc.)

- c. Project's original contracted construction cost and final construction cost
 - d. Construction dates
 - e. Project owner
2. List of all City of Phoenix projects where the firm provided CMAR, agency construction management, or general construction services in the last five years, either completed or ongoing.

C. Experience of Key Personnel to be Assigned to This Project (250 points)

1. For each key person identified, list their length of time with the firm and at least two comparable projects in which they have played a primary role. If a project selected for a key person is the same as one selected for the firm, provide just the project name and the role of the key person. For other projects provide the following:
- a. Description of project
 - b. Role of the person
 - c. Project's original construction cost and final construction cost
 - d. Construction dates
 - e. Project owner
2. List any proposed consultants, (including DBEs), including key staff names and the experience and qualifications of these individuals.

D. Understanding of the Project and Approach to Performing the Required Services (350 points)

1. Discuss the major issues your firm has identified on this project and how you intend to address those issues.
2. Attached to this Request for Qualifications is the City of Phoenix General Subcontractor Selection Plan (see Exhibit A). Describe how you intend to implement this subcontractor selection plan including your recommendations for subcontractor trades to be selected by qualifications only vs. qualifications and bids; and discuss the benefit that your subcontractor selection plan provides to the project.
3. Describe your firm's project management approach and team organization during design and construction phase services. Describe software systems and processes used for planning, scheduling, estimating, and managing construction. Briefly describe the firm's experience on quality control, dispute resolution, and safety management.

E. Reference Check (21 points*)

Use the form provided (Exhibit D) to obtain at least three references (it is preferred no more than one be a City of Phoenix project). If your firm has not completed prior projects with other agencies, you will not be penalized. It is recommended there be references outside the City of Phoenix.

*These points are in addition to the 1,000 points for the SOQ.

SECTION VI - SUBMITTAL REQUIREMENTS

Electronic Submittal Process: Firms interested in this project must submit a Statement of Qualifications (SOQ) electronically through the ProcurePHX online portal.

Submittal requirements are as follows:

- Vendor Information:** All firms must be registered in the City's Vendor Management System prior to submitting a proposal. For new firms, the City will send an email to your firm with a vendor number within two business days of submitting the request. The vendor number should be included on the cover of the SOQ. Information on how to register with the City is available at:

<https://www.phoenix.gov/financesite/Pages/EProc-help.aspx>

If your firm is already registered with the City of Phoenix's ProcurePHX system, please visit <https://eprocurement.phoenix.gov/irj/portal> to login and access the electronic solicitation.

- The product category code for this RFQ is 912000000 and the RFx number is 6000001297.**

Submittals:

- Experience Modification Rate (EMR) – provide current rating; the awarded company will be asked to provide verification upon contract execution.
- Submittals must be uploaded to the ProcurePhx website by the submittal due date and time.
- Submit only one SOQ electronically, in .PDF format only, addressing all evaluation criteria. No hard copies will be accepted.
- Clearly display the firm name, vendor number, project title, and project number on the cover of the SOQ.
- A maximum of **12 pages** is permitted to address all content in the SOQ submittal (*Maximum page limit includes evaluation criteria and all additional content. It does not include information sheet.*)
- Submit the Statement of Qualifications by **12:00 noon, local time, on Friday, September 23, 2022.**
- Page size must meet requirements of 8½" x 11"
- Font size must not be less than 10 point
- Content count:
 - ✓ Each side of a page containing evaluation criteria and additional content will be counted toward the maximum page limit noted above.
 - ✓ Pages that have project photos, charts and/or graphs will be counted towards the maximum page limit noted above.
 - ✓ Front and back covers, information sheet, Table of Contents pages, and divider (tab) pages **will NOT** be counted toward the maximum page limit noted above, unless they include evaluation criteria and additional content that could be considered by the selection panel.

- Information Sheet:** Provide an information sheet that includes project title, project number, RFx number, firm name, address, phone number, vendor number, and the name, title, email address and signature of your contact person for the project. Do not include any additional information.

- ☑ **Evaluation Criteria:** Address the SOQ evaluation criteria.
- ☑ **Bonding Statement:** As a separate PDF attachment, **include a statement of the firm’s bonding capacity** from a Surety Company (A- or better for the prior four quarters) along with your SOQ submittal. *(This bond statement will not be counted towards the maximum number of pages).*
- ☑ **Additional Content:** Resumes and other information may be included *(content shall be included within the permitted maximum page limit).*
- ☑ **Disadvantaged Business Enterprise Attachments:** Include completed DBE Clause Exhibit B and supporting documentation, as a separate PDF attachment electronically along with your SOQ submittal. DBE attachments do NOT count towards maximum page count.

Note: All pages exceeding the specified maximum page limit will be removed from the submittal and not considered in evaluating a submitted SOQ.

GROUNDS FOR DISQUALIFICATION:

Please be advised that the following **will be grounds for disqualification**, and will be strictly enforced:

- Failure to submit electronically through the ProcurePHX online portal by the due date and time.
- Violating the “Contact with City Employees” policy contained in this RFQ.
- Failure to provide bonding statement
- Missing DBE Exhibit B and supporting documentation. Note: Please submit as a separate PDF.

SECTION VII - SELECTION PROCESS AND SCHEDULE

The successful firm will be selected through a qualifications-based selection process. Interested firms will submit a SOQ. A Selection Panel will evaluate each SOQ according to the criteria set forth in Section V above. The City will select a firm based on the SOQs received; no formal interviews will be conducted.} The City may conduct a due diligence review on the firm receiving the highest evaluation.

The City expects to create a final list of at least three, but not more than five firms for this project. The City will enter into negotiations with the selected firm and execute a contract upon completion of negotiation of fees and contract terms for City Council approval.

The following tentative schedule has been prepared for this project.

Pre-submittal Meeting	September 8, 2022
SOQs due	September 23, 2022
Firms notified of Selection	Late-October 2022
Scope Meeting	Early-November 2022

If the City is unsuccessful in negotiating a contract with the best-qualified firm, the City may then negotiate with the next most qualified firm until a contract is executed, or the City may decide to terminate the selection process. Once a contract is executed with the successful firm, the procurement is complete.

Firm selected for this project will be notified directly by the City. Notification to all other firms on the status of a selection on this project will be posted on the City of Phoenix's "Tabulations, Awards, and Recommendations" website:

<http://solicitations.phoenix.gov/awards>

SECTION VIII – CONSTRUCTION PHASE DAVIS BACON COMPLIANCE

The CMAR shall comply with "Federal Davis Bacon and Related Acts" in accordance with 29 CFR Part 3 and 29 CFR Part 5 as applicable for the construction phase contract. Prior to bidding to subcontractors, the CMAR shall obtain the effective federal wage determination to be included in all subcontracts.

SECTION IX – FEDERAL REQUIREMENTS

Lobbying and Influencing Federal Employees. No Federal appropriated funds shall be paid, by or on behalf of the CMAR, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant and the amendment or modification of any Federal grant. If any funds other than Federal appropriated funds have been paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal grant, the CMAR shall complete and submit Standard Form-LLL, "Disclosure of Lobby activities," in accordance with its instructions.

Trade Restriction. The CMAR and subcontractors, by submission of the Statement of Qualifications, certifies that it is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR); has not knowingly entered into any contract or subcontract for this JOC with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list; and has not procured any product nor subcontracted for the supply of any product for use on the contract that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a CMAR or subcontractor who is unable to certify to the above. If the CMAR knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the CMAR agrees that, if awarded a contract resulting from this solicitation it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The CMAR may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The CMAR shall provide immediate written notice to the Sponsor if the CMAR learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the

CMAR if at any time it learns that its certification was erroneous by reason of changed circumstances.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a CMAR is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Debarment, Suspension, Ineligibility and Voluntary Exclusion. The CMAR and its subcontractors, by submission of its Statement of Qualifications (SOQ) certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by submitting its SOQ that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the CMAR or any lower tier participant is unable to certify this statement, it shall attach an explanation to its SOQ.

Buy American Preference. The CMAR certifies by submission of its Statement of Qualifications, that it will comply with Buy American preferences established under Title 49 U.S.C. Section 50101. Unless formally approved by the Federal Aviation Administration, all acquired steel and manufactured products installed must be produced in the United States. Be advised that the North American Free Trade Agreement does not apply to Aviation Improvement projects.

Equal Employment Opportunity. The CMAR agrees that it will undertake affirmative action in conformance with 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from participating in any employment, contracting or leasing activities covered in 14 CFR Part 152, Subpart E. The CMAR assures that no person will be excluded on such grounds from participating in or receiving the services or benefits of any program or activity covered by Subpart E. The CMAR further agrees that it will require its covered suborganizations to provide assurances to the CMAR that they similarly will undertake affirmative action and that they will require like assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E.

If the CMAR is a construction contractor on the Airport, the CMAR shall submit to the City of Phoenix the reports required by paragraph (e) of 14 C.F.R. § 152.415, on the same basis as stated in paragraph (e) of 14 C.F.R. § 152.415, and the CMAR shall require each subcontractor to submit the reports required by paragraph (f) of 14 C.F.R. § 152.415 through the CMAR to the City of Phoenix, for transmittal by the City of Phoenix to the FAA.

Non-Segregated Facilities. The CMAR and its subcontractors, by submission of the Statement of Qualifications certifies that it does not maintain or provide for its employees any segregated facilities at any its establishments, and that it does not permit its employees to perform their services at any location, under its control where segregated facilities are maintained. The CMAR certifies further that it will not maintain or provide for its employees segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained.

Federal Affirmative Action Requirements. The CMAR will comply with the federal Affirmative Action requirements as provided by 14 C.F.R. Part 152, subpart E during the term of the contract and the CMAR will require its subcontractors to also comply with the federal Affirmative

Action requirements as set out above, and as may be amended. Failure of the CMAR and its subcontractors to maintain compliance during the term of the contract, including renewal options, is a material breach and may result in termination of the contract.

The selected Contractor should expect to comply with the Arizona State Statutes Title 34 and City of Phoenix Design and Construction Procurement's contract provisions.

SECTION X - GENERAL INFORMATION

Citywide Capital Improvement Projects. Consulting and contractor services supporting the City's Capital Improvement Projects are procured under the authority of the City Engineer, currently located within the Street Transportation Department. Design and Construction Procurement coordinates the citywide consulting and construction contracting procurement processes.

Changes to Request for Qualifications. *Any changes to this Request for Qualifications will be in the form of a notification.* The City of Phoenix shall not be held responsible for any oral instructions. Notifications are available on both the Solicitations and ProcurePHX webpage.

It shall be the responsibility of the registered RFQ holder to determine, prior to the submittal of the Statement of Qualifications, if notifications have been issued. Registered RFQ holders may refer to the webpage or call the Contract Specialist (listed below) in order to ascertain if a Notification has been issued for this project.

Alternate Format. For more information or a copy of this publication in an alternate format, contact the Contract Specialist (listed below) - Voice or TTY 711. Requests will only be honored if made within the first week of the advertising period.

Release of Project Information. The City shall provide the release of all public information concerning the project, including selection announcements and contract awards. Those desiring to release information to the public must receive prior written approval from the City.

City Rights. The City of Phoenix reserves the right to reject any or all Statements of Qualifications, to waive any informality or irregularity in any Statement of Qualifications received, and to be the sole judge of the merits of the respective Statements of Qualifications received.

Contact with City Employees. Beginning on the date the RFQ is issued and until the date the contract is awarded or the RFQ withdrawn, all persons or entities that respond to the RFQ, including their authorized employees, agents, representatives, proposed partner(s), subcontractor(s), joint venture(s), member(s), or any of their lobbyists or attorneys (collectively the Proposer), will refrain from any direct or indirect contact with any person (other than the designated Contract Specialist), including members of the evaluation panel, the City Manager, Assistant City Manager, Deputy City Managers, Department heads, the Mayor and other members of the Phoenix City Council. As long as the RFQ solicitation is not discussed, Proposers may continue to conduct business with the City and discuss business that is unrelated to this RFQ solicitation with City staff.

Commencing on the date and time a solicitation is published, potential or actual proposers (including their representatives) will only discuss matters associated with the solicitation with the Mayor, any members of City Council, the City Manager, any Deputy City Manager, or any department director directly associated with the solicitation (including in each case their assigned staff, except for the designated procurement officer) at a public meeting, posted under

the Arizona Revised Statutes, until the resulting contract(s) are awarded or all offers or responses are rejected and the solicitation is cancelled without any announcement by the procurement officer of the City's intent to reissue the same or a similar solicitation.

Proposers may discuss their proposal or the RFQ solicitation with the Mayor or one or more members of the Phoenix City Council, provided such meetings are scheduled through the Contract Specialist (listed below), conducted in person at 200 W. Washington, Phoenix, Arizona 85003, and are posted as open meetings with the City Clerk at least twenty-four (24) hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.

This policy is intended to create a level playing field for all Proposers, assure that contracts are awarded in public, and protect the integrity of the selection process. **OFFERORS THAT VIOLATE THIS POLICY WILL BE DISQUALIFIED.**

Conflict of Interest. The City reserves the right to disqualify any Proposer on the basis of any real or apparent conflict of interest that is disclosed by the proposal submitted or any other data available to the City. This disqualification is at the sole discretion of the City. Any Proposer submitting a proposal herein waves any right to object now or at any future time, before any body or agency, including but not limited to, the City Council of the City of Phoenix or any court.

Protest Procedures. Firms wishing to respond to disqualification or a procurement outcome may refer to The Code of the City of Phoenix Chapter 2, Article XII, Section 2-187 to 2-190.4, which governs protest procedures utilized throughout the selection process. The procedures may be reviewed through the City of Phoenix website at:

<http://www.codepublishing.com/az/phoenix/>

A copy of the Protest Policy is also available online at:

<https://www.phoenix.gov/streets/procurement-opportunities>

Questions. Questions pertaining to this selection process or contract issues should be directed to the Contract Specialist, Samantha B. Ansmann at (602) 681-5361, or samantha.ansmann@phoenix.gov.

EXHIBIT A
CITY OF PHOENIX SUBCONTRACTOR SELECTION PLAN
(EXCERPT FROM CMAR PRECONSTRUCTION CONTRACT)

2.8 MAJOR SUBCONTRACTOR AND MAJOR SUPPLIER SELECTIONS

2.8.1 The selection of major Subcontractors and major Suppliers may occur prior to submission of a GMP Proposal. Major Subcontractors may be selected based on qualifications or a combination of qualifications and price. Subcontractors shall not be selected based on price alone. Except as noted below, the selection of major Subcontractors/Suppliers is the responsibility of the CMAR. In any case, the CMAR is solely responsible for the performance of the selected Subcontractors/Suppliers.

2.8.1.1 The CMAR will prepare a Subcontractor/Supplier selection plan and submit the plan to the City for approval. This subcontractor selection plan shall identify those subcontractor trades anticipated to be selected by qualifications only per Section 2.8.2 and those subcontractor trades anticipated to be selected by qualifications and competitive bid in accordance with Section 2.8.3. This plan will also identify those subcontractors that will not be selected through a formalized qualifications-based selection process. The subcontractor selection plan must be consistent with the selection requirements included in this Contract.

2.8.2 Selection by qualifications and competitive bid - The CMAR shall apply the subcontractor selection plan in the evaluation of the qualifications of a Subcontractor(s) or Supplier(s) and provide the City with its process to prequalify prospective subcontractors and suppliers. All Work for major subcontractors and major suppliers shall then be competitively bid to the prequalified subcontractors unless a Subcontractor or Supplier was selected pursuant to paragraph 2.8.2 above. Competitive bids may occur prior to or after the GMP Proposal(s).

2.8.2.1 The CMAR will develop Subcontractor and Supplier interest, submit the names of a minimum of three qualified Subcontractors or Suppliers for each trade in the Project for approval by the City and solicit bids for the various Work categories. The CMAR will identify the SBE/DBE Subcontractors and Suppliers and during the bidding process keep the City informed on the progress of meeting the desired SBE/DBE program requirements. If there are not three qualified Subcontractors/Suppliers available for a specific trade or there are extenuating circumstances warranting such, the CMAR may request approval by the City to submit less than three names. Without prior written notice to the City, no change in the recommended Subcontractors/Suppliers will be allowed.

2.8.2.2 If the City objects to any nominated Subcontractor/Supplier or to any self-performed Work for good reason, the CMAR will nominate a substitute Subcontractor/Supplier that is acceptable to the City.

2.8.2.3 The CMAR will distribute Drawings and Specifications, and when appropriate, conduct a pre-bid conference with prospective Subcontractors and Suppliers.

- 2.8.2.4 If the CMAR desires to self-perform certain portions of the Work, it will request to be one of the approved Subcontractor bidders for those specific bid packages. The CMAR's bid will be evaluated in accordance with the process identified below. If events warrant and the City concurs that in order to insure compliance with the Project Schedule and/or cost, the CMAR may self-perform Work without bidding or re-bidding the Work.
- 2.8.2.5 The CMAR shall request the pre-qualified subcontractors to provide a detailed bid for the services requested. The subcontractor bid, provided on the subcontractors' letterhead, shall contain sufficient information (i.e. unit costs/amounts) to allow an evaluation of the reasonableness of bid costs. The CMAR shall receive, open, record and evaluate the bids. The apparent low bidders will be interviewed to determine the responsiveness of their proposals. In evaluating the responsiveness of bid proposals the CMAR, in addition to bid price, may consider the following factors: past performance on similar projects, qualifications and experience of personnel assigned, quality management plan, approach or understanding of the Work to be performed, and performance schedule to complete the Work. The final evaluation of Subcontractor/Supplier bids will be done with the City Representative in attendance to observe and witness the process. The CMAR will resolve any Subcontractor/Supplier bid withdrawal, protest or disqualification in connection with the award at no increase in the Cost of the Work.
- 2.8.3 The CMAR will be required to prepare two different reports on the subcontracting process.
- 2.8.3.1 Within fifteen Days after each major Subcontractor/Supplier bid opening process, the CMAR will prepare a report for the City's review and approval identifying the recommended Subcontractors/Supplier for each category of Work. The report will provide (a) the name of the recommended Subcontractor/Supplier and the amount of the Subcontractor/Supplier bid for each sub-agreement, (b) the sum of all recommended Subcontractor/Supplier bids received, (c) a copy of the bids received from each subcontractor, and (d) trade work and its cost that the CMAR intends to self-perform, if any.
- 2.8.3.2 Upon completion of the Subcontractor/Supplier bidding process, the CMAR shall submit a summary report to the City of the entire Subcontractor/Supplier selection process. The report will indicate, by bid process, all Subcontractors/Suppliers contacted to determine interest, the Subcontractors/Suppliers solicited, the bids received and costs negotiated, and the recommended Subcontractors/Suppliers for each category of Work.
- 2.8.4 The approved Subcontractors/Suppliers will provide a Schedule of Values that reflects their final accepted bid proposal, which will be used to create the overall Project Schedule of Values.
- 2.8.5 If after receipt of sub-bids or after award of Subcontractors and Suppliers, the City objects to any nominated Subcontractor/Supplier or to any self-performed Work for good reason, the CMAR will nominate a substitute Subcontractor or Supplier, preferably if such option is still available, from those who submitted Subcontractor bids for the Work affected. Once such substitute Subcontractors and Suppliers are consented to by the City, the CMAR's proposed GMP for the Work or portion thereof will be correspondingly adjusted to reflect any higher or lower costs from any such substitution.

2.8.6 Promptly after receipt of the Notice of Intent to Award, the City will conduct a pre-award conference with the CMAR and other project team members. At the pre-award conference, the CMAR will (a) review the nominated slate of Subcontractors and Suppliers and discuss any concerns with or objections that the City has to any nominated Subcontractor or Supplier; (b) discuss City concerns relating to any proposed self-performed Work; (c) review the CMAR's proposed Contract Price for the Work during the construction phase; (d) discuss the conditions, if any, under which the City will agree to leave any portion of the remaining CMAR Contingency within the Contract Price for the construction phase Work; (e) resolve possible time frames for the Date of Commencement of the Contract time for the construction phase Work; (f) schedule the preconstruction conference; and (g) discuss other matters of importance.

EXHIBIT B
DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

ATTACHED



City of Phoenix

Specify Agency Name Disadvantaged Business Enterprise Program

DBE – Construction Manager at Risk (CMAR) and Design-Build (DB) Contract Clause Race & Gender-Neutral – Negotiated

Phoenix is one of the fastest growing, multicultural cities in the country and has shown a historical commitment to business diversity. The City and its partners strive to advance the economic growth of small businesses through its Disadvantaged Business Enterprise (DBE) Program.

The City of Phoenix DBE Program is managed and administered by the City's Equal Opportunity Department, Contract Compliance Division. Through a coordinated effort among several city departments and partner agencies, the DBE Program provides certification and opportunities in construction, purchasing, management and technical assistance, educational services and networking.

SECTION I. DEFINITIONS

Agency means the City of Phoenix for purposes of this Contract.

Arizona Unified Certification Program (AZUCP) means a consortium of government agencies organized to provide reciprocal DBE certification within Arizona pursuant to 49 Code of Federal Regulations (CFR) Part 26. The official DBE database containing eligible DBE firms certified by AZUCP can be accessed at: <https://utracs.azdot.gov>. The certification system is called the Arizona Unified Transportation Registration and Certification System (AZ UTRACS).

Business to Government Now (B2G) means the web-based certification and compliance system used to track and monitor DBE and Small Business Participation. The B2G system can be accessed at: <https://phoenix.diversitycompliance.com>

Contract means a legally binding relationship obligating a seller to furnish supplies or services (including construction and professional services) and the buyer to pay for them.

DBE Compliance Specialist means an Agency employee responsible for compliance with this DBE Contract Clause.

EOD means the City of Phoenix Equal Opportunity Department.

Joint Venture (JV) means an association between two or more persons, partnerships, corporations, or any combination thereof, formed to carry on a single business activity. The JV is limited in scope and duration to this Contract. The resources, asset, and labor of the participants must be combined in an effort to accrue profit.

Outreach Efforts means the diligent and good faith efforts demonstrated by a Submitter to solicit participation from interested and qualified DBEs and other Small Businesses. Submitter shall identify and document potential business opportunities for DBEs and other Small Businesses, describe what efforts were undertaken to solicit DBE and Small Business participation, disclose results of negotiations with DBEs and Small Businesses, and communicate and record Submitter's selection decisions relating to DBE and Small Business participants.

Disadvantaged Business Enterprise (DBE) means a Small Business Concern that has successfully completed the DBE certification process and has been granted DBE status by an AZUCP member pursuant to the criteria contained in 49 CFR Part 26.

Commercially Useful Function means that a DBE is responsible for executing the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. If a DBE does not perform or exercise responsibility for at least 30% of the total cost of its contract with its own work force, or if the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the DBE is presumed not to be performing a Commercially Useful Function.



City of Phoenix

Specify Agency Name Disadvantaged Business Enterprise Program

Goods and Services Providers are firms that provide goods and services that represent a Commercially Useful Function directly to Transit as a DBE or Small Business.

Manufacturer means a firm that owns, operates or maintains a factory or establishment that produces on the premises the components, materials, or supplies obtained by the recipient, successful submitter, or Transit Vehicle Manufacturer.

Regular dealer/broker is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or released to the public in the usual course of business.

Supplier means a firm that engages in, as its principal business, the purchase and sale of material or supplies required for the performance of a contract. The firm must own, operate, and maintain a store, warehouse or other establishment where the supplies are bought, kept in stock, and regularly sold to the public in the usual course of business.

Small Business Concern (SBC) means, with respect to firms seeking to participate in contracts funded by the U.S. Department of Transportation (US DOT), a Small Business Concern as defined in section 3 of the Small Business Act and Small Business Administration regulations implementing the Act (13 CFR part 121), which Small Business Concern does not exceed the cap on average annual gross receipts specified in 49 CFR § 26.65(b). "Small Business" and "Small Business Concern" are used interchangeably in this DBE Contract Clause.

Small Business Enterprise (SBE) means a small business that has been determined to meet the requirements for SBE certification with the City of Phoenix and whose certification is in force at the time of the award of business by the City. A directory of currently certified SBE firms is located at: <https://phoenix.diversitycompliance.com> .

Race- and Gender-Neutral (RGN) Measures means a measure or program that is, or can be used to assist all Small Businesses.

Subcontract means a contract at any tier below the prime contract, including a purchase order.

Subcontractor means an individual, partnership, JV, corporation, or firm that holds a contract at any tier below the prime contract, including a vendor under a purchase order.

Submitter means an individual, partnership, JV, contractor, corporation or firm that tenders a submittal to the Agency to perform services requested by a solicitation or procurement. The submittal may be direct or through an authorized representative. (Submitter is inclusive of the terms: *Bidder, Offeror, Proposer, Respondent*, etc.)

Responsive Submitter means a firm that has met the minimum program requirements as outlined in the solicitation and due at the time of submittal.

Successful Submitter means a firm that has been awarded the contract by the Agency to perform services or furnish supplies requested by a solicitation or procurement.

Responsible Submitter means a firm that has been selected to continue in the procurement process by the Agency.

Transit Vehicle Manufacturers (TVMs) means any manufacturer whose primary business purpose is to manufacture vehicles specifically built for public mass transportation. Such vehicles include, but are not limited to buses, rail cars, trolleys, ferries, and vehicles manufactured specifically for paratransit purposes. Producers of vehicles that receive post-production alterations or retrofitting to be used for public transportation purposes (e.g., so-called cutaway vehicles, vans customized for service to people with disabilities) are also considered transit vehicle manufacturers. Businesses that manufacture, mass-produce, or distribute vehicles solely for personal use and for sale "off the lot" are not considered transit vehicle manufacturers.

Transit Vehicle Manufacturers Goals for FTA recipients each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of 49 CFR Part 26.49.



City of Phoenix

Specify Agency Name Disadvantaged Business Enterprise Program

SECTION II. GENERAL REQUIREMENTS

A. Applicable Federal Regulations

This Contract is subject to DBE requirements issued by USDOT in 49 CFR Part 26. Despite the lack of a race- and gender-conscious DBE participation goal for this Contract, the Agency must track and report DBE participation that occurs as a result of any procurement, JV, goods/services, or other arrangement involving a DBE. For this reason, the Successful Submitter shall provide all relevant information to enable the required reporting.

B. DBE Participation

For this solicitation, the Agency has *not* established a race- or gender-conscious DBE participation goal. The Agency extends to each individual, firm, vendor, supplier, contractor, and subcontractor an equal economic opportunity to compete for business. The Agency uses race- and gender-neutral measures to facilitate participation by DBEs and Small Businesses. The Agency *encourages* each Submitter to voluntarily subcontract with DBEs and Small Businesses to perform part of the work—a Commercially Useful Function—that Submitter might otherwise perform with its own forces.

C. Small Business Participation

The Agency will track the participation of all approved businesses throughout the life of this contract. The Agency will count Small Business participation as authorized by federal regulations. A summary of these regulations can be found at www.ecfr.gov (49 CFR Part 26.39).

D. DBE Certification

Only firms (1) certified by the Agency or another AZUCP member, and (2) contracted to perform a Commercially Useful Function on scopes of work for which they are certified, may be considered to determine DBE participation resulting from RGN measures on this Contract. This DBE determination affects the Agency's tracking and reporting obligations to USDOT.

E. Civil Rights Assurances

As a recipient of USDOT funding, the Agency has agreed to abide by the assurances found in 49 CFR Parts 21 and 26. Each Contract signed by the Agency and the Successful Submitter, and each Subcontract signed by the Successful Submitter and a Subcontractor, must include the following assurance *verbatim*:

"The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national origin, sex, or creed in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Parts 21 and 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Phoenix deems appropriate."

Note: For purposes of the required Contract and Subcontract language above, Successful Submitter is the "contractor" awarded the contract.

SECTION III. PRE-AWARD SUBMITTAL REQUIREMENTS

Documentation due with initial qualifications-based submittal.

A. Form EO1 – Statement of Outreach Commitment

Each Submitter shall sign, date and submit a completed **Form EO1 - Statement of Outreach Commitment**, with its initial qualifications-based submittal.

B. Failure to Submit Form EO1

Submittals that do not have this form completed and signed will be deemed nonresponsive. A nonresponsive submittal will be disqualified from further evaluation.



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SECTION IV. POST-AWARD SUBMITTAL REQUIREMENTS

The Agency has implemented outreach requirements for this Contract. Specifically, the Successful Submitter shall: (1) identify small-business-participation opportunities, including Commercially Useful Functions; (2) actively solicit proposals from small businesses; (3) evaluate small-business proposals; and (4) communicate selection decisions to small businesses, including each rejection of a small-business proposal.

Following the award of the contract and prior to the execution of each phase, as a matter of compliance, the documentation of outreach efforts must be submitted and approved on a date to be determined by Contract Owner:

A. Form EO2 - Small Business Outreach Efforts

Successful Submitter shall complete and submit **Form EO2 - Small Business Outreach Efforts**, documenting its diligent, earnest outreach efforts for professional services in the design phase and trade areas in all GMP phases or Contract Change/Task Orders to the contract (if applicable), as described in this clause.

Form EO2 and all supporting documentation are due to the Equal Opportunity Department within 30 days, or a date determined by the City.

Successful Submitter shall list **All DBEs and Small Businesses** contacted by the Successful Submitter. Successful Submitter shall also provide the following minimum information to document its Outreach Efforts in the designated columns within Form EO2:

1. Column A - Small Business Name and Contact Information

Must list each business's full legal name and contact information. Successful Submitter shall inquire to obtain the following: the number of its employees, number of years in business and its estimated range of annual gross receipts.

2. Column B - Business Status

Indicate the business status. Check all that apply, if known.

- The AZUCP directory of certified DBE and SBC firms can be accessed at: <https://utracs.azdot.gov>
- The City of Phoenix directory of certified SBE firms can be accessed at: <https://phoenix.diversitycompliance.com>

3. Column C - Scope(s) of Work Solicited

List the scope(s) of work solicited for which the small business was considered for participation in the proposal. The solicitation shall include a description of the scope(s) of work being requested.

4. Column D - Solicitation Method

Indicate the solicitation method by which each small business was contacted for your outreach efforts and provide supporting documentation. Supporting documentation must include a copy of the actual solicitation sent to DBEs and Small Businesses. The solicitation may be in the form of letters or attachments to email, phone logs, newspapers and trade papers, outreach events, etc. If using a log as supporting documentation, it must include:

- List the Solicitation Method
- Name of Submitter's Representative
- Name of Company Contacted
- Name of Person Contacted
- Date and Time of Contact
- Details of the Communication



City of Phoenix

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5. Column E - Selection Decision

Indicate the Successful Submitters selection decision for each small business that responded to the solicitation.

If selected, indicate the Guaranteed Minimum Dollar Value.

If not selected, provide an explanation of why firm was NOT selected.

6. Column F - Method of Communication of Final Selection Outcome

The Successful Submitter must notify the final selection outcome to all small businesses that responded. The supporting documentation for this notification may be in the form of a letter, email, or a telephone log, etc. This documentation must show the following information regarding the final selection:

- List the Selection Outcome
- Name of Submitter's Representative
- Name of Company Contacted
- Name of Person Contacted
- Date and Time of Contact
- Details of the Communication

*Successful Submitter shall provide supporting documentation that shows Submitter has communicated its final selection decisions and outcomes to all DBE's and Small Businesses, including those not chosen to participate on this Contract.

B. Form EO3 -Small Business Utilization Commitment

The Successful Submitter shall complete, sign, date and submit Form EO3 - Small Business Utilization Commitment, which commits Successful Submitter to the Agency as follows:

1. The firms indicated as "Selected" on Form EO2 - Small Business Outreach Efforts, will participate in this Contract;
2. The Successful Submitter will comply with the Race- and Gender-Neutral post-award compliance requirements as stated in the DBE contract clause;
3. Successful Submitter understands and agrees that any and all changes or substitutions to subcontracts with DBE's and Small Businesses must be authorized by the Compliance Specialist for the Contract Owner prior to implementation; and
4. The following statement is true and correct: The proposed total participation of DBE, SBC and SBE firms on this contract will be designated on Form EO3 by the Successful Submitter.

C. Failure to Meet Outreach Requirements

The DBE Compliance Specialist will determine, in writing, whether Successful Submitter has satisfied all small business outreach requirements. If the DBE Compliance Specialist determines that Successful Submitter has failed to satisfy the outreach requirements, then the DBE Compliance Specialist may determine that the submittal is noncompliant. The Agency shall send written notice to the Successful Submitter stating the basis for the DBE Compliance Specialist's decision. Failure to fulfill the small business outreach requirements is considered a breach of contract and shall result in a non-compliance determination.

D. Administrative Reconsideration

In the event the City determines the Bidder failed to submit required documentation to meet the Small Business Outreach Requirements, an opportunity for reconsideration of this determination will be provided. This opportunity for reconsideration will seek to obtain clarification of documentation submitted with the bid.

Within three business days of being informed by the City that the Bidder is not responsive based on insufficient demonstration and/or documentation of Outreach Efforts, the Bidder may submit its written request to:



City of Phoenix

Specify Agency Name Disadvantaged Business Enterprise Program

**City of Phoenix Equal Opportunity Department
Office of the Director
200 W. Washington St., 15th Floor
Phoenix, AZ 85003**

If the request for Administrative Reconsideration is not submitted within the allotted three business days, the non-responsive Bidder shall not utilize the DBE Program submittal requirements as the basis for its future protest.

As part of this reconsideration process, the Bidder will have an opportunity to provide written clarification or argument concerning the issue of whether it met the Outreach Requirements or provided sufficient supporting documentation of this efforts at the time of bid. As the Disadvantaged Business Enterprise Liaison Officer (DBELO) for the City, The Equal Opportunity Director shall review solely the written clarification or argument, along with any document(s) originally submitted at the time of bid. No new or revised forms or supporting documentation will be reviewed for consideration.

The DBELO or his designee will send the Bidder a written decision on the reconsideration, explaining the basis for finding that the Bidder did or did not meet the Small Business Outreach Requirements. The result of the DBE reconsideration process is not administratively appealable and cannot be escalated or included in any other protest not related to the DBE Program.

SECTION V. POST-AWARD COMPLIANCE REQUIREMENTS

A. Subcontracting Commitment

The small business subcontractors identified and accepted in the Small Business Outreach documents must have an executed contract* in place prior to the performance of work.

Successful Submitter shall submit to Agency, through the B2G system, all executed contracts, purchase orders, subleases, JV agreements, and other arrangements formalizing agreements between Successful Submitter and all subcontractors, upon execution throughout the life of this contract.

The Successful Submitter shall not terminate any approved DBE or Small Business Subcontracts, nor shall the Successful Submitter alter the scope of work or reduce the Subcontract amount, without the DBE Compliance Specialist's prior written approval. Any request to alter a DBE or Small Business Subcontract must be submitted in writing to the DBE Compliance Specialist before any change is made. If the Successful Submitter fails to do so, the Agency may declare Successful Submitter in breach of contract.

*Executed contracts and all lower tier contracts must contain the required Civil Rights Assurances and Prompt Payment provisions.

B. Counting Small Business Participation

The prime contractor may only count expenditures to AZUCP certified DBE subcontractors that perform a commercially useful function on the contract. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. A DBE subcontractor must perform a minimum of 30% of its subcontract value with its own workforce and equipment before its participation can be counted. DBEs must manage and control the performance of its contract and not be dependent on the prime's personnel and equipment to complete its work. Scope(s) of work not covered in the DBE firm's certification description **will not** be counted as DBE participation.



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Commercially Useful Function & Counting of DBE Trucking/Hauling:

49 CFR Part 26.55 Section (d) defines Commercially Useful Function and the counting of DBE participation Trucking/Hauling as follows:

- The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose achieving DBE participation.
- The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
- The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
- The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract. Additional participation by non-DBE lessees receives credit only for the fee or commission it receives as a result of the lease arrangement.
- Amounts paid for dump fees or materials being hauled/dumped cannot be counted as DBE participation.

Counting DBE certified Manufactures, Suppliers, and Brokers:

49 CFR Part 26.55 Section (e) permits the counting of expenditures with DBEs for materials or supplies toward DBE participation as provided in the following:

- If the materials or supplies are obtained from a **DBE manufacturer**, count 100 percent of the cost of the materials or supplies toward DBE participation,
- If the materials or supplies are purchased from a **DBE regular dealer (supplier)**, count 60 percent of the cost of the materials or supplies toward DBE participation.
- If materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, **(broker or manufacturer's rep.)** count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies toward DBE participation.

If an approved DBE allows its DBE certification to expire, or the certification is revoked during the course of the Subcontract, the Agency will consider all work performed by the DBE under the original contract to count as DBE participation. No increased scope of work negotiated after expiration or revocation of the DBE's certification may be counted. Any work performed under a Contract extension granted by the Agency may not be counted as DBE participation.

C. Small Business Substitutions

If the Small Business was approved by the Agency, the Phoenix DBE Compliance Specialist will consider whether or not the Successful Submitter has exercised diligent and good-faith efforts to find another Small Business as a replacement. The Successful Submitter shall notify the Phoenix DBE Compliance Specialist in writing of the necessity to substitute a Small Business and provide specific reason(s) for the substitution or replacement. Actual substitution or replacement of a Small Business may not occur before the Phoenix DBE Compliance Specialist's written approval has been obtained.

D. Relief from Proposed Small Business Utilization

After Contract award, the Agency will not grant relief from the proposed Small Business utilization except in extraordinary circumstances. The Successful Submitter's request to modify Small Business participation must be in writing to the Phoenix DBE Compliance Specialist.



City of Phoenix

Specify Agency Name Disadvantaged Business Enterprise Program

Successful Submitter's written request must set forth the amount of relief sought, evidence that demonstrates why relief is necessary, and any additional relevant information that the Phoenix DBE Compliance Specialist should consider. The Successful Submitter shall include with the request all documentation of Submitter's attempts to subcontract with the Small Business and any other action taken to locate and solicit a replacement Small Business.

E. Prompt Payment of Subcontractors

The prompt payment clause shall be included in every contract and subcontract.

The Successful Submitter must promptly pay its subcontractors, subconsultants, or suppliers. **For projects governed by Title 34 of the Arizona Revised Statutes, payment must be made within seven (7) calendar days.** If the Successful Submitter diverts any payment received for a DBE's, Small Business's, or other Subcontractor's work performed on the Contract or fails to reasonably account for the application or use of the payment, the Agency may declare the Successful Submitter in breach of contract.

Under the prompt-payment provisions of 49 CFR Part 26, the Successful Submitter must ensure prompt and full release of retentions to Subcontractors and suppliers when their scope of work is complete and the Agency has paid Successful Submitter for the work. The Successful Submitter shall pay each Subcontractor's and supplier's retention no later than 30 days after the Agency has paid for the scope(s) of work, regardless if there's outstanding retention held against the Successful Submitter. If the Agency reduces the Successful Submitter's retention, the Successful Submitter shall correspondingly reduce the retentions of Subcontractors and suppliers that have performed satisfactory work.

Nothing in this section prevents the Successful Submitter from enforcing its Subcontract with a Subcontractor or supplier for defective work, late performance, and other claims arising under the Subcontract.

SECTION VI. RECORDS & REPORTING REQUIREMENTS

A. Records

During performance of the Contract, the Successful Submitter shall keep all records necessary to document Small Business participation. The Successful Submitter shall provide the records to the Agency within 72 hours of the Agency's request and at final completion of the Contract. The Agency will prescribe the form, manner, and content of reports. The required records may include but not limited to:

1. A complete listing of all Subcontractors and suppliers on the project;
2. Each Subcontractor's and supplier's scope performed;
3. The dollar value of all subcontracting work, services, and procurement;
4. Copies of all executed Subcontracts, purchase orders, and invoices;
5. Total operating expenses and total cost of goods sales; and
6. Copies of all payment documentation and Change Orders.

B. Reports

Successful Submitter is required to file the following payment reports in the B2G system:

1. **Progress Payments:**

By the 15th of **each** month, the Successful Submitter must enter payment information and related supporting documentation into the Agency's web-based certification and compliance reporting system.

- a. The total of all payments received from the Agency during the previous month.
- b. All payments made to Subcontractors during the previous month.



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Disadvantaged Business Enterprise Program**

The Successful Submitter is responsible for ensuring that subcontractors confirm receipt of payment in the B2G system by the end of each month.

2. **Final Payment:**

Before the Agency processes the Successful Submitter's final payment and/or outstanding retention held against the Successful Submitter, the Successful Submitter shall notate in the B2G system:

- a. The payment to each subcontractor is considered "Final".
- b. Every subcontractor must confirm they have received full and "Final" payment in the B2G system.
- c. For federal reporting purposes, Attachment E must be completed and signed by the Successful Submitter and DBE firm(s) prior to Successful Submitter receiving final payment.

The Successful Submitter is responsible for ensuring that subcontractors confirm the receipt of full and "Final" payment in the B2G system.



City of Phoenix

Disadvantaged Business Enterprise (DBE) Program

DBE-Race & Gender Neutral (Negotiated)

**FORM EO1 STATEMENT OF OUTREACH COMMITMENT
(Due with initial submittal)**

Project Number: AV31000092 FAA/ADOT	Project Title: DVT Relocate Taxiway B and Construct Connectors B6 and B9 – CMAR Services
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On behalf of the Submitter, I certify under penalty of perjury that the following information is true and correct.

If selected as the Successful Submitter, the Successful Submitter will:

- 1) Fulfill all required small business outreach requirements and shall submit all required outreach efforts documentation for contracting opportunities within 30 days or a date determined by the City following contract award recommendation;
- 2) Conduct all required small business outreach and will submit all supporting documentation; and
- 3) Comply with the Race - and Gender-Neutral post-award requirements stated in the DBE Contract Clause.

Company Name: _____

Company Mailing Address: _____

Representative Name: _____

Title: _____

Email Address: _____

Phone Number: _____

Signature: _____

Date: _____

**Disadvantaged Business Enterprise (DBE) Program
DBE-Race & Gender-Neutral (Negotiated)
Form EO2 SMALL BUSINESS OUTREACH EFFORTS**

Name of Company (Submitter):	Contract # / Project #: AV31000092 FAA/ADOT	Contract Name: DVT Relocate TWY B and Construct Connectors B6 and B9 - CMAR Services
Email:	Phone #:	Point of Contact:

Successful Submitter must conduct outreach efforts and submit supporting documentation of those outreach efforts as described in the Disadvantaged Business Enterprise (DBE) Program Race- and Gender-Neutral Contract Clause (Contract Clause). Detailed instructions for this form are included in the Contract Clause. Supporting documentation is required for columns D and F. Successful Submitter should make additional copies of this form as needed.

(A) Small Business Name and Contact Information	(B) Business Status	(C) Scope(s) of Work Solicited	(D) Solicitation Method	(E) Selection Decision	(F) Communication Final Selection Outcome										
<table border="1"> <tr><td colspan="2">Name:</td></tr> <tr><td colspan="2">Address:</td></tr> <tr> <td>City, State, Zip:</td> <td>Number of Employees:</td> </tr> <tr> <td>Phone Number:</td> <td>Email or Fax:</td> </tr> <tr> <td>Number of Years in Business:</td> <td>Range of Annual Gross Receipts:</td> </tr> </table>	Name:		Address:		City, State, Zip:	Number of Employees:	Phone Number:	Email or Fax:	Number of Years in Business:	Range of Annual Gross Receipts:	<input type="checkbox"/> DBE <input type="checkbox"/> SBC - Small Business Concern <input type="checkbox"/> SBE - City of Phoenix Certified <input type="checkbox"/> Unknown	List Scope(s) of Work	<input type="checkbox"/> E-mail Blast <input type="checkbox"/> Phone Call <input type="checkbox"/> In-Person <input type="checkbox"/> Newspaper <input type="checkbox"/> Website <input type="checkbox"/> Trade Listing <input type="checkbox"/> Outreach Event <input type="checkbox"/> Other	<input type="checkbox"/> Firm was selected Dollar Value: <input type="checkbox"/> Firm was not selected Provide explanation of why firm NOT selected _____ _____	Date Firm was Notified: <hr/> Method used to Communicate Selection: <input type="checkbox"/> Email <input type="checkbox"/> Phone <input type="checkbox"/> Fax <input type="checkbox"/> Letter <input type="checkbox"/> In person
Name:															
Address:															
City, State, Zip:	Number of Employees:														
Phone Number:	Email or Fax:														
Number of Years in Business:	Range of Annual Gross Receipts:														
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Name:															
Address:															
City, State, Zip:	Number of Employees:														
Phone Number:	Email or Fax:														
Number of Years in Business:	Range of Annual Gross Receipts:														

*Firms must be notified of final selection outcome prior to submittal of columns E&F of this form.



City of Phoenix

Disadvantaged Business Enterprise (DBE) Program

DBE-Race & Gender Neutral (Negotiated)

FORM EO3 SMALL BUSINESS UTILIZATION COMMITMENT

Project Number: AV31000092 FAA/ADOT	Project Title: DVT Relocate TWY B and Construct Connectors B6 and B9- CMAR Services
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On behalf of the Successful Submitter, I certify under the penalty of perjury that the information submitted herein is true and correct:

1. The firms indicated as "Selected" in **Form EO2 Small Business Outreach Efforts**, will participate in this contract;
2. The Successful Submitter will comply with the Race- and Gender-Neutral post-award compliance requirements as stated in the DBE contract clause;
3. Successful Submitter understands and agrees that any and all changes or substitutions to subcontracts with DBE's and Small Businesses must be authorized by the Phoenix DBE Compliance Specialist prior to implementation; and
4. The following statement is true and correct:

The proposed total participation of DBE, SBC, and SBE firms on this contract will be:

\$ _____ %

Company Name: _____

Company Mailing Address: _____

Representative Name: _____

Title: _____

Email Address: _____

Phone Number: _____

Signature: _____ Date: _____

EXHIBIT C
FEDERAL REQUIREMENTS

All work shall also be performed in accordance with the following additional documents:

The CMAR will comply with Buy American References established under Title 23 U.S.C. 313. Unless formally approved by the Federal Highway Administration, all acquired steel and manufactured products installed must be produced in the United States.

Required Contract Provisions for Federal-Aid Construction Contracts (Form FHWA 1273 Revised May 1, 2012),

Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246), July 1, 1978, Revised November 3, 1980 and Revised April 15, 1981,

Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246), July 1, 1978, Revised November 3, 1980 and Revised April 15, 1981,

Equal Employment Opportunity Compliance Reports, Federal-Aid Projects, February 1, 1977, Revised July 1, 1978, Revised November 3, 1980, Revised April 15, 1981, Revised September 7, 1983, Revised October 15, 1998, and Revised January 1, 2005,

Federal-Aid Proposal (Notices to Prospective Federal-Aid Construction Contractors), September 29, 1975, and Wage Determination Decision.

EXHIBIT D
CONTRACTOR REFERENCE CHECK INSTRUCTIONS, FORM, AND SAMPLE
LETTER

The attached Contractor Performance Evaluation Form is to be provided to the agencies or entities for which your firm has recently provided services similar to those requested for this project. Provide the evaluation form to the Owner, or the Owner's representative directly responsible for oversight of the project to complete and submit to the email box listed below.

The first three references submitted will be accepted and the scores utilized as part of the evaluation process. Each reference check is worth up to 7 points for a total of up to 21 points available.

The form is to be completed by the agency or entity and uploaded to the (email box) at:

soq.referencechecks@phoenix.gov

The procurement identifier is:

6000001297

Also attached is a sample performance evaluation cover letter that may be used when sending the reference check request.

Sample Contractor Performance Evaluation Cover Letter

Sample Cover Letter
Contact Name
Address of Reference

(Your Name) is responding to a Request for Qualifications (RFQ) from the City of Phoenix Office of the City Engineer's Design and Construction Procurement section.

The City is requesting reference information related to our past performance. As a part of the response submittal process, the City is requesting performance evaluations from agencies that our firm has performed services for either in the past or is currently receiving services.

I would appreciate your cooperation in completing the attached Contractor Performance Evaluation form and return by email the completed form by **12:00 pm Phoenix time on September 23, 2022** to soq.referencechecks@phoenix.gov attention:

Samantha B. Ansmann
City of Phoenix, Office of the City Engineer, Design & Construction Procurement
Email Address: samantha.ansmann@phoenix.gov
Telephone Number: (602) 681-5361

Failure to submit the Contractor Performance Evaluation form by the above date will have a negative impact on the proposal we submit for this service. Your cooperation in submitting this form by this date is appreciated.

If you have any questions regarding this request, please contact (your name) at (your telephone number).

Sincerely,

INSTRUCTIONS FOR COMPLETING CONTRACTOR PERFORMANCE EVALUATION

Evaluate the contractor's contract performance in each of the rating areas listed below. On the Contractor Performance Evaluation form, circle the rating from 1 to 4 that most closely matches your evaluation of the contractor's performance. Comments are not required but appreciated. **Every rating area must be scored.**

The Design and Construction Procurement section will use the information from this form to evaluate firms competing for contract award. **This completed form will become public record and upon request, will be released to the contractor or any other entity.**

Please submit the completed form to the address indicated on the bottom of the Contractor Performance Evaluation form. Thank you for your time and your cooperation.

**PHOENIX DEER VALLEY AIRPORT
RELOCATE TAXIWAY B AND CONSTRUCT CONNECTORS B6 AND B9
CONSTRUCTION MANAGER AT RISK SERVICES
AV31000092 FAA/ADOT
RFx 6000001297**

CONTRACTOR PERFORMANCE EVALUATION FOR _____
(firm name)

In the box below, provide the project title, contracted services provided by the firm, and start and completion dates of services. This form is to be completed by the Owner, or the Owner's representative directly responsible for oversight of the project. The project services evaluated must be relevant to the services of this project. Every rating area must be scored.

RATINGS: Summarize the Contractor's performance and **circle the number** below that corresponds to the performance rating for each category. Please see the rating scale. Please do not use N/A for scoring.

1 = Unsatisfactory (.25 pt.); 2 = Poor (.50 pt.); 3 = Good (.75 pt.); 4 = Excellent (1.0 pt.)

HOW WOULD YOU RANK THE BUSINESS RELATIONSHIP BETWEEN THE OWNER AND THE FIRM?	4 3 2 1	Comments:
WAS THE TEAM PRESENTED IN THE PROPOSAL THE TEAM THAT WORKED ON THE PROJECT TO COMPLETION?	4 3 2 1	Comments:
WAS STAFF PROACTIVE IN SOLVING PROBLEMS THAT MAY HAVE OCCURRED ON THE PROJECT?	4 3 2 1	Comments:
WAS THE CONTRACTED SCOPE OF SERVICES COMPLETED ON TIME AND WITHIN BUDGET?	4 3 2 1	Comments:
HOW WOULD YOU RATE THE QUALITY OF WORK PERFORMED BY THIS FIRM ON YOUR PROJECT?	4 3 2 1	Comments:

DID THE FIRM RECOMMEND EFFICIENCIES OR PROVIDE INNOVATIVE IDEAS OR SUGGESTIONS?	4 3 2 1	Comments:
WOULD YOU BE WILLING TO CONTRACT WITH THIS FIRM AGAIN? (YES = 1 point)	YES NO	Comments:
TOTAL SCORE		(MAXIMUM 7 POINTS)

Reference Evaluation Provided By:

Name and Title: _____

Agency/Organization: _____

Date: _____

Telephone Number: _____

*Email completed form by **September 23, 2022 by 12:00 pm Phoenix time to:***

soq.referencechecks@phoenix.gov

***EMAIL SUBJECT LINE SHOULD REFERENCE RFx NUMBER 6000001297**

The document should reference the project number and firm for which the reference check is being submitted. If no project number is available, reference the service and firm for which the reference check is being submitted.