

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



**PROJECT SPECIFICATIONS AND CONTRACT DOCUMENTS**

**PHOENIX SIDEWALK SHADE STRUCTURES  
DESIGN-BID-BUILD**

**PROJECT NO. ST85170116 ARPA**

**PROCUREPHX PRODUCT CATEGORY CODE 912000000  
RFx 6000001688**

**AGREEMENT \_\_\_\_\_**



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# CALL FOR BIDS

**CITY OF PHOENIX  
PHOENIX SIDEWALK SHADE PROJECT  
DESIGN-BID-BUILD**

**PROJECT NO. ST85170116**

**PROCUREPHX PRODUCT CATEGORY CODE 912000000  
RFx 6000001688**

**BIDS WILL BE DUE: TUESDAY, NOVEMBER 19, 2024 AT 2:00 P.M.  
SUBMITTED INTO THE DESIGN AND CONSTRUCTION PROCUREMENT BID BOX  
LOCATED ON THE 1ST FLOOR LOBBY OF THE PHOENIX CITY HALL BUILDING,  
200 W. WASHINGTON STREET, PHOENIX, ARIZONA, 85003**

**BIDS WILL BE READ: TUESDAY, NOVEMBER 19, 2024 AT 2:00 P.M.  
ON 5<sup>TH</sup> FLOOR, ROOM 5 WEST  
PHOENIX CITY HALL  
200 W. WASHINGTON STREET  
PHOENIX, AZ 85003-1611  
\*All times are local Phoenix time**

## **SCOPE OF WORK**

The City of Phoenix is seeking a qualified contractor to provide construction services for 19 free-standing shade structures in the public right-of-way to improve walkability in neighborhoods with limited shade coverage.

This project will utilize federal funds and is subject to the requirements of Federal Regulations under the American Rescue Plan Act (ARPA) program. Participation in the Disadvantaged Business Enterprise Program is highly encouraged.

No DBE goal has been established for this project.

The City of Phoenix, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252.42 U.S.C. §§ 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

## **PRE-BID MEETING**

A pre-bid meeting will be held on Friday, November 1, 2024 at 9:00 a.m., at 1034 E. Madison Street, Phoenix, AZ 85034, Gecko Conference Room. At this meeting, staff will discuss the scope of work, general contract issues and respond to questions from the attendees. As City staff will not be available to respond to individual inquiries regarding the project scope outside of this pre-bid meeting, it is strongly recommended that interested firms send a representative to the pre-bid meeting.

## **REQUEST FOR BID PACKET**

On Thursday, October 24, 2024, the bid packet may be downloaded from the City of Phoenix's eProcurement site at:

<https://eprocurement.phoenix.gov/irj/portal>

(OR)

the City of Phoenix's "Solicitations" web page as. The web address is:

<https://solicitations.phoenix.gov>

Firms receiving a copy of the bid packet through any other means are strongly encouraged to download the bid packet from the City webpage.

Firms must be registered in eProcurement <https://www.phoenix.gov/finance/vendorsreg> as a vendor.

**GENERAL INFORMATION**

The City reserves the right to award the contract to the lowest responsible responsive bidder or all bids will be rejected, as soon as practicable after the date of opening bids.

The City of Phoenix will provide reasonable accommodations for alternate formats of the bid packet by calling Kathleen Kennedy at (602) 534-5789 or calling TTY 711. Requests will only be honored if made within the first week of the advertising period. Please allow a minimum of seven calendar days for production.

Questions pertaining to process or contract issues should be directed to Kathleen Kennedy at (602) 534-5789 or [kathleen.kennedy@phoenix.gov](mailto:kathleen.kennedy@phoenix.gov).

Jeffrey Barton  
City Manager

Eric J. Froberg, PE  
City Engineer

Published: Arizona Business Gazette  
Date: October 24, 2024  
Date: October 31, 2024  
Districts: 3, 4, 5, 7 and 8

## INFORMATION FOR BIDDERS

1. **102 BIDDING REQUIREMENTS AND CONDITIONS**, Add the following to **MAG and COP Supplement to MAG Section 102 BIDDING REQUIREMENTS AND CONDITIONS**:

### INFORMATION FOR BIDDERS

#### A. **QUESTIONS ON PLANS AND SPECIFICATIONS**

**Neither the Engineer nor the City of Phoenix shall be held responsible for any oral instructions. Any changes to the plans and specifications will be in the form of an addendum. All Addenda will be posted online within the project folder at the following website:**

<https://solicitations.phoenix.gov>

OR

<https://eprocurement.phoenix.gov/iri/portal>

For additional information prior to submitting your bid, contact:

Plans, Technical/Special Provisions, Proposal or Specifications:

NAME: Kathleen Kennedy, Design and Construction Procurement

ADDRESS: 200 W. Washington Street, 5<sup>th</sup> Floor, Phoenix, AZ 85003-1611

PHONE: (602) 534-5789 E-MAIL: [kathleen.kennedy@phoenix.gov](mailto:kathleen.kennedy@phoenix.gov).

**All questions regarding the plans and specifications must be received (in writing) at a minimum seven calendar days prior to bid opening. Questions received after that time may not be given any consideration.**

#### B. **REQUEST FOR SUBSTITUTIONS**

Paragraph A, B, and C of MAG Section 106.4 are deleted and the following paragraphs substituted:

1. The Engineer will consider written request(s), by a prime bidder only, for substitution(s) which is/are considered equivalent to the item(s) specified in the Contract documents. The written request will be considered only if it is received at least twelve calendar days prior to the established bid date. Notification of acceptable substitutions will be made by addendum issued no fewer than seven calendar days prior to the established bid date. (A.R.S. 34-104)
2. The prime bidder, at his own expense, shall furnish the necessary data of substitution and validate that the physical, chemical, and operational qualities of each substitute item is such that this item will fulfill the originally specified required function.
3. The substitution, if approved, will be authorized by a written addendum to the Contract documents and will be made available to all bidders. The bid date and the scheduled completion time will not be affected by any circumstances developing from this substitution.
4. The request will be submitted to Design and Construction Procurement, Attention Kathleen Kennedy, 5th floor, Phoenix City Hall, 200 W. Washington Street, Phoenix, Arizona 85003-1611 or via email to [kathleen.kennedy@phoenix.gov](mailto:kathleen.kennedy@phoenix.gov).

#### C. **BID BOND**

Bidders must submit a properly completed proposal guarantee in the form of certified check,

cashier's check, or surety bond on the form provided, for an amount not less than ten percent of the total amount bid included in the proposal as a guarantee that the contractor will enter into a contract to perform the proposal in accordance with the plans and specifications. Surety bonds submitted for this project shall be provided by a company which has been rated "A- or better for the prior four quarters" by the A.M. Best Company. ***A bid will be deemed non-responsive if not accompanied by this guarantee.***

The surety bond shall be executed solely by a surety company or companies holding a certificate of authority to transact surety business in the State of Arizona, issued by the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1. The surety bond shall not be executed by an individual surety or sureties even if the requirements of Section 7-101 are satisfied. The certified check, cashier's check, or surety bond will be returned to the contractors whose proposals are not accepted, and to the successful contractor upon the execution of a satisfactory bond and contract.

When providing a Surety Bond, ***failure to provide an "A- or better for the prior four quarters" bond will result in bid rejection.***

D. **LIST OF MAJOR SUBCONTRACTORS AND SUPPLIERS & LIST OF ALL SUBCONTRACTORS AND SUPPLIERS**

***A bid will be deemed non-responsive if not accompanied by a properly completed and signed L.O.S.-1 "List of Major Subcontractors and Suppliers" form.***

To assist in eliminating the practice of bid shopping on City construction projects, the Bidder shall list all Major Subcontractors and Suppliers to whom the Bidder intends to contract with that are equal to or greater than 5% of the base bid. The list of Major Subcontractors and Suppliers will be provided on the L.O.S.-1 "List of Major Subcontractors" form. Failure to properly complete and sign this form will result in bid rejection. This form is due with the bid.

If substantial evidence exists that bid shopping occurred on this project, the Bidder will be ineligible to bid on City or City-affiliated construction projects for a period of one year.

The list of All Subcontractors and Suppliers shall be provided on the L.O.S.-2 "List of All Subcontractors and Suppliers" form. This form is due three calendar days after bid opening by 5:00 p.m. All bidders will be required to submit the L.O.S.-1 form. The three lowest bidders will be required to submit the L.O.S.-2 form. If the L.O.S.-2 form is not submitted by the post-bid deadline, the Bidder will still be required to submit the document prior to award. If the Bidder fails to submit the required L.O.S.-2 form by the post-bid deadline, the Bidder's bid bond may be placed in jeopardy because the City may make a claim against the Bidder's bid bond for the cost difference between the lowest responsive and responsible Bidder's bid and the next lowest bid (and any additional costs involved in awarding the contract to the next lowest responsive and responsible bidder).

E. **BID SUBMITTAL**

The properly completed bid documents along with the ten percent bid guarantee shall be submitted in a sealed envelope. The outside of the envelope shall be marked as follows:

Bid of (Firm's Name, Address and Phone Number) \_\_\_\_\_  
For: Phoenix Sidewalk Shade Structures  
City of Phoenix Project Number: ST85170116 ARPA

Sealed bids will be submitted to the bid box located on the first floor of the Phoenix City Hall Building, 200 W. Washington Street, Phoenix, Arizona, 85003 prior to the time and date specified for bid opening.

F. **BID WITHDRAWALS**

MAG Section 102-10, Withdrawal or Revision of Proposal, is hereby deleted and the following paragraph is submitted:

“No bidder may withdraw or revise a proposal after it has been deposited with the City except as provided in Phoenix City Code Chapter 2, Section 190.2. Proposals, read or unread, will not be returned to the bidders until after determination of award has been made.

G. **ADDENDA**

***Acknowledge all addenda; a bid will be deemed non-responsive if all issued addenda for this project are not acknowledged in writing on Page P. -1.***

The City of Phoenix shall not be responsible for any oral responses or instructions made by any employees or officers of the City of Phoenix regarding bidding instructions, plans, drawings, specifications or contract documents. A verbal reply to an inquiry does not constitute a modification of the Invitation for Bid. Any changes to the plans, drawings and specifications will be in the form of an addendum.

It shall be the responsibility of the prospective bidder to determine, prior to the submittal of its bid, if any addenda to the project have been issued by Design and Construction Procurement. All addenda issued shall be acknowledged by the bidder on Page P-1. All addenda (if any) will be available online within each project’s folder at the following website:

<https://solicitations.phoenix.gov>

**The contractors and/or consultants are responsible for ensuring they have all addenda and/or notifications for all projects they are submitting on. Prospective bidders are strongly encouraged to check the Design and Construction Procurement website to ascertain if any addenda have been issued for the project.**

H. **BID SUBMITTAL CHECKLIST**

**All firms must be registered in the City’s Vendor Management System prior to submitting a bid. For new firms – the City will send an email to your firm with a vendor number within two days of submitting the request. The vendor number needs to be included on the cover of the bid proposal package/envelope. Information on how to register with the City is available at:**

<https://www.phoenix.gov/finance/vendorsreg>

**BID SUBMITTAL CHECKLIST**

This checklist is provided to remind bidders of several of the required elements of the bid packages. It is not intended to be a comprehensive list of all of the contract documents. Bidders are encouraged to review all of the Bid Instructions to determine compliance therein.

- Acknowledge all addenda? (Page P.-1)
- Completed all of the Bid Proposal forms? (Pages P-1 to 2 and P.S.-1)
- Included your Bid Bond (rated A- or better for the prior four quarters) or Guarantee Cashier’s Check? (Page S.B.-1)

- Completed Disadvantaged Small and Minority Business (DSMB) ARPA Program Statement of Outreach Commitment Form EO1
- Completed List of Major Subcontractors and Suppliers form? (Page L.O.S.-1)
- Buy American Certificate (Page B.A.C.-1)
- No Collusion Affidavit (Page N.C.A.-1)
- Certification of Non-Segregated Facilities (Page N.S.F.-1)

**PLEASE DO NOT SUBMIT THE ENTIRE SPECIFICATION BOOK WHEN SUBMITTING YOUR BID. INCLUDE ONLY THE REQUIRED BIDDING DOCUMENTS.**

POST-BID SUBMITTAL CHECKLIST

The three lowest bidders must submit completed contracts documents listed below, no later than three calendar days after bid opening by 5:00 p.m. The documents must be submitted to Design and Construction Procurement, 5th Floor, or can be sent by email to kathleen.kennedy@phoenix.gov.

- Completed List of All Subcontractors and Suppliers form (L.O.S.-2)
- Completed Documentation of Disadvantaged Small and Minority Business Outreach Efforts with supporting documentation, Columns E and F (Form EO2); Instructions and supporting documentation are found in Section IV on pages DBEC-4 to 6 (Form EO2)
- Completed Disadvantaged Small and Minority Business Utilization Commitment (Form EO3)
- Bidders Disclosure Statement (Pages B.D.S.-1 to 4)
- Submit Affidavit of Identity (if you are a sole proprietor) (Page A.O.I.-1)

**PRIOR TO CONTRACT EXECUTION**

- Contractor must provide proof of license required to perform the work.
- Verification of Experience Modification Rate (EMR) – the awarded company will be required to provide an EMR verification letter from the insurance company prior to contract execution.

**\*ALL DOCUMENTS NOTED AS REQUIRED IN SUBCONTRACTS MUST BE INCLUDED IN EVERY SUBCONTRACT THAT IS UPLOADED INTO THE B2G SYSTEM.**

**I. PERMITS**

**CITY RESPONSIBILITY** – The City will be responsible for City of Phoenix review and permit(s) fees for building and demolition permits. The City will also pay review fees for grading and drainage, water, sewer, and landscaping. The City will also pay for utility design fees for permanent services.

**CONTRACTOR RESPONSIBILITY** – The Contractor will be responsible for all other permits and review fees not specifically listed above. The Contractor is responsible for the cost of water meters, water and sewer taps, fire lines and taps, and all water bills on the project meters until the project is accepted. Arrangements for construction water are the Contractor's



responsibility.

The Contractor may elect to use a City fire hydrant for its source of construction water only if an existing water service connection is unavailable or inadequate. The Contractor will be required to comply with Phoenix City Code Section 37-13A.

**The Contractor is specifically reminded of the need to obtain the necessary environmental permits or file the necessary environmental notices.** Copies of these permits and notices must be provided to the City's Project Manager prior to starting the permitted activity. In the case of Fire Department permits, a copy of the application for permit will also be provided to the Project Manager. This provision does not constitute an assumption by the City of an obligation of any kind for violation of said permit or notice requirements.

**J. BUSINESS AND OPERATION LICENSES, PERMITS AND CERTIFICATIONS REQUIRED**

It is the responsibility of the bidder to determine whether it has the appropriate contracting licenses to perform the work. The City will make the award, if any, to the lowest responsive, responsible bidder who has the proper licenses. For all projects except Federal-aid funded projects, the bidder must have the proper licenses at the time the bid is submitted to the City. On Federal-aid funded projects, the bidder is not required to have the licenses at the time of bidding, but it must procure the licenses before award can be made, and no later than 60 days after the date bids are opened. Licensing information is available from the Arizona Registrar of Contractors.

Prior to award of the contract, the successful bidder must provide Design and Construction Procurement its Contractor's License Classification and number, its City of Phoenix Privilege License number and Federal Tax Identification number.

Bidder shall submit the Bidder's Disclosure Statement as set forth in Pages B.D.S. - 1 to B.D.S. - 4 within five calendar days of bid opening by 5:00 p.m. Bidder will be deemed non-responsive and the bid rejected if Bidder fails to submit a substantially completed Bidder's Disclosure Statement as specified above.

**K. TAX LIABILITIES; DISCLOSURE OF CONVICTIONS AND BREACH(ES) OF CONTRACT**

On or before the award of the contract for this project, the successful bidder shall: (i) file all applicable tax returns and shall make payment for all applicable State of Arizona and Maricopa County Transaction Taxes (ARS Sec. 41-1305) and City of Phoenix Privilege License Taxes (Phoenix City Code Sec.14-415); (ii) disclose any civil fines, penalties or any criminal convictions, other than for traffic related offenses, for violation of federal, state, county or city laws, rules or regulations including, but not limited to, environmental, OSHA, or labor compliance laws (collectively "Laws") by Bidder, Bidder's directors, managing members, responsible corporate officers or party who will be responsible for overseeing and administering this project (collectively "Bidder"); and (iii) disclose any material breach(s) of an agreement with the City of Phoenix, any termination for cause or any litigation involving the City of Phoenix occurring within the past three calendar years. Unless provided otherwise in this solicitation, the successful bidder shall be deemed non-responsive and the bid rejected for any of the following: (i) Bidder's civil or criminal conviction, other than for traffic related offenses, for a violation of Laws within the past three calendar years; (ii) liability or culpability resulting in payment of fines or penalties in the cumulative total amount of \$100,000 or greater for a violation of "Laws" within the past three calendar years; (iii) material breach of a City of Phoenix agreement, termination for cause or litigation with the City of Phoenix within the past three calendar years; and (iv) Bidder's failure to disclose the information as required by this provision. Further, after award of contract, in addition to any other remedy, Bidder's failure to remit proper taxes to the City of Phoenix may result in the City withholding payment pursuant to Phoenix City Charter Chapter XVIII, Section 14 until all delinquent taxes, interest, and

penalties have been paid.

State and Local Transaction Privilege Taxes:

In accordance with applicable state and local law, transaction privilege taxes may be applicable to this transaction. The state and local transaction privilege (sales) tax burden is on the person who is conducting business in Arizona and the City of Phoenix. The legal liability to remit the tax is on the person conducting business in Arizona. Any failure by the Contractor to collect applicable taxes from the City will not relieve the Contractor from its obligation to remit taxes.

It is the responsibility of the prospective bidder to determine any applicable taxes. The City will review the price or offer submitted and will not deduct, add or alter pricing based on taxes.

If you have questions regarding tax liability, seek advice from a tax professional prior to submitting bid. Once your bid is submitted, the Offer is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability.

If the City finds over payment of a project due to tax consideration that was not due, the Contractor will be liable to the City for that amount, and by contracting with the City agrees to remit any overpayments back to the City for miscalculations on taxes included in a bid price.

**For purposes of A.R.S. 42-5075(P), this contract is subject to A.R.S. Title 34.**

Tax Indemnification:

Contractor will, and require the same of all subcontractors, pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor will, and require the same of all subcontractors, hold the City 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.

Tax Responsibility Qualification:

Contractor may be required to establish, to the satisfaction of City, that any and all fees and taxes due to the City or the State of Arizona for any License or Transaction Privilege taxes, Use Taxes or similar excise taxes, are currently paid (except for matters under legal protest).

Contractor agrees to a waiver of the confidentiality provisions contained in the City Finance Code and any similar confidentiality provisions contained in Arizona statutes relative to State Transaction Privilege Taxes or Use Taxes.

Contractor agrees to provide written authorization to the City Finance Department and to the Arizona State Department of Revenue to release tax information relative to Arizona Transaction Privilege Taxes or Arizona Use Taxes in order to assist the Department in evaluating Contractor's qualifications for and compliance with contract for duration of the term of contract.

**L. STANDARD SPECIFICATIONS AND DETAILS**

Except as otherwise required in these specifications, bid preparation and construction of this project shall be in accordance with all applicable Maricopa Association of Governments' (MAG) Uniform Standard Specifications and Uniform Standard Details, latest edition, the City of Phoenix Supplements to the MAG Uniform Standard Specifications and Details, latest edition, and the Arizona Department of Transportation (ADOT) Standard Specifications for Road and Bridge Construction, latest edition.

M. **PRECEDENCE OF CONTRACT DOCUMENTS**

In case of a discrepancy or conflict, the precedence of contract documents is as follows:

1. Change Orders or Supplemental Agreements
2. Addenda
3. Contract Specifications/Special Provisions/Technical Provisions
4. The Plans
5. COP Supplement to MAG Standard Specifications and Details, latest edition
6. MAG Standard Specifications and Details, latest edition
7. ADOT Standard Specifications for Roads and Bridges Construction, latest edition

The precedence of any Addenda falls within the category of which it represents.

N. **CONFIDENTIALITY OF PLANS & SPECIFICATIONS**

Any plans generated for this project must include the following statement in the Title Block on every page: "Per City of Phoenix City Code Chapter 2, Section 2-28, these plans are for official use only and may not be shared with others except as required to fulfill the obligations of Contractor's contract with the City of Phoenix."

O. **AUDIT AND RECORDS**

Records of the Contractor's direct personnel payroll, bond expenses, and reimbursable expenses pertaining to this Project, and records of accounts between the City and Contractor shall be kept on the basis of generally accepted accounting principles and must be made available to the City and its auditors for up to five years following Final Acceptance of the Project.

The City, its authorized representative, and/or any federal agency, reserves the right to audit the Contractor's records to verify the accuracy and appropriateness of all cost and pricing data, including data used to negotiate the Contract and any change orders.

The City reserves the right to decrease Contract price and/or payments made on this Contract and/or request reimbursement from the Contractor following final contract payment on this Contract if, upon audit of the Contractor's records, the audit discloses the Contractor has provided false, misleading, or inaccurate cost and pricing data.

The Contractor shall include a similar provision in all of its Agreements with subcontractors and suppliers providing services or supplying materials under the Contract Documents to ensure that the City, its authorized representative, and/or the appropriate federal agency has access to the Subcontractor's and Supplier's records to verify the accuracy of all cost and pricing data.

The City reserves the right to decrease the Contract price and/or payments made on this Contract and/or request reimbursement from the Contractor following final contract payment on this Contract if the above provision is not included in the Subcontractor's and Supplier's contracts, and one or more Subcontractors or Suppliers refuse to allow the City to audit their records to verify the accuracy and appropriateness of cost and pricing data.

If, following an audit of this Contract, the audit discloses the Contractor has provided false, misleading or inaccurate cost and pricing data, and the cost discrepancies exceed 1% of the total Contract billings, the Contractor shall be liable for reimbursement of the reasonable, actual cost of the audit.

P. **IMMIGRATION REFORM AND CONTROL ACT**

Compliance with Federal Laws Required. Contractor understands and acknowledges the applicability of the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act to it. Contractor agrees to comply with these Federal Laws in performing under this Agreement and to permit City inspection of its personnel records to verify such compliance.

Q. **LEGAL WORKER REQUIREMENTS**

The City of Phoenix is prohibited by A.R.S. § 41-4401 from awarding a contract to any contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, Contractor agrees that:

1. Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with § 23-214, subsection A.
2. A breach of a warranty under paragraph 1 shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.
3. The City of Phoenix retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph 1.

R. **CONTRACTOR AND SUBCONTRACTOR WORKER BACKGROUND SCREENING**

Contractor agrees that all Contractor's and subcontractors' workers (collectively "Contract Worker(s)") pursuant to this Agreement will be subject to background and security checks and screening (collectively "Background Screening") at Contractor's sole cost and expense, unless otherwise provided for in the scope of work. Contractor's background screening will comply with all applicable laws, rules and regulations. Contractor further agrees that the background screening is necessary to preserve and protect the public health, safety and welfare. The City requires a completed Contract Worker Badge/Key/Intrusion Detection Responsibilities Agreement for each Contract Worker who requires a badge or key.

**Background Screening Risk Level:** The City has established two levels of risk: Standard and Maximum risk. The current risk level and background screening required is **N/A**. If the scope of work changes, the City may amend the level of risk, which could require the Contractor to incur additional contract costs to obtain background screens or badges.

**Terms of This Section Applicable to all Contractor's Contracts and Subcontracts:** Contractor will include Contract Worker background screening in all contracts and subcontracts for services furnished under this agreement.

**Materiality of Background Screening Requirements; Indemnity:** The background screening requirements are material to City's entry into this agreement and any breach of these provisions will be deemed a material breach of this contract. In addition to the indemnity provisions set forth in this agreement, Contractor will defend, indemnify and hold harmless the City for all claims arising out of this background screening section including, but not limited to, the disqualifications of a Contract Worker by Contractor. The background screening requirements are the minimum requirements for the Agreement. The City in no way warrants that these minimum requirements are sufficient to protect Contractor from any liabilities that may arise out of the Contractor's services under this Agreement or Contractor's failure to comply with this section. Therefore, Contractor and its Contract Workers will take

any reasonable, prudent and necessary measures to preserve and protect public health, safety and welfare when providing services under this Agreement.

**Continuing Duty; Audit:** Contractor's obligations and requirements will continue throughout the entire term of this Agreement. Contractor will maintain all records and documents related to all background screenings and the City reserves the right to audit Contractor's records.

S. **LAWFUL PRESENCE REQUIREMENT**

Pursuant to A.R.S. §§ 1-501 and 1-502, the City of Phoenix is prohibited from awarding a contract to any natural person who cannot establish that such person is lawfully present in the United States. To establish lawful presence, a person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. This requirement does not apply to business organizations such as corporations, partnerships or limited liability companies.

T. **LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED)**

If practical, the contractor shall provide an easily accessible area to serve the construction site that is dedicated to the separation, collection and storage of materials for recycling including (at a minimum) paper, glass, plastics, metals, and designate an area specifically for construction and demolition waste recycling. The contractor must provide documentation that the materials have been taken to a Maricopa County approved recycling facility.

U. **CITY OF PHOENIX EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENT**

1. In order to do business with the City, Contractor must comply with Phoenix City Code, 1969, Chapter 18, Article V, as amended, Equal Employment Opportunity Requirements. Contractor will direct any questions in regard to these requirements to the Equal Opportunity Department, (602) 262-6790.

2. Any Contractor in performing under this contract shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability nor otherwise commit an unfair employment practice. The Contractor shall ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability and will adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: Employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract.

If the Contractor employs more than thirty-five employees, the following language shall apply as the last paragraph to the clause above:

The Contractor further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

3. *Documentation.* Contractor may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.

4. *Monitoring.* The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this article as deemed necessary. The Equal Opportunity Department is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

V. **PROTEST PROCEDURES**

Any bidder who has any objections to the awarding of a contract to any bidder by the City of Phoenix, pursuant to competitive bidding procedures, shall comply with Phoenix City Code Chapter 2, Section 188.”

W. **DATA CONFIDENTIALITY**

As used in the Contract, “data” means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by, obtained by, or transmitted to the Contractor or its subcontractors in the performance of this Contract.

The parties agree that all data, regardless of form, including originals, images, and reproductions, prepared by, obtained by, or transmitted to the Contractor or its subcontractors in connection with the Contractor’s or its subcontractor’s performance of this Contract is confidential and proprietary information belonging to the City.

Except as specifically provided in this Contract, the Contractor or its subcontractors shall not divulge data to any third party without prior written consent of the City. The Contractor or its subcontractors shall not use the data for any purposes except to perform the services required under this Contract. These prohibitions shall not apply to the following data provided the Contractor or its subcontractors have first given the required notice to the City:

1. Data which was known to the Contractor or its subcontractors prior to its performance under this Contract unless such data was acquired in connection with work performed for the City;
2. Data which was acquired by the Contractor or its subcontractors in its performance under this Contract and which was disclosed to the Contractor or its subcontractors by a third party, who to the best of the Contractor’s or its subcontractor’s knowledge and belief, had the legal right to make such disclosure and the Contractor or its subcontractors are not otherwise required to hold such data in confidence; or
3. Data which is required to be disclosed by virtue of law, regulation, or court order, to which the Contractor or its subcontractors are subject.

In the event the Contractor or its subcontractors are required or requested to disclose data to a third party, or any other information to which the Contractor or its subcontractors became privy as a result of any other contract with the City, the Contractor shall first notify the City as set forth in this section of the request or demand for the data. The Contractor or its subcontractors shall give the City sufficient facts so that the City can be given an opportunity to first give its consent or take such action that the City may deem appropriate to protect such data or other information from disclosure.

The Contractor, unless prohibited by law, within ten calendar days after completion of services for a third party on real or personal property owned or leased by the City, the Contractor or its subcontractors shall promptly deliver, as set forth in this section, a copy of all data to the City. All data shall continue to be subject to the confidentiality agreements of this Contract.

The Contractor or its subcontractors assume all liability for maintaining the confidentiality of the data in its possession and agrees to compensate the City if any of the provisions of this section are violated by the Contractor, its employees, agents or subcontractors. Solely for the purposes of seeking injunctive relief, it is agreed that a breach of this section shall be deemed to cause irreparable harm that justifies injunctive relief in court. Contractor agrees that the requirements of this Section shall be incorporated into all subcontracts entered into by Contractor. A violation of this Section may result in immediate termination of this Contract without notice.

Personal Identifying Information-Data Security

Personal identifying information, financial account information, or restricted City information, whether electronic format or hard copy, must be secured and protected at all times. At a minimum, Contractor must encrypt and/or password protects electronic files. This includes data saved to laptop computers, computerized devices or removable storage devices.

When personal identifying information, financial account information, or restricted City information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed, or reconstructed.

In the event that data collected or obtained by Contractor or its subcontractors in connection with this Contract is believed to have been compromised, Contractor or its subcontractors shall immediately notify the Project Manager and City Engineer. Contractor agrees to reimburse the City for any costs incurred by the City to investigate potential breaches of this data and, where applicable, the cost of notifying individuals who may be impacted by the breach.

Contractor agrees that the requirements of this Section shall be incorporated into all subcontracts entered into by Contractor. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice.

The obligations of Contractor or its subcontractors under this Section shall survive the termination of this Contract.

X. **PROJECT MANAGEMENT INFORMATION SYSTEM (UNIFIER)**

The Street Transportation Department's Design and Construction Management (DCM) Project Manager may determine that use of UNIFIER will 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 DCM Project Manager.

1. The contractor 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 contractor will be required to utilize in the fulfillment of the contract requirements. Although this electronic platform does not fulfill this requirement in its entirety, the contractor will be required to utilize this platform as the basis for this work.
2. The contractor can expect to use this ASP to process all primary level tri-partite contract documents related to the design or construction phase of the Project including but not limited to: requests for interpretation/information, potential Change Orders, construction meeting minutes, Submittals, Design Professional's supplemental instructions, and Payment Requests.
3. The contractor will be required to process information into electronic digital form. In order

to fulfill this requirement, the contractor shall provide all necessary equipment to perform the functions necessary to generate, convert, store, maintain, connect to web-based ASP and transfer electronic data.

4. The contractor shall provide a computerized networked office platform with broadband internet connectivity. Wired or wireless is acceptable. This platform shall function well in a web-based environment utilizing an internet browser compatible with the City UNIFIER ASP system.

UNIFIER training will be provided through the City of Phoenix. Contact information will be provided to the firms under contract, to establish the set up with a log-in and password.

Y. **CONTRACTOR AND SUBCONTRACTOR RECORDS**

The contractor, subcontractors and all suppliers shall keep and maintain all books, papers, records, files, accounts, reports, bid documents with backup data, including electronic data, and all other material relating to the contract and project for five years following completion and acceptance of the work.

All the above material shall be made available to the City for auditing, inspection and copying and shall be produced, upon request.

The contractor shall insert the above requirement in each subcontract, purchase order and lease agreement and shall also include in all subcontracts a clause requiring subcontractors to include the above requirement in any lower-tier subcontract, purchase order or lease agreement.

Z. **FEDERAL IMMIGRATION AND NATIONALITY ACT**

The contractor, including all subcontractors, shall comply with all federal, state and local immigration laws and regulations, as set forth in Arizona Executive Order 2005-30, relating to the immigration status of their employees who perform services on the contract during the duration of the contract. The Agency shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance.

By submission of a bid, the contractor warrants that the contractor and all proposed subcontractors are and shall remain in compliance with all federal, state and local immigration laws and regulations relating to the immigration status of their employees who perform services on the contract. The Agency may, at its sole discretion, require evidence of compliance from the contractor or subcontractor. Should the Agency request evidence of compliance, the contractor or subcontractor shall have ten working days from receipt of the request to supply adequate information. The City will accept, as evidence of compliance, a showing by the contractor or subcontractor that it has followed the employment verification provisions of the Federal Immigration and Nationality Act as set forth in Sections 274A and 274B of that Act, including implementation of regulations and agreements between the Department of Homeland Security and the Social Security Administration's verification service. The contractor shall include the requirements of the provisions of ADOT Standard Specifications Subsection 107.19 in all its subcontracts.

Failure to comply with the immigration laws or to submit proof of compliance constitutes a material breach of contract. The City will reduce the contractor's compensation by \$10,000 for the initial instance of non-compliance by the contractor or a subcontractor. Should the same contractor or subcontractor commit subsequent violations within a two-year time-period from the initial violation, the contractor's compensation will be reduced by \$50,000 for each



violation. The third instance by the same contractor or subcontractor within a two-year period may result, in addition to the \$50,000 reduction in compensation, in removal of the offending contractor or subcontractor, suspension of work in whole or in part or, in the case of a third violation by the contractor, termination of the contract for default. In addition, the City may debar a contractor or subcontractor who has committed three violations within a two-year period for up to one year. For purposes of this paragraph, a violation by a subcontractor does not count as a violation by the contractor.

Any delay resulting from a sanction under this subsection is a non-excusable delay. The contractor is not entitled to any compensation or extension of time for any delays or additional costs resulting from a sanction under this subsection.

AA. **PROJECT STAFFING**

**Key Personnel:** Before starting work, Contractor must submit detailed résumés of key personnel involved in that work for City’s approval (which City will not unreasonably withhold). If Contractor later desires to change key personnel involved in that work, Contractor must submit detailed résumés of the new personnel for City’s approval (which City will not unreasonably withhold).

**Qualified Staff:** Contractor must maintain an adequate and competent staff of qualified persons—as City may determine in its sole discretion—during performance of this Master Agreement. If Contractor in its sole discretion determines that any of Contractor’s staff is objectionable, Contractor must take prompt corrective action or replace that staff with new personnel, subject to City’s approval.

**Third-Party Employment Brokers:** Contractor and Subcontractors will not utilize a third-party labor broker for any construction worker under this Agreement. The Contractor and Subcontractors must be the employers of record for its construction staff under this Agreement.

BB. **NO ISRAEL BOYCOTT**

If this Contract is valued at \$100,000 or more and requires Contractor (a company engaging in for-profit activity and having ten or more full-time employees) to acquire or dispose of services, supplies, information technology, or construction, then Contractor must certify and agree that it does not and will not boycott goods or services from Israel, pursuant to Title 35, Chapter 2, Article 9 of the Arizona Revised Statutes. Provided that these statutory requirements are applicable, Contractor by entering this Contract now certifies that it is not currently engaged in, and agrees for the duration of the Contract to not engage in, a boycott of goods or services from Israel.

CC. **NO FORCED LABOR OF ETHNIC UYGHURS**

If this Contract requires Contractor (a company engaging in for-profit activity and having ten or more full-time employees) to acquire or dispose of services, supplies, information technology, goods, or construction, then pursuant to Title 35, Chapter 2, Article 10 of the Arizona Revised Statutes Contractor must certify and agree that it and any contractors, subcontractors, or suppliers it utilizes do not and will not use the forced labor of ethnic Uyghurs in the People’s Republic of China or any goods or services produced by such forced labor. Provided these statutory requirements are applicable, Contractor, by entering this Contract, now certifies it is not currently engaged in, and agrees for the duration of the Contract to not engage in, (a) the use of forced labor of ethnic Uyghurs in the People’s Republic of China; (b) the use of any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China; or (c) the use of any contractors, subcontractors, or suppliers that use the forced labor

or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

**DD. COMPLIANCE WITH LAWS**

Contractor must comply with all existing and subsequently enacted federal, state and local laws, ordinances and codes, all applicable ADA requirements, regulations that are, or become applicable to this Agreement, and be in general conformance with PROWAG guidance. If a subsequently enacted law imposes substantial additional costs on Contractor, a request for an amendment may be submitted pursuant to this Agreement. Contractor is also required to certify its compliance with all applicable laws and Contractor must pass along these requirements to its Subcontractors. If any of Contractor's certifications is found to be false, the City may terminate this Agreement or impose other remedies due to the false certification.

**EE. HEAT MITIGATION**

Per Phoenix City Code G-7241, effective April 25, 2024, any Contractor whose employees and contract workers perform work in an outdoor environment under this contract must keep on file a written heat safety plan. The City may request a copy of this plan and documentation of all heat safety and mitigation efforts currently implemented to prevent heat-related illnesses and injuries in the workplace. The plan must also be posted where it is accessible to employees. At a minimum, the heat safety and mitigation plan and documentation required under this Provision shall include each of the following as it relates to heat safety and mitigation:

1. Availability of sanitized cool drink water free of charge at locations that are accessible to all employees and contract workers.
2. Ability to take regular and necessary breaks as needed and additional breaks for hydration.
3. Access to shaded areas and/or air conditioning.
4. Access to air conditioning in vehicles with enclosed cabs. All such vehicles must contain functioning air conditioning by no later than May 1, 2025.
5. Effective acclimatization practices to promote the physiological adaptations of employees or contract workers newly assigned or reassigned to work in an outside environment.
6. Conduct training and make it available and understandable to all employees and contract workers on heat illness and injury that focuses on the environmental and personal risk factors, prevention, how to recognize and report signs and symptoms of heat illness and injury, how to administer appropriate first aid measures and how to report heat illness and injury to emergency medical personnel.

The Contractor further agrees that this clause will be incorporated in all subcontracts with subconsultants, sublicensees or sublessees who may perform labor or services in connection with this contract. Additionally, the Contractor agrees to require all subcontractors, sublicensees or sublessees to include this clause in all contracts with any third party who is contracted to perform labor or services in connection with this contract. It is the obligation of the Contractor to ensure compliance by its subcontractors.

## SUPPLEMENTARY CONDITIONS

1. **103 AWARD AND EXECUTION OF CONTRACT, Add the following to Subsection 103.3 AWARD OF CONTRACT:**

Contract award will be made to a responsive and responsible bidder based on the low total base bid or on the low combination of the total base bid and any selected alternate(s), whichever is in the best interest of the City. If unit pricing is required in the proposal, the extensions and additions will be verified to assure correctness. Award will be based on the revised total if any errors are found. Additionally, the Contractor shall comply with the DBE requirements as detailed in the DBE clause. The City expressly reserves the right to cancel this agreement without recourse or prejudice to Contractor until all parties have executed the agreement in full.

Any bidder that currently contracts with the City must be in good standing for its proposal to be considered responsive. For the purpose of this Invitation to Bid, good standing means compliance with all contractual provisions, including payment of financial obligations.

2. **103 AWARD AND EXECUTION OF CONTRACT,** Add the following to **Subsection 103.3 AWARD OF CONTRACT**

**ACCELERATED NOTICE TO PROCEED**

To provide the maximum construction time available to meet the completion date, the City has pre-positioned this project for Council award for December 2024. The City and the Contractor shall pursue contract preparation and approvals as soon as possible after the award and the City will seek a timely notice to proceed after approved contracts.

3. **103 AWARD AND EXECUTION OF CONTRACT,** Add the following to **Subsection 103.5, REQUIREMENT OF CONTRACT BONDS:**

1. PERFORMANCE BOND AND LABOR AND MATERIAL BOND

Prior to the execution of a contract, the successful bidder must provide a performance bond and a labor and material bond, each in an amount equal to the full amount of the contract. Each such bond shall be executed by a surety company or companies holding a certificate of authority to transact surety business in the State of Arizona issued by the Director of the Department of Insurance. A copy of the Certificate of Authority shall accompany the bonds. The Certificate shall have been issued or updated within two years prior to the execution of the Contract. The bonds shall be made payable and acceptable to the City of Phoenix. The bonds shall be written or countersigned by an authorized representative of the surety who is either a resident of the State of Arizona or whose principal office is maintained in this state, as required by law, and the bonds shall have attached thereto a certified copy of Power of Attorney of the signing official. If one Power of Attorney is submitted, it shall be for twice the total contract amount. If two Powers of Attorney are submitted, each shall be for the total contract amount. Personal or individual bonds are not acceptable. Failure to comply with these provisions will be cause for rejection of the bidder's proposal.

2. BONDING COMPANIES

All bonds submitted for this project shall be provided by a company which has been rated "A- or better for the prior four quarters" by the A. M. Best Company. **Failure to provide an "A- or better for the prior four quarters" bond will result in bid rejection.**

4. **103 AWARD AND EXECUTION OF CONTRACT,** Delete **Subsection 103.6, CONTRACTOR'S INSURANCE** in its entirety and substitute the following:

**103.6.1 General:**

Contractor and subcontractors must procure insurance against claims that may arise from or relate to performance of the work hereunder by Contractor and its agents, representatives, employees and subconsultants. Contractor and subcontractors must maintain that insurance until all their obligations have been discharged, including any warranty periods under this Contract.

The City in no way warrants that the limits stated in this section are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees, or subcontractors and Contractor may purchase additional insurance as they determine necessary.

**1. SCOPE AND LIMITS OF INSURANCE**

Contractor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the liability limits provided that (1) the coverage is written on a "following form" basis, and (2) all terms under each line of coverage below are met:

**1. Commercial General Liability – Occurrence Form**

Policy must include bodily injury, property damage, broad form contractual liability and XCU coverage.

General Aggregate	\$2,000,000
Products – Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000

a. The policy must name the City of Phoenix as an additional insured with respect to liability for bodily injury, property damage and personal and advertising injury with respect to premises, ongoing operations, products and completed operations, and liability assumed under an insured contract arising out of the activities performed by, or on behalf of the Contractor, related to this Contract.

b. Coverage must include XCU coverage.

c. There shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the City of Phoenix as an additional insured.

d. City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.

e. The Contractor's insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.

f. Contractor's policies must be endorsed to provide an extension of the completed operations coverage for a period of nine years.

**2. Automobile Liability**

Bodily injury and property damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

a. The policy must be endorsed to include The City of Phoenix as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, related to this contract.

b. City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.

c. The Contractor's insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.

**3. Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

a. Policy must contain a waiver of subrogation against the City of Phoenix.

b. This requirement does not apply when a Contractor or subcontractor is exempt under A.R.S. §23-902(E), **AND** when such Contractor or subcontractor executed the appropriate sole proprietor waiver form.

**4. No Builders' Risk Insurance required.**

**2. NOTICE OF CANCELATION**

For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within five business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be mailed, emailed or hand delivered to Design and Construction Procurement, 200 W. Washington Street, 5<sup>th</sup> Floor, by certified mail, return receipt requested.

**3. ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The City in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

**4. VERIFICATION OF COVERAGE**

Contractor must furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract must be sent directly to Design and Construction

Procurement via email at [str.title34.procure@phoenix.gov](mailto:str.title34.procure@phoenix.gov). **The City project number, contract number and project description must be noted on the certificate of insurance.** The City reserves the right to require complete copies of all insurance policies required by this Contract, at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY'S RISK MANAGEMENT DIVISION.**

5. SUBCONTRACTORS

Contractor's certificates shall include all subcontractors as additional insureds under its policies **OR** Contractor shall be responsible for ensuring and verifying that all subcontractors have valid and collectable insurance. At any time throughout the life of the contract, the City of Phoenix reserves the right to require proof from the Contractor that its subcontractors have insurance coverage. All subcontractors providing services included under this Contract's Scope of Services are subject to the insurance coverages identified above and must include the City of Phoenix as an additional insured. In certain circumstances, the Contractor may, on behalf of its subcontractors, waive a specific type of coverage or limit of liability where appropriate to the type of work being performed under the subcontract. Contractor assumes liability for all subcontractors with respect to this Contract.

6. APPROVAL

Any modification or variation from the insurance coverages and conditions in this Contract must be documented by an executed contract amendment.

**103.6.2 Defense and Indemnification**

To the maximum extent allowed by law, including Title 34 A.R.S., Contractor ("Indemnitor") agrees to defend, indemnify, and hold harmless the City of Phoenix and its officers, officials (elected or appointed), agents and employees (and any jurisdiction or agency issuing permits for any work included in the project, and its officers, agents and employees) ("Indemnitee") from any and all claims, actions, liabilities, damages, losses or expenses, (including but not limited to court costs, attorney fees, expert fees, and costs of claim processing, investigation and litigation) of any nature or kind whatsoever ("Losses") caused or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of Indemnitor or any of its owners, officers, directors, members, managers, agents, employees, or subcontractors (Indemnitor's Agents") arising out of or in connection with this Contract. This defense and indemnity obligation includes holding Indemnitee harmless for any Losses or other amount arising out of or recovered under any state's workers' compensation law or arising out of the failure of Indemnitor or Indemnitor's Agents to conform to any federal, state or local law, statute, ordinance, rule, regulation, or court decree. Indemnitor's duty to defend Indemnitee accrues immediately at the time a claim is threatened or a claim is made against Indemnitee, whichever is first. Indemnitor's duty to defend exists regardless of whether Indemnitor is ultimately found liable. Indemnitor must indemnify Indemnitee from and against any and all Losses, except where it is proven that those Losses are solely as a result of Indemnitee's own negligent or willful acts or omissions. Indemnitor is responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the City's award of this Contract, Indemnitor agrees to waive all rights of subrogation against Indemnitee for losses arising from or related to any work performed by Indemnitor or Indemnitor's Agents for the City of Phoenix under this Contract. The obligations of Indemnitor under this provision survive the termination or expiration of this Contract.

5. **104 SCOPE OF WORK**, Add the following to **Section 104.1 WORK TO BE DONE**:

**The following environmental commitment measures are required to be followed. Refer to Environmental Clearance Letter section for additional information and guidance.**

***The project mitigation measures are not subject to change without written approval from ADOT Environmental Planning. The Contractor shall follow all the requirements of the permits specified herein and comply with the project special provisions, as well as the MAG Uniform Standard Specifications for Public Works, as well as all applicable local environmental requirements.***

#### **Clean Water Act Section 404/401**

- No potential Waters of the U.S. are present where project impacts will occur; no Clean Water Act Section 404 permitting required.

Clean Water Act Section 402 / Phoenix Code 32C

- Less than 1 acre of ground disturbance will occur; the contractor must comply with Phoenix City Code 32C.
- In accordance with the City of Phoenix Municipal Separate Storm Sewer System (MS4) permit, the City is required to document all plans related to MS4 best management practices (BMPs), mitigations, and control devices implemented for City of Phoenix projects. A Stormwater Plan Review Checklist (attached) must be completed and submitted.

#### **Natural Resources**

- No vegetation impacts will occur. However, due to proximity of vegetation to some of the sites, the Migratory Bird Treaty Act construction flyer, included in the attached 404 assessment report, shall be provided to the contractor prior to the start of work.
- Due to the proximity of potentially suitable burrowing owl (BUOW) habitat at 69th Ave and McDowell, the BUOW flyer, included in the attached 404 assessment report, shall be provided to the contractor prior to the start of work. Equipment staging shall avoid the dirt lot on the south side of the 69th Ave and McDowell location.

#### **Archaeology**

- Since this project has federal involvement, it is a federal undertaking subject to Section 106 of the National Historic Preservation Act.
- The City of Phoenix Archaeology Office (CAO) recommends archaeological monitoring of ground-disturbing activities associated with this project within the APE located at Van Buren Street and 27th Avenue. The project sponsor must notify the CAO before and after archaeological fieldwork is conducted. Data recovery excavations may be necessary based upon the results of monitoring. Please contact the Environmental Quality Specialist at least 3 months before construction to arrange for an archaeologist to be placed under contract.
- Several areas of potential effects (APE) are located within previously studied archaeological areas. All of these have had previous studies and documented findings. If archaeological resources are encountered during construction within the project locations listed below, ground-disturbing activities must cease within 10 meters of the discovery and the CAO must be contacted and allowed time to properly assess the discovery.
  - Intersection of the Grand Canal and Thomas Road.

- Van Buren Street and 28th Street and Van Buren Street and 32nd Street.
- Van Buren Street and 36th Street.

- No known archaeological sites are located within the APEs located at Camelback Road and 19th Avenue; Camelback Road and 23rd Avenue; Campbell Avenue and 19th Avenue; Dunlap Avenue and 19th Avenue; Indian School Road and 59th Avenue; Indian School Road and Central Avenue; Keim Drive and 27<sup>th</sup> Avenue; McDowell Road and 41st Avenue; McDowell Road and 69th Avenue; Northern Avenue and 35<sup>th</sup> Avenue; Palm Lane and 16th Street; Roosevelt Street and 16th Street; Southern Avenue and 19th Avenue; and Verde Lane and 43rd Avenue. If archaeological resources are encountered during construction within the other project locations, ground- disturbing activities must cease within 10 meters of the discovery and the CAO must be contacted and allowed time to properly assess the discovery.

**Historic Preservation**

- There is a conditional finding of no adverse effect for this project, which is dependent upon the decision of final locations for the proposed designs. A map with images of the designs will suffice, whenever that becomes available. Please contact the Office of Historic Preservation for review ([jodey.elsner@phoenix.gov](mailto:jodey.elsner@phoenix.gov)).

**Asbestos and Lead**

- Based on the scope of this project installed construction materials such as asphalt, concrete, asphalt striping, curbs, sidewalks and other flatwork materials will likely be disturbed. It is recommended that asbestos and lead testing are conducted prior to disturbance to comply with the City of Phoenix Hazardous Building Materials (HBM) Policy as well as Environmental Protection Agency (EPA) and Occupational Safety & Health Association (OSHA) requirements.

- Compliance with the City of Phoenix HBM Policy for this project may be achieved either through utilizing a certified asbestos and lead inspector through your contract or utilizing the Office of the City Engineer’s Environmental Section([James.marshall@phoenix.gov](mailto:James.marshall@phoenix.gov)) which oversee on-call contracts for these inspection services.

6. **104 SCOPE OF WORK**, construct 19 free-standing shade structures in the public right-of-way to improve walkability in neighborhoods with limited shade coverage.

7. **Subsection 104.1.2 MAINTENANCE OF TRAFFIC:**

**ADA AND ANSI ACCESS OF PREMISES DURING CONSTRUCTION**

Contractor shall maintain existing ADA and ANSI accessibility requirements during construction activities in an occupied building or facility. ADA and ANSI accessibility requirements shall include, but not be limited to, parking, building access, entrances, exits, restrooms, areas of refuge, and emergency exit paths of travel. Contractor shall be responsible for the coordination of all work to minimize disruption to building occupants and facilities.

8. **104 SCOPE OF WORK**, Add the following to **Subsection 104.1.4 CLEANUP AND DUST CONTROL:**

The Contractor shall use a power pick-up broom as part of the dust control effort. No separate measurement or payment will be made for cleanup or dust control, or for providing a power pick-up



broom on the job.

9. **105 CONTROL OF WORK,** Add the following to **Subsection 105.1, AUTHORITY OF THE ENGINEER:**

1. CONTRACT ADMINISTRATION

The definition of "Engineer" shall read as follows:

"Engineer": All references to "Engineer" in these contract bid documents, including the MAG Specifications, shall mean City Engineer.

2. PRECONSTRUCTION CONFERENCE

After completion of the contract documents, to include bonds, insurance and signatures and prior to the commencement of any work on the project, the Street Transportation Department, DCM Division, (telephone 602-495-2050), will schedule a Pre-Construction Conference. This will be held at 1034 East Madison Street, Phoenix, Arizona.

Construction administration will be provided by City of Phoenix, Street Transportation Department, Design and Construction Management (DCM) Division.

The purpose of this conference is to establish a working relationship between the Contractor, utility firms and various City agencies. The agenda will include critical elements of the work schedule, submittal schedule, cost breakdown of major lump sum items, payment application and processing, coordination with the involved utility firms, emergency telephone numbers for all representatives involved in the course of construction and establishment of the notice to proceed date. The Contractor shall also provide copies of all purchase orders and/or contracts with DBE subcontractors and suppliers used to meet the subcontract goal programmed for this project.

Minimum attendance by the Contractor shall be a responsible company/corporate official, who is authorized to execute and sign documents on behalf of the firm, the job superintendent and the Contractor's safety officer.

3. AUTHORIZATION OF THE ENGINEER

The City may, at its discretion and without cause, order the Contractor in writing to stop and suspend work. Immediately after receiving such notice, the Contractor shall discontinue advancing the work specified under this Agreement.

Such suspension shall not exceed one hundred and eighty (180) consecutive days during the duration of the project.

The Contractor may seek an adjustment of the contract price and time, if the cost or time to perform the work has been adversely impacted by any suspension or stoppage of work by the City.

10. **105 CONTROL OF WORK,** Add the following to **Subsection 105.2 PLANS AND SHOP DRAWINGS:**

The Contractor shall submit as many of the required shop drawings and product data submittals at the Pre-Construction meeting as practical and possible. All shop drawings and product data submittals shall be submitted sufficiently in advance to allow adequate time for City review(s) and approval. The Contractor shall submit early enough to allow enough time for reviews based on the assumption that a submittal may be marked "Revise and Resubmit" or "Rejected", requiring the

Contractor to modify the submittal and resubmit for additional review(s) until acceptance.

A separate transmittal shall be used for each specific item type, class of material or equipment for which a submittal is required. Multiple items under one transmittal will only be allowed when the items taken together constitute a complete manufacturer's package or are so functionally related that the entire package should be reviewed as a whole. The contractor shall submit six (6) hard copies of each shop drawing for review. **Email or FAX submittals will not be accepted.**

The Contractor shall allow up to four (4) weeks for City review for each submittal. Some submittals may be simple and straightforward and may not require the full four (4) weeks, but other more complex submittals may take the full four (4) weeks.

11. **105 CONTROL OF WORK**, Add the following to **Subsection 105.7 COOPERATION BETWEEN CONTRACTORS**

Other Contractors are expected to be working in or near the area of this contract. The following projects could be under construction while this project is being constructed. The Contractor shall conduct his work as specified in MAG Section 105.7.

Location #9: Van Buren St and 28<sup>th</sup> St:

CIP – WS85509026: Water Main Replacement Start: 8/15/22 End: 9/27/2024

CIP – WS90500299: Large Diameter Manhole Adjustments Start: 8/1/22 End: 8/31/2024

CIP – WS85509083: Water Main Replacement Start: 1/7/2029 End: 6/30/2031

Location #13: Van Buren Street HAWK

CIP – WS85509026: Water Main Replacement Start: 8/15/22 End: 9/27/2024

Location #14: Van Buren Street and 36<sup>th</sup> Street

CIP – WS85509026: Water Main Replacement Start: 8/15/22 End: 9/27/2024

CIP – WS85509083: Water Main Replacement Start: 1/7/2025 End: 6/30/2027

Location #16: Thomas Road HAWK

CIP – WS90500118: Sanitary Sewer Rehab Start: 1/3/24 End: 10/1/2024

Locations #23 and #24: Indian School Road and 59<sup>th</sup> Avenue

CIP – WS90500273: Large Diameter Clay Sanitary Sewer Rehab Start: 2/20/2020 End: 6/30/2024

CIP – WS90500299: Large Diameter Manhole Adjustments Start: 8/1/22 End: 8/31/2024

Locations #28 and #29: Southern Avenue and 19<sup>th</sup> Avenue

CIP – WS90160107: SROG Southern Ave Interceptor Assessment Start: 8/1/23 End: 3/31/2025

Locations #30 and #31: Southern Avenue and 24<sup>th</sup> Avenue

CIP – WS90160107: SROG Southern Ave Interceptor Assessment Start: 8/1/23 End: 3/31/2025

12. **105 CONTROL OF WORK**, Delete **Subsection 105.8 CONSTRUCTION STAKES, LINES AND GRADES**; and add the following:

**Description**

The work under this section shall consist of furnishing all materials, personnel, and equipment necessary to perform all surveying, staking and verification of the accuracy of all points which have been provided by the Engineer in the project plans.

Included in this work will be all calculations required for the satisfactory completion of the project in conformance with the plans and specifications. The work will be done under the direction of a registered professional surveyor employed by the Contractor.

Measurements of all removals and pay quantity items will be the responsibility of the Engineer.

When utility adjustments are a part of the contract, the Contractor will perform and be responsible for locating, tying and untying all manholes and valves that are discovered during the course of the contract. The Contractor will set all survey points, stakes and references necessary for carrying out all such adjustments.

During installation and/or relocation of new water lines, valves, water meters and service connections, fire hydrants, sewer lines, sewer taps, clean outs, manholes, and other similar assets, the Contractor will record the final as-built location and provide additional information related to cost, manufacturer, and model numbers in a form provided by the Engineer.

The Contractor will furnish all traffic control, including flagging for survey and staking operations. Traffic control will be in accordance with the requirements of the City of Phoenix Barricade Manual.

The Contractor will keep field notes in bound field books. These books will be available for inspection by City personnel at all times and will become the property of the City of Phoenix upon completion of the project.

### **Construction Staking Requirements**

Staking will be performed in accordance with the City of Phoenix's Survey Section Standard Requirements for Staking, As-Builts and Quantity Calculations, plus any special addenda provided by the Engineer. The Contractor will provide to the Engineer in writing, for the Engineer's approval, any special procedures that will be used for construction survey staking completion.

The project plans will include all the required benchmark and horizontal datum information to establish survey control on the project site and to complete the proper layout of the work. The project plans will identify a minimum of two City of Phoenix published Benchmarks, and identify additional temporary benchmarks at other convenient locations when applicable. After the Contractor has verified the accuracy of the control points established by the City, the Contractor will set all stakes necessary for construction in accordance with the City of Phoenix Survey Section Standard Requirements.

If errors are discovered during the verification process and the control points do not agree with the horizontal or vertical information shown in the plans, the Contractor shall promptly notify the Engineer in writing, and explain the problem in detail. The Engineer will advise the Contractor of any corrective actions which may be necessary.

The Contractor will exercise care in the preservation of stakes, references, benchmarks and will reset them when they are damaged, lost, displaced, or removed.

Any discrepancies in grade, alignment, locations, or dimensions detected by the Contractor will be brought to the attention of the Engineer by letter. No changes in the project plans will be allowed without the approval of the Engineer.

The Engineer reserves the right to make inspections and random checks of any portion of the staking and layout procedure. If, in the Engineer's opinion, the work is not being performed in the manner that will assure proper control and accuracy, the Engineer will order any or all the staking and layout work redone at no additional cost.

If any portion of the Contractor's staking and layout work is ordered redone, resulting in additional rechecking by the Engineer, the City will be reimbursed for all costs for such additional checking. The amount of such costs will be deducted from the Contractor's progress payment.

Inspection of the Contractor's layout by the Engineer and the acceptance of all or any part of it will not relieve the Contractor of their responsibility to secure the proper dimensions, grades, and elevations for the work.

### **Record Drawings and As-builts**

The Contractor shall maintain a record drawing (redlines) set of plans at the job site. These shall be kept legible and current and shall show all changes or work added in a contrasting, reproducible color. Two weeks prior to issuance of substantial completion, the Contractor shall submit, prior to final inspection, corrected redline drawings with all appropriate field changes clearly marked and labeled on the signed and approved plan sets. The Engineer shall be the sole judge as to the acceptability of the record drawing plans, before the information is incorporated into the final and accepted as-built set to be stored with the Central Records office.

Prior to final acceptance, the Contractor will provide a complete as-built set, sealed by a Registered Professional, showing all field modifications and final elevation, stations and offset of the completed improvements. For construction related to sewer, and water facilities, and other utilities, as-built information may be requested at the Engineer prior to completion of as-builts at no additional cost. The as-built plans shall be prepared in accordance with the requirements of this section and other applicable special provisions for this project. Additional As-built requirement can be found on the Streets Transportation Department Website, under the Community Reference Materials.

### **Measurement**

Construction surveying and layout will be measured as a single complete unit of work.

A contingency item, Two-person survey party will be measured by the hour to the nearest half (1/2) hour. This item will only be measured for payment when the Engineer requires extra work beyond what is required to layout the construction of the approved plans. The Engineer will require field notes and invoice to validate the additional time.

### **Payment**

Payment for construction surveying and layout will be by the lump sum and will be made as follows:

The item of two-person survey party is a contingent item and is established for the purpose of compensating the Contractor for additional staking and layout required as a result of extra work ordered by the Engineer. Payment will be made at the predetermined unit price shown on the bidding schedule for the survey party or parties used. The Engineer will be the sole judge as to whether the additional work will be performed by the Contractor. The amount per hour for a two-person survey party includes the cost of all work necessary to complete the extra work.

No payment will be made for the resetting of stakes, references, benchmarks and other survey control.

13. **105 CONTROL OF WORK**, Add the following to **Subsection 105.15 ACCEPTANCE, paragraph (B) Final Acceptance:**

1. **SUBSTANTIAL COMPLETION**

The work may be judged substantially complete when all construction, including all applicable ADA requirements, has been completed with the possible exception of final inspection punch list work. The purpose of granting or acknowledging substantial completion is to stop contract time. This is particularly important to the Contractor if contract time is exhausted or nearly so and/or punch list work is anticipated to extend beyond the allotted time. Granting of substantial completion will eliminate the possibility of incurring

liquidated damages or additional liquidated damages beyond the substantial completion date, whichever case may apply.

In the event that the Engineer grants substantial completion, the Contractor shall have thirty (30) days thereafter to complete punch list work, unless additional time is granted--in writing--by the Engineer. In no case shall a Contractor be granted more than thirty (30) days to complete punch list work, unless there are extenuating circumstances such as delay in shipment of a specialized piece of equipment, labor strike, or other circumstances beyond the Contractor's control which would necessitate a further time extension.

2. **PENALTY FOR FAILURE TO COMPLETE PUNCH LIST WORK WITHIN SPECIFIED TIME**

In the event the Contractor fails to complete the punch list work within thirty (30) days following the contract completion date, or in the case of specialized situations within the additional time allotted by the Engineer, the Contractor may be declared in default, and the Engineer may order the work completed by others.

In the event of default, as described herein, the Engineer shall withhold from the Contractor's final payment, an amount equal to at least twice the estimated cost of the remaining work. In addition, the Engineer shall withhold the retention deducted from contract progress payments until all punch list work has been satisfactorily completed, whereupon twice the amount of the actual cost of completing the work shall be deducted from the Contractor's final payment and the remaining funds, if any, including the contract retention, shall be released in accordance with the conditions set forth in contract retention.

3. **CONTRACT RETENTION**

This project shall not be considered complete until all work has been completed, including punch list work. Under no circumstances shall a Contractor receive any portion of the legally retained progress payments until the City has granted a final acceptance and/or acknowledged substantial completion. The following conditions shall apply to each case:

1. Substantial Completion: The Engineer may reduce outstanding contract retention to not less than one (1) percent of the total contract amount, upon granting substantial completion, if the value of the punch list work is estimated to be less than one (1) percent of the total contract.
2. Project Acceptance: Project acceptance implies that all punch list work is done and the improvements have been accepted by the City. Under these conditions, the retention will be fully released to the Contractor subject only to the signing of the standard claims affidavit and hold harmless clause required for all contracts.
3. Final Release of Contract Retention and/or Release of More Than Ninety (90) Percent of the Contract Funds: Prior to final payment and release of monies retained and/or in the case of substantial completion where the Contractor has requested a reduction in contract retention, the Contractor will be required to sign a claims affidavit agreeing to hold the City harmless from any and all claims arising out of the contract.

14. **106 CONTROL OF MATERIALS**: Add the following new paragraphs:

**106.17 Construction Materials:**

A construction material, when used on a federal-aid construction project shall comply with the requirements of Build America, Buy America (BABA) Act specified in Title IX, Subtitle A, Part 1, Sections 70901 and 70911-70918 (Pub. L. No. 117-58 §§ 70901; §§ 70911-70918) of the

Infrastructure Investment and Job Act (IIJA).

A “construction material” that is permanently incorporated on the project shall include an article, material, or supply that is or consists primarily of the following:

1. Non-ferrous metals
2. Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables)
3. Glass (including optic glass)
4. Fiber optic cable (including drop cable)
5. Optical fiber
6. Lumber
7. Engineered wood; or
8. Drywall

Items manufactured through a combination of either two or more materials listed above, or at least one of the materials listed above and a material not listed shall be considered as a manufactured product, rather than as a construction material.

Build America, Buy America provisions specified for manufactured products in Section 70912(6)(B) of the IIJA, do not apply to federal-aid construction projects per FHWA’s existing statutory requirement applicable to manufactured products. A “manufactured product” is considered to be an item that undergoes one or more manufacturing processes before the item can be used on a federal-aid construction project.

Construction materials shall not include cement and cementitious materials; bituminous materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives.

All construction materials shall be produced in the United States. This means, all manufacturing processes to produce the construction materials shall occur in the United States. All manufacturing processes for construction materials shall mean the final manufacturing process and the immediately preceding manufacturing stage for the construction material.

The contractor shall furnish the Engineer with Certificates of Compliance, conforming to the requirements of Subsection 106.05 of the specifications, which shall state that the construction materials incorporated in the project meet the requirements specified herein. Certificates of Compliance shall also certify that all manufacturing processes to produce construction materials occurred in the United States.

Convict-produced materials are prohibited in accordance with the requirements of 23 CFR 635.417.

15. **107 LEGAL REGULATIONS AND RESPONSIBILITY TO PUBLIC**, Add the following to **Subsection 107.1, LAWS TO BE OBSERVED, paragraph (C)**:

While every effort has been made to Blue Stake all known utilities, and to research and show on the plans all existing underground utilities based on the best available information, it shall be the Contractor’s responsibility to locate and pothole all existing utilities sufficiently in advance of anticipated new underground construction to identify any potential conflicts and allow reasonable time for the Engineer to determine solutions. Any claims for additional compensation or work required due to the Contractor’s non-compliance with this provision shall not be considered for payment by the City.

16. **107 LEGAL REGULATIONS AND RESPONSIBILITY TO PUBLIC**, Add the following new paragraphs to **Subsection 107.1, LAWS TO BE OBSERVED**:

(A) FAIR TREATMENT OF WORKERS

The Contractor shall keep fully informed of all Federal and State laws, County and City ordinances, regulations, codes and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any way affect the conduct of the work. He shall at all times observe and comply with all such laws, ordinances, regulations, codes, orders and decrees; this includes, but is not limited to laws and regulations ensuring fair and equal treatment for all employees and against unfair employment practices, including OSHA and the Fair Labor Standards Act (FLSA). The Contractor shall protect and indemnify the Contracting Agency and its representatives against any claim or liability arising from or based on the violation of such, whether by himself or his employees.

**(B) DESERT TORTOISE MITIGATION**

As stated in the Arizona Interagency Desert Tortoise Team (AIDTT) Management Plan (1996), if a desert tortoise is found in a project area, activities should be modified to avoid injuring or harming it. If activities cannot be modified, tortoises in harm's way should be moved in accordance with Arizona Game and Fish Department's "Guidelines for Handling Sonoran Desert Tortoises Encountered on Development Projects", revised October 23, 2007 (or the latest revision), included in these contract provisions. Taking, possession, or harassment of a desert tortoise is prohibited by State law, unless specifically authorized by Arizona Game and Fish Department.

**(C) BURROWING OWLS MITIGATION – MIGRATORY BIRD TREATY ACT OF 1918**

While no burrowing owls have been seen at the project site, small animal burrows likely used by rodents and cottontail rabbits are present. In the event that burrowing owls are found on the site, the project shall comply with the Migratory Bird Treaty Act of 1918 and relocate the birds prior to grading. A contact for relocation of burrowing owls is Bob Fox or Greg Clark of Wild at Heart, 31840 North 45<sup>th</sup> Street, Cave Creek, AZ 85331, 480-595-5047.

**17. 107 LEGAL REGULATIONS AND RESPONSIBILITY TO PUBLIC, Add the following to Subsection 107.2, PERMITS:**

**1. TEMPORARY RESTRICTION AND CLOSURE SYSTEM (TRACS) PERMIT**

The Contractor shall obtain a TRACS permit for any construction that restricts access (partial or complete closures) on Major/Collector public streets, or complete closures on Local streets, sidewalks, bike lanes and alleys. The Contractor shall obtain this permit in accordance with the City of Phoenix Traffic Barricade Manual, latest edition. The Contractor shall follow all requirements of the TRACS permit during construction. The Contractor shall obtain this permit before the Notice to Proceed date. Any construction delays caused by non-compliance with the TRACS permit or the City of Phoenix Traffic Barricade Manual requirements shall be the responsibility of the Contractor.

**2. DEMINIMUS DISCHARGE PERMIT**

As required, if the Contractor anticipates the discharge of any amount of water from the City water or wastewater system during construction, the Contractor shall be responsible for obtaining a DeMinimus Permit from the Arizona Department of Environmental Quality (ADEQ) for any discharge that will reach "waters of the U.S.", either directly or indirectly, and complying with all requirements of that permit. This includes all compliance reporting required by the permit. No separate payment will be made for obtaining or complying with this permit.

**3. OTHER PERMITS**

The Contractor may be required to obtain other permits from other agencies, such as the Arizona Department of Transportation (ADOT) or the Flood Control District of Maricopa County (FCDMC) before beginning work or restricting traffic in their right-of-way. The

Contractor will be required to obtain these permits and comply with their requirements.

18. **107 LEGAL REGULATIONS AND RESPONSIBILITY TO PUBLIC**, Revise the title of **Subsection 107.4 ARCHAEOLOGICAL REPORTS** to **107.4 ARCHAEOLOGICAL MONITORING AND DISCOVERIES**, and add the following:

If suspected archaeological materials are discovered during construction without an archaeologist present, the Contractor must stop work immediately within a 10-meter zone of the discovery, secure the area, and immediately notify the City Archaeology Office (602-495-0901). The Contractor must not commence work in the area of discovery until directed in writing by the City Archaeology Office.

19. **107 LEGAL REGULATIONS AND RESPONSIBILITY TO PUBLIC**, Modify **Subsection 107.8, USE OF EXPLOSIVES** as follows:

Replace the words "Uniform Fire Code" with "Phoenix Fire Code".

20. **107 LEGAL REGULATIONS AND RESPONSIBILITY TO PUBLIC**, Add the following to **Subsection 107.8, USE OF EXPLOSIVES**:

While geotechnical information indicates some areas of hard rock, **NO BLASTING** will be allowed on this project due to the close proximity of critical water mains, as well as many businesses and residences in the area.

21. **107 LEGAL REGULATIONS AND RESPONSIBILITY TO PUBLIC**, Add the following to **Subsection 107.11, CONTRACTOR'S RESPONSIBILITY FOR UTILITY PROPERTY AND SERVICES**:

1. **UNDERGROUND FACILITIES**

The Contractor will make whatever investigation it deems necessary to verify the location of underground utility facilities. If such facilities are not in the location shown in the drawings, then (regardless of whether this is discovered prior to or during construction) the contractor's remedies, if any, pursuant to Art. 6.3, Chapter 2, Title 40, A.R.S. (A.R.S. 40-360.21 through 40-360.32, "Underground Facilities"), shall be the contractor's sole remedy for extra work, delays and disruption of the job, or any other claim based on the location of utility facilities. Locations of utility facilities shown on drawings furnished by the City are to be regarded as preliminary information only, subject to further investigation by the contractor. The City does not warrant the accuracy of these locations, and the contractor, by entering into this contract, expressly waives and disclaims any claim or action against the City under any theory for damages resulting from location of utility facilities.

The Contractor shall be responsible for obtaining all Blue Stake utility location information, and for performing all requirements as prescribed in A.R.S. 40-360.21 through .29, for all underground facilities, including those that have been installed on the current project, until the project is accepted by the City.

At least two (2) working days prior to commencing any excavation, the Contractor shall call the BLUE STAKE CENTER, between the hours of 7:00 a.m. and 4:30 p.m., Monday through Friday for information relative to the location of buried utilities. The number to be called is as follows:

Maricopa County (602) 263-1100

2. **UTILITY-RELATED CONSTRUCTION DELAY DAMAGES CLAIM PROCEDURES**



The following procedure is intended to provide a fair and impartial process for the settlement of construction delay claims associated with unknown or improperly located utility facilities.

The Contractor shall immediately notify, in writing, the Project Engineer of any potential utility-related delay claim.

The Contractor shall immediately notify the appropriate liaison of the affected utility verbally, followed by a written notification.

The Contractor shall coordinate an investigation of the situation with the affected utility and the City's Utility Coordinator. After resolution, the Contractor will provide written notification of the settlement of the claim to all affected parties. If the affected utility makes a decision to handle negotiations for a claim, their personnel will be responsible for monitoring the project and all negotiations with the Contractor regarding the claim.

The Contractor shall determine to document requirements of the affected utility for their acceptance of responsibility for the claims. The Contractor shall provide four (4) copies of the required documentation to the utility involved and two (2) copies of this documentation to the Project Engineer. The Contractor shall obtain written confirmation from the utility company involved of their documentation requirements.

**22. 108 COMMENCEMENT, PROSECUTION AND PROGRESS Add the following to Subsection 108.2, SUBLETTING OF CONTRACT:**

**(F) PROMPT PAYMENT**

**1. Contractor Payment to Subcontractor or Supplier**

Contractor shall pay its subcontractors or suppliers within seven (7) calendar days of receipt of each progress payment from the City. The Contractor shall pay for the amount of work performed or materials supplied by each subcontractor or supplier as accepted and approved by the City with each progress payment. In addition, any reduction of retention by the City to the Contractor shall result in a corresponding reduction to subcontractors or suppliers who have performed satisfactory work. Contractor shall pay subcontractors or suppliers the reduced retention within fourteen (14) days of the payment of the reduction of the retention to the Contractor. No Contract between Contractor and its subcontractors and suppliers may materially alter the rights of any subcontractor or supplier to receive prompt payment and retention reduction as provided herein. If the Contractor fails to make payments in accordance with these provisions, the City may take any one or more of the following actions and Contractor agrees that the City may take such actions: (1) to hold the Contractor in default under this agreement; (2) withhold future payments including retention until proper payment has been made to subcontractors or suppliers in accordance with these provisions; (3) reject all future bids from the Contractor for a period not to exceed one year from substantial completion date of this project; or (4) terminate agreement.

**2. Alternative Dispute Resolution Between Contractor and Subcontractor or Supplier**

If Contractor's payment to a subcontractor or supplier is in dispute, Contractor and subcontractor or supplier agree to submit the dispute to any one of the following dispute resolution processes within fourteen (14) calendar days from the date that any party involved gives written notice to the other party(ies): (1) binding arbitration; (2) a form of alternative dispute resolution (ADR) agreeable to all parties; or (3) a City of Phoenix facilitated mediation. When disputed claim is resolved through ADR or otherwise, the Contractor and subcontractor or supplier agree to implement the resolution within seven (7) calendar days from the resolution date.

3. **Inspection and Audit**

Contractor, its subcontractors and suppliers shall comply with A.R.S. 35-214 and the City shall have all rights and remedies to inspect and audit the records and files of Contractor, subcontractor or supplier, as afforded the State of Arizona in accordance with the provisions of A.R.S. Section 35-214.

4. **Non-Waiver**

Should the City fail or delay in exercising or enforcing any right, power, privilege, or remedy under this Section, such failure or delay shall not be deemed a waiver, release, or modification of the requirements of this Section or of any of the terms or provisions thereof.

5. **Inclusion of provisions in Subcontracts**

Contractor shall include these prompt payment provisions in every subcontract, including procurement of materials and leases of equipment for this Agreement.

6. **No Third Party Benefits or Rights**

Nothing contained in this Agreement is intended to benefit or confer any rights on any person or entity not a party to this Agreement, and no such person or entity, including but not limited to other Contractors, subcontractors or suppliers, may assert any claim, cause of action, or remedy against the City hereunder.

23. **108 COMMENCEMENT, PROSECUTION AND PROGRESS**, Add the following to **Subsection 108.4, CONTRACTOR'S CONSTRUCTION SCHEDULE**:

No later than one (1) week after the Pre-Construction meeting (or one week after the Notice to Proceed date is firmly established), the Contractor shall submit to the Engineer, two (2) copies of a detailed Critical Path Model (CPM) chart outlining the detailed progress of all major and critical elements of the project by weeks, from beginning of project to end. The chart shall begin at the established Notice to Proceed date and progress on a calendar basis, week by week, to the end of the project.

The Contractor shall submit updated CPM charts as required by the Engineer. This shall typically be on a monthly basis. The required submittals of updated CPM charts may be less frequent than monthly, if approved by the Engineer.

Neither the City nor the Engineer shall accept liability or responsibility for the reasonable or workable nature of the CPM schedules prepared and submitted by the Contractor—that responsibility shall remain with the Contractor.

24. **108 COMMENCEMENT, PROSECUTION AND PROGRESS**, Add the following to **Subsection 108.5, LIMITATION OF OPERATIONS**:

1. **WORK HOURS**

Regular working hours shall be defined as one 8-1/2 hour shift per day, Monday through Friday, exclusive of City holidays.

Work in excess of regular working hours shall be defined as overtime. For overtime which becomes necessary, the Contractor shall make a written request to the Engineer at least eight (8) calendar days before the desired overtime. The request shall include the duration, dates, times, reason for overtime, and a statement of the consequences if overtime is not approved.

The Contractor shall not schedule any overtime work which requires inspection, survey, or material testing without written permission from the Engineer two (2) working days before the proposed overtime work. The Engineer reserves the right to deny the requested overtime. If an overtime request is denied, the Engineer may extend the contract time at no additional cost to the City, including extended overhead costs.

#### Unscheduled Overtime

Overtime that is not requested and approved in accordance with the above procedure shall be defined as unscheduled overtime. All costs (including appropriate overhead) shall be paid by the Contractor by deduction from the contract.

#### Emergency Overtime

An emergency is defined as work required for a situation that is not within the Contractor's control.

With the Engineer's approval, the Contractor will be permitted to work overtime without being responsible for paying the City's costs.

25. **108 COMMENCEMENT, PROSECUTION AND PROGRESS**, Add the following to **Subsection 108.10, FORFEITURE AND DEFAULT OF CONTRACT**:

#### **City's Right to Perform and Terminate for Convenience**

If the City provides the Contractor with a written order to provide adequate maintenance of traffic, adequate cleanup, adequate dust control or to correct deficiencies or damage resulting from abnormal weather conditions, and the Contractor fails to comply in a time frame specified, the City may have work accomplished by other sources at the Contractor's expense.

If Contractor persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Sub-consultants and/or Subcontractors, (v) prosecute the Contract Services with promptness and diligence to ensure that the Contract Services are completed by the Contract Time, as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then the City, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth below.

Upon the occurrence of an event set forth above, City may provide written notice to Contractor that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Contractor's receipt of such notice.

If Contractor fails to cure, or reasonably commence to cure, such problem, then City may give a second written notice to Contractor of its intent to terminate within an additional seven (7) day period.

If Contractor, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then the City may declare the Agreement terminated for default by providing written notice to Contractor of such declaration.

Upon declaring the Agreement terminated pursuant to the above, City may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Contractor hereby transfers, assigns and sets over to City for such purpose, and to employ any person or persons to complete the Work and provide all of the

required labor, services, materials, equipment and other items.

In the event of such termination, Contractor shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, the Contractor will only be entitled to be paid for Work performed and accepted by the City prior to its default.

If City's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Contractor shall be obligated to pay the difference to City. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by the City in connection with the re-procurement and defense of claims arising from Contractor's default.

If the City is found to have improperly terminated the Agreement for cause or default, the termination shall be converted to a termination for convenience in accordance with the provisions of this Agreement.

**26. 108 COMMENCEMENT, PROSECUTION AND PROGRESS, Add the following to Subsection 108.11, TERMINATION OF CONTRACT:**

**TERMINATION FOR CONVENIENCE**

The Owner for its own convenience has the right for any reason and at any time to terminate the contract and require the Contractor to cease work hereunder. Such termination shall be effective at the time and in the manner specified in the notification to the Contractor of the termination. Such termination shall be without prejudice to any claims which the Owner may have against the Contractor. In the event of a termination for convenience, the Contractor shall be paid only the direct value of its completed work and materials supplied as of the date of termination, and Contractor shall not be entitled to anticipated profit or anticipated overhead or any other claimed damages from the Owner, Architect or the Engineer. If the City is found to have improperly terminated the Agreement for cause or default, the termination shall be converted to a termination for convenience in accordance with the provisions of this Agreement.

**CANCELLATION OF CONTRACT FOR CONFLICT OF INTEREST**

All parties hereto acknowledge that this agreement is subject to cancellation by the City of Phoenix pursuant to the provisions of Section 38-511, Arizona Revised Statutes.

**27. 109 MEASUREMENTS AND PAYMENTS, Add the following to Subsection 109.4.3, DUE TO EXTRA WORK:**

**ALLOWANCE FOR EXTRA WORK**

Contract allowance items are provided for the purpose of encumbering funds to cover the costs of possible change order work. The amount of the allowance item is determined by the Engineer and is not subject to individual bid pricing. All bidders shall incorporate the amount pre-entered in the bid proposal and shall reflect the same in the total amount bid for this project.

This allowance item provides an estimated funding to cover unforeseen changes that may be encountered and corresponding extra work needed to complete the contract per plan. Unforeseen extra work, if any, shall be as approved by the Engineer; for example, extension of unit bid prices, negotiated price or time and material, in accordance with MAG Specification Section 109.4 and 109.5.

It shall be understood that this allowance item is an estimate only and is based on change order history of similar projects. It shall not be utilized without an approved contract change order. It is further understood that authorized extra work, if any, may be less than the allowance item.

28. **109 MEASUREMENTS AND PAYMENTS, COMPENSATION FOR ALTERATION OF WORK:** Add the following to **Subsection 109.4**

109.4.7 CHANGE ORDERS

Owner reserves the right to decrease adjustments made in any change order if, upon audit of Contractor's records, the audit discloses contractor provided false or inaccurate cost and pricing data in negotiating the change order. In enforcing this provision, the parties shall follow the procedure provided in the Federal Acquisition Regulation (FAR) clause 52.214-27, found in 48 CFR Part 52.

29. **109 MEASUREMENTS AND PAYMENTS Subsection 109.7, PAYMENT FOR BOND ISSUE AND BUDGET PROJECTS,** Delete the first three paragraphs in their entirety and replace with the following **Subsection 109.7, PAYMENT FOR BOND ISSUE AND BUDGET PROJECTS:**

1. PARTIAL PAYMENTS

The contracting agency will make a partial payment to the Contractor on the basis of an approved estimate prepared by the Engineer or the Contractor for work completed and accepted through the preceding month. The notice to proceed date, which is designated for the specific project involved, will be used as the closing date of each partial pay period. Payment will be made no later than fourteen (14) days after the work is certified and approved. City shall review payment requests and make recommendation of approval or denial within seven (7) calendar days.

2. PAYMENT RETENTION

At the start of construction, ten percent of all pay requests shall be retained by the City to guarantee complete performance of the contract. When the work is fifty percent complete, this amount may be reduced to five percent providing that construction progress and quality of work is acceptable to the City. Any funds which are withheld from the contractor will be paid no later than sixty days after completion of the contract and settlement of all claims.

In lieu of retention, the contractor may provide as a substitute, an assignment of money market accounts, demand deposit accounts, or time certificates of deposit (CDs) from a bank licensed by Arizona, securities guaranteed by the United States, securities of the United States, the State of Arizona, Arizona counties, Arizona municipalities, Arizona school districts, or shares of savings and loan institutions authorized to transact business in Arizona. These securities are referred to as "Qualified Securities."

Qualified Securities deposited in lieu of retention must be deposited into a separate account with a bank having a branch located in the City of Phoenix and be assigned exclusively for the benefit of the City of Phoenix pursuant to the City's form of escrow and/or deposit agreement

Escrow Agreement and Deposit Agreement forms may be obtained from the Contract Specialist assigned to the project.

30. **109 MEASUREMENTS AND PAYMENTS, Delete Table 109-1 in Subsection 109.9, DOLLAR VALUE OF MAJOR ITEM,** and substitute the following:

CONTRACT AMOUNT MAJOR ITEM IS DEFINED AS ANY ITEM  
EQUAL TO OR GREATER THAN THE  
FOLLOWING

<u>CONTRACT AMOUNT</u>	MAJOR ITEM IS DEFINED AS ANY ITEM EQUAL TO <u>OR GREATER THAN THE</u> <u>FOLLOWING</u>
Up to \$1 million	\$15,000 or 3%, whichever is greater
\$1 million to \$3 million	3% of the original contract amount to a maximum of \$75,000.00
\$3 million to \$5 million	2.5% of the original contract amount to a maximum of \$90,000.00
Over \$5 million	1.5% of the original contract amount to a maximum of \$125,000.00

CONTINGENCY ITEMS

Contingency items which fall under the definition of a major item are subject to negotiation if decreased by more than twenty (20) percent.

Contingency items shall not increase more than twenty (20) percent without being subject to renegotiation, regardless of the percentage of that item relative to the total contract amount.

31. **110 NOTIFICATION OF CHANGED CONDITIONS AND DISPUTE RESOLUTION.** Add the following to **Subsection 110.1 GENERAL:**  
**SOILS INFORMATION**

The material boring logs and seismic refraction survey data shown on the plans or included in these specifications are included for the Contractor's convenience only. It is not intended to imply that the character of materials shown in the logs is representative throughout the project. **The soil borings are indicative of the soil characteristics only at the location and to the depth of each of the borings.**

Even if not specifically shown in the geotechnical information provided, the Contractor may encounter large cobbles, boulders, caliche, conglomerate, hard rock, perched groundwater, historic or prehistoric cultural resources, or other differing site conditions on this project. **No additional compensation will be made for any differing site condition that may be encountered.**

## SPECIAL PROVISIONS

### 1. 350 REMOVAL OF EXISTING IMPROVEMENTS

**Subsection 350.2 CONSTRUCTION METHODS:** Delete “CONSTRUCTION METHODS” from the title and replace with “REMOVALS”.

**Subsection 350.2 CONSTRUCTION METHODS:** Add subsection title “350.2.1 General” before the first paragraph.

**Subsection 350.2 CONSTRUCTION METHODS:** Delete the second paragraph in its entirety and replace with the following:

Unless otherwise designated on the plans, sidewalks shall be removed to a distance required to maintain a maximum slope for the replaced portion of sidewalk, for one inch per foot and all driveways shall be removed to a distance designated on the plans or as required by standard details.

**Subsection 350.2 CONSTRUCTION METHODS:** Delete the fourth paragraph in its entirety and replace with the following:

Portland cement concrete pavements, driveways, driveway entrances, curbs and gutters and sidewalks designated on the plans for removal, or as necessary for other work, shall be saw-cut at match lines.

**Subsection 350.2 CONSTRUCTION METHODS:** Add the following to the last sentence of the sixth paragraph:

or as a miscellaneous removal item when not included otherwise in the proposal.

**Subsection 350.2 CONSTRUCTION METHODS:** Delete the seventh paragraph in its entirety. Subsection

**350.2 CONSTRUCTION METHODS:** Add the following subsection:

#### **350.2.2 Disposal of Surplus Materials:**

**350.2.2.1 Inert Materials:** Surplus and/or waste material not containing asbestos or lead may be incorporated into the project when permitted by the construction documents and the Engineer.

The location for off-site disposal shall be at the Contractor’s option, subject to the following conditions:

1. When the City landfills are used, the Contractor shall pay the normal fee.

2. When private property within the City of Phoenix City Limits is used, the Contractor shall obtain written agreement from the property owner and submit a copy of the agreement to the Engineer prior to hauling and dumping. If the property is not a licensed disposal facility, the agreement shall specifically state that the property owner accepting the material shall be responsible for the cost and maintenance of all air quality and storm water requirements as may be necessary by laws and ordinances. All disposal and grading shall be in strict conformance with the City of Phoenix Grading and Drainage Ordinance and all other applicable regulations, laws and ordinances. The Contractor disposal and grading shall be in strict conformance with the City of Phoenix Grading and Drainage Ordinance and all other applicable regulations, laws and ordinances. The Contractor

shall obtain and pay for the necessary permits. The Contracting Agency is hereby held harmless by the Contractor of all liability when private property is used for disposal.

3. When private property outside the City of Phoenix City Limits is used, the Contractor shall obtain written agreement from the property owner and submit a copy of the agreement to the Engineer prior to hauling and dumping. If the property is not a licensed disposal facility, the agreement shall specifically state that the property owner accepting the material shall be responsible for the cost and maintenance of all air quality and storm water requirements as may be necessary by laws and ordinances. All disposal and grading shall be in strict conformance with the jurisdiction's laws and ordinances and all other applicable regulations, laws and ordinances. The Contractor shall obtain and pay for the necessary permits. The Contracting Agency is hereby held harmless by the Contractor of all liability when private property is used for disposal.

No separate measurement or payment will be made for hauling and disposal. The cost shall be incidental to the work in the proposal.

**350.2.2.2 Non-Inert Materials:** Surplus and/or waste material containing asbestos and/or lead in any form shall not be incorporated into the project unless formally accepted in writing by the Engineer prior to its incorporation.

Disposal of materials containing asbestos and/or lead shall be in conformance with all regulations, laws and ordinances.

No separate measurement or payment will be made for hauling and disposal of material containing asbestos and/or lead. The cost shall be incidental to the work in the proposal.

**Subsection 350.2 CONSTRUCTION METHODS: Add the following subsections:**

**350.2.3 Removal of Pipe:** Pipe designated on the plans for removal shall include excavation; removal and disposal of paving, obstructions and encasement; removal, preparation and proper disposal of pipe and debris; and backfill and compaction per Section 336 and Section 601. Measurement and payment shall be by the linear foot.

**350.2.4 Removal of Structures:** Structures designated on the plans for removal shall include the removal of irrigation structures and any other structures noted on the plans and not included otherwise in the proposal. Removal of structures shall include excavation; removal and disposal of paving, obstructions and controlled low strength material fill; removal, preparation and proper disposal of the structure and debris; and backfill and compaction per Section 336 and Section 601. Measurement and payment shall be by the lump sum.

**350.2.5 Removal of Structural Concrete:** Structural concrete designated on the plans for removal shall include the removal of sidewalk curbs and any other reinforced concrete and masonry noted on the plans and not included otherwise in the proposal. Removal of structural concrete shall include excavation; removal and disposal of paving, obstructions and controlled low strength material fill; removal, preparation and proper disposal of the structural concrete and debris; and backfill and compaction per Section 336 and Section 601.

Measurement and payment shall be by the cubic yard of structural concrete removed.

2. **401 TRAFFIC CONTROL**, add the following to **Subsection 401.5 GENERAL TRAFFIC REGULATION**:

**TRAFFIC REGULATIONS**

- A. The following shall be considered Arterial streets: **19th Ave, 27<sup>th</sup> Ave, 35<sup>th</sup> Ave, Northern Ave, Dunlap Ave, Van Buren St, Southern Ave, 24<sup>th</sup> St, Camelback Rd,**



**16<sup>th</sup> St, Central Ave, Indian School Rd, 59<sup>th</sup> Ave, 67<sup>th</sup> Ave, McDowell Rd, Bethany Home Rd**

The following shall be considered Collector streets: **28<sup>th</sup> St north of Van Buren St, 36<sup>th</sup> St, Campbell 23<sup>rd</sup> Ave, Roosevelt St**

- B. All traffic and/or traffic control devices on this project shall be provided, maintained and/or controlled as specified in the City of Phoenix Traffic Barricade Manual, latest edition and addendums thereof.
- C. Permission to restrict City streets, sidewalks and alleys (street closure permits) shall be requested as specified in the City of Phoenix Traffic Barricade Manual, latest edition and addendums thereof.
- D. Unless otherwise provided for in the following "Special Traffic Regulations", all traffic on this project shall be regulated as specified in the City of Phoenix Traffic Barricade Manual, latest edition and addendums thereof.
- E. No deviation to the "Special Traffic Regulations will be allowed or implemented unless submitted to the Engineer for review and approval two (2) weeks prior to proposed work.
- F. Only City of Phoenix certified contractors can set, move, or remove temporary traffic control devices (signs, barricades, etc.). This annual certification can be scheduled by calling 602-262-6235.
- G. Civil Sanctions for temporary traffic control violations apply as follows:

Civil Sanction Per Day	Violation Description
\$1,500	Creating an eminent risk of death or injury to the public within the public right-of-way
\$1,000	Restricting the right-of-way without proper certification or a right-of-way temporary use permit
\$1,000	Restricting traffic during peak traffic hours as described in the <u>Traffic Barricade Manual</u> without authorization
\$1,000	Failing to correct or cure a violation, as listed in this schedule, within the time period stated on the warning notice
\$1,000	Restricting traffic at signalized intersections without any work occurring
\$500	Closing a sidewalk improperly or closing a sidewalk without proper certification or closing a sidewalk without a right-of-way temporary use permit
\$500	Violating the restriction limits, times and locations, of the right-of-way temporary use permit
\$500	Missing or improper use of advance warning signs

\$500	Missing or improper use of barricades and channelizing devices
\$250	Leaving advanced warning signs facing traffic after restriction has been removed – per one traffic direction
\$250	Leaving traffic control devices in the right-of-way twenty-four hours after right-of-way temporary use permit expires, unless a request for a permit extension is received by the City prior to the expiration of such permit
\$250	Use of “unacceptable” quality traffic control devices as described in the <u>Traffic Barricade Manual</u>
\$250	Rendering a bus stop inaccessible without relocating it or making other accommodations

H. Parking Meter Fees: To take a parking meter out of service requires a \$35 application fee and \$10 per meter per day.

**SPECIAL TRAFFIC REGULATIONS**

Any Restrictions and/or Closures will only be approved based on scope of work.

Traffic restrictions are not permitted on Arterial/Collector streets during peak traffic hours (6:00 a.m. to 8:30 a.m. and 4:00 p.m. to 6:30 p.m. weekdays). Outside of these hours the following applies:

**Arterial Streets**

Minimum number of travel lanes to be open to through traffic:

- a. If more than four lanes exist:.....Two will be open each way;
- b. If four or less lanes exist: .....One will be open each way
- c. On one-way streets:.....Two lanes open

At signalized intersections, a minimum of four lanes (two each way) plus left-turn lanes will be maintained open from 8:30 a.m. to 4:00 p.m., and from 6:30 p.m. to 6:00 a.m., Monday through Fridays including weekends unless otherwise noted within the approved TRACS permit issued to the contractor.

**Collector Streets**

A minimum of two travel lanes (one each way) will be open to through traffic.

At signalized intersections, a minimum of two lanes (one each way) plus left-turn lanes will be maintained open from 8:30 a.m. to 4:00 p.m., and from 6:30 p.m. to 6:00 a.m., Monday through Fridays including weekends unless otherwise noted within the approved TRACS permit issued to the contractor.

**Pre-construction Field Meeting**

Prior to requesting a TRACS Permits, the Contractor must coordinate in advance with the construction inspector to schedule a pre-construction field visit. The following personnel shall attend the meeting: Contractor, contracted barricade company, construction inspector and right-of-way inspector. **This project is within multiple areas, affecting 5 different ROW Chief Construction Inspectors: Contractor to coordinate field meeting with Xavier Newell, Daniel Strauch, Steve Warwick, Jesus Paez, Gabriel Bernal.**

**Nighttime Regulations**

To minimize disruption to traffic, crews may be requested to work at night during off-peak hours. In this case, an after-hours permit will be required to authorize work in residential areas. Permits may be granted for up to 30 days for hours including nights, weekends, and holidays and are issued

under Phoenix City Code 23-14 for building and roadway construction by the Planning and Development and Street Transportation departments, respectively. The purpose of the permits is to authorize work yet minimize loud and disturbing noises in residential areas due to construction or maintenance activities.

### **Variable Message Boards**

Variable Message Boards (VMB) shall be provided on this project, 24 hours per day, from up to 10 days prior to any roadway closures and from at least 5 days prior to; maintaining a single thru lane at a signalized intersection, restricting left turn movement or 24-hour lane restrictions. The VMB shall remain in place until all roadway traffic restrictions are removed or approval from the area Right-of-Way Inspector.

### **Special Sign Requirements**

The Contractor shall provide, install and maintain advance notification, public informational and directional access signs (for businesses, churches, hospitals, schools, etc.) that may be required by the Engineer. These signs may include, but are not limited to, portable changeable message signs, radar/speed sensing trailers, and other applicable Intelligent Transportation System type devices. The cost shall be included in the bid item for Traffic Control Devices.

### **No Parking Signs**

When used, temporary NO PARKING signs must be placed 72 hours in advance for notification.

Signs should be spaced 80 feet apart for collector and arterial streets. On local Streets, a minimum of one (1) sign must be placed in front of each affected resident not to exceed 80 feet.

Signs must be clearly marked with "Date" to "Date" and the time period of the no parking.

NO PARKING Signs must be new and not reused, dates and times must be legible.

Contractor must provide Parking enforcement a picture of the placement of the no parking sign with a date and time stamp on the picture.



1.500" Radius, 0.375" Border, 0.375" Indent, Red on White;  
 "TEMPORARY" B; "NO" B; "PARKING" B;  
 "DATE TO DATE" B; "TIMES(S)" B;

### Police Officer Requirements

Off-duty police officers are required for construction projects as defined in the most recent edition of the City of Phoenix Traffic Barricade Manual and TRACS permit. The Contractor must competitively procure off-duty police with vendors who are Authorized Traffic Coordinators with the City of Phoenix Police Department or Phoenix Police Department off-duty detail.

The following requirements must be included in the procurement:

1. Hourly fees charged
2. Administrative fees (administrative fees to be charged as a part of the hourly rate, not billed separately)
  - a. Pay applications requesting reimbursement for Off Duty Police hours worked will be accompanied with itemized documentation indicating officer name, date worked, hours worked, time of day worked and location.
  - b. For audit purposes, contractor's files will contain documentation from the successful off duty vendor that the above items are accounted for in the vendor's price proposal.

The Contractor shall provide one off-duty police officer, as defined in the City of Phoenix Traffic Barricade Manual, at signalized intersections affected from 6:00 a.m. to 6:30 p.m. weekdays, and

during working hours nights and weekends when traffic is restricted (as described in the Traffic Barricade Manual).

When construction activities do not restrict traffic through the intersections, police officer hours may be reduced or suspended at the direction of the ROW Inspector.

### **Signalized Intersection Requirements**

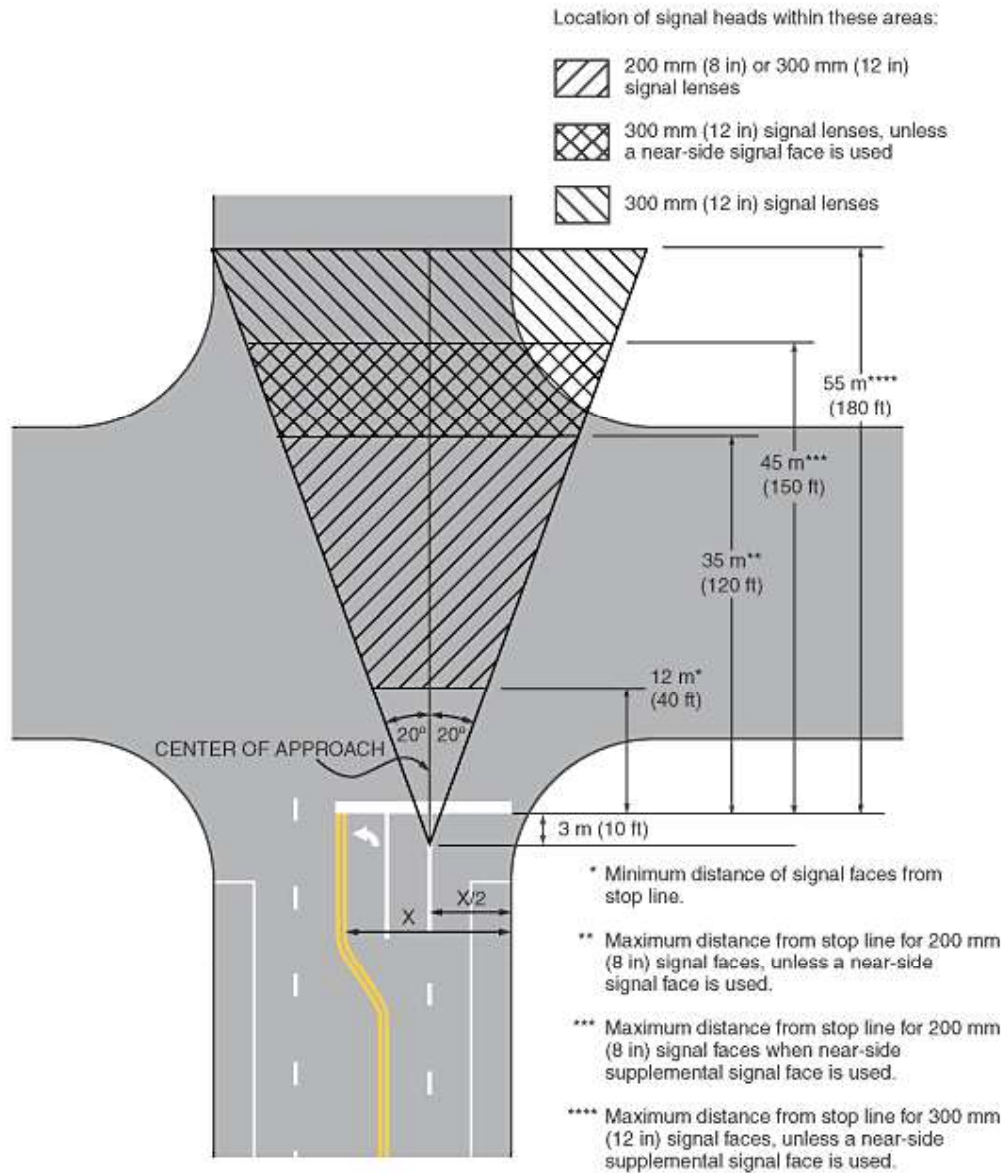
When left turns are prohibited at signalized intersections with left-turn arrow indications or when working in vicinity of a signalized intersection, the contractor will coordinate with the project inspector five days in advance and provide a written schedule indicating days, times and specific locations where left turns will be prohibited or where signals will be interrupted. The project inspector will notify the City Traffic Signal Shop (phxtmc@phoenix.gov) at least 72 hours in advance to make arrangements for arrow indications to be turned off or to coordinated signals being affected by the construction.

**The contractor shall maintain the project inspector informed of any schedule changes or when work will be completed. When the work has been completed the inspector will immediately notify Traffic Signal Shop (phxtmc@phoenix.gov) so they can reactivate the left-turn arrow.**

### **Traffic Signal Head Visibility Requirements**

The contractor shall maintain a "40-degree Cone-of-Vision" at all intersections, for full view of the intended traffic. If during construction, traffic will be positioned in such a manner that the driver cannot see a minimum of two (2) traffic signal head indications within 20-degrees either side of straight ahead (40-degree Cone-of-Vision), immediately contact the Signal Engineer at 602-262-4693 prior to the start of any work.

**Figure 4D-2. Horizontal Location of Signal Faces**



Note: This figure illustrates the horizontal location of signal faces.

### Local Access Requirements

The Contractor shall maintain local access to all side streets, access roads driveways, alleys, and parking lots at all times and shall notify residents 72 hours in advance of any restrictions which will affect their access. The Contractor shall restore the access as soon as possible. If the primary access cannot be restored in a timely manner, the Contractor shall provide an alternative which shall be pre-determined with the residents prior to imposing any restrictions. Any local street restrictions imposed shall be such that local area traffic circulation is maintained.

### **Business Access Requirements**

Access shall be maintained to adjacent businesses at all times during their hours of operation. Access may be maintained by such measures as constructing driveways in half sections, or by providing bridging over new concrete. Properties with multiple driveway access will not have more than one driveway access restricted at any given time. While the one driveway is restricted, access to the other adjacent driveways will be maintained and unrestricted. Access to adjacent driveways shall be provided during all non-working hours. Any business restrictions shall be coordinated with the affected business in writing at least fourteen (14) days prior to imposing restrictions.

### **Pedestrian Access Requirements**

The Contractor shall ensure that all sidewalks on this project remain in compliance with all the issues outlined by the American Disabilities Act of 1990. All pedestrian-walking areas, whether paved or unpaved, shall be maintained open and safely or a suitable pedestrian detour route will be provided. Such measures as backfilling or ramping at a 12:1 slope to existing sidewalks, or providing alternate sidewalk areas adjacent to existing sidewalks may be used. Right-of-Way inspector may also request an ADA/Pedestrian plan for any proposed sidewalk restrictions or closures. In high pedestrian use areas, the Engineer may request temporary hard-surface walkways, and/or covered pedestrian walkways to be installed at no additional cost to the City. Fully closing pedestrian walkways and detouring to the opposite side of the street will only be considered as the last option per the scope of work, which will be determined by the ROW Management section.

### **Frontage Road Access Requirements**

Local access shall be maintained at all times on frontage roads. Frontage roads shall not be used for through traffic, equipment parking, material storage, or spoil stockpile area. Frontage road closures shall follow the same special provisions as described in "Local Access Requirements".

### **School Access Requirements**

The Contractor shall provide clean and safe school zones, crosswalks, and walkways for students attending nearby schools during all hours of school use.

This may require backfilling trenches, temporary pavement, shoring, plating, or pedestrian bridges with handrails across open trenches.

In addition to school zones and crosswalks, the Contractor shall maintain accessibility to all school bus routes during all hours of school use. The Contractor shall notify the school Principal(s) and the school Transportation Director at least fourteen (14) days prior to any restrictions, and shall restore access as soon as possible.

### **Church Access Requirements**

The Contractor shall maintain a high level of access to churches during all hours of church use. The Contractor shall coordinate any access restrictions with the clergy at least fourteen (14) days prior to any restrictions, and shall restore access as soon as possible.

### **Hospital Access Requirements**

The Contractor shall maintain the Emergency entrance to nearby Hospitals by way of a paved lane for emergency vehicles at all times for the duration of the project. The Contractor shall coordinate any access restrictions with the hospital administrator at least fourteen (14) days prior to any restrictions, and shall restore access as soon as possible.

### **Fire Station Access Requirements**

The Contractor shall maintain emergency vehicle access to and from the fire station at all times. The Contractor shall coordinate with the Fire Station Commander at least seven days prior to any restrictions and shall restore access as soon as possible.

### **Police Station Access Requirements**

The Contractor shall maintain emergency vehicle access to and from nearby police stations at all times. The Contractor shall coordinate with the Police Station Commander at least seven days prior to any restrictions and shall restore access as soon as possible.

### **City Park Access Requirements**

The Contractor shall maintain access to nearby parks during park hours. Any restrictions shall be coordinated with the appropriate Parks District Supervisor at least seven days in advance, and full access shall be restored as soon as possible.

### **Recreational Trail Crossing**

The Contractor shall maintain the trail crossings safely open at all times, and shall maintain all special trail signs required.

### **Canal Access Road Requirements**

Canal access and maintenance roads shall remain open at all times.

Any work that may affect this project shall be coordinated with the appropriate Agency contact at least 14 working days in advance.

### **Sanitation Pick-up**

The Contractor shall provide sanitation pick-up for affected residents by relocating trash containers, or by providing alternative measures acceptable to the Sanitation Division of the City Public Works Department (602-256-3310).

### **Special Events**

Should there be special events scheduled to take place during the construction of this project, it is the responsibility of the Contractor to coordinate their Construction schedule around the special event. No compensation for delays associated with special events will be considered.

**Central and Indian School has multiple events through the year as well as Central will be affected by parades.**

### **Bus Stops**

The Contractor shall maintain all existing bus stop locations on this project in a safe manner, or provide alternate bus stop locations and related directional signage as required by the Inspector. Relocation of bus stops shall be coordinated through the area. Relocation of bus stops shall be coordinated through the City of Phoenix Public Transit Department, contact 602-534-6284 or 602-262-4087.

### **Flagging of Traffic**

No flagging of traffic will be permitted during the peak traffic hours of 6:00 a.m. to 8:30 a.m. and



4:00 p.m. to 6:30 p.m. weekdays. If construction requires, intermittent flagging will be allowed from 8:30 a.m. to 4:00 p.m., if approved by City project inspector, to facilitate access for heavy construction equipment.

### **Traffic Control Plans**

The Contractor shall submit a traffic control plan for approval, showing placement of all traffic control devices, including all conflicting signs to be covered/removed or relocated, or other features that may conflict with the placement of temporary signage. This plan shall be professionally drawn on a reproducible medium, and shall be submitted to the Engineer two (2) weeks prior the contract start time or at the Pre-Construction conference, whichever occurs first.

### **Holiday Season Requirements**

Restrictions near retail shopping areas on Major or Collector streets during the Holiday Season from November 23rd to January 1st will not be approved without pre-approval from the RMP Inspector. Contractor shall plan and coordinate their work schedule around this holiday season requirement.

### **Temporary Traffic Control Zone and Safety**

At the Pre-Construction conference, the Contractor will designate an employee, other than the Project Superintendent, who is knowledgeable in the principles and methods of proper traffic control and safety. This employee will be available on the project site during all periods of construction to coordinate and maintain safe, acceptable and effective temporary barricading whenever construction affects traffic. This person will be authorized to receive and fulfill instructions from the Engineer and will supervise and direct traffic control. Instructions and information given by the Engineer to this person will be considered as having been given to the Contractor.

**Failure to maintain temporary traffic control devices in accordance with the City of Phoenix Traffic Barricade Manual, latest edition, the approved Traffic Control Plan, and directives by the Engineer will result in suspension of work and/or civil sanctions until deficiencies are corrected to the satisfaction of the Engineer.**

### **Safety Fencing Requirement for Trenches and Excavations**

The Contractor will provide safety construction fencing around all open trenches and excavations during all non-working hours.

The Contractor will provide for the safety and welfare of the general public by adequately fencing all excavations, trenches, work area, equipment, and or materials that are permitted by the Engineer to remain open when construction is not in progress.

Fencing will be securely anchored to approved steel posts located six feet on centers, having a minimum height of six feet, and will consist of wire mesh fabric of sufficient weight and rigidity to adequately span a maximum supporting post separation of six (6) feet.

The fencing, when installed about the periphery of excavations and trenches, will form an effective barrier against intrusion by the general public into areas of construction. Fencing will not create sight distance restrictions or visual obstructions. At all times when construction is not in progress, the Contractor will be responsible for maintaining the fencing in good repair, and upon notification by the Engineer, will take immediate action to rectify any deficiency. Prior to the start of any excavating or trenching required for the execution of the proposed work, the Contractor will submit to the Engineer for approval, detailed plans showing types of materials and methods of fabrication for the protective fencing.

There will be no separate measurement or payment for furnishing, installing, or maintaining protective fencing. The cost will be considered incidental to the cost of the pipe and/or structures.

### **Traffic Control For Signing And Striping By City Forces**

The City of Phoenix Traffic Services Division (TSD) will complete the signing and striping work for the project. When the Contractor is ready for final signing and striping, the contractor shall notify the Engineer and make a request for the City Forces to complete the work. TSD will not schedule the signing and striping until they inspect the Site and see that the final pavement treatment is applied. It may take up to 16 weeks to complete the final signing and striping. During that time, the Contractor shall keep all traffic control devices in place, according to the approved traffic control plan, until their removal is approved by the Engineer. The Engineer may request a new traffic control plan or changes to the traffic control during this period. The Contractor shall make requested changes at no additional cost. No separate measurement or payment will be made for the extended duration of traffic control devices between the time that the Contractor makes the request until the time of completion of the work by City Forces. The work shall be included in the bid item "TRAFFIC CONTROL DEVICES".

3. **401 TRAFFIC CONTROL**, Add the following to **Subsection 401.10 PAYMENT:**

#### **ALLOWANCE FOR UNIFORMED, OFF-DUTY LAW ENFORCEMENT OFFICER**

This project includes a lump sum "ALLOWANCE FOR UNIFORMED, OFF-DUTY LAW ENFORCEMENT OFFICER. The amount of this allowance is determined by the Engineer, and is not subject to individual bid pricing. All bidders shall incorporate the amount pre-entered in the bid proposal and shall reflect the same in the total amount bid for this project.

Payment for uniformed, off-duty law enforcement officers shall be made from this allowance based on approved invoiced cost plus taxes, and a maximum 10 percent markup for overhead and profit.

#### **TRAFFIC CONTROL**

Payment for traffic control will be on a lump sum basis for Traffic Control Devices.

4. Add the following new **Section 402 ADDITIONAL CONSTRUCTION REQUIREMENTS** as follows:

#### **402.1 FIELD DOCUMENTATION**

The Contractor shall document existing conditions within the project area prior to construction. Documentation shall be video tape. The video tape shall not be made from a moving vehicle. One copy of the video tape shall be furnished to the City prior to the start of construction. The cost of the video taping shall be considered incidental to the cost of the project. No separate measurement or payment shall be made for this item.

#### **402.2 CONTRACTOR COMMUNICATION INFORMATION**

The Contractor shall provide a pager and mobile phone to his on-site Project Superintendent to ensure that the Engineer can reach the Contractor's Superintendent. This pager and mobile phone must be accessible by local land-line telephone service. The Superintendent's pager and mobile phone shall remain in service for the duration of the project, and these phone numbers shall be included on the Contractor's list of emergency phone numbers submitted at the pre-construction conference.

#### **402.7 POWER BROOM**

The Contractor may be instructed by the Engineer to provide additional pavement cleaning (in

parking lots, or other locations) above and beyond the normal expected cleanup and dust control required by MAG Section 104.1.3. If requested by the Engineer, the Contractor shall clean the requested areas with a power pick-up broom.

Use of the power pick-up broom in the special requested areas only shall be measured and paid for on an hourly basis under the bid item, 'POWER BROOM'. The number of hours listed in the bid proposal is only an estimate. Actual hours requested for this project may vary.

#### **402.9 PUBLIC INFORMATION SERVICES**

The City of Phoenix shall provide a public information specialist for the community relations program on this project.

The Contractor shall cooperate with the City's public information specialist firm in the preparation of newsletters, advanced notification for service disruptions, answering questions from the public, etc. He shall also provide schedule update information to the specialist.

The Contractor shall provide representatives as needed for all meetings with the public through out the contract period.

The City will pay public information service costs associated with approved contract time extensions; however, if the Engineer determines that delays were caused by the Contractor, the additional costs for public information services shall be deducted from the Contractor's final pay request.

5. Add the following new **Section 434 ADDITIONAL LANDSCAPING REQUIREMENTS** as follows:

#### **434.3 TRIMMING EXISTING TREES AND/OR SHRUBS IN PLACE**

Where there are existing trees to remain in place, the Contractor is to perform any trimming operation required to maintain pedestrian clearance to a height of 7' and to maintain sight visibility. Trimming which involves removal of branches over 3" in diameter or removal of branches which will alter the structure of the trees shall be done by a person trained and Certified in the Practice of Arboriculture. The arborist shall present certification papers to the Engineer and Landscape Architect for approval upon request. If the tree(s) become damaged or disfigured as a result of the trimming, the Engineer and Landscape Architect may require that the tree(s) be removed and replaced in size and kind by the Contractor. Removal and replacement shall be done at the Contractor's expense.

Trimming existing trees and shrubs in place includes trimming of branches or foliage which overhang existing walls or fences where the branches create a problem for pedestrian clearance or for visibility. Trimming of existing trees shall be done according to plans as noted and as directed by the Engineer and Landscape Architect.

There will be no separate measurement or payment for trimming existing trees in place. The cost of the work shall be considered incidental to the cost of the project.

#### **434.5 PROVIDE PROTECTION FOR EXISTING TREES**

The Contractor shall be responsible for protecting existing trees to remain in place as tagged in the field and/or as noted on the plans. The Contractor shall provide fencing around all trees and plants which are to remain in place that could be damaged by construction activity or equipment. A minimum area shall be established around each plant based on its trunk caliper size. The minimum area shall be one (1) foot of radius for each inch of caliper. For example, if a tree has a 6" caliper, there shall be a minimum 6' radius area around the tree that shall be considered a protected zone, and a fence shall be placed at that location. The fencing shall provide protection to the trunks and

limbs from damage that could be caused by construction activity or equipment.

Any trimming that is necessary to prevent construction damage to existing trees shall be pre-approved by the Landscape Architect. If the roots of existing trees could be affected in any way by construction they shall be hand excavated and trimmed as described in the Special Provision, "PRUNING ROOTS OF EXISTING TREES". Root pruning shall also be pre-approved by the Landscape Architect.

The Contractor shall be responsible for all costs associated with protection of existing trees in place. If any damage occurs to trees or other plants to remain that, in the opinion of the Engineer and Landscape Architect, destroys, aesthetically disfigures, or threatens the plant's future survival, the Contractor shall be responsible for replacing the tree in kind. Replacement trees shall be the same size as the damaged tree. Prior to selection of any replacement tree, the Contractor shall obtain approval of the size, type and purchase source from the Engineer and Landscape Architect.

There will be no separate measurement or payment for providing protection for existing trees and plants in place. The cost shall be considered incidental to the cost of the project.

**6. 515 STEEL STRUCTURES, Add the following to Section 515 STEEL STRUCTURES:**

**SHADE STRUCTURES**

**Description**

The work under this item consists of furnishing all labor and materials for fabrication, transportation and installation of Shade Structures complete and in place, including drilled shaft foundations, above ground concrete pot, artistic components and powder coating at the locations and in conformance with the details on the Project Plans, these special provisions and as directed by the Engineer.

Shade Structures are identified below:

1. Cactus with Drilled Shaft Foundation
2. Cactus with Concrete Pot
3. Multi-Panel Cactus with Drilled Shaft Foundation
4. Butterfly with Concrete Pot

**Materials**

Materials shall conform to the requirements specified on the Project Plans and these special provisions.

Structural concrete shall be Class "AA", F'C=3,500 PSI.

Roof perforated steel panel shall be 11 gauge thick with 1" minimum solid border. Perforated steel planes shall be laser cut per the artistic designs shown on the project plans. Contractor shall obtain a digital version of the panels and provide a satisfactory mockup panel for each structure which may take more than one attempt prior to installation. Multiple submittals may be required before approval of panels.

Structural steel shall be detailed and fabricated in accordance with the American Institute of Steel Construction "Specification for Structural Steel Buildings".

All structural steel shall conform to ASTM Designation:

Rectangular hollow structural section (HSS):

ASTM A500 Grade C. FY= 50 KSI

Standard Pipe:

ASTM A53 Grade B. FY= 35 KSI

Flat Bar (Rim Plate) and Perforated Steel Plate  
Anchor Bolts:

ASTM A36. FY = 36 KSI  
F1554 Grade 36

The Contractor shall furnish complete copies, in triplicate, of all mill reports on steel materials furnished.

Welding shall be performed in accordance with the requirements of the current edition of the American Welding Society, Structural Welding Code, D1.1. All butt welds on exposed surfaces shall be ground flush with adjacent surfaces.

### **Construction Requirements**

The use of expansion anchors and/or epoxy anchors will not be permitted.

Certificates of Compliance shall be submitted to the Engineer in accordance with the requirements of Subsection 106.05 of the Arizona Department of Transportation Standard Specifications for Road and Bridge Construction, 2008 Edition.

Shade Structures shall be fabricated offsite and transported to the locations as shown on the Project Plans. Shade Structure shall be carefully erected, true to line and grade. Contractor shall provide temporary support/bracing until the concrete has achieved full strength. Contractor shall provide temporary fencing around the Shade Structure to prevent access to the public.

Contractor shall submit a plan to the Engineer for lifting, transporting, and placing of the Shade Structure.

After erecting the shade structure, any damage or abrasion to painted surfaces or exposed steel shall be repaired in accordance with SECTION 610 - PAINTING of the Arizona Department of Transportation Standard Specifications for Road and Bridge Construction, 2008 Edition.

### **Painting**

The Contractor shall finish paint all surfaces with the following (1.25 to 1.50 mils dry thickness):

#### **Multi Panel Cactus Color Scheme:**

Base and Pole:	Pantone P575 (Medium Green)
Panel 1 on Canopy 1:	Pantone D7D2CB (Warm Grey 1)
Panel 2 on Canopy 1:	Pantone 2003 (Light Yellow)
Panels 3,4,5:	Pantone 377 (Light Green)
Panel 6:	Pantone 2350 (Dark Red)

#### **Cactus Color Scheme:**

Pot and Tubes:	Pantone 3135C
Panel 1A, 1B and 2:	Pantone 222C
Canopy Rim:	White

#### **Butterfly Color Scheme:**

Pole and Frames:	Pantone 7416C
All Panels:	Pantone 7723
Concrete Pot:	Pantone 611C

The color shall be reviewed and approved by the Artist prior to painting. All portions of the structure, connections, concrete base and panels shall be painted. Paint for items to be embedded in concrete shall extend a minimum of 2 inches below the finished concrete surface.

All perforated metal shall be clear of rough surfaces and burrs. All surfaces shall be cleaned and

painted in conformance with SECTION 610 - PAINTING of the Arizona Department of Transportation Standard Specifications for Road and Bridge Construction, 2008 Edition, except as noted herein and on the Project Plans. Rough surfaces shall be ground smooth and repainted prior to acceptance.

### **Shop Drawings**

Prior to beginning any work on the fabrication of the Shade Structures, the Contractor shall submit shop drawings showing complete details in accordance with Subsection 105.03 of the Arizona Department of Transportation Standard Specifications for Road and Bridge Construction, 2008 Edition. Shop drawings shall show complete fabrication and erection details including fully detailed dimensions and sizes of component parts of the structure and details of miscellaneous parts.

### **Measurement**

Shade Structures will be measured by Each, according to the structure type for each location specified on the Project Plans.

### **Payment**

The accepted quantities of Shade Structures, measured as provided above, will be paid for at the contract unit price under the bid items:

“CACTUS WITH POT STRUCTURE, FURNISH AND INSTALL”,  
“CATUS WITH DRILLED SHAFT STRUCTURE, FURNISH AND INSTALL”,  
“MULTI-PANEL CACTUS WITH DRILLED SHAFT STRUCTURE, FURNISH AND INSTALL”  
“BUTTERFLY WITH POT STRUCTURE, FURNISH AND INSTALL”

and shall be full compensation for the Shade Structures complete and in place, including all labor, materials, shop drawings, welding, galvanizing, painting, expansion joints, and connections.

7. **727 STEEL REINFORCEMENT**, Add the following to **Section 727 STEEL REINFORCEMENT**:

### **Description**

The work under this item consists of fabrication, furnishing and placing steel reinforcement of the quality, grade, type, size and quantity designated, in conformance with the details on the Project Plans, and in accordance with these special provisions and as directed by the Engineer. All work under this Section shall conform to SECTION 605 – STEEL REINFORCEMENT of the Arizona Department of Transportation Standard Specifications for Road and Bridge Construction, 2008 Edition, except as noted herein and on the Project Plans.

### **Construction Requirements**

Section 605-3 of the ADOT Standard Specifications of modified to add:

605-3.05 Shop Drawings:

The Contractor shall submit shop drawings and lists showing the bending of reinforcement bars, splice locations and details and complete manufacturer’s information on proprietary splices to the Engineer for review and approval prior to proceeding with the work. Approval of the submittal shall not relieve the Contractor of responsibility for the correctness of the shop drawings and lists.



Credit: DesertUSA.com/animals/cliff-swallow.html



City of Phoenix  
STREET TRANSPORTATION DEPARTMENT

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## Migratory Bird Treaty Act

*(Applies to many birds in Phoenix)*

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The purpose of this flyer is to provide City of Phoenix employees and contractors with basic knowledge to reduce the risk of impacting species protected by the Migratory Bird Treaty Act.

### Migratory Bird Treaty Act (MBTA)

Under the Migratory Bird Treaty Act of 1918, as amended, listed birds and their parts (including eggs, feathers, and nests) are fully protected. They are also protected under Arizona State Law, Title 17-101, Title 17-235, and Title 17-236. The MBTA states that it is illegal to:

- Pursue, hunt, take, capture, kill, possess, sell, purchase, barter, import, export, or transport any migratory bird, or any part, nest, or egg of any such bird.
  - 'Take' is defined as to "pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect."

More information regarding the MBTA can be found at:

- <http://www.fws.gov/birds/policies-and-regulations/laws-legislations/migratory-bird-treaty-act.php>
- <https://www.fws.gov/laws/lawsdigest/migtrea.html>

### Where/When are they active?

- The nests of birds protected by the MBTA can be found in many places, including trees, shrubs, cacti, cattails, on the ground, in holes in the ground and on man-made structures including culverts, bridges, buildings, etc.
- The breeding cycle of most birds in Phoenix occurs between February 1 and August 31, although there are a few species that may nest outside that period. Some birds may be present year-round and others migrate, often during the late summer/early autumn period.

### How to avoid impacting birds protected by the MBTA:

- If your project might impact active bird nests/burrows, work with one of the contacts below during the design process to make appropriate arrangements before the project activity begins. Necessary actions may include active nest surveys, seasonal restrictions, or obtaining a project-specific relocation permit from the U.S. Fish and Wildlife Service.
- When actively working, be aware of your surroundings. If you see a nest that appears active (chirping, aggressive or distracting adult bird behavior, eggs present, etc.) **STOP WORK** within 30 feet of the area and call one of the contacts below.

**Questions? Work may impact birds protected by the MBTA?** Contact a City of Phoenix Street Transportation Department Environmental Quality Specialist:

Andrea Love 602-495-6718 or via e-mail at <andrea.love@phoenix.gov>

James Marshall 602-534-3747 or via e-mail at <james.marshall@phoenix.gov>

Updated December 8, 2022



City of Phoenix  
STREET TRANSPORTATION DEPARTMENT

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## Western Burrowing Owl

*(Athene cunicularia)*

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The purpose of this flyer is to provide City of Phoenix employees and contractors working on City projects with basic knowledge to reduce the risk of impacting western burrowing owls.

### Legal Status:

The western burrowing owl is protected under the Migratory Bird Treaty Act of 1918, as amended. All migratory birds and their parts (including eggs, feathers, and nests) are fully protected. They are also protected under Arizona State Law, Title 17-101, Title 17-235, and Title 17-236.

### Species Description:

- Small, ground-dwelling owl (mass of approx. 5 oz.)
- Length: 7.6-9.9 inches, with long legs
- Wingspan: approx. 23 inches
- Round head, lacks ear tufts
- Distinct oval facial ruff, framed by a broad, puffy white eyebrow
- Bright yellow iris

### Where are they found?

- Dry, open, short grass, treeless plains
- Human dominated landscapes such as:
  - Golf courses, airports
  - Agricultural fields, vacant lots
- Depends on other animals to construct burrows

### Identifying an active burrow

- Western burrowing owls use burrows constructed by ground squirrels, badgers, coyotes, tortoises, etc., or may use pipes, culverts, and ditches.
- They may “decorate” the entrance to a burrow with cow, horse, or dog manure, feathers, vegetation, and trash items
- An active burrow may (not always) have owl excrement (“whitewash”) and/or pellets near the entrance

### How to avoid impacting western burrowing owls:

- Scan ahead as you work
- ***If western burrowing owls or potentially active burrows observed, STOP WORK and MOVE at least 100 feet away from the owl or occupied burrow before resuming work***
  - Do not harass or “shoo” the owl away
- If the project cannot avoid or stay outside 100 feet of the owl or active burrow, call contact listed below

**Questions? Need to work within 100 feet of a western burrowing owl or active burrow?** Contact a City of Phoenix Street Transportation Department Environmental Quality Specialist:

Andrea Love 602-495-6718 or via e-mail at <andrea.love@phoenix.gov>

James Marshall 602-534-3747 or via e-mail at <james.marshall@phoenix.gov>

Sources: Arizona Department of Transportation Environmental Planning Group Western Burrowing Owl Awareness Flyer  
Arizona Game and Fish Department Animal Abstract: Western Burrowing Owl. Heritage Data Management System

Updated December 8, 2022





## City of Phoenix

### Disadvantaged Small and Minority Business (DSMB) ARPA Program

#### DSMB ARPA – Design Bid Build (DBB) Contract Clause Race & Gender-Neutral – Non-Negotiated

The City of Phoenix has shown a historical commitment to business diversity. The City of Phoenix and its partners strive to advance the economic growth of Small and Minority Businesses through its Disadvantaged Small and Minority Business (DSMB) ARPA Program.

The City of Phoenix DSMB ARPA 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 DSMBE ARPA Program provides certification and opportunities in construction, purchasing, management and technical assistance.

#### SECTION I. DEFINITIONS

**City** means the City of Phoenix for the 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>.

**Arizona's Unified Transportation Registration and Certification System (AZ UTRACS)** is a comprehensive internet-based business directory containing certified ACDBEs, DBEs and SBCs. The directory includes detailed firm profiles that includes capabilities and geographic locations that can be accessed at: <https://utracs.azdot.gov/Search>.

**The City of Phoenix Certification and Compliance System** means the web-based certification and compliance system used to track and monitor DBE and Small Business Participation. The system can be accessed at: <https://phoenix.diversitycompliance.com>.

**Contract** means a legally binding agreement that creates obligation between a seller to furnish supplies or services (including construction and professional services) and the buyer to pay for them.

**Equal Opportunity (EO) Compliance Specialist** means an Equal Opportunity Department (EOD) employee responsible for DSMB ARPA Program compliance with this contract.

**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 DSMB. Submitter must identify and document potential business opportunities for DSMBs, describe what efforts were undertaken to solicit DSMB and participation, disclose results of negotiations with DSMBs, and communicate and record Submitter's selection decisions relating to DSMB and Small Business participants.

**Bidders List** means a list created by the submitter, consisting of information about all DSMB and non-DSMB firms that bid or quote on the project. The list should include the firm's name; address; firm's DSMB or non-DSMB status; race and gender information for the firm's majority owner; NAICS code applicable to each scope of work the firm sought to perform in its bid; age of the firm; and the annual gross receipt of the firm.

**Disadvantaged Business Enterprise (DBE)** means a for-profit Small Business Concern, that has at least 51% owned and controlled by individuals or individual who are socially and economically disadvantaged, that have successfully completed the DBE certification process and have been granted DSMB status by a UCP member pursuant to the criteria contained in 49 CFR Part 26.



## City of Phoenix

### Disadvantaged Small and Minority Business (DSMB) ARPA Program

**Commercially Useful Function (CUF)** means that a DSMB is responsible for executing the work of the contract and is carrying out its responsibilities by performing, managing, and supervising the work involved. To perform a commercially useful function, the DSMB must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. If a DSMB 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 DSMB 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 DSMB is presumed not to be performing a Commercially Useful Function.

**Goods and Services Providers** are firms that provide goods and services that represent a CUF as a DSMBE or Small Business.

**Manufacturer** means a firm that owns (or leases), operates, or maintains a factory or establishment that produces on the premises the materials, supplies, articles or equipment required under the contract and of the general character described by the specifications. Manufacturing includes blending or modifying raw materials or assembling components to create the product to meet contract specifications. When a DSMB makes minor modifications to the materials, supplies, articles, or equipment, the DSMB is not a manufacturer.

**Regular dealer/Supplier** is a firm that owns (or leases) and operates 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 sufficient quantities, and regularly sold or leased to the public in the usual course of business.

**Broker** is a firm who arrange, facilitate, or expedite transactions.

**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 DSMB Contract Clause.

**Small Business Enterprise (SBE)** means a for-profit 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 a firm that holds a contract/agreement between a firm and a lower tier contractor, including a vendor under a purchase order.

**Submitter** means a contractor, corporation, or firm that tenders a submittal to the City 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 and submitted the solicitation requirements.

**Successful Submitter** means a firm that has been awarded the contract by the City 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 City.



## City of Phoenix

### Disadvantaged Small and Minority Business (DSMB) ARPA Program

**Contractor** means the submitting firm that was awarded the given contract with the City, to perform the work or service as specified by the contract.

#### SECTION II. GENERAL REQUIREMENTS

##### A. **Applicable Federal Regulations**

This Contract is subject to DSMB requirements issued by USDOT in 49 CFR Part 26 and 2 CFR, Part 200. Despite the lack of a race- and gender-conscious DSMB participation goal for this Contract, the City must track and report DSMB participation that occurs as a result of any procurement, goods/services, or other arrangement involving a DSMB. For this reason, the Contractor must provide all relevant information to enable the required reporting.

##### B. **DSMB Participation**

For this solicitation, the City has *not* established a race- or gender-conscious DSMB participation goal. The City extends to each individual, firm, vendor, supplier, contractor, and Subcontractor an equal economic opportunity to compete for business. The City uses race- and gender-neutral measures to facilitate participation of DSMBs. The City strongly *encourages* each Submitter to voluntarily subcontract with DSMBs to perform a Commercially Useful Function (CUF) for the part of the work that the Contractor might otherwise perform with its own forces.

##### C. **Counting DSMB Participation**

The City will count DSMB participation as authorized by federal regulations. A summary of these regulations can be found at [www.ecfr.gov](http://www.ecfr.gov) (49 CFR Part 26.39 and Part 26.55).

##### D. **DBE Certification**

*Only* firms (1) certified by the AZUCP or another UCP member, and (2) contracted to perform a Commercially Useful Function (CUF) on scopes of work for which they are certified, may be considered to determine DBE participation resulting from RGN measures on this Contract.

##### E. **Civil Rights Assurances**

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

- a. "The contractor, sub recipient or Subcontractor must not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor must carry out applicable requirements of [49 CFR part 26](#) in the award and administration of DOT-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 recipient deems appropriate, which may include, but is not limited to:
  - (1) Withholding monthly progress payments;
  - (2) Assessing sanctions;
  - (3) Liquidated damages; and/or
  - (4) Disqualifying the contractor from future bidding as non-responsible.
- b. The contractor, sub recipient or Subcontractor agrees to include the above statements in any subsequent agreement or contract covered by 49 CFR, Part 26, that it enters and cause those businesses to similarly include the statement in further agreements."

##### F. **Nondiscrimination/Equal Opportunity**

The City will not exclude any person from participation in, deny any person the benefits of, or otherwise



## City of Phoenix

### Disadvantaged Small and Minority Business (DSMB) ARPA Program

discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Parts 26, on the basis of race, color, sex, or national origin.

In administering its DSMB program, the City will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DSMB ARPA program with respect to individuals of a particular race, color, sex, or national origin.

The City further agrees to meet the nondiscrimination requirements provided in 49 CFR Part 26, §26.7 with respect to the award and performance of any agreement, contract or Subcontract.

The City will take all necessary and reasonable steps to ensure nondiscrimination in the award and administration of contracts and agreements covered under the DSMB ARPA program.

#### **G. DSMB Open-Ended Participation Plan**

Submitter must submit a DSMB Open-Ended Participation Plan (OEPP).

OEPP must include a narrative of their commitment to use good faith efforts and provide details of the types of subcontracting work or service (with projected dollar amount) that the Submitter will solicit DSMBs to perform. The OEP must include an estimated time frame/schedule in which the subcontracted work to be performed by the DSMB will be accomplished.

Once the contract is awarded, the City and the Contractor may agree to make written revisions to the OEPP throughout the life of the project. The City will monitor and evaluate whether the Contractor is using good faith efforts to comply with the OEPP and the schedule. The Contractor must submit a revised OEPP on an annual basis and/or at the start of every GMP (as applicable) to meet the Contractor's small business utilization commitment.

#### **H. Required Outreach Efforts**

The City has implemented outreach requirements for this contract. Specifically, each contract must:

- (1) identify small-business-participation opportunities, including Commercially Useful Functions (CUF);
- (2) actively solicit proposals from Small and Minority businesses;
- (3) evaluate small-business proposals; and
- (4) communicate selection decisions to Small and Minority businesses, including each rejection of a small-business proposal.

If a Contractor fails to conduct these Outreach Efforts or fails to submit the required documentation of Contractor's Outreach Efforts as indicated, the City may determine that the Contractor is noncompliant.

### **SECTION III. PRE-AWARD SUBMITTAL REQUIREMENTS**

#### **A. Form EO1 - AD – Statement of Outreach Commitment**

At the time of bid submittal, each Submitter must sign, date and submit a completed Form EO1 - AD Statement of Outreach Commitment, with its initial qualifications-based submittal.

#### **B. Form EO2 -AD - Small Business Outreach Efforts and Bidders List**

Within five (5) business days after bid submittal, the Submitter must complete and submit **Form EO2 – AD Small Business Outreach Efforts and Bidders List** documenting its diligent, earnest outreach efforts for subcontracting work, as described in this clause.

Form EO2 – AD and all supporting documentation are due to the EOD at time of initial qualifications-based submittal.



## City of Phoenix

### Disadvantaged Small and Minority Business (DSMB) ARPA Program

Submitter must list all DSMBs, and all Small Business Concerns (SBC)s contacted by the Submitter. Submitter must also provide the following minimum information to document its Outreach Efforts and Bidders List in the designated columns within Form EO2 - AD:

**1. Column A - Small Business Name and Contact Information**

Must list each business's full legal name and contact information, including address, phone number and email and/or fax. Submitter must inquire to obtain the following: the number of number of years in business, its range of annual gross receipts, gender of majority owner and race of majority owner.

**2. Column B - Business Status (DBE, SBC, SBE, Small and Minority Business)**

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

- The official DBE database containing eligible DBE and SBC firms can be accessed at: <https://utracs.azdot.gov>.
- City of Phoenix SBE Certification Directory can be accessed at: <https://phoenix.diversitycompliance.com>.

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

List the NAICS Cods and scope(s) of work solicited for which the Small Business was considered for participation in the proposal. The solicitation must 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 DSMB. The solicitation may be in the form of letters or attachments to email, phone logs, newspapers, websites, 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
- Company's Contact Information Used to Reach the Company (e.g. phone number, email)
- Date and Time of Contact
- Details of the Communication

**5. Column E - Selection Decision**

Indicate the Submitters selection decision for each Small Business that responded to the solicitation.

*Whether or not a firm was selected.*

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

*If selected, indicate the Dollar Value.*

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

The 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 an email, letter, or a telephone log, etc. This documentation must show the following information regarding the final selection:

- Date firm was notified of outcome
- Method used to communicate selection:
  - Email
  - Phone



## City of Phoenix

### Disadvantaged Small and Minority Business (DSMB) ARPA Program

- Fax
- Letter
- In person

\*Submitter must provide supporting documentation that shows Submitter has communicated its final selection decisions and outcomes to all DBEs and Small and Minority Businesses, including those not chosen to participate in this Contract.

Every year on the anniversary of the contract execution date of the Contract, the Contractor must provide the City with an updated Small Business Participation Plan (SBPP), detailing continued commitment to reaching out to DSMBs. The SBPP shall contain strategies to foster Small Business participation and information concerning the Small Businesses, including any changes to the initial SBPP (EO2-AD and EO3-AD).

#### **C. Form EO3 - AD Small and Minority Business Utilization Commitment**

Within five (5) business days after bid submittal, the Submitter must complete, sign, date and submit EO3 – AD Small and Minority Business Utilization Commitment, which commits the Submitter to the City as follows:

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

#### **D. Open-Ended Participation Plan**

Within five (5) business days after bid submittal, the Submitter must complete a DSMB Open-Ended Participation Plan (OEPP). The OEPP must contain strategies to foster small business participation and information concerning the small businesses.

Every year on the anniversary date of the executed contract and/or at the start of every GMP (as applicable) the Contractor must provide the City with an updated OEPP detailing the Contractor’s continued commitment to utilizing DSMBs. The OEPP must contain updated strategies to foster small business participation and information concerning the participation of small businesses, including any changes to the initial EO2-AD and EO3-AD.

#### **E. Failure to Submit Forms EO1 -AD, EO2 - AD and EO3- AD**

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

#### **F. Failure to Meet Outreach Requirements**

The EOD Compliance Specialist will determine, in writing, whether the Submitter has satisfied all outreach requirements. If the EO Compliance Specialist determines the Submitter failed to satisfy the outreach requirements, then the EO Compliance Specialist may determine the submittal is nonresponsive. A determination of non-responsiveness *disqualifies* Submitters from further consideration for the Contract award. The City must send written notice to Submitter stating the basis for the EO Compliance Specialist’s decision.

#### **G. Administrative Reconsideration**

In the event that the EOD determines the Submitter failed to submit required and completed documentation to meet the DSMB Outreach Requirements, an opportunity for reconsideration of this determination will be



## City of Phoenix

### Disadvantaged Small and Minority Business (DSMB) ARPA Program

provided. This opportunity for reconsideration will seek to obtain clarification of documentation submitted with the bid.

Within seven (7) business days of being informed by the EOD that the Submitter is not responsive based on insufficient demonstration and/or incomplete documentation of Outreach Efforts, the Submitter may submit its written request for administrative reconsideration to:

**City of Phoenix Auditor or Designee**  
**City Auditor Department**  
**140 N. Third Avenue**  
**Phoenix, AZ 85003**  
**Phone: (602) 262-6641**  
**Fax: (602) 534-1533**  
**TTY: 7-1-1 Friendly**

If the request for Administrative Reconsideration is not submitted within the allotted seven (7) business days, the non-responsive Submitter will not utilize the DSMB ARPA Program submittal requirements as the basis for its future protest.

As part of this reconsideration process, the Submitter will have an opportunity to provide written clarification or argument concerning the issue of whether it met the Outreach Requirements or provided sufficient supporting and completed documentation of good faith efforts at the time of bid. The City Auditor or Designee will 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 City Auditor or designee will send the Submitter a written decision on the reconsideration, explaining the basis for finding that the Submitter did or did not meet the DSMB Outreach Requirements. The result of the reconsideration process is not administratively appealable and cannot be escalated or included in any other protest not related to the DSMB Program.

#### **SECTION IV. POST-AWARD GENERAL REQUIREMENTS**

The City has implemented outreach efforts requirements for this Contract. Specifically, the Contractor must:

- (1) identify small-business-participation opportunities, including Commercially Useful Functions (CUF);
- (2) actively solicit proposals from Small and Minority businesses;
- (3) evaluate small-business proposals; and
- (4) communicate selection decisions to Small and Minority businesses, including each rejection of a small-business proposal.

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

The Contractor will submit to the EOD, through the City of Phoenix Certification and Compliance System, all executed contracts, purchase orders, subleases, agreements, and other arrangements formalizing agreements between Contractor and all Subcontractors, upon execution throughout the life of this contract.

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



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### Disadvantaged Small and Minority Business (DSMB) ARPA Program

#### **B. Counting Small Business Participation**

The Contractor may only count expenditures for certified DSMB Subcontractors that perform a Commercially Useful Function (CUF), in the NAICS Codes in which it is certified or verified in, on the contract. A DSMB performs a CUF when it is responsible for execution of the work of the contract and is carrying out its responsibilities by performing, managing, and supervising the work involved. To perform a CUF, the DSMB must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable) and paying for material itself. A DSMB Subcontractor must perform or exercise responsibility for at least 30% of the total cost of its Subcontract value with its own workforce and equipment before its participation can be counted. DSMBs 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 DSMB firm's certification description **will not** be counted as DSMB participation.

#### **C. Commercially Useful Function (CUF) & Counting of DSMB Trucking/Hauling**

**49 CFR Part 26.55 Section (d)** defines CUF and the counting of DSMB participation Trucking/Hauling as follows:

- The DSMB 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 DSMB participation.
- The DSMB must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- The DSMB 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 DSMB may lease trucks from another DSMB firm, including an owner-operator who is certified as a DSMB. The DSMB who leases trucks from another DSMB receives credit for the total value of the transportation services the lessee DSMB provides on the contract.
- The DSMB may lease trucks without drivers from a non-DSMB truck leasing company. If the DSMB leases trucks from a non-DSMB truck leasing company and uses its own employees as drivers, it is entitled to credit for the value of these hauling services.

#### **D. Counting DSMB Certified Manufactures, Suppliers, and Brokers:**

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

- If the materials or supplies are obtained from a **DSMB manufacturer**, count 100 % of the cost of the materials or supplies toward DSMB participation.
- If the materials or supplies are purchased from a **DSMB regular dealer (supplier)**, count 60% of the cost of the materials or supplies, including transportation, toward DSMB participation.
- If materials or supplies purchased from a DSMB which is neither a manufacturer nor a regular dealer, **(packager, broker, or manufacturer's rep.)** count 40% of materials or supplies (including transportation costs toward DSMB participation.

If an approved DSMB allows its DSMB certification to expire, or the certification is revoked during the course of the Subcontract, the City will consider all work performed by the DSMB under the original contract to count as DSMB participation. No increased scope of work negotiated after expiration or revocation of the DSMB's certification may be counted. Any work performed under a Contract extension granted by the City may not be counted as DSMB participation. If a DSMB's certification is lost while under contract with a Contractor, solely because the DSMB exceeded the size standard during the performance of the contract, the DSMBs performance may count toward the contract goal. If a DSMB is decertified because it was acquired by or merged with a non-DSMB, the continued performance of the now non-DSMB may not count toward the contract goal. If this negatively impacts the Contractor's ability to meet the contract goal, in good faith, the Contractor is strongly encouraged to Subcontract with other DSMBs.





## City of Phoenix

### Disadvantaged Small and Minority Business (DSMB) ARPA Program

#### **E. DSMB Substitutions**

If the DSMB was approved by the EOD, the EOD Compliance Specialist will consider whether or not the Contractor has exercised diligent and good-faith efforts to find another DSMB replacement. The Contractor will notify the EO Compliance Specialist in writing of the necessity to substitute a DSMBE and provide specific reason(s) for the substitution or replacement. Actual substitution or replacement of a DSMB may not occur before the EO Compliance Specialist's written approval has been obtained.

#### **F. Relief from Proposed Small and/or Minority Business Utilization**

After Contract award, the EOD will not grant relief from the proposed DSMB utilization except in extraordinary circumstances. The Contractor's request to modify Small and Minority Business participation must be in writing to the EO Compliance Specialist.

Contractor'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 EO Compliance Specialist should consider. The Contractor must include with the request all documentation of Contractor's attempts to Subcontract with the DSMB and any other action taken to locate and solicit a replacement Small and Minority Business.

#### **G. Prompt Payment of Subcontractors**

The prompt payment clause must be included in every contract and Subcontract.

The Contractor must promptly pay its Subcontractors, subconsultants, subconsultants or suppliers. **For projects governed by 49 CFR, Part 26 and 2CFR, Part 200 payment must be made within five (5) calendar days** after the Contractor has received payment for scope of work completed by the Subcontractor. If the Contractor diverts any payment received for a DSMB's work performed on the Contract or fails to reasonably account for the application or use of the payment, the City may declare the Contractor in breach of contract.

Under the prompt-payment provisions of 49 CFR Part 26 and 2 CFR, Part 200, the Contractor must ensure prompt and full payment of retentions to Subcontractors and suppliers. The Contractor must pay each Subcontractor's and supplier's retention no later than 30 days the satisfactorily completion of and scope of work, and after the City has paid for the scope(s) of work. If the City reduces the Contractor's retention, the Contractor must correspondingly reduce the retentions of Subcontractors and suppliers that have performed satisfactory work.

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

## **SECTION V. RECORDS & REPORTING REQUIREMENTS**

### **A. Records**

During performance of the Contract, the Contractor must keep all records necessary to document DSMB participation. The Contractor must provide the records to the EOD within 72 hours of the EOD's request and at final completion of the Contract. The EOD will prescribe the form, manner, and content of reports. The required records include:

1. All bidders' information to include firm's name; address; DSMB or other status; race and gender information for the firm's majority owner; NIACS code(s) applicable to each scope of work the firm sought to perform in its bid; age of the firm; and the annual gross receipt of the firm.
2. A complete listing of all Subcontractors and suppliers on the project.
3. Each Subcontractor's and supplier's scope performed.
4. The dollar value of all Subcontracting work, services, and procurement.
5. Copies of all executed Subcontracts, purchase orders, invoices, and Subcontractor receipts.



## City of Phoenix

### Disadvantaged Small and Minority Business (DSMB) ARPA Program

6. Total operating expenses and total costs of goods sales.
7. Copies of all payment documentation and Change Orders.

#### **B. Reports**

Contractor is required to file the following payment reports in the City of Phoenix Certification and Compliance System:

1. **Progress Payments:** By the 15<sup>th</sup> of *each* month, the Contractor must enter payment information and related supporting documentation into the City of Phoenix Certification and Compliance System.
  - a. The total of all payments received from the City during the previous month.
  - b. All payments made to Subcontractors during the previous month.
    - i. Supporting documentation to collaborate the payment amounts, which include but not limited to invoices and pay receipts.

The Contractor is responsible for ensuring that Subcontractors confirm receipt of payment in the City of Phoenix Certification and Compliance System by the end of each month.

#### **2. Final Payment:**

Before the City processes the Contractor's final payment and/or outstanding retention held against the Contractor, the Contractor must notate in the City of Phoenix Certification and Compliance System:

- a. The payment to each Subcontractor is considered "Final".
- b. Every Subcontractor must confirm they have received full and "Final" payment in the City of Phoenix Certification and Compliance System.

For federal reporting purposes, the Certification of Final Payment must be completed and signed by the Contractor and DSMB firm(s). The Contractor is responsible for ensuring that Subcontractors confirm the receipt of full and "Final" payment in the Phoenix Contract Compliance System.

## SUPPLEMENTAL TERMS AND CONDITIONS

### AMERICAN RESCUE PLAN ACT STATE AND LOCAL FISCAL RECOVERY FUNDS

#### Uniform Guidance

SLFRF awards are subject to requirements set forth in the Uniform Guidance, 2 CFR Part 200, available at <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1>

#### Suspension, & Debarment

Consultant agrees to abide by Executive Orders 12549 and 12689, Debarment and Suspension, and implementing regulations found at 2 CFR Part 180 and 31 CFR Part 19. The City may by giving written notice to Consultant, immediately terminate this Agreement if the City determines that Consultant has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Consultant will include a term or condition in all related contracts and subcontracts described in 2 CFR Part 180, Subpart B that the award is subject to 2 CFR Part 180 and 31 CFR Part 19.

#### Award Terms and Conditions

The Award Terms and Conditions of the SLFRF financial assistance agreement (<https://home.treasury.gov/system/files/136/Financial-Assistance-Agreement-Local-governments.pdf>) sets forth the compliance obligations for Consultant pursuant to the SLFRF statute, the Uniform Guidance, Treasury's final rule, and applicable federal laws and regulations. Consultant should ensure it remains in compliance with all Award Terms and Conditions. These obligations include the following items in addition to others:

- **Conflicts of Interest.** The Consultant must disclose in writing to the City of Phoenix any potential conflict of interest affecting this agreement in accordance with 2 C.F.R. § 200.112. The City of Phoenix will disclose such conflict to Treasury.
- **Compliance with Applicable Law and Regulations.** Consultant agrees to comply with the requirements of section 603 of the American Rescue Plan Act, and regulations adopted by the Treasury pursuant to section 603(f) of the Act, and guidance issued by the Treasury. Consultant also agrees to comply with all other applicable federal statutes, regulations, and executive orders. Consultant shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award which may include, but not limited to the following:
  - Uniform Administrative Regulations, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. Part 200;
  - OMB Guidelines to Agencies on Government wide Debarment and Suspension, 2 C.F.R. part 180;
  - Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20;
  - New Restrictions on Lobbying, 31 C.F.R. Part 21;
  - Generally applicable federal environmental laws and regulations;

- **Clean Air Act and Federal Water Pollution Control Act.** Consultant will comply with all applicable standards, orders or regulations Issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, for all contracts that qualify as “federally assisted construction contracts” as defined in 41 CFR Part 60–1.3, Consultant agrees to comply with the equal opportunity clause under 41 CFR 60-1.4(b), incorporated herein by reference, and E.O. 11246, “Equal Employment Opportunity,” as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulations at 41 CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- **Copeland “Anti-Kickback” Act.** Consultant shall comply with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- **Contract Works Hours and Safety Standards Act.** If the contract exceeds \$100,000 and involves the employment of mechanics or laborers, Consultant shall comply with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. § 3702 of the Act, Consultant shall compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- **Byrd Anti-Lobbying Certification (31 U.S.C. 1352; 31 CFR Part 21).** Consultant hereby certifies, to the best of its knowledge and belief, that:
  - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of Consultant, 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 awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of and Federal contract, grant,

loan, or cooperative agreement.

- b. Each contractor tier must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization or influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C, 1352.
  - c. If any funds other than Federal 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 Congress in connection with this Federal contract, grant, loan, or cooperative agreement, Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- **Protection for Whistleblowers.** In accordance with 41 U.S.C. § 4712, Consultant may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.

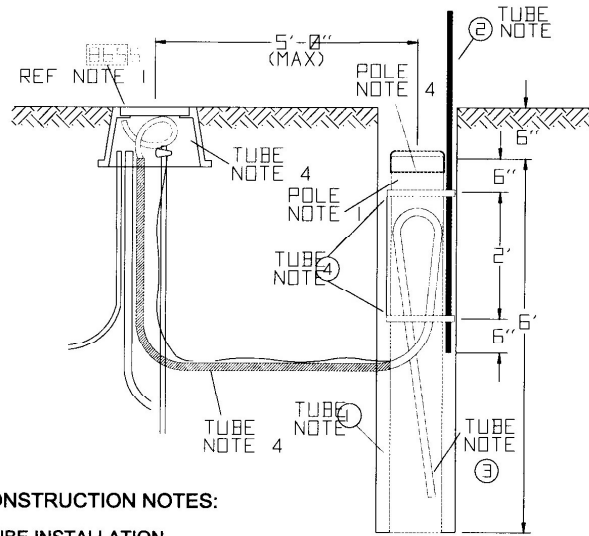
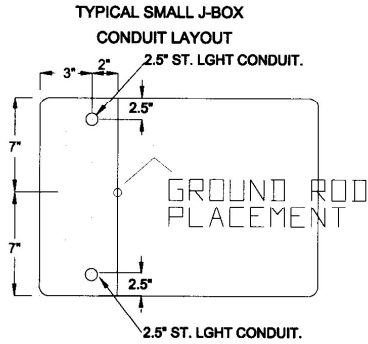
The list of persons and entities referenced in the paragraph above includes the following:

- i. A member of Congress or a representative of a committee of Congress;
  - ii. An Inspector General;
  - iii. The Government Accountability Office;
  - iv. A Treasury employee responsible for Agreement or grant oversight or management;
  - v. An authorized official of the Department of Justice or oversight or management;
  - vii. A court or grand jury; or
  - viii. A management official or other employee of the City, Consultant or a subcontractor who has the responsibility to investigate, discover, or address misconduct.
- **Drug-Free Workplace Act of 1988:** Consultant must comply with drug-free workplace requirements in 31 CFR Part 20, which implements the Drug-Free Workplace Act of 1988.
  - **Victims of Human Trafficking.** Consultant agrees to follow the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104) and ensure that it and none of its employees engage in server forms of trafficking in persons, procure commercial sex acts during the subaward term, used forced labor in the performance of obligations under this Agreement. Consultant agrees to notify the City immediately once it has information from any source alleging a violation of this Section.

- **Preference for Domestic Procurement.** Pursuant to 2 C.F.R. 200.322, to the greatest extent practicable, Consultant will purchase, acquire, or use goods, products or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).
- **Prohibition on Certain Telecommunications Equipment.** Consultant is prohibited from obligating or expending funds to (i) procure or obtain; (ii) extend or renew a contract to procure or obtain; or (iii) enter into a contract to procure or obtain equipment, services or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities) and such other entities described in 2 C.F.R. 200.216.
- **Additional Federal Requirements.** Consultant will comply with any additional terms and conditions imposed by 2 CFR Part 200, as applicable, and any guidance issued by the U.S. Department of Treasury regarding this agreement. .

**APS STREET LIGHT SONOTUBE, J-BOX, CONDUIT ETC (DWG)**

1911



**CONSTRUCTION NOTES:**

**TUBE INSTALLATION**

1. DIG HOLE FOR TUBE 6'- 6" DEEP BY EITHER OF THE FOLLOWING:
  - A. AUGERRED HOLE (16" MAX.)
  - B. SLOTTED STUB-OUT TRENCH
2. PLACE RED PLASTIC LOCATOR MARKER OUTSIDE OF TUBE AND STRAP IN TWO LOCATIONS.
3. PLACE STREET LIGHT FLEXIBLE CONDUIT IN TUBE WITH 10' COILED INSIDE. DO NOT MAKE SHARP BENDS. BEND END OF CONDUIT OVER AND INSERT DOWN INTO TUBE AS SHOWN. INSPECTOR TO INSURE FLEX IS NOT KINKED.
4. INSTALL OTHER END OF FLEX IN J-BOX. LEAVE SMALL COIL TO ALLOW LEVELING FOR FINAL GRADE. BACKFILL AFTER INSPECTION IS COMPLETE.
5. COMPACT SOIL TO AT LEAST 85% AROUND TUBE.

**POLE INSTALLATION**

1. ELECTRONIC MARKER WILL INDICATE LID LOCATION PER BLUE STAKE MARKINGS. WORK FORCES WILL DIG DOWN TO LID, REMOVE LID AND PULL FLEX FROM TUBE.
2. INSERT END OF FLEX THROUGH ACCESS HOLE AND PUSH IT UP THROUGH HAND HOLE AS STREET LIGHT POLE IS LOWERED INTO THE TUBE.
3. HOLD POLE SECURELY WHILE BACKFILLING TO AT LEAST 85% COMPACTION. TO COMPACT POLE IN PLACE, PEA GRAVEL (<3/4") MAY BE USED NEAR THE TUBE.
4. THE MARKER BALL ATTACHED TO THE BOTTOM OF THE "SONO" TUBE LID SHOULD BE RETURNED TO STOCK.

**REFERENCES:**

1. FOR J-BOX SEE SPEC 8655 THRU 8663.

CODE	1911	MATERIAL LIST	
ITEM	QTY	DESCRIPTION	APN
1	20	CONDUIT 1" PVC FLEX CORR	32900891
2	1	LOCATOR U. G. SERVICE	33101586
3	1	"SONO" TUBE 6FT X12IN	64672
4	2	TIE 30" SELF LOCKING	33107350
5	2	FOAM BACKFILL	00072046

<b>APS</b>		<b>Street Light Sonotube, J-Box, Conduit &amp; Pole Installation</b>	
WO#:		DATE:	5/14/03
BY:		SCALE:	
FILENAME:		SHEET	OF

**BID PROPOSAL**  
**CITY OF PHOENIX, ARIZONA**  
**OFFICE OF THE CITY ENGINEER**  
**PROJECT TITLE: PHOENIX SIDEWALK SHADE STRUCTURES**  
**PROJECT NO. ST85170116 ARPA**  
**BOND ISSUE OR BUDGET PROJECT**

PROPOSAL to the City Engineer of the City of Phoenix.

In compliance with the Advertisement for Bids, by the City Engineer, the undersigned bidder:

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(Print or Type Contractor Name and Vendor Number)

Having examined the contract documents, site of work and being familiar with the conditions to be met, hereby submits the following proposal for furnishing the material, equipment, labor and everything necessary for the completion of the work listed and agrees to execute the contract documents and furnish the required bonds and certificates of insurance for the completion of said work, at the locations and for the prices set forth on the inside pages of this form.

Understands that construction of this project shall be in accordance with all applicable Maricopa Association of Governments' (MAG) Uniform Standard Specifications and Uniform Standard Details, latest edition, and the City of Phoenix Supplements to the MAG Uniform Standard Specifications and Details, latest edition, except as otherwise required by the project plans and specifications.

No proposal may be withdrawn for a period of 50 days after opening without consent of the Contracting Agency through the body or agent duly authorized to accept or reject the proposal except in the case of federally assisted projects.

Understands that his proposal shall be submitted with a proposal guarantee of cash, certified check, cashier's check or surety bond for an amount not less than ten (10) percent of the amount bid, as referenced in the Call for Bids.

Agrees that upon receipt of Notice of Award, from the City of Phoenix, he will execute the contract documents within 10 calendar days.

**Work shall be completed within 360 calendar days**, beginning with the day following the starting date specified in the Notice to Proceed. The time allowed for completion of the work includes lead time for obtaining the necessary materials and/or equipment and approvals.

The bidder shall acknowledge all addenda in writing. By writing the addendum number(s) below, the bidder agrees that this proposal is computed with consideration of the specification book(s) plus any addenda.

<u>ADDENDUM NO.</u>	<u>DATE</u>	<u>ADDENDUM NO.</u>	<u>DATE</u>
_____	_____	_____	_____
_____	_____	_____	_____



**CITY OF PHOENIX  
 BID PROPOSAL FORM**

PHOENIX SIDEWALK SHADE PROJECT  
 Project No: ST85170116

ITEM NO.		DESCRIPTION	UNIT	QUANTITY	PRICE	TOTAL
1	M1042005	ALLOWANCE FOR EXTRA WORK	JOB	1	\$125,000.00	\$125,000.00
2	M1058000	CONSTRUCTION SURVEY AND LAYOUT AND RECORD DRAWINGS	LS	1		
3	M1058002	2-PERSON SURVEY PARTY CONTINGENT ITEM	HR	40		
4	M3400400	CONCRETE SIDEWALK, STD DETAIL P-1230	SF	331		
5	M3400409	CONCRETE SIDEWALK, STD DETAIL P-1230, MODIFIED, 9" THICK; CLASS A CONCRETE	SF	231		
6	M3400436	REINFORCED CONCRETE PAD FOR SHADE STRUCTURES, 6" THICK	SF	190		
7	M3454100	ADJUST EXISTING ELECTRIC JUNCTION BOX TO GRADE	EA	4		
8	M3500010	REMOVE PORTLAND CEMENT CONCRETE SINGLE CURB, CURB AND GUTTER, HEADER CURB OR EMBANKMENT CURB	LF	21		
9	M3500020	REMOVE EXISTING PORTLAND CEMENT CONCRETE SIDEWALK, DRIVEWAY, VALLE GUTTER & SLAB	SF	340		
10	M3500300	MISCELLANEOUS REMOVAL AND OTHER WORK	JOB	1		
11	M3500311	REMOVE EXISTING CONCRETE FOUNDATION	EA	1		
12	M3515010	PEDESTRIAN PUSH BUTTON (ADA COMPLIANT), FURNISH AND INSTALL	EA	18		
13	M4012000	TRAFFIC CONTROL DEVICES	LS	1		
14	M4013001	ALLOWANCE FOR UNIFORMED, OFF-DUTY LAW ENFORCEMENT OFFICER	Allow	1	\$80,000.00	\$80,000.00
15	M5158001	CACTUS WITH POT STRUCTURE, FURNISH AND INSTALL	EA	10		
16	M5158002	CACTUS WITH DRILLED SHAFT STRUCTURE, FURNISH AND INSTALL	EA	3		
17	M5158003	MULTI-PANEL CACTUS WITH DRILLED SHAFT STRUCTURE, FURNISH AND INSTALL	EA	4		
18	M5158004	BUTTERFLY WITH POT STRUCTURE, FURNISH AND INSTALL	EA	2		
19	M6108010	REMOVE AND RELOCATE FIRE HYDRANT	EA	1		

<b>BID (ITEMS 1 THROUGH 19 - INCLUSIVE)</b>					Total	
_____ & _____ /100 DOLLARS WRITTEN WORDS						

Prepared By: \_\_\_\_\_  
 Signature \_\_\_\_\_  
 Name \_\_\_\_\_  
 Position/Title \_\_\_\_\_  
 Firm Name \_\_\_\_\_

**PROPOSAL SUBMITTAL**

**Project Title: PHOENIX SIDEWALK SHADE STRUCTURES**

**Project No.: ST85170116 ARPA**

\_\_\_\_\_  
THIS PROPOSAL IS SUBMITTED BY \_\_\_\_\_

a corporation organized under the laws of the State of \_\_\_\_\_

a partnership consisting of \_\_\_\_\_

\_\_\_\_\_  
a joint venture consisting of \_\_\_\_\_

\_\_\_\_\_  
or individual trading as \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

of the City of \_\_\_\_\_

FIRM \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

PHONE \_\_\_\_\_ VENDOR NO. \_\_\_\_\_

BY \_\_\_\_\_

Officer and Title (signature)

\_\_\_\_\_  
Officer and Title (print or type)

\_\_\_\_\_  
Date

\_\_\_\_\_  
WITNESS: If Contractor is an individual  
(signature)

\_\_\_\_\_  
ATTEST: If Contractor is Corporation or Partnership  
(signature and title)

**SURETY BOND**

**Project Title: PHOENIX SIDEWALK SHADE STRUCTURES  
City of Phoenix Project No.: ST85170116 ARPA**

That we, \_\_\_\_\_, as Principal, (hereinafter called the Principal) and the \_\_\_\_\_, a corporation duly organized under the laws of the State of \_\_\_\_\_, as Surety, (hereinafter called the Surety) are held and firmly bound unto the City of Phoenix as Obligee, in the sum of ten (10) percent of the total amount of the bid of Principal, submitted by him to the City of Phoenix for the work described below, for the payment of which sum, well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents and in conformance with A.R.S. #34-201.

**WHEREAS**, the said Principal is herewith submitting its proposal for PHOENIX SIDEWALK SHADE STRUCTURES

**NOW, THEREFORE**, if the City of Phoenix shall accept the proposal of the Principal and the Principal shall enter into a contract with the City of Phoenix in accordance with the terms of such proposal and give such Bonds and Certificates of Insurance as specified in the Standard Specifications with good and sufficient Surety for the faithful performance of such contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter into such contract and give such Bonds and Certificates of Insurance, if the Principal shall pay to the City of Phoenix the difference not to exceed the penalty of the bond between the amount specified in the proposal and such larger amount for which the Obligee may in good faith contract with another party to perform the work covered by the proposal, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 2024

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Title

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_

\_\_\_\_\_  
Surety

\_\_\_\_\_  
WITNESS:

\_\_\_\_\_

**A.M. BEST RATING:**



**City of Phoenix**

**Disadvantaged Small and Minority Business (DSMB) ARPA Program  
FORM EO1 - AD - STATEMENT OF OUTREACH COMMITMENT (Due with  
initial submittal)**

<b>Project Number:</b> ST85170116 ARPA	<b>Project Title:</b> Phoenix Sidewalk Shade Structures
---	--

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 and minority business outreach requirements and shall submit all required outreach efforts documentation for contracting opportunities within 5 business days.
- 2) Conduct all required small and minority business outreach and will submit all supporting documentation; and
- 3) Comply with the Race - and Gender-Neutral post-award requirements stated in the DBE ARPA Contract Clause.

Company Name: \_\_\_\_\_

Company Mailing Address: \_\_\_\_\_

Representative Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_





**City of Phoenix**

**Disadvantaged Small and Minority Business (DSMB) ARPA Program**

**FORM EO3 - AD - SMALL AND MINORITY BUSINESS UTILIZATION COMMITMENT**

<b>Project Number:</b> ST85170116 ARPA	<b>Project Title:</b> Phoenix Sidewalk Shade Structures
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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 - AD - Small and Minority Business Outreach Efforts**, will participate in this contract;
2. The 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 EO Compliance Specialist prior to implementation; and
4. The following statement is true and correct:

The proposed total participation of firms on this contract will be:

DBE: \_\_\_\_\_ %                      SBC: \_\_\_\_\_ %  
SBE: \_\_\_\_\_ %                      Small Minority: \_\_\_\_\_ %

Company Name: \_\_\_\_\_

Company Mailing Address: \_\_\_\_\_

Representative Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Signature: \_\_\_\_\_                      Date: \_\_\_\_\_

**CITY OF PHOENIX  
LIST OF MAJOR SUBCONTRACTORS AND SUPPLIERS**

PROJECT NO.: ST85170116 ARPA PROJECT TITLE: PHOENIX SIDEWALK SHADE STRUCTURES

DESCRIPTION OF WORK OR MATERIALS (CONTRACTOR TO ENTER TRADE/SUPPLIER AREAS)	SELF-PERFORMED BY PRIME CONTRACTOR	SUBCONTRACTOR/SUPPLIER COMPANY NAME (IF NOT SELF-PERFORMED)	CONTACT PERSON	PHONE NUMBER	DOLLAR VALUE OF WORK OR MATERIALS IN BID
	<input type="checkbox"/> YES <input type="checkbox"/> NO				
	<input type="checkbox"/> YES <input type="checkbox"/> NO				
	<input type="checkbox"/> YES <input type="checkbox"/> NO				
	<input type="checkbox"/> YES <input type="checkbox"/> NO				
	<input type="checkbox"/> YES <input type="checkbox"/> NO				
	<input type="checkbox"/> YES <input type="checkbox"/> NO				

I hereby certify by signing below that the above listed companies will be utilized to perform work on this project for an **equal to or greater than 5% of the base bid**. These companies will not be removed or replaced without prior written approval by the City of Phoenix Project Manager. The City requires that ALL vendors providing work equal to or greater than 5% of the base bid are listed or you will be disqualified. If you are self-performing work, you must still list any suppliers for materials or list any subcontractors with whom you will directly contract.

COMPANY NAME \_\_\_\_\_ SIGNATURE \_\_\_\_\_  
 NAME & TITLE \_\_\_\_\_ PHONE NUMBER \_\_\_\_\_ DATE \_\_\_\_\_  
 EMAIL ADDRESS \_\_\_\_\_

**CITY OF PHOENIX  
LIST OF ALL SUBCONTRACTORS AND SUPPLIERS**

PROJECT NO.: ST85170116 ARPA

PROJECT TITLE: PHOENIX SIDEWALK SHADE STRUCTURES

DESCRIPTION OF WORK OR MATERIALS (CONTRACTOR TO ENTER TRADE/SUPPLIER AREAS)	SELF-PERFORMED BY PRIME CONTRACTOR	SUBCONTRACTOR/SUPPLIER COMPANY NAME (IF NOT SELF-PERFORMED)	CONTACT PERSON	PHONE NUMBER	DOLLAR VALUE OF WORK OR MATERIALS IN BID
	<input type="checkbox"/> YES <input type="checkbox"/> NO				
	<input type="checkbox"/> YES <input type="checkbox"/> NO				
	<input type="checkbox"/> YES <input type="checkbox"/> NO				
	<input type="checkbox"/> YES <input type="checkbox"/> NO				
	<input type="checkbox"/> YES <input type="checkbox"/> NO				
	<input type="checkbox"/> YES <input type="checkbox"/> NO				

I hereby certify by signing below that the above listed companies will be utilized to perform work on this project. These companies will not be removed or replaced on the project without prior written approval by the City of Phoenix Project Manager. The City requires that ALL vendors providing work are listed or you will be disqualified. If you are self-performing work, you must still list any suppliers for materials or list any subcontractors with whom you will directly contract.

COMPANY NAME \_\_\_\_\_ SIGNATURE \_\_\_\_\_

NAME & TITLE \_\_\_\_\_ PHONE NUMBER \_\_\_\_\_ DATE \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_



**BIDDER'S DISCLOSURE STATEMENT**

Authorized Contact for this Disclosure Statement

Name: \_\_\_\_\_

Title: \_\_\_\_\_

E-mail: \_\_\_\_\_

Phone number: \_\_\_\_\_

List any EIN, DBA, trade name, or other identity used in the last five years, the state or country where filed, and the status (active or inactive): (if applicable): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Business Characteristics**

Business entity type – Please check appropriate box and provide additional information:

- |                          |                               |                              |       |
|--------------------------|-------------------------------|------------------------------|-------|
| <input type="checkbox"/> | Corporation                   | Date of incorporation:       | _____ |
| <input type="checkbox"/> | Limited Liability Company     | Date organized:              | _____ |
| <input type="checkbox"/> | Limited Liability Partnership | Date of registration:        | _____ |
| <input type="checkbox"/> | Limited Partnership           | Date established:            | _____ |
| <input type="checkbox"/> | General Partnership           | Date established:            | _____ |
| <input type="checkbox"/> | Sole Proprietor               | How many years in business?: | _____ |
| <input type="checkbox"/> | Other (explain)               | Date established:            | _____ |

Was the business entity formed in the State of Arizona? Yes \_\_\_\_\_ No \_\_\_\_\_

If no, indicate jurisdiction where Business Entity was formed: \_\_\_\_\_

Business License Number and Classification: \_\_\_\_\_

Business Transaction Privilege License Number: \_\_\_\_\_

Special Use or other zoning permits required for Bidder's operation and performance of the services under this Agreement:

\_\_\_\_\_

Is the Business Entity currently registered to do business in Arizona with the Arizona Corporation Commission? Yes \_\_\_\_\_ No \_\_\_\_\_ Not required \_\_\_\_\_ (if sole proprietor or general partnership)

Does the Business Entity have a City of Phoenix business privilege license? Yes \_\_\_\_\_ No \_\_\_\_\_ If "no" explain and provide detail such as "not required" or "application in progress" or other reason.

Is the Business Entity publicly traded? Yes \_\_\_\_\_ No \_\_\_\_\_

Is the responding Business Entity a Joint Venture? Note: If the Submitting Business entity is a Joint Venture, also submit a questionnaire for each Business Entity comprising the Joint Venture. Yes \_\_\_\_\_ No \_\_\_\_\_

Is the Business Entity's Principal Place of Business/Executive office in Phoenix? If "no" does the Business Entity maintain an office in Phoenix? Yes \_\_\_\_\_ No \_\_\_\_\_

Provide the address and phone number for the Phoenix office. \_\_\_\_\_

Is the business certified by Phoenix as a Small Business Enterprise? Yes \_\_\_\_\_ No \_\_\_\_\_

Identify Business Entity Officials and principal Owners:

Name(s) \_\_\_\_\_ Title \_\_\_\_\_ Percentage ownership \_\_\_\_%(Enter 0% if not applicable).

Name(s) \_\_\_\_\_ Title \_\_\_\_\_ Percentage ownership \_\_\_\_%(Enter 0% if not applicable).

Name(s) \_\_\_\_\_ Title \_\_\_\_\_ Percentage ownership \_\_\_\_%(Enter 0% if not applicable).

Name(s) \_\_\_\_\_ Title \_\_\_\_\_ Percentage ownership \_\_\_\_%(Enter 0% if not applicable).

**Affiliates and Joint Venture Relationships**

Does the Business entity have any Affiliates? Yes \_\_\_\_\_ No \_\_\_\_\_ Attach additional pages if necessary.

Affiliate name: \_\_\_\_\_

Affiliate EIN (if available): \_\_\_\_\_

Affiliate's primary Business Activity: \_\_\_\_\_

Explain relationship with Affiliate and indicate percent ownership, if applicable. \_\_\_\_\_

Are there any Business Entity Officials or Principal Owners that the Business Entity has un common with this Affiliate? \_\_\_\_\_

Individual's name: \_\_\_\_\_

Position/Title with Affiliate: \_\_\_\_\_

Has the Business Entity participated in any joint Ventures within the past three years? Yes \_\_\_\_\_ No \_\_\_\_\_  
(Attach additional pages if necessary)

Joint Venture Name: \_\_\_\_\_

Joint venture EIN (if applicable): \_\_\_\_\_

Identify parties to the Joint Venture: \_\_\_\_\_

#### **Contract History**

Has the Business Entity held any contracts with the city of Phoenix in the last three (3) years? Yes \_\_\_\_\_ No \_\_\_\_\_ If "yes" attach a list.

#### **Integrity – Contract Bidding**

Within the past three (3) years, has the Business Entity or any Affiliate been suspended or debarred from any government contracting process or been disqualified on any government procurement? Yes \_\_\_\_\_ No \_\_\_\_\_

Been subject to a denial or revocation of a government prequalification? Yes \_\_\_\_\_ No \_\_\_\_\_

Been denied a contract award or had a bid rejected based upon a finding of a non-responsibility by a government entity? Yes \_\_\_\_\_ No \_\_\_\_\_

Agreed to a voluntary exclusion from bidding/contracting with a government entity? Yes \_\_\_\_\_ No \_\_\_\_\_

Initiated a request to withdraw a bid submitted to a government entity or made any claim of an error on a bid submitted to a government entity? Yes \_\_\_\_\_ No \_\_\_\_\_

Initiated a request to withdraw a bid submitted to a government entity or made any claim of an error on a bid submitted to a government entity? Yes \_\_\_\_\_ No \_\_\_\_\_

For each "Yes" answer above, provide an explanation of the issues.

#### **Integrity – Contract Award**

Within the past three (3) years has the Business Entity or any Affiliate been suspended, cancelled, or terminated for cause on any government contract? Yes \_\_\_\_\_ No \_\_\_\_\_

Been subject to an administrative proceeding or civil action seeking specific performance or restitution in connection with any government contract? Yes \_\_\_\_\_ No \_\_\_\_\_

For each "yes" answer, provide an explanation. (Attach explanation on a separate sheet of paper).

**Certifications/Licenses**

Within the past three (3) years, has the Business Entity or Affiliate had a revocation, suspension, or disbarment of any business or professional permit and/or license? Yes\_\_\_\_\_ No\_\_\_\_\_

If "yes" provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, relevant dates, the government entity involved, and any remedial or corrective action(s) taken and the current status of the issues.

**Legal Proceedings**

Within the past three (3) years, has the Business Entity of any Affiliate:

Been the subject of an investigation, whether open or closed, by any government entity for a civil or criminal violation? Yes\_\_\_\_\_ No\_\_\_\_\_

Been the subject of an indictment, grant of immunity, judgment or conviction, (including entering into a plea bargain for conduct constituting a crime)? Yes\_\_\_\_\_ No\_\_\_\_\_

Received any OSHA citation and Notification of Penalty containing a violation classified as serious or willful? Yes\_\_\_\_\_ No\_\_\_\_\_

Had a government entity find a willful prevailing wage or supplemental payment violation? Yes\_\_\_\_\_ No\_\_\_\_\_

Been involved in litigation as either a plaintiff or a defendant involving a copyright or patent infringement violation or an anti-trust violation? Yes\_\_\_\_\_ No\_\_\_\_\_

Other than previously disclosed, for the past three (3) years:

(i) Been subject to the imposition of a fine or penalty in excess of \$1000 imposed by any government as a result of the issuance of citation, summons or notice of violation, or pursuant to any administrative, regulatory, or judicial determination ; Yes\_\_\_\_\_ No\_\_\_\_\_

(ii) Been charged or convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any government entity? Yes\_\_\_\_\_ No\_\_\_\_\_

If "yes" provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, relevant dates, the government entity involved, and any remedial or corrective action(s) taken and the current status of the issues.

**Leadership Integrity**

If the Business Entity is a joint Venture Entity, answer "N/A – Not Applicable" to questions below:

Within the past three (3) years has any individual previously identified, or any other Business Entity Leader not previously identified, or any individual having the authority to sign, execute, or approve bids, proposals, contracts or supporting documentation with the City of Phoenix been subject to:

A sanction imposed relative to any business or professional permit and/or license? Yes\_\_\_\_\_ No\_\_\_\_\_

An investigation, whether open or closed, by any government entity for a civil or criminal violation for any business related conduct? Yes\_\_\_\_\_ No\_\_\_\_\_



City of Phoenix
AFFIDAVIT OF IDENTITY

Your completion of this form is required by Arizona state law. A.R.S. §§ 1-501 and -50 only if you are a sole proprietor.

I, \_\_\_\_\_ (print full name exactly as on document), hereby affirm, upon penalty of perjury, that I presented the document marked below to the City of Phoenix, that I am lawfully present in the United States, and that I am the person stated on the document. (select one category only)

- Arizona driver license issued after 1996. Print first four numbers/letters from license: [ ] [ ] [ ] [ ]
Arizona non-operating identification license. Print first four numbers/letters: [ ] [ ] [ ] [ ]
Birth certificate or delayed birth certificate issued in any state, territory or possession of the U.S. Year of birth: \_\_\_\_\_; Place of birth: \_\_\_\_\_
United States Certificate of Birth Abroad. Year of birth: \_\_\_\_\_; Place of birth: \_\_\_\_\_
United States Passport. Print first four numbers/letters on Passport: [ ] [ ] [ ] [ ]
Foreign Passport with United States Visa. Print first four numbers/letters on Passport: [ ] [ ] [ ] [ ]
Print first four numbers/letters on Visa: [ ] [ ] [ ] [ ]
I-94 Form with a photograph. Print first four numbers on I-94: [ ] [ ] [ ] [ ]
USCIS Employment Authorization Document (EAD). Print first four numbers/letters on EAD: [ ] [ ] [ ] [ ]
or Perm. Resident Card (acceptable alternative): [ ] [ ] [ ] [ ]
Refugee Travel Document. Date of issuance: \_\_\_\_\_; Refugee country: \_\_\_\_\_
U.S. Certificate of Naturalization. Print first four digits of CIS Reg. No.: [ ] [ ] [ ] [ ]
U.S. Certificate of Citizenship. Date of issuance: \_\_\_\_\_; Place of issuance: \_\_\_\_\_
Tribal Certificate of Indian Blood. Date of issuance: \_\_\_\_\_; Name of tribe: \_\_\_\_\_
Tribal or Bureau of Indian Affairs Affidavit of Birth. Year of birth: \_\_\_\_\_; Place of birth: \_\_\_\_\_

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_

**BUY AMERICA CERTIFICATE**

FOR COMPLIANCE WITH TITLE 49 USC § 5323(J)(1)  
(For Procurement of Steel, Iron, or Manufactured Products)  
(EXCLUDES ROLLING STOCK)

PROJECT NO. ST85170116 ARPA

PROJECT TITLE PHOENIX SIDEWALK SHADE STRUCTURES

(Complete form and submit with bid)

The Bidder/Proposer hereby certifies that it will comply with the requirements of Title 49 USC § 53230) (1) and the applicable regulations in 49 CFR Part 661.

Executed on \_\_\_\_\_, 2024 at \_\_\_\_\_  
(Date) (City) (State)

\_\_\_\_\_  
Printed Name Signature of Authorized Official Title

**BUY AMERICA CERTIFICATE FOR NON-COMPLIANCE WITH TITLE 49 use §. 5323(J)(1)**

The Bidder/Proposer hereby certifies that it cannot comply with the requirements of Title 49 USC § 5323(j)(1), but it may qualify for an exception pursuant to Title 49 USC § 5323 (j)(2)(B) or (j)(2)(D) and the regulations in 49 CFR 661.7.

Executed on \_\_\_\_\_, 2024 at \_\_\_\_\_  
(Date) (City) (State)

\_\_\_\_\_  
Printed Name Signature of Authorized Official Title

**NON-COLLUSION AFFIDAVIT**

AFFIDAVIT BY CONTRACTOR  
CERTIFYING THAT THERE WAS  
NO COLLUSION IN BIDDING OF  
CONTRACT

PROJECT NO. ST85170116 ARPA

PROJECT TITLE PHOENIX SIDEWALK SHADE STRUCTURES

STATE OF:

                  SS  
COUNTY OF:

\_\_\_\_\_

(Name of

Individual} being first duly sworn upon oath deposes and

says:

That I am the \_\_\_\_\_

(Title)

Of \_\_\_\_\_

(Name of Company, Firm or Corporation}

and that, pursuant to Subsection 112(c) of Title 23, United States Code and Title 44, Chapter 10, Article 1, and Title 34, Chapter 2, Article 4 of Arizona Revised Statutes, he certifies that neither he nor anyone associated with the company, firm, or corporation mentioned above has, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of fully competitive bidding in connection with project.

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_

Signature

My Commission expires: \_\_\_\_\_

\_\_\_\_\_

Notary Public

If by Corporation

(Seal)

PHOENIX SIDEWALK SHADE STRUCTURES

Design-Bid-Build

ST85170116 ARPA

**CERTIFICATION OF NON-SEGREGATED FACILITIES**

\_\_\_\_\_ assures Government Contractors and concerned Federal, State and Local Agencies that we do not and will not maintain or provide for our employees any segregated facilities at any of our establishments, and that we do not and will not permit our employees to perform their services at any location under or control where segregated facilities are maintained.

\_\_\_\_\_ understands that the phrase "Segregated Facilities" includes facilities which are, in fact, segregated on a basis of race, color, creed, or national origin, because of habit, local custom or otherwise.

\_\_\_\_\_ understands and agrees that maintaining or providing segregated facilities for our employees or permitting our employees to perform their services at any location under our control, where segregated facilities are maintained is a violation of the Equal Opportunity Clause required by Executive Order 12246 of September 24, 1955.

\_\_\_\_\_ further understand and agrees that a breach of the assurance herein contained subjects us to the provisions of the Orders of the Secretary of Labor and the provisions of the Equal Opportunity Clause enumerated in contracts or referenced on purchase orders by the government and government contractors.

Finally, \_\_\_\_\_ is aware that whoever knowingly and willingly makes any false, fictitious representation may be liable to criminal prosecution under 18 U.S.X. #1001.

\_\_\_\_\_  
**(Signature)**

**Corporate Seal**

\_\_\_\_\_  
**(Printed Name and Title)**

\_\_\_\_\_  
**Company Name**

\_\_\_\_\_  
**Company Address**

\_\_\_\_\_



## **CERTIFICATION OF NON-SEGREGATED FACILITIES - 41 CFR PART 60-1.8**

### **Notice to Prospective Federally Assisted Construction Contractors**

1. A Certification of Non-segregated Facilities shall be submitted prior to the award of a federally-assisted construction contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity Clause.
2. Contractors receiving federally-assisted construction contract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause will be required to provide for the forwarding of the following notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity Clause. NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

### **Notice to Prospective Sub-Contractors of Requirements for Certification of Non-Segregated Facilities**

1. A Certification of Non-Segregated Facilities shall be submitted prior to the award of a subcontract exceeding \$10,000, which is not exempt from the provisions of the Equal Opportunity Clause.
2. Contractors receiving subcontract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause will be required to provide for the forwarding of this notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity Clause. NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

## **CERTIFICATION OF NON-SEGREGATED FACILITIES**

The federally-assisted construction contractor certifies that she or he does not maintain or provide, for his employees, any segregated facilities at any of his establishments and that she or he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally-assisted construction contractor certifies that she or he will not maintain or provide, for his or her employees, segregated facilities at any of his or her establishments and that she or he will not permit his or her employees to perform their services at any location under his or her control where segregated facilities are maintained. The federally-assisted construction contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms, and washrooms, restaurants and other eating areas, time-clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directives or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason. The federally-assisted construction contractor agrees that (except where she or he has obtained identical certifications from proposed subcontractors for specific time periods) she or he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause and that she or he will retain such certifications in his files.

### **Application**

Incorporate in all construction contracts and subcontracts that exceed \$10,000. The notices should be placed within the solicitation for proposals. The actual certification should be incorporated in the contract agreement.

### **Reference**

Executive Order 11246  
41 CFR Part 60 -1.8  
AC 150/5100-15, Para. 22.b.