



City of Phoenix
Office of the City Engineer
Design and Construction Procurement

LS71200110 ARPA
OUTDOOR DIGITAL LED SIGNAGE
DESIGN-BID-BUILD

RFX 6000001634

ADDENDUM NO. 3

ISSUE DATE: November 8, 2024

Bidders are hereby notified that the Bidding and Contract Documents for the above project, for which Bids are to be received on **November 13, 2024**, are amended as follows:

INFORMATION FOR BIDDERS:

Delete in Call for Bids:

**BIDS WILL BE DUE: WEDNESDAY, NOVEMBER 13, 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: WEDNESDAY, NOVEMBER 13, 2024 AT 2:00 P.M.
ON 5TH FLOOR, ROOM 5 WEST
PHOENIX CITY HALL
200 W. WASHINGTON STREET
PHOENIX, AZ 85003-1611
*All times are local Phoenix time**

Replace with:

**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 5TH FLOOR, ROOM 5 WEST
PHOENIX CITY HALL
200 W. WASHINGTON STREET
PHOENIX, AZ 85003-1611
*All times are local Phoenix time**

Q1.	Provide the amount and terms of the Liquidated Damages associated with this Contract.
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A1.	Liquidated damages shall be accrued at the rate of five hundred dollars (\$500) per day.
Q2.	Clarify the callout on Sign types A-1, A-2, B, C, and D sheet 00-A101 (Digital and or Non-Digital) Will a non-digital price need to be an alternate in the bid? If so, would this be an illuminated acrylic reader board with changeable copy, or would the name of the library be moved up to the top?
A2.	A,B,C, and D depicted on Drawings 00-A101 and 00-A102 shall be equipped with LED digital display screens and/or fret cut, internally illuminated projection lettering (both sides). The A-1 and A-2 sub-designations that appear on the monolithic sign types (A and B) elevations indicate the digital display and/or informational areas used by the Sign Department to determine the monolith signs' compliance with the applicable zoning stipulations. The A-2 areas shall incorporate UV resistant, 1/4" thick, acrylic projection panels colors to match the existing building signage. Sign type E shall be equipped be single-sided, fret cut, internally illuminated (non-digital display) oriented towards the adjacent roadway. Lettering fonts to match branch libraries' existing signage or as approved by the City of Phoenix's project representative. Use of illuminated acrylic reader boards with changeable copy are not specified / approved.
Q3.	In the pre-bid meeting, the architect implied that construction method and materials called out in the plans were for design intent and the actual fabrication method and materials is left to the Contractor. Is this correct?
A3.	Yes. The means, methods and durability of all construction shall be as required to meet or exceed the minimum (7) year period for parts and labor warranty period.
Q4.	The City of Phoenix requires the address numbers be on all monument signs to be seen from both directions of travel. Do we assume address numbers on all signs as per city code?
A4.	Yes: Type A monument signs shall include non-illuminated with 3D address numbers installed on the small (54" x54") address panels (both sides); Type B signs shall include non-illuminated, 3D address numbers installed on adjacent existing site landscape walls and structures; and Type C & D signs shall include non-illuminated, 3D address numbers, installed vertically/horizontally, between the display panels on the sign edges facing the adjacent street; and the Type E sign shall signs shall include a non-illuminated, 3D address numbers installed vertically on sign edge next to the adjacent street or horizontally or on the north elevation of the architectural concrete/cmu pedestal base facing the adjacent street.
Q5.	Grounding rods are required by the manufactures to warranty the digital displays against lightning. One rod per face is the requirement. On sign types C and D particularly, since there is no place to conceal them, advise if the rods exposed and ground wires jumping up the base into the pole at a minimal distance is allowed.
A5.	Install conduits as required to conceal/route all conductor wire from below grade up through each type of sign foundation, base plates, supporting structures, and/or sign cabinet(s). Provide concealed, secure (vandal-proof), access panels as required to install and service all internal electrical/electronic components (e.g., lightning protection, light fixtures, LED display components.
Q6.	Confirm if the specifications on sheet 00-A001 Section III for the digital displays are a general guideline as stated by the Architect in the meeting or are they firm specifications. If they are general specifications, provide which, if any of the specifications are hard specifications and which are guidelines i.e., power consumption, warranty, pixel matrix (resolution), cabinet depth, weight, brightness (maximum intensity of 8000 NITS), module shall consist of LEDs with all drive electronics mounted on a single printed circuit board etc.
A6.	The specified basis of design for the digital display equipment denotes acceptable levels of performance and durability for the type(s) of equipment approved by the COP Library Administration. The following list of clarifications supplement the information

	<p>specified in Section III and are provided for the bidders use and information.</p> <p>1.2 Warranty</p> <p>A. The warranty shall cover all parts, power supplies, cables, modules, controller, cellular communication are fully covered for 7-yrs and is renewable up to 10-yrs.</p> <p>1.3 Cabinet Construction</p> <p>3. Minimum low power requirement of 20 Amps per face required for a display intensity of 8,000 NITS. <i>Less power requirements for higher intensity level, without overdriving the power to the individual LED pixels.</i></p> <p>6. See Addendum #1 for minimum screen resolution(s). Display Size #1: 10mm - 180 pixels tall by 180 pixels wide and Display Size #2: 10mm - 216 pixels tall by 216 pixels wide.</p> <p>1.4 Display Components</p> <p>1. Each module within the product family shall be designed with the same physical footprint of 14.4" x 14.4.</p> <p>12. Failure of 1 display module shall not cause the failure to another module. Signal redundancy shall travel in both directions to minimize outage and for the display to remain functional in the event of a service related issue.</p> <p>15c. Display shall have a maximum of 8,000 Nits Daktronics for overcoming direct sunlight when display is installed facing an east/west exposure.</p> <p>1.5 Display Performance</p> <p>8h, LED controllers shall be able to receive instructions from and provide information by accessing the Control Suite using the Verizon Lifetime Data Cellular Communications Plan or alternate Owner approved service plan. The IP address shall not be public for outside network visibility for additional security.</p> <p>7. The LED controller(s) shall be able to receive instructions from and provide information by accessing the Control Suite using the Verizon Lifetime Data Cellular Communications Plan or an alternate Owner approved service plan.</p> <p>1.6 Control Software</p> <p>4. The control software shall support a hierarchy with user rights and locations affording flexibility to allow authorized representatives having administrative rights to see all locations and to program as a group or individually based on need.</p>
Q7.	<p>Sales Tax- My tax people have told me that because the project is monument signs, it is taxable at the normal construction rate. What is the intent of the last paragraph under item K in the specs? Is there a situation where the City would eliminate sales tax on itself? "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."</p>
A7.	<p>If the contractor underpays taxes to the City, they will be required to pay the balance. If the contractor overpays, the City will reimburse them the overpayment.</p>
Q8.	<p>Are there any detailed specs available on the preferred sign cabinet construction? It was mentioned in the pre-bid that aluminum construction was permissible. What is the specific thickness – 1/8" (.125")?</p>

A8.	See Addendum #1, Page 2, Plan Sheets, Item #1 revisions to Drawing 00-A101, Sign Types (A, B); Type "A" and Type "B" Sign Plan Views.
Q9.	The sign contractor is responsible for procuring sign permits. The City of Phoenix issues sign permits and the project duration is one year. It is not precisely known how long the City of Phoenix will take to issue permits. If variances are required, it is unknown the outcome of a variance or how long it will take. When will the city issue a notice to proceed? Once the City of Phoenix issues sign permits? If prior to permit issuance, how many days out of the one-year project duration should we allow for permit review/issuance/variances by the City of Phoenix?
A9.	The notice to proceed will be issued once a firm is selected and approved by city council. It is assumed that the permitting process will not incur additional time due to variances, however if required the City will adjust the contract duration and cost accordingly.
Q10.	Several of the locations are noted as requiring variances due to sign size or proximity to residences. Who is handling the public hearing? Is the City paying the fees?
A10.	The City of Phoenix will be responsible for coordinating this and paying the fees if necessary.
Q11.	Sign base is specified as concrete or CMU. What is the finish? Paint?
A12.	See Addendum #1 renderings (# images) for descriptions of base materials, finishes and colors. Match slump block CMU (01,13); match stone gabion wall over conc/steel posts (02); metal pole base cover (03,05); match brick (04); match architectural concrete (06,14,15); integral color conc. slab on grade (07,11); match cmu (09,12,13); match sandstone tile over a CMU core (10); match ceramic/porcelain tile over a CMU core (08); integral color conc base (16); and match lava rock over a CMU core (17).
Q12.	Sign types A and B- How are library names illuminated? Is the background painted aluminum with the name's computer cut (AKA routed) from the background, and backed with plex (i.e. translucent letters, opaque background). The drawing could be interpreted to specify that the background is Acrylic (translucent).
A12.	Per Answer #2, all lettering is routed (fret cut) with rear illumination provided by either two back-to-back or single double-sided LED light fixtures. UV resistant, 1/4" thick, acrylic projection panels colors to match the existing building signage. Provide concealed, secure (vandal-proof), access panels as required to install and service all LED light fixture components.
Q13.	Sign Type E- Is this sign illuminated? What material should be used for the lettering (e.g. acrylic or aluminum?)
A13.	Yes. See Answer #12 above.
Q14.	Who is the EMS controls vendor for the existing building?
A14.	The Burton Barr Library reports to a municipal energy management system however, neither if any of the branch libraries report or are remotely operated by such a service.
Q15.	Addendum #1 included "Library Branch Renderings" (Elevation drawings). Many of the signs appear to be different from the signs shown on page 00-A-101 in the drawings. Are these drawings to intend to replace the designs shown on 00-A-101? What design concepts do we use?
A15.	Sample lettering on Drawing 00-A-101 is shown for proof of concept and test sizing the Type B sign panels. The sample font used is Arial Black "Bold" and 6" in height. Variations in the fonts and cases depicted in the renderings match the existing signage at select branch libraries. Final approvals shall be by the City of Phoenix's project representative.

1. Add the following:
 - a. Section I – Informative, (5) Disadvantage Business Enterprise (DBE) Clause, D.B.E.C. – 1 to 9.
 - b. Section II – Submittals, (12) DBE Reporting Forms EO2 and EO3, D.B.E.F. – 1 to 3.

NOTE: Bidders must acknowledge receipt of this Addendum by listing the number and date, where provided, on the PROPOSAL P-1.

**ATTACHMENTS: DBE CLAUSE, D.B.E.C. – 1 TO 9
DBE FORMS EO2 AND EO3, D.B.E.F. – 1 TO 3**

END OF ADDENDUM





City of Phoenix

Disadvantaged Business Enterprise Program

DBE – 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 Business Enterprises (DBE) Program.

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

SECTION I. DEFINITIONS

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

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

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 DBE 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 DBEs and other Small Businesses. Submitter must identify and document potential business opportunities for DBEs and other Small Businesses, describe what efforts were undertaken to solicit DBE and other Small Business participation, disclose results of negotiations with DBEs and other Small Businesses, and communicate and record Submitter's selection decisions relating to DBE 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 DBE or non-DBE 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 DBE status by a UCP member pursuant to the criteria contained in 49 CFR Part 26.

Commercially Useful Function (CUF) means that a DBE 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



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useful function, the DBE 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 DBE does not perform or exercise responsibility for at least 30% of the total cost of its contract with its own work force, or if the DBE Subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the DBE is presumed not to be performing a Commercially Useful Function.

Goods and Services Providers are firms that provide goods and services that represent a CUF as a DBE 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 DBE makes minor modifications to the materials, supplies, articles, or equipment, the DBE 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 DBE 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.

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.



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SECTION II. GENERAL REQUIREMENTS

A. Applicable Federal Regulations

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

B. DBE Participation

For this solicitation, the City has *not* established a race- or gender-conscious DBE 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 DBEs. The City strongly *encourages* each Submitter to voluntarily subcontract with DBEs 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 DBE Participation

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

D. DBE Certification

Only firms (1) certified by the City or another AZUCP member 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 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 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 DBE 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 DBE 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.



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

G. DBE Open-Ended Performance Plans

Submitter must submit a DBE 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 services (with projected dollar amount) that the Submitter will solicit DBEs to perform. The OEPP must include an estimated time frame/schedule in which the subcontracted work to be performed by the DBE 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 businesses;
- (3) evaluate small-business proposals; and
- (4) communicate selection decisions to small 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 - 100 – Statement of Outreach Commitment

At the time of bid submittal Submitter must sign, date, and submit a completed Form EO1 - 100 Statement of Outreach Commitment, with its initial qualifications-based submittal.

B. Form EO2 - 100 - Small Business Outreach Efforts and Bidders List

Within five (5) business days after bid submittal Submitter must complete and submit **Form EO2 – 100 Small Business Outreach Efforts and Bidders List** documenting its diligent, earnest outreach efforts for subcontracting work, as described in this clause.

Form EO2 – 100 and all supporting documentation are due to the EOD at time of initial qualifications-based submittal.

Submitter must list all DBEs 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 - 100:

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)

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>.



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- 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 DBE. 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
 - 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/or Minority Businesses, including those not chosen to participate in this Contract.

C. Form EO3 – 100 DBE Utilization Commitment

Within five (5) day after the bid submittal, the Submitter must complete, sign, date and submit EO3 – 100 DBE Utilization Commitment, which commits the Submitter to the City as follows:

1. The firms indicated as "Selected" on Form EO2 - 100- 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;



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3. Submitter understands and agrees that any and all changes or substitutions to Subcontracts with DBEs and Small 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 firms on this contract will be designated on Form EO3 by the Submitter.

D. Open- Ended Participation Plan

Within five (5) business days after bid submittal, the Submitter must complete a DBE 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 DBEs. 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 EO2-100 and EO3-100.

E. Failure to Submit Forms EO1-100, EO2-100 and EO3-100, and the OEPP

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

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



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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 DBE 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 DBE 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 DBE 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 DBE 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.

B. Counting Small Business Participation

The Contractor may only count expenditures for certified DBE Subcontractors that perform a Commercially Useful Function (CUF), in the NAICS Codes in which it is certified or verified in, on the contract. A DBE 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 DBE 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 DBE 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. DBEs must manage and control the performance of its contract and not be dependent on the prime's personnel and equipment to complete its work. Scope(s) of work not covered in the DBE firm's certification description **will not** be counted as DBE participation.

C. Commercially Useful Function (CUF) & Counting of DBE Trucking/Hauling:

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

- The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose achieving DBE participation.
- The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
- The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.



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- The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the value of these hauling services.

D. Counting DBE Certified Manufacturers, Suppliers, and Brokers:

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

- If the materials or supplies are obtained from a **DBE manufacturer**, count 100 % of the cost of the materials or supplies toward DBE participation.
- If the materials or supplies are purchased from a **DBE regular dealer (supplier)**, count 60% of the cost of the materials or supplies, including transportation, toward DBE participation.
- If materials or supplies purchased from a DBE 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 DBE participation.

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

E. DBE Substitutions

If the DBE 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 DBE replacement. The Contractor will notify the EO Compliance Specialist in writing of the necessity to substitute a DBE and provide specific reason(s) for the substitution or replacement. Actual substitution or replacement of a DBE may not occur before the EO Compliance Specialist's written approval has been obtained.

F. Relief from Proposed DBE Utilization

After Contract award, the EOD will not grant relief from the proposed DBE utilization except in extraordinary circumstances. The Contractor's request to modify Small 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 DBE and any other action taken to locate and solicit a replacement Small 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 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 DBE'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, 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



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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 DBE 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; DBE or other status; race and gender information for the firm's majority owner; NAICS 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.
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 15th 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 DBE firm(s). The Contractor is responsible for ensuring that Subcontractors confirm the receipt of full and "Final" payment in the Phoenix Contract Compliance System.



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Disadvantaged Business Enterprise (DBE) Program

**FORM EO1 - 100 - STATEMENT OF OUTREACH COMMITMENT
(Due with initial submittal)**

Project Number: 7510111011 and LS71100008 ARPA	Project Title: PHXWORKS AND STARTUPPHX AT BURTON BARR DESIGN-BID-BUILD
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On behalf of the Submitter, I certify under penalty of perjury that the following information is true and correct.

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

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

Company Name: _____

Company Mailing Address: _____

Representative Name: _____

Title: _____

Email Address: _____

Phone Number: _____

Signature: _____

Date: _____

**Disadvantaged Business Enterprise (DBE) Program
Form EO2 - 200 - SMALL BUSINESS OUTREACH EFFORTS AND BIDDERS LIST**

Name of Company (Submitter):	Contract # / Project #: 7510111011 and LS71100008 ARPA	Contract Name: PHXWORKS AND STARTUPPHX AT BURTON BARR DESIGN-BID-BUILD
Contact Person:	Phone #:	Email:

Successful submitter must conduct outreach efforts and submit supporting documentation of those efforts, as described in the 49 CFR Part 26, in accordance with the detailed instructions in the Contract Clauses. Successful submitter should make copies of this form as needed. **Sections A, B, and C must be completed for all businesses which includes ALL BIDDERS.**

Sections D, E, and F are required to be completed for **all DBE and SBE firms**. Supporting documentation is required for columns D and F.

(A) Small Business Name and Contact Information	(B) Business Status	(C) Scope(s) of Work Solicited	(D) Solicitation Method	(E) Selection Decision	(F) Communication Final Selection Outcome												
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2">Name:</td> </tr> <tr> <td colspan="2">Address:</td> </tr> <tr> <td>City, State, Zip:</td> <td>Number of Employees:</td> </tr> <tr> <td>Phone Number:</td> <td>Email or Fax:</td> </tr> <tr> <td>Number of Years in Business:</td> <td>Range of Annual Gross Receipts:</td> </tr> <tr> <td>Gender of Majority Owner:</td> <td>Race of Majority Owner:</td> </tr> </table>	Name:		Address:		City, State, Zip:	Number of Employees:	Phone Number:	Email or Fax:	Number of Years in Business:	Range of Annual Gross Receipts:	Gender of Majority Owner:	Race of Majority Owner:	<input type="checkbox"/> DBE <input type="checkbox"/> SBC - Small Business Concern <input type="checkbox"/> SBE - City of Phoenix Certified	NAICS Codes and Scope(s) of Work:	<input type="checkbox"/> E-mail Blast <input type="checkbox"/> Phone Call <input type="checkbox"/> In-Person <input type="checkbox"/> Newspaper <input type="checkbox"/> Website <input type="checkbox"/> Trade Listing <input type="checkbox"/> Outreach Event <input type="checkbox"/> Other	<input type="radio"/> Firm was selected <input type="radio"/> Firm was not selected Provide explanation of why firm NOT selected	Date Firm was Notified: <hr/> Method used to Communicate Selection: <input type="checkbox"/> Email <input type="checkbox"/> Phone <input type="checkbox"/> Fax <input type="checkbox"/> Letter <input type="checkbox"/> In person
Name:																	
Address:																	
City, State, Zip:	Number of Employees:																
Phone Number:	Email or Fax:																
Number of Years in Business:	Range of Annual Gross Receipts:																
Gender of Majority Owner:	Race of Majority Owner:																
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Name:																	
Address:																	
City, State, Zip:	Number of Employees:																
Phone Number:	Email or Fax:																
Number of Years in Business:	Range of Annual Gross Receipts:																
Gender of Majority Owner:	Race of Majority Owner:																

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



City of Phoenix

Disadvantaged Business Enterprise (DBE) Program

FORM EO3 - 100 - SMALL BUSINESS UTILIZATION COMMITMENT

Project Number: 7510111011 and LS71100008 ARPA	Project Title: PHXWORKS AND STARTUPPHX AT BURTON BARR DESIGN-BID-BUILD
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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 - 100 - Small Business Outreach Efforts**, will participate in this contract;
2. The Successful Submitter will comply with the Race- and Gender-Neutral post-award compliance requirements as stated in the DBE contract clause;
3. Successful Submitter understands and agrees that any and all changes or substitutions to subcontracts with DBE's and Small Businesses **must** be authorized by the Phoenix DBE Compliance Specialist prior to implementation; and
4. The following statement is true and correct:

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

DBE: _____ %

SBE: _____ %

SBC: _____ %

Company Name: _____

Company Mailing Address: _____

Representative Name: _____

Title: _____

Email Address: _____

Phone Number: _____

Signature: _____ Date: _____